

## Chapter I — Introduction

### A. Establishment of the Independent Commission of Inquiry

1. The Bahrain Independent Commission of Inquiry (the Commission) was established by His Majesty King Hamad bin Isa Al Khalifa (HM King Hamad) in Royal Order No. 28 of 2011, which was issued on 1 July 2011, with immediate force of law.<sup>1</sup> Article 1 states, “An independent Commission of Inquiry is hereby established to investigate and report on the events occurring in Bahrain in February/March 2011, and any subsequent consequences arising out of the aforementioned events, and to make such recommendations as it may deem appropriate.”

2. The Commission’s mandate, contained in Article 9, is to report on the events in question on the basis of international human rights norms. Article 9 states the report shall contain the following:

- a. A complete narrative of the events that occurred during February and March, 2011;
- b. The context for these events;
- c. Whether during these events there have been violations of international human rights norms by any participants during the events or in the interaction between the public and the government;
- d. A description of any acts of violence that have occurred including the nature of the acts, how they occurred, who the actors were and what consequences derived therefrom, in particular at the Salmaniya Hospital and the GCC Roundabout;<sup>2</sup>
- e. Instances of alleged police brutality and alleged violence by protestors and/or demonstrators against police and others, including foreigners;
- f. The circumstances and appropriateness of arrests and detentions;
- g. Examination of allegations of disappearances or torture;
- h. Ascertain whether there was any media harassment, whether audiovisual or written, against participants in demonstrations and public protests;
- i. Examination of alleged unlawful demolition of religious structures; and

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<sup>1</sup> Royal Order No. 28 of 2011 appears in Appendix A.

<sup>2</sup> The GCC Roundabout was located in Manama, and was also known as “Pearl Roundabout”.

- j. Ascertain any involvement of foreign forces and foreign actors in the events.

Consequently, the Commission is bound by what is included in the above mandate and the investigations reflected in this Report are within the scope of that mandate.

3. His Majesty selected the five members of the Commission and appointed a Chair to whom he entrusted the direction of the work of the Commission. They are: Professor M. Cherif Bassiouni, Chair (USA/Egypt); Judge Philippe Kirsch QC (Belgium/Canada); Professor Sir Nigel Simon Rodley (UK); Dr Mahnoush H. Arsanjani (Iran); and Dr Badria A. Al Awadhi (Kuwait).

4. Royal Order No. 29 of 2011,<sup>3</sup> dated 7 July 2011, which was issued by HM King Hamad, gave the Commissioners and its staff the same “privileges and immunities” as “United Nations Experts on mission”, in accordance with the Convention on the Privileges and Immunities of the United Nations dated 13 February 1946.

## **B. Organisation of the Commission’s Staff**

5. The Commissioners selected the staff, which consisted of an investigating team headed by a Chief Investigator supported by a staff of investigators, investigative assistants and other administrative support staff.<sup>4</sup> Cumulatively, the staff consisted of 51 persons<sup>5</sup> who worked for various periods of time,<sup>6</sup> including 12 investigators,<sup>7</sup> 12 assistants to the investigators, five administrators, four administrative assistants and 18 technical and scientific consultants. All staff and consultants were under contract with the Commission, and their contracts contain a confidentiality clause. Some of the staff commenced their employment in the first week of July.

## **C. Overview and Methodology of the Commission’s Work**

6. The Commission began its investigation on 20 July 2011 and received 8,110 complaints and statements of various human rights abuses relevant to its mandate. These complaints and allegations came in the following forms:

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<sup>3</sup> Royal Order No. 28 of 2011 appears in Appendix B.

<sup>4</sup> The Organisational Chart of the Commission appears in Appenix D.

<sup>5</sup> Because of the need to have a bi-lingual staff (Arabic/English), several persons had dual nationality. The citizenship breakdown listed for Bahrain visa purposes is: Egypt (17); USA (13); Bahrain (8); Lebanon (3); Australia (2); Jordan (2); UK (2); Iraq (1); Sudan (1); Sweden (1); and Yemen (1).

<sup>6</sup> All members of the staff and consultants completed their contractual periods except for four. One left the Commission for health reasons (namely a dislocated shoulder requiring surgery), a second terminated his relationship after two weeks claiming personal reasons, the third resigned after being questioned about failure to follow internal procedures, and the fourth left three days before the end of his contractual period.

<sup>7</sup> None of the Investigators were Bahrain citizens. They were selected on the basis of their investigatory and judicial experience.

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- a. Statements submitted in writing (2,639);
- b. Statements submitted in person or electronically (5,188); and
- c. Statements submitted by organisations (283).

In addition to these complaints and allegations, the Commission conducted 65 primary site visits (with several follow-up visits) and held 48 primary meetings with various agencies of the Government of Bahrain (GoB) and members of political and civil society (with numerous follow-up visits).

7. The Commission categorised the oral statements, written statements and electronic submissions it received into the following groupings, which were then entered into the Commission's database, namely:

- a. Deaths;
- b. Detainees;
- c. Journalists;
- d. Medical Staff;
- e. Private Sector Employees;
- f. Public Sector Employees;
- g. Police Personnel;
- h. Students;
- i. Teachers/Professors;
- j. Sunnis; and
- k. Expatriates.

In addition, the Commission received and examined reports from national and international organisations and media agencies, all of which were also entered into the database.

8. Based on the sources of information indicated above, the Commission's database revealed different types of alleged violations. The purpose of the listing below is to show only what was reported without regard to the Commission's analysis of the substance of these reports and complaints. What follows is therefore illustrative of the allegations that the Commission received:<sup>8</sup>

- a. Deaths;
- b. Torture;
- c. Verbal Abuse;
- d. Physical Mistreatment;
- e. Psychological Abuse;

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<sup>8</sup> Some categories of information are potentially overlapping because of the manner in which the reports and complaints were provided to the Commission.

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- f. Sexual Abuse;
- g. Rapes;
- h. Misuse of Authority and Excessive Use of Force;
- i. Arbitrary Arrests and Detention;
- j. Disappearances or Missing Persons;
- k. Coerced Statements;
- l. Unfair Trial;
- m. Denial of Assistance of Legal Counsel;
- n. Deprivation of Private Property;
- o. Destruction of Private Property;
- p. Demolition of Religious Structures;
- q. Expulsion of Students;
- r. Suspension of Students;
- s. Revocation of Student Scholarships;
- t. Dismissals from Private Sector Employment;
- u. Dismissals from Public Sector Employment;
- v. Suspension from Private Sector Employment;
- w. Suspension from Public Sector Employment;
- x. Other Work Related Complaints;
- y. Restriction of Free Speech and Assembly;
- z. Media Harassment;
- aa. Issuance of Travel Bans; and
- bb. Other.

9. As indicated above, the sources of information varied, as did the quality of the information received. This is understandable in so far as there were multiple sources that did not necessarily follow the same approach or describe events and situations in the same manner or style.

10. Reports received from the GoB tended at the beginning, namely the end of July and early August, to be limited and fragmentary. In the course of time, a more steady relationship developed that resulted in receiving more detailed information, and particularly more specific answers to the Commission's follow up questions. The GoB produced hundreds of pages of reports including a comprehensive report prepared on behalf of all government agencies dated 6 October 2011. These reports contained not only factual information but answers to legal questions of a substantive and procedural nature. They also included replies to the Commission's inquiries

as to different questions of alleged violations of international human rights law and Bahrain law.

11. A large volume of information was received from individuals, groups of individuals acting through non-governmental organisations (NGOs), human rights organisations and religious organisations. A number of complainants were included in more than one source. For example, an individual complainant could send a complaint via the Commission's website, make a telephone call and/or come to the Commission's offices for an interview, and the same complaint could also appear in group submissions by political parties, such as Al Wefaq National Islamic Society (Al Wefaq), the Gathering of National Unity, Karama and the National Democratic Action Society (Wa'ad), and NGOs, such as the Bahrain Center for Human Rights (BCHR) and Bahrain Human Rights Watch Society. Al Wefaq in particular was in almost daily contact with the Commission. The groupings of complaints that Al Wefaq and the BCHR sent to the Commission, and for which the Commission is grateful, frequently contained similar and overlapping information about complainants and events. In many of these communications, the cover letter or memorandum stated that the subject of the communication was to report a certain number of complaints whose range was between 50 and 500, but which seldom contained individual files of complainants. The primary benefit of this information was to identify persons on behalf of whom the respective organisations filed claims.<sup>9</sup>

12. The Commission's analysis of all sources of information in respect of allegations of violations of international human rights is contained in the various Chapters and Sections of this Report.<sup>10</sup>

13. The Commission's methodology comprised the following activities: interviewing individual complainants; meeting with GoB officials, civil society organisations, opposition groups, professionals of different categories and religious leaders; and conducting on-site visits to prisons, hospitals, demolished places of worship and other locations.

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<sup>9</sup> For example, the Commission received 648 complaints of alleged thefts of personal property in the course of arrests. Many of these included the official seizure of what the GoB considers evidentiary material. Additionally, 788 complaints were received about allegations of torture. However, upon more careful examination of the claims, it appeared that what the complainants considered torture varied enormously from the legal definition of torture under the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment (CAT). Sometimes allegations included verbal abuse or roughness in the way handcuffs were placed. This is not to make light of these matters as they are still violations of a person's human dignity, but it is illustrative of the differences in the way people perceive the situation. After the BCHR is reported to have informed those who came to it to report physical mistreatment that in order to be considered torture, the physical mistreatment had to be connected to obtaining an statement or confession, subsequent statements by complainants on the subject became more focused in that direction.

<sup>10</sup> There is no numerical correlation between the reports received, as categorised above, and the violations found by the Commission, which are described in this Report. The numbers of reports in the different categories are based solely on what was reported to the Commission, while the Commission's findings with regard to the various categories of violations are based on those allegations that were, upon analysis, deemed sufficiently reliable.

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14. Commission investigators conducted interviews with 5,188 individuals for the purpose of collecting statements from witnesses and complainants regarding allegations of international human rights violations falling within the Commission's mandate. The information obtained was recorded and later entered into the database.

15. Meetings were also conducted with GoB agencies, private sector employers and members of political and civil society organisations. The purpose of these meetings was to seek out information about GoB policies and practices, identify potential relevant witnesses and collect statements and other documentary evidence related to allegations of violations of international human rights. Some follow-up meetings were conducted in order to collect additional information and obtain clarifications, particularly from the GoB agencies. Summaries of these meetings were entered into the database.

16. Meetings were conducted with the following GoB agencies and organs: the office of the Prime Minister; the office of the Deputy Prime Minister; the Ministry of Interior (MoI); the Ministry of Justice and Islamic Affairs (MJIA); the Ministry of Labour (MoL); the Ministry of Municipal Affairs and Urban Planning (MMAUP); the Ministry of Health (MoH); the Ministry of Education (MoE); the Ministry of Social Affairs and Human Rights; the office of the Attorney General; the senior staff of the Bahrain Defence Force (BDF); the office of the Military Attorney General; the Civil Service Commission; the National Guard; and the National Security Agency (NSA). The Commission also met with HRH Prince Salman bin Hamad bin Isa Al Khalifa (HRH the Crown Prince) and his staff. The meetings also resulted in obtaining GoB representations, which were studied by the Commission. Many of these meetings gave rise to additional Commission inquiries and to follow-up meetings to obtain clarifications. The Commission also inquired about certain specific cases and situations and received responses from the GoB. Summaries of these meetings and the contents of the reports and clarifications received were entered into the database. The Commission then carefully examined and analysed the information obtained from these meetings and from reports to establish the policies and practices of GoB agencies for the purposes of this Report.

17. The Commission met with leaders of the opposition, leaders of non-governmental and human rights organisations, religious leaders, journalists, business leaders and representatives of civic organisations across the spectrum of Bahraini society to obtain information which was also entered into the database. This helped the Commission to understand events and their contexts, and to assess situations, particularly with regard to the policies and practices of GoB agencies.

18. Meetings were held with private sector employers involved in dismissals and suspensions of employees related to the events of February/March 2011.<sup>11</sup> These meetings were used to inquire into the policies

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<sup>11</sup> See Chapter VII, Section B.

and practices of the employers with regard to dismissing and/or suspending employees during the relevant time period. The Commission also obtained information on subsequent corrective actions taken by the employers, such as reinstatement or compensation.

19. The Commission also met with the Presidents of the University of Bahrain and Bahrain Polytechnic University to discuss the expulsion or suspension of students and the revocation of student scholarships.<sup>12</sup>

20. Throughout the course of its investigation, the Commission undertook site visits in order to collect additional witness statements, conduct forensic examinations of aggrieved individuals and places, observe the manner and methods of law enforcement agencies, examine conditions of detention and injuries sustained by victims, and gain a deeper understanding of events on the ground. Site visits were also instrumental in determining the tactics of the demonstrators, patterns or practices of police during interactions between demonstrators and police, the extent of the use of tear gas, rubber bullets and other riot control methods, and the extent of the use of weapons or other improvised devices by demonstrators to attack police.<sup>13</sup>

21. The Commission's on-site visits included: Salmaniya Medical Complex (SMC); BDF Hospital; MoI Hospital; Dry Dock Detention Centre; Al Qurain Prison; Juw Prison; Isa Town Female Detention Centre; Karana neighbourhood; Sanabis neighbourhood; Diraz neighbourhood; Nuwaidrat village; Budaiya police station; and Al Wusta police station.<sup>14</sup> Several of these locations were visited more than once by the Commission's investigators. During these visits, Commission staff were able to meet privately with detainees and injured persons in the locations described above. The Commission conducted on-site investigations in 30 places of worship that had been demolished and also used satellite images of the sites to evaluate pictures and drawings of the demolished structures.<sup>15</sup>

22. The Commission conducted investigations and research into the events that are the subject of its mandate. The specific allegations of violations of international human rights are described contextually in the various Chapters of this Report.

23. All the reports and complaints submitted were admitted into the database. The Commission's aim has been to include in its consideration all types of reports and complaints received from all possible sources.

24. The Commission's work was conducted with full independence and transparency. It did not encounter any governmental interference. Its procedures and methods were established by the Commissioners and posted on its website.

25. Security and confidentiality measures were taken to protect witnesses and complainants and to ensure individual privacy. These measures provided

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<sup>12</sup> See Chapter VII, Section C.

<sup>13</sup> See Chapter V.

<sup>14</sup> See Chapter VI, Section A and Chapter VI, Section D.

<sup>15</sup> See Chapter VII, Section A.

a high level of comfort to witnesses and complainants, and led to receipt of a large number of complaints and reports as well as a large number of individuals willing to provide statements in person at the Commission's office.

26. The Commission received cooperation from all GoB authorities with which it dealt. It also received the cooperation of many political and civil society organisations and in particular from Al Wefaq, whose assistance was particularly useful in connection with the investigation of the demolished religious structures, as well as its cooperation in providing the Commission with numerous reports and lists of persons for the Commission to interview. Other organisations not specifically named herein covering the entire spectrum of political, social and human rights interests, were also instrumental in facilitating the work of the Commission as well as in assisting the Commission in securing individual complaints and oral statements of individuals; in this regard, the BCHR was helpful. This cooperation by the GoB and all interested sectors of Bahraini society has been instrumental in enabling the Commission to carry out its mandate.

27. In order accurately to record reports and complaints, the Commission established its own database. This database enabled the Commissioners and staff to record, examine and categorise evidence, and to identify patterns and similarities among individual cases. The database was located in a secure facility outside Bahrain.

28. The considerable amount of work described above was done in a relatively short period of time by a highly dedicated staff who worked an inordinate amount of time to produce the information reflected in this Report.

29. The Commissioners met in plenary session from 21 to 24 July, 22 to 25 September, 14 to 18 October, 14 to 19 November and 22 to 23 November. They were personally involved in all phases of the work of the Commission. The Chair of the Commission worked full time between 1 July and the submission of this Report on 23 November 2011 and is expected to continue in office until completion of the mission on 16 December 2011.<sup>16</sup>

#### **D. Challenges Faced by the Commission**

30. The establishment of an independent national Commission consisting of Commissioners who are not nationals of the country under investigation is unprecedented.

31. The scope of the work, including the depth and breadth of the investigation as well as the analysis of the facts, assessment of reports, evaluation of witness statements, allegations of victimisation and analysis of the policies and practices of GoB agencies within a very short period of time posed many logistical and practical problems.

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<sup>16</sup> This is the date established for the completion of the distribution of the Final Report as well as finalisation of the accounts and the posting on the Commission's website of the audited financial report.

32. The independence of the Commission meant that it could not rely on GoB agencies or officers to provide logistical or other support for its investigative work. The fact that this was not a Commission set up by an international organisation, such as the United Nations, meant that it could not rely on the personnel and general support of such an organisation. Consequently, the Commission had to arrange on its own initiative for its offices, equipment, furniture, database, security, housing and transportation for the staff, as well as all other logistical and human resource matters. The more significant challenge was to find a competent and responsible staff within a relatively short period of time and to conduct investigations into events spanning a period of several months starting with the events that took place in February/March 2011.

### **E. Commission Finances**

33. The Commission enjoyed full financial autonomy from the GoB. This was achieved by the allocation of 1.3 million USD to the Commission's independent bank account, to which it had exclusive access.<sup>17</sup> In addition to this budgeted amount from the Royal Court, the Commission received contributed support in the form of air travel and hotel expenses, ground transport in Bahrain and the use of two villas for its offices. These services were contributed directly to the Commission but their cost was charged to the Royal Court. All other expenses were paid by the Commission and recorded by an independent accounting firm. The Commission's accounts will be audited by a second, independent accounting firm to ensure accuracy and transparency. The report of the Commission's accountant and the subsequent audit will be posted to the Commission's website on 16 December 2011.

34. The Commission will close its offices between 23 November and 1 December 2011. All outstanding invoices will be settled between 1 and 10 December 2011.

### **F. Commission Records**

35. During the course of the investigation, the Commission created an extensive archive of records and materials. All of these records and materials were catalogued and stored in secure safes. In addition, the records were recorded electronically and stored digitally on a highly secured server outside Bahrain.

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<sup>17</sup> The staff was paid on the basis of the UN scale, ranging from P-2 to D-1, at the lowest step for each level. The Chief Investigator was a D-1 and paid USD 10,000 per month; the Investigators were P-5s and paid USD 8,000 per month; the Chief of Staff and Chief Administrative and Financial Officer were P-4s and paid USD 6,000 per month; the Associate Legal Officer was a P-3 and paid USD 5,000 per month; the Investigative Assistants were P-2s and paid USD 3,500 per month; and, the secretaries and clerks were P-1s and paid between USD 1,800 and USD 2,000 per month. The Commissioners were paid USD 1,000 per day for work done in Bahrain. The Chair was paid on the basis of a USG, which is also equivalent to his last university salary as of 2009, namely USD 22,500 per month.

36. All records and materials obtained by the Commission will be destroyed in order to protect the identity of all persons who gave information and evidence to the Commission. However, the Commission will preserve its database and electronic copies of these records, which will be preserved electronically on a secured hard drive outside Bahrain.<sup>18</sup> The hard drive will be stored in a locked case in a secured facility and will not be accessible wirelessly. The hard drive will be preserved for a period of ten years, after which time it will be destroyed. The records stored on the server will be permanently erased.

## **G. Publication and Distribution of Report**

37. In order to publicise its findings, the Commission developed a multi-faceted approach to distributing its Report. First, the Report is to be published in Arabic and English on the Commission's website on 23 November 2011. Second, more than 2,000 Arabic and English printed editions of the Report will be available for distribution in late November and early December.

## **H. Specific Interventions by the Commission**

38. During the period of the Commission's work, the Commission took steps to address existing situations of human rights violations and particular attention was given to cases of humanitarian concern. This was accomplished by communicating with GoB officials where immediate intervention by GoB agencies was required to alleviate burdens suffered by individuals who were in detention, in hospitals, as well as in situations involving dismissal of private and public sector employees and the expulsion of students from universities and the suspension of their scholarships.

39. Subsequently, more than 300 detainees were released by the GoB and special medical attention was provided to injured persons. Hundreds of dismissed public and private sector employees and suspended students were reinstated.

40. The establishment of the Commission resulted in a significant change in the policies and practices of several GoB agencies. The Commission was able to secure visitation rights by relatives of detainees. Following the Commission's efforts, certain criminal charges against certain persons, particularly medical personnel, were dropped.

41. HM King Hamad was kept personally informed by the Commission Chair of the developing situation, and issued a number of Royal Orders as well as directives to alleviate the consequences of reported human rights violations.

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<sup>18</sup> The Commission is negotiating with the Permanent Court of Arbitration in The Netherlands to house the hard drive containing the electronic records. In the event that the records are not housed at the Permanent Court of Arbitration, the Commissioners will arrange for their storage at an academic institution able to provide the same level of security as the Permanent Court of Arbitration.