

The Events of Bahrain: The Crisis and the Solution

Hassan Ali Radhi

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This Study is divided into five sections as follows:

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First: The political-geographic location of Bahrain

1-1 In his book, which title may be translated as “The history of the Gulf and the Eastern Arabian Peninsula – also known as the province of Bahrain under the rule of the Arab Statelets”, Dr. Mohammed Mahmoud Khalil relies on several historic and ancient documents which include Al-Isfahani and Al-Mas’oudi and Al-Bakri and Yaqout Al Hamawi, amongst others. He defines the province of Bahrain as follows:

“The province of Bahrain lies to the east of the Arabian Peninsula, where it extends along the Western coast of the Persian (Arabian) Gulf from Al Basra in the North to the lands of Oman in the South, and from the Persian (Arabian) Gulf in the east to Al Dahna’a and Al Samman area in the west.”

He adds:

“Yaqoot has also mentioned that the term “Bahrain” is a universal name for a large land on the coasts of the sea between the Arabian Peninsula and the land of Persia, and it extends from Al Basra in the north to Oman in the South, and from the Al Dahnaa desert in the west to the sea in the east... and thus it includes Al Hessa, Al Qatif, Hajar, Qatar, Awal and the group of islands surrounding them.”¹

It is not my intention from this historical introduction to claim that the province of Bahrain includes all of these lands. This is only a historical enumeration of a period that has long come and gone, with many new states arising along these lands that no one questions their legitimacy and indeed nor should they. I cite this introduction with the intention of understanding the anxiety of the neighborly Saudi Arabia and her boundless readiness to defend the entity of the Kingdom of Bahrain as it stands now, especially since there are those who reside in the Eastern Province of Saudi Arabia (Hajar) who have very similar

¹ Dr. Mohamed Mahmood Khalil, *Tareekh Al Khaleej wa Sharq Al-Jazirat Al-Arabiya Al-Musamat Iqleem Belad Al-Bahrain Fi Dhil Hokm Al-Dowailat Al-Arabiya*, Maktabat Madbooli Publication, Page 390. (Translation of Book title: “The History of the Gulf and the East of the Arabian Peninsula which is named as Bahrain Provence Under the Rule of Arab Statelets – Madbooli Library Publications).

ethnic and religious origins to the majority of the inhabitants of the Modern Kingdom of Bahrain (Awal), and indeed have strong familial ties with them.

1-2 With the exception of a small minority, the people of Bahrain are Muslims, and it has been customary to divide them into two sects, Sunnites and Shiites. The Arab Shiites have been known as *Baharna*, which is the old Lexical term used for the people of Bahrain. I am unsure why this term has been designated for the Shiite Arab, as it is a term that seems to be used to distinguish between the Arabs of Bahrain and the Arabs who came from the inner lands of the Arabian Peninsula with the entry of the Utub, under the leadership of the Al Khalifa clan in the year 1772, who are known as “the Arabs” (this is in relation to the *Baharna* on the one hand and Sunnite and Shiite Bahrainis from Iranian origins on the other).

It is worth noting that this term *Baharna* is still used to refer to some of the inhabitants of the towns and villages of the Shiite Eastern Province in Saudi Arabia and other parts of the countries of the Arabian Gulf.

1-3 The ruling regime in Saudi Arabia adopts (at least theoretically) the Fundamentalist Sunnitete Islamic school of thought, which we can summarize its definition by citing Ibn Khaldun’s Al Mukaddema, where the authority to oversee the “*Immagah*” is designated to what he calls “Kingship”, where he describes “Kingship” as “a natural position for human because we have shown that humans existence and life is not enabled except by their collaboration and cooperation on accruing their power and necessities..”. He further adds “...as we explained the fact that this position is in fact a deputyship of the originator of the Religion (i.e. the Prophet) in safekeeping the religion and the administration of life (in this world) in accordance thereto. Such deputyship is called *Khilafah* or *Immagah* ... In this context it is defined as *Al-immagah Al-kubra* (i.e. The Supreme Leadership)”.

In explanation of the means of election of such leader, Ibn Khuldoon provides that “it is therefore a unanimously agreed upon principle that the appointment of such *Immagah* is a mandatory duty. Some have gone to the extent of saying that such duty is realized by intellect and that such unanimous agreement is just a submission of the intellect to the realization of the necessity of such agreement, and to the fact that it is impossible for humans to live and exist individually without it (i.e. the *Immagah*)”.

In connection with who shall make the election or the appointment of *Immagah*, Ibn Khuldoon provides that “the appointment of *Immagah* through the existence of the chiefs who are *Ahl Al-Hal wa Al-Aqd*¹ or by people’s abstinence from disagreements and injustice.” He adds that “such appointment is unanimously mandatory as it shall be the obligation and the authority of *Ahl Al-Hal wa Al-Aqd* who are obliged to appoint him (i.e. the *Immagah*), and all people are obliged to obey him.²

We can deduce from what has been elucidated above that the ruler generally is designated in order to erect the rule of Shari'a. Such designation is made by those who have the defacto power of decision

¹ *Ahl Al-Hal wa Al-Aqd* may be translated as: the persons who are defacto powerful to decide on public or important matters in a society

² Ibn Khuldoon, *Muqademat Ibn Khuldoon*, Publication of Dar Al Kutob Al-Elmiah – starting at Page 191.

making in the society. However, what has been the norm in Saudi Arabia is for the heir to the throne to be designated by a committee that is supposed to be the party with the defacto power of decision making in the society. If this committee swears allegiance to the heir to the throne he takes on the leadership of the State (the position of king), where he is considered the absolute ruler and the guardian of the State... whose obedience is mandatory on people and his disobedience prohibited.¹

1-4 The ruling regime in Iran adopts the theory of *Wilayat Al Faqih*, which is originally a Shiite theory of rule and which can be summarized in the following manner:

The *Imamite* Shiites do not acknowledge any temporal authority, for they believe that the Prophet received religion from God to rule men in the daily matters of their life and death. Hence God did not leave humans the choice of the election of their ruler but rather designated those who are to rule after the Prophet according to the concept of *Imamah*, a position which God directly designated to Ali Bin Abi Taleb, the cousin of the Prophet and the first of his believers. The *Imamah* then was transferred to Ali's children Al-Hassan and Al-Hussain (who are the children of Fatima, daughter of the Prophet, and the only grandchildren thereof), and then to nine of the latter's descendants, the last of which is Mohammed bin Al-Hassan, also known as the "Mahdi". This last Imam has disappeared from sight, but he is still alive and will ultimately return (at the end of life in this world) to return the whole world to righteousness and to rule according to the message and spirit of what God has revealed to the Prophet Mohammed. The *Imamate* –i.e. the rule over the Islamic *Ummah* and presiding over it – is not a matter of public interest that is delegated to people to choose whom they see fit, but it is a tenet of religion that is not permissible even for the Prophet himself to neglect or delegate to anyone. Indeed, the aforementioned Imams are designated by God through divine orders and text, where God has chosen them to the "*Imamate*". Furthermore, they are infallibles, which means it is not possible for them to commit any sin, violation or wrongdoing, neither in their relationships with God nor their relationships with those they rule upon, which encompasses all of humanity. Hence the Imam rules over people in a manner that guarantees justice, capability and knowledge that is far from any wrongdoing, whether material or objective. In the absence of the awaited Mahdi, however, it is religious jurists who undertake matters of the Muslim people on his behalf. They are *Ahl Al-Hal wa Al-Aqd*.²

Needless to say, the Shiites in Bahrain (*Al-Baharna*) were not interested in this theory of rule (*Wilayat Al Faqih*). In fact, their religious leadership used to say that *Wilayat Al Faqih* is limited to bodies and financial means in terms of acts of worship, transactions and fringes. This is evidenced by always directing their addresses to the rulers, in acknowledgement of their legitimacy (see Paragraph 2-1 of this study). Indeed, the relationship between *Al-Baharna* and the rulers has at certain times been very close, with the regime keeping within its close circles Shiites even more than Sunnitetes (with the exception of the allied Arab tribes *Al- Utub*). This has been especially the case in the periods of the rise of Arab Nationalism, to which the Sunnite community was more enthusiastic than the Shiite, whose rural majority was not too interested in politics. Indeed many of the highest advisors and helpers of the ruling

¹ Haya't Al-Baya'a Al-Sa'udiah – Wikipedia <http://ar.wikipedia.org/wiki/>

² Ibn Khuldoon Ibid, Page 196 – *Al-Khumaini Roohullah – Aqd Al-Bai'*, Volume 2 Page 465

family were from the Shiite sect. For example, Haj Slaman (Al Shi'i) was the head of security, and his son AbdulKarim Al Haj Salman also took a leading position within the security sector. Brigadier Ali Mirza (Shiite from Persian origin) also held a high ranking security position¹. Furthermore, Al Sayyed Mahmoud Al Alawi was the Director of Finance (a position equivalent to the Minister of Finance), then Minister of Finance and National Economy in the first cabinet after independence, then Advisor to the Prime Minister on Financial Affairs. Even more importantly, Sayyed Mahmoud was a leading mentor and guide to Sheikh Khalifa bin Salman, who was the secretary to the Government of Bahrain, then Head of the Administrative Council – a position which is equivalent to the Prime Minister currently.² Sayyed Sharaf Al Alawi was also Head of the Department of Electricity, which was one of the most critical positions.³

It also goes without mentioning that the *Baharna* have agreed on the choice of an independent, Muslim, Arab State of Bahrain and rejected being a part of Iran in the referendum carried out by the United Nations in 1970.⁴

1-5- The rest of the regimes in the region are characterized by a rule that combines dominant tribalism with extremely cautious and limited movements towards the establishment of a modern state based on institutions that do not encroach upon the authorities and power of the ruling families. I will not delve into this deeply, for it is public and common knowledge.

1-6- Since independence in 1971, the ruling family in Bahrain (Al Khalifa) has followed the pattern of other ruling families with tribal systems in the Gulf (Kuwait – Qatar – UAE). It has preserved the overwhelming dominance of the ruling family on positions and functions of a decisive and sovereign nature. This includes the military, police, as well as financial affairs. In the meantime, it has worked on improving the image of the State through the introduction of some institutions that carry a semblance of modernity. This includes largely ceremonial parliaments and licensing civil societies and political groups within tightly controlled legislative constraints. Decisive decision-making and control powers, however, always remains in the ruling core, whose membership is confined to high rank individuals from the upper echelons of the Royal Family only, which is explicitly referred to as the “Leadership”.

1-7- It could be said that neither the Sunnite theory of *Wali Al-Amr* nor the Shiite theory of *Wilayat Al-Faqih* have been of an effective influence in the political ideological movements in Bahrain, but indeed the national demands movements, until the mid-nineties of the last century, were led by prominent persons from both groups, Sunnites and Shiites (see paragraph 2-10 of this paper).

¹ Abdulla Khalifa Abdulla Al-Gatam, *Jawaneb min Tareekh Al-Shurtah fi Al-Bahrain*, Pages 156-165 (Translation of Book Title: “Sidepieces of Police History in Bahrain”).

² Hussain Isma'eel – *Akhbar Al-Bahrain – Ahdath 100 A'am*, Publication of Maktabat Taher, Page 152 (Translation of Book Title: “Bahrain News – Events of 100 years”).

³ Abdulla Al-Howaihi, *Enbelaj Al-Noor – Qissat Al Kahraba' fi Al-Bahrain*, Page 94 (Translation of Book Title: “The Shining of the Light – The History of Electricity in Bahrain”). See also: Mohamed Khalil Al Muraikhi, *Ahdath Tawaha Al-Zaman*, Page 200 (Translation of Book Title: Broken with the Past Events).

⁴ Security Council Resolution No. 278/1970 issued in Meeting No. 1536 document No. 5/9772 – Mr. Vitor Winser Cestarde Report

This was the case until 2002, when the regime played a leading role in changing the situation by the manner in which he dealt with the two sects and the use of biased media. The regime followed a policy of being cordial with the Sunnite community and forgiving even the opposition within them, while taking a much sterner and harsher approach in dealing with the Shi'a opposition. It also gradually distanced Shiites from circles of influence and excluded them from employment in many sectors. The general perception within the Sunnite community became that they are the people of the regime, while the Shi'a gradually came to feel that the regime is their enemy.

The policy of discrimination and privileges has been in existence since long, but it has had more of a wide and destructive nature since the beginning of this century.¹ It is obvious in the literature of the Bahraini opposition, until now, that its demands are purely democratic and has never adopted any sectarian demands or slogans.

1-8- The division between the two sects culminated after the events of the 14 February 2011 movement. The Government intensified its oppression of its dissidents on all fronts, while it entrenched extremists from within the Sunnite community in positions of authority. The official Bahraini media and press (which is state or semi-state owned and controlled) worked on deepening the division, while the State concentrated the extremists within the political religious Sunnite current within certain institutions to cleanse them from Shiites. This culminated with the sacking of thousands of Shiite employees in many public and private institutions.

1-9- This division did not prevent the presence of active and leading Sunnite figures within the opposition.

1-10- In the middle of the ideological tug between the countries of the region, fed by religiously extremist groupings and the official media of Iran from one side and Saudi Arabia from the other side, an ugly and unprecedented division has been imposed upon the people of Bahrain. Optimism still prevails, however, that this is a temporary crisis that will pass, and that solidarity and cooperation will return between members of the community, as was the case in the 1940s and 1950s of the past century.²

Second: A brief historic account about the political and social movements in Bahrain:

It is beyond the scope of this paper to discuss all the details of the popular and political movements in Bahrain. Instead I will enumerate the most important highlights in a manner that serves the purpose of this paper.

2- A Historical Brief on the National Rights and Political Movement in Bahrain

¹ See the report prepared by Mr. Salah Al-Bandar, a British advisor who worked for the Government of Bahrain on www.ba7rain.net

² See Paragraphs 2-6 onwards of this paper

2-1- Since 1910, the *Baharna* have grown accustomed to presenting petitions aimed at safeguarding them from oppression, which were usually addressed to the British Administrators of the country back then. It is probably most apt to start with the popular petition that was presented by a number of the *Baharna* notables to Sheikh Isa bin Ali, the Ruler of Bahrain, on 16 February 1922. This petition was presented in despair at the reluctance of the British authorities to intervene to assist them in and addressing their demands, so they preferred to deal directly with the Ruler. The petition contained demands for the reformation of the judiciary, administrative system, and protection from trespassing. Sheikh Isa responded in a famous proclamation dated 22 February 1922 – a week after receiving the petition – in which he positively addressed some of the grievances. This proclamation provided the basis for the establishment of a judicial system, the notarization of contracts and the end to forced labor (a practice where members of the Ruling Family would use the *Baharna* for labour without remuneration). The British later referred to this proclamation within their literature as Bahrain's "Magna Carta"¹. The *Baharna* repeated their demands for reforms through a second petition presented in November 1934. This time the Government, then dominated by the British advisor Charles Belgrave, did not positively respond to the petition.²

2-2- It is worth noting that there had also been petitions from the leaders of the Sunnite sect. They have generally focused, however, on affirming the national character of the rule in the face of the influence of British authorities. Their motives were mainly nationalist-religious and directed against the interference of the British authorities in the matters of the country, as well as reform according to Islamic principles.³

2-3-The popular movements for reform and development began to take a nationalist non-sectarian tone in 1936. In an undated "confidential" document deposited under the Reports of 1936 in the archives of the British Government of India, records show there were meetings involving leaders of the Sunnite and Shiite sects, most notable of whom were Yousif Fakhro and Mohammed bin Yousuf bin Nasser (Sunnite) and Mohsin Al Tager and Ahmed Al-Alawi (Shiite), in addition to others. This meeting was attended by the son of the Ruler (the Heir to the Throne back then) Sheikh Salman bin Hamad. These meetings crystallized into certain political demands, the most important of which were: 1. The Establishment of a legislative authority 2. Reform of the Police 3. Reform of the Judiciary (these are roughly the same demands of today with the addition of reform of the Army and the National Guard). This report was followed by another in the same period that dealt with the activities of a group of youth headed by Mohammed Al Orayyed and Ebrahim Al Orayyed (Shiite) and Abdulla Al Zayed and Mohammed Saleh Al Shirawi (Sunnite). The report focused on their publication of an anti-regime article in the *Al-Rabeta Al-Arabia* Magazine (Arab Association Magazine) that was published in Egypt.⁴

¹ Indian Office Library Records, Document 10R/R/15/2/83, Page 68. (See also my Book: Judiciary and Arbitration in Bahrain – Kilwer Law International)

² Mohamed Al-Rumaihi, *Al-Bahrain wa Mushkilat Al Tagyeer Al-Siasi wal-Ejtimae'i*, Dar Ibn Khuldoon Publication, Page 210 (Book Title Translation: "Bahrain, the Problems of Political and Social Changes")

³ Mohamed Al-Rumaihi – Ibid Page 191

⁴ Indian Office Library Records, Document R/15/176, Pages 142 and 176

Bahrain witnessed in 1938 – for the first time it seems – the publication of leaflets issued by political organizations instead of individual leaders that were opposed to the British Advisor. They demanded political reform, with a legislative assembly being the primary demand. One of these leaflets was issued by “Representatives of the Nation” and another by “the Arab Youth”. These movements were the foundations for the subsequent national and Pan-Arab movements.¹

2-4- Leftist ideology began to enter Bahraini society when the Iranian Tudeh Party decided in a meeting in Tehran to send some of its members to Bahrain. A February 1948 report for the British intelligence in Iraq indicates that two members of the Iranian Communist Party – Ali Baqer Zadeh and Isma'il Kadhem - reached Bahrain. This was followed by several other reports regarding the foundations of communist movements in Bahrain². In 1955 Bahrain saw the birth of The National Liberation Front, a movement which espouses communist ideology.³

2-5- It is worth emphasizing that the nationalist elements opposed to British control on the island that were instigated by the popular Sunnite movements, as well as the political and rights-based elements that were instigated by the *Baharna* movements combined and interacted during the 1940s decade to develop the nationalist democratic movement in the early 1950s. At this time period, Bahrain witnessed the phenomenon of national clubs as a framework to regulate the new political and social thoughts and currents. These clubs were established on a nationalist basis to include the intelligentsia of both Sunnites and Shiites without discrimination. This decade also witnessed the birth of the national Bahraini press, beginning with Newspapers such as *Sawt Al-Bahrain* (the Voice of Bahrain) that was launched in 1949, which was subsequently followed by *Al Qafela* (the Convoy) then *Al Watan* (the Nation) of 1952. These clubs and newspapers played an active role in spreading national, democratic and rights-based thought and consciousness.⁴

2-6- As is being witnessed today, a pre-meditated effort to build up sectarian tensions by factions with vested interests resulted in the eruption of a dispute between Sunnites and Shiites, leading to violent unrest and clashes that led to deaths. This prompted the intelligentsia class of Sunnites and Shiites to work on putting an end to these clashes and dispute. At the top of this list were the leaders of the national press and clubs. Several meetings were held in the houses of these leaders, and not only were the sectarian disputes resolved at these meetings, but a movement demanding political and social rights and reform was born. This did not please Belgrave (Sir Charles Belgrave, the then British advisor to the Ruler of Bahrain), who tried to marginalize this group. He was faced by a strong nationalist current, however, which led to an enlarged meeting in one of the mosques that was followed by another popular

¹ Indian Office Library Records, Document R/15/176, Pages 148, 204, 206, 207, 208, 238 and 360.

² Dr. Saeed Al-Shehabi, Al-Bahrain 1920-1971 *Qira'ah fi Al-Watha'eq Al-Britaniah*, Dar Al-Kunooz Al-Arabia Literary Publications, Page 154 (Translation of Book Title: “Bahrain 1920-1971 A Reading in the British Documents”).

³ Fawzia Mattar, Ahmed Al-Shamlan - *Seerat Munadhel wa Tarikh Watan*, Al-Mo'asasa Al-Arabia lil Tiba'ah wal Nasher, Page 150 (Translation of Book Title: “Ahmed Al-Shamlan – A Biography of a Combatant and a History of a Nation”).

⁴ Mohamed Al-Rumaihi, Ibid, starting from Page 228, & Abdul Rahman Al-Baqer, *Min Al Bahrain Ila Al-Manfa*, Dar Al-Kunooz Al-Arabia Literary Publications, Page 36 (Translation of Book Title: “From Bahrain to Exile”)

festival in the village of *Sanabis*, where an organization was setup under the name of the “Higher Executive Committee” (the “Committee”). It was agreed at this meeting that the Committee will be the representative of the people of Bahrain, and the demands thereof were formulated as follows:

- The Establishment of a legislative council
- The establishment of penal and civil codes for the Country
- Allowing the formation of a workers’ union
- The establishment of a supreme court of cassation ¹

The birth of the Committee was a landmark and turning point in the establishment of a national movement built on a modern secular basis that realizes the demands of the civil state, the state of legitimacy.

I will not delve into the details of the Committee, but it suffices to say that it was aborted and its leaders were imprisoned, but its spirit kept directing national popular movements. It still remains the ideal nationalist movement that the nationalists of Bahrain today search for.

As had become customary after these episodes, the rulers enacted partial reforms after the Committee, particularly within the judicial and administrative system.

Between the suppression of the Committee and the arrest of its leaders in 1956 and 1965, a combination of elements interacted and left a huge mark on the national and Pan-Arab consciousness. The nationalist flame ignited by the Committee kept burning in people, and this flame spread Pan-Arab thought that was fed by Nasserist currents in Cario as well as the nationalist revolutions in Algeria and Yemen. This was coupled with the growth of the working class after the discovery of oil and the establishment of the Bahrain Petroleum Company (Bapco) and the rise of class consciousness which was propelled by the formation of the National Liberation Front in 1955. In addition, the Pan-Arab momentum led to the development of circles of followers to the Movement of Arab Nationals (MAN), a chapter of which was established in Bahrain in 1957, as well as the Baath Socialist Party in 1958². Thus the popular Bahraini movement was exemplified by a new wave whose waters were nationalist and pan-Arab, with sectarian movements disappearing completely off the scene in this period.

2-7- The country entered a period of economic strains at the beginning of the 1950s, likely due to the aftermath of the Second World War. Wages decreased, creating an atmosphere of discontent between people. The “Protection Treaty” with the British authorities was renewed in 1964, which fueled anger between the nationalist and pan-Arab leaders of the time. A series of disturbances ensued, beginning with the burning of the reception arches for the Ruler upon his return from London after signing the Treaty. However, the mass laying-off of workers from the oil company Bapco was the direct spark that

¹ Abdul Rahman Al-Baquer, *Ibid*, Page 119, Charles Belgrave Personal Column Page 206.

² Fawzia Mattar, *Ibid*, Page 150 & Dr. Saeed Al-Shehabi, *Ibid*, Page 278

ignited a popular movement of wide protests that had nationalist, democratic and worker-related demands and acted as an extension to previous popular movements.¹

The uprising of March 1965 gave birth to several popular movements, most notorious of which from the standpoint of media coverage was “the Nationalist Forces Front”. The popular movement was quickly and violently crushed and its leaders imprisoned. Bahrain then entered a period of stagnation in oppositional political movements.²

2-8- Following Britain’s decision to withdraw from East of the Suez, and after the failure of the talks to establish the Gulf Union that was supposed to include Bahrain, Qatar as well as the rest of the Arab Emirates, Bahrain’s independence was declared. Its constitution was set by a half-elected constitutive committee. In accordance with the constitution, election of members of the National Council (the parliament), whose elected members were supposed to constitute about 75% of its members took place. The people brought to the parliament a group of independent nationalists, Pan-Arabs and communists that were united in a bloc known as the “People’s Bloc”. There was also a bloc of conservative Shiite that constituted a bloc known as the “religious bloc”. The “People’s Bloc” had a leading role in the parliamentary struggle for more reforms and liberation, and it constituted a cornerstone in the parliamentary opposition. The Government increasingly grew intolerant, so it dissolved Parliament and suspended the parts of the Constitution that had to do with the elections of the National Council, with some of its members subsequently arrested.³

In 1972, filled with aspirations of liberation and reform at the beginning of independence, a group composed of a number of independent nationalists, Pan Arab nationalists and Communists set up the “Constitutive Committee for the General Union of Workers and Tradesmen”. This group’s demands were mainly concentrated on the establishment of worker unions.⁴

2-9- Movements with Shiite Islamic leanings and of a revolutionary character grew during the 1980s in the aftermath of the rise of the Islamic Republic in Iran. A group of 72 individuals were arrested and tried with attempting to overthrow the regime and the assassination of its figures under the guise of a movement named “the Islamic Front for the Liberation of Bahrain”.⁵

2-10-At the beginning of the 1990’s, and in the aftermath of the Iraqi invasion of Kuwait, a group of nationalist figures began a popular movement that was characterized by the presentation of petitions to the Amir (the Head of State) asking for the restoration of parliamentary systems. This started with the Petition of the Elites that was presented on 05/11/1992, which notably included Sheikh Abdul Latif Al

¹ Fawzia Mattar, *Ibid*, Pages 139 & 151

² Personal, contemporary co-existence

³ Group of Lawyers, *Al Rai fe Al-Mas’alah Al-Dostoria*, Dar Al-Kunooz Al-Adabiya Publications (Translation of Book Title: “The Opinion on the Constitutional Issue”).

⁴ Personal Experience as I was a member of this committee. I was referred to in its literature as Hassan Al-Satrawi – See also Abdulla Mutaiwe’e, *Safahat min Tareekh Al-Haraka Al-Umaliah Al-Bahrainia*, Dar Al-Kunooz Al-Adabiya Publications, Page 96 (Translation of Book Title: “Pages of the History of the Bahraini Workers’ Movement”).

⁵ Criminal (State Security) Case No. 2/1982, Judgment issued on 22/5/1982.

Mahmood (Sunnite) and Sheikh Abdul Amir Al Jamri (Shiite). This was followed by the Popular Petition that was presented on July 1994. The state responded by escalating its activities against religious Shiite activists, some of whom were exiled.¹

The State was largely successful in this campaign against Shiite religious leaders, as the protests were largely limited to Shiites, while the participation of Sunnites was limited to Pan-Arabist and leftist elements.²

The members of the Petition's committee remained active on the scene, headed by the late Sheikh Abdul Amir Al-Jamri, and they were later known as the instigators of *Al-Mubadara* (the Initiative).

2-11- The Nationalist elements were trying hard to prevent the State from successfully entrenching the sectarian divide, hence it called for meetings to discuss the situation and unify the protests' movement. One of the most important was a meeting that was organized in the house of Mr. Jassem Murad, which was attended by nationalist individuals from both sects. These meetings culminated with the signing of a petition that demanded political and constitutional reform. The protests continued in what came to be known as "the Nineties Intifada", until it was faced with extreme suppression and excessive use of force. The leaders of the movements, headed by Shaikh Abdel Amir Al-Jamri were arrested. The following period was characterized the presentation of petitions, one of which was the Women's Petition which called for ceasing the use of force against protestors and those in detention, in addition to demands for reform.³

2-12- The former Amir Sheikh Isa bin Salman Al-Khalifa passed away in March of 1999 and was succeeded by his son Sheikh Hamad bin Isa. The new Amir promised to initiate constitutional reforms upon receiving the throne. He toured the villages and towns promising reform. His reign began by the abolition of "the State Security Law and Courts", along with the release of prisoners of conscience and allowing those exiled to return. People took this as a harbinger of good events to come.

Advanced political and intellectual discussions took place at this stage. Primary amongst them was the convening of the "Constitutional Conference" that included all of the oppositions' forces, and which discussed the political and constitutional situation and formulated several possible solutions and roadmaps.⁴

The people were then surprised by the formation of a committee to draft the National Action Charter (the "Charter") by the authorities, which seemed to be guided form above. This led some of its members to resign due to the clear official dictations to the committee. The withdrawal of some of these members had an impact in changing the path of this committee, since it seems to have corrected its

¹ Ali Qasim Rabe'a, *Lajnat Al-Aridah Al-Sha'abia fi Masar Al-Nidhal Al-Watani*, Pages 35 & 41(Translation of Book Title: "The Popular Petition in the Journey of the National Struggle").

² Personal co-existence and deduction – Subject for discussion.

³ Ali Qasim Rabe'a, *Ibid*, Page 62.

⁴ Personal Experience – I was elected as a chairman for the First Constitutional Conference – See Document of the First Constitutional Conference

path and produced a draft of the charter that looked acceptable. A referendum was held on the charter and it was agreed with a resounding popular percentage that reached 98.4%.¹

Discussions continued after the Charter on what the shape of the new constitution should be, but what was taken as a given was that the new or revised constitution would uphold the system of constitutional monarchy according to what the charter stipulated in the Section “The Future’s Outlook”: “Second: The Legislative Authority: The Second chapter of the Fourth Section of the Charter that is specific to that the Legislative Authority shall be amended to be compatible with the democratic and constitutional developments in the world. This is to be done by adopting the “two-chamber system”, where the first chamber is directly elected by the people and is authorized with the power of legislation. This is to be complemented by an appointed chamber that includes individuals of expertise and specialization, to assist with their counsel in matters of expertise and specialization that require such counsel.” It is clear from this text that the role of the appointed chamber is only for giving guidance and counsel, with the legislative ability confined only to the elected chamber. The State surprised the people, however, by issuing a new Constitution on February 14 2002 that came to disappoint hopes and returned matters to square one. The new Constitution gave equal legislative weight to the elected and appointed chambers, and the leadership of the overall chamber was given to the appointed chamber. It also removed from the Parliament many of the supervisory powers, including the financial, which were granted in the previous constitution. For example, the Financial Control and Audit Commission, which used to follow the elected chamber in the 1973 Constitution, have been placed under the jurisdiction of the Royal Court. Popular involvement was reduced to being marginal at best.²

This constitution recreated the political contentions and struggles, and so popular protests and demands calling for reform returned once again. Political movements took on a new form that was marked by official legitimacy, since political movements were allowed to form “political associations”.³

2-13- In October 2002 the first parliamentary elections were held for the Chamber of Deputies. These elections were boycotted by the opposition societies, headed by Al Wefaq National Islamic Society (“Al Wefaq”) (Al Menbar Al Taqaddomi was an exception as it has participated). 23 July 2005 witnessed the issue of Decree no. 26 with regards to Political Societies (the “Political Societies Law”), which caused widespread controversy between the opposition forces. However, the opposition societies eventually decided to register under the new Law, while continuing to demand for its improvement. The societies’ agreement to register under the new law led to the formation of loyalist and opposition societies that have been registered according to the Law of Associations and Clubs, before the promulgation of the new Law, but which were formed on an ideological basis in their majority. The most important of these societies according to popular weight and influence are:

¹ Personal Experience – I was a member of the National Charter Committee

² See *Al Rai fe Al-Mas’alah Al-Dostoria*

³ Political Societies Law No. 26/2005, See also AbdulRahman Al-Noaimi, Article published in the book *Afaq Al-Tahawul Al-Dimocrati fi Al-Bahrain*, Al-Urouba Club Publication (Translation of Book Title: “The Visions of the Democratic Change in Bahrain”).

- Al Wefaq National Islamic Society (Al Wefaq) – its members are Shiites of diverse leanings
- Al Menbar National Islamic Society (The Islamic Menbar) – its members are Sunnite / Muslim Brotherhood
- National Action Democratic Society (Waad) – its members are Pan-Arab Leftists, particularly former members of the Popular Front (Sunnite and Shiite)
- Al Asala Islamic Society (Al Asala) – its members are Sunnite Salafists
- Al Menbar National Democratic Society (Al Demokrati) – its members are communists (formerly the National Liberation Front) and both Sunnite and Shiite.
- Islamic Action Society (Amal) – Its members are Shiite followers of Imam Al Sherazi.
- National Democratic Gathering Society (Al Tajammu') – Most of its members are former members of Al Baath (Sunnite and Shiite)
- National Action Charter Society (Al Meethaq) – its members are independent figures that are loyal to the regime (Sunnite and Shiite)

These are complemented by other societies that have limited following.

2-14- Societies with a majority of Shiite members or with leftist leanings formed the opposition, while societies with Sunnite leanings geared towards the loyalist positions.

The opposition societies that boycotted the first round decided to join in the second parliamentary voting cycle in 2006, with part of its members disagreeing on this decision. A split occurred within *Al-Wefaq*, which led to the exit of some of its notable leaders and the creation of splinter organizations and movements, most notable of which was the Movement for Democracy and Liberties (*Haq*), which is unauthorized according to the Political Societies Law, and which was led by the former Vice General Secretary of *Al-Wefaq* Mr. Hassan Mushaima. This group initially started with the participation of independent national elements including Mr. Ali Rabe'a, the late Sheikh Issa Al Jowder and the late Hesham Al Shehabi, all of whom are Sunnite. They also included Mr. Saeed Al Asbool, a Shiite of moderate national-leftist leanings. This was followed by the emergence of another movement called "Al-Waffa Islamic Current" which was led by the leading founding figure of *Al-Wefaq* Mr. Abdulwahab Hussain.¹

2-15- *Al-Wefaq* led the opposition from within the elected Chamber of Deputies in a moderate movement that called for reform and development. The movements outside of Parliament, led by *Al-*

¹ Personal co-existence as I personally called *Al-Wefaq*'s Leader for a meeting in my house to try and reach a compromise between them but it was unsuccessful.

Waffa and *Haq* in addition to some licensed oppositional societies such as *Wa'ad*, *Amal*, *Al-Ekha'a*, *Al-Tajamu'* and *Al-Menbar Al-Demokrati* led the oppositional movement calling for change outside of the parliament (I am not dealing with movements outside of Bahrain). Their methods varied between moderation and harshness, and they were frequently beset by disagreements.

2-16- Since the explosion of what became known as the “Arab Spring” in Tunisia and followed by Egypt in January 2011, popular movements also reached Bahrain. Youths of unknown political affiliations called for protests and reform. The situation exploded after starting with limited and scattered protests on 14 February 2011, expanding and resulting into a huge crowd at the Pearl Roundabout, where significant numbers of people gathered, reaching sometimes hundreds of thousands. Rallies of thousands of individuals covered the streets of the land calling for reform. The opposition (licensed and unlicensed) joined this movement. A new movement also emerged that employs secrecy in its work and called itself the “February 14 Youth Coalition”.

Third: The Events and Implications of 14 February

3-1- With the currents of the “Arab Spring” in Egypt and Tunisia, groups of youth were inclined to work in the same manner in Bahrain. They sent invitations through social networks (Facebook and Twitter) for protests in the Pearl Roundabout on 14 February 2011. At the beginning there were scattered protests across the country, which were followed by a mass demonstration in the Pearl Roundabout (which has currently been renamed “The Farooq Juncture” after the demolition of the Roundabout and the monument at its center). The slogans at these protests varied. They began with calls for constitutional reform, but they escalated in part to raising the banner of “The downfall of the regime”, having been affected by similar calls in Tunisia and Egypt.

3-2- There were two deaths in the demonstrations on 14th and 15th of February. In light of this, H.M. the King gave a speech in which he expressed his regret for the death of two of “his sons” and offered his deepest condolences to their families. He ordered the formation of an investigative committee into the related events headed by the Deputy Prime Minister Mr. Jawad Al Orrayedh.¹

3-3- Events escalated to people protesting at the pearl roundabout beginning on the 15th of February. However, security forces attacked the demonstrators on the 17th of February at about 3 A.M. This attack resulted into the death of 4 individuals and a large number of injuries. Forces from the Bahrain Defence Force (the “Army”) laid siege to the area of the protests and vacated it.

3-4- On the 18th of February, at the end of the memorial for the first martyr (who was killed on the 14th of February), a group of protesters headed back again towards the Roundabout. They clashed with security forces, which resulted in some casualties, including a martyr who was hit by a live bullet in the

¹ His Majesty the King's speech broadcasted by Bahrain TV on February 15th 2011. It was also published on the local press on February 16th 2011. See also the Bahrain Independent Commission of Inquiry (BICI)'s Report clause 217.

head, leading him to be unconscious and subsequently dying on the 21st of February 2011.¹ In the midst of events and during a programme at Bahrain TV, the Crown Prince surprised the programme presenters and the people of Bahrain with his abrupt entrance and his direct address to the people, calling for a dialogue. He stated that “Bahrain has never been a police state”. In the same day, H.M. the King issued a mandate to the Crown Prince to conduct a comprehensive national dialogue with the Opposition. On February 19, the Crown Prince issued an order to withdraw the military and security forces from the streets of Bahrain, assuring protestors of their safety and security. This was followed by an interview by the Crown Prince with the international news channel CNN, in which he replied to a question by the interviewer stating: “Definitely. The protesters at the Pearl Roundabout represent an important segment from the Bahraini society and his political beliefs and we will ensure their safety..”²

3-5- As a follow-up the Crown Prince also said in an interview with Bahrain Television that “Their natural resolve has been proven to everyone that they are more strong than anything.” He added, “I know that the youth at the Roundabout have an opinion, and I would like today before tomorrow to be able to address them directly because I know that one reason for this crisis is the feeling amongst some that their voice is not heard... I still defend the right of a citizen to protest even if I disagree with his viewpoint... What I see in front of me is that the majority today in Bahrain want peaceful demonstrations and marches... We have thousands gathering in the Roundabout with utmost freedom and expressing their viewpoint...”³.

3-6- The people felt reassured regarding their safety, and the protestors at the Roundabout increased. Peaceful marches were held, and bridges of contacts were extended between the Opposition and the Crown Prince (who was mandated by H.M. the King to conduct a dialogue with them). These contacts continued with the aim of establishing a suitable atmosphere for dialogue.

3-7- On 20 February, citizens loyal to the government gathered nearby to the Palace of the Prime Minister. In the evening, a gathering of “loyalists” was held in front of the Al-Fateh Mosque under the name of “the Gathering of National Unity” that was composed of societies and individuals that were largely Sunnite.⁴

3-8- The opposition societies concentrated on drafting a vision and foundations to successfully enable the dialogue that was announced by the Crown Prince in the media outlets, which included the necessity of the provision of preliminary conditions would enable a successful dialogue, the most important of which are the following:

¹ See *Al-Wasat* Newspaper No. 3087 and the BICI Report clauses 229-232 and clause 659 of the same report.

² Broadcasted by CNN and published in local press on February 20th 2011. See *Al-Wasat* Newspaper Issue No. 3089. See also BICI Report clause 276.

³ See BICI Report clause 403 and *Al-Wasat* Newspaper Issue No. 3104.

⁴ Bahrain News Agency (BANA) February 20th 2011 “High Highness the Prime Minister assures the crowds arriving at his Palace that the Kingdom of Bahrain will come out of this challenge stronger than ever”.

"First: The conditions for conducting a successful dialogue that the authorities should enable:

1. To pledge to ensure the right of protestors to remain at the Pearl Roundabout and to preserve their lives throughout the period of the dialogue and negotiations.
2. The immediate release of all political detainees and the annulment of cases against them in courts.
3. To pledge to keep the official media (including Bahrain national Television and Radio) impartial and making it a platform for a free media that carries the viewpoints of all citizens from all spectrums in an impartial and professional manner that would also help to lower the sectarian tensions.
4. To embark immediately in an impartial investigation in the acts of killings that occurred since 14 February, and to refer those responsible to courts of law.
5. The resignation of the Government.

Second: The authorities should announce their acceptance of the following principles at the beginning of the dialogue and before embarking upon the subsequent details:

1. The annulment of the 2002 constitution and the call for elections to a constituent assembly that is elected upon the principle of equal votes for all citizens in order to draft a new constitution for the country.
2. The right of the people to elect a legislative assembly that has exclusive and full legislative rights, and which is elected based upon the principle of equal votes for all citizens.
3. The right of the people to have an elected government.
4. Providing the appropriate guarantees to ensure that the different parties will adhere by the agreements and pledges that will result from these negotiations.

Third: The agreement to a relatively short timetable:

The necessity to specify a time table that does not exceed two to three weeks to reach agreements that will place fundamental solutions to the political and constitutional crises that the country faces, which should help in the prevalence of peace and security and the embarkation upon a path of true development and democracy.”¹

3-9- The protests continued, and a small segment decided to organize marches to the Royal Court in Riffa and Al Safriya Palace (one of the Royal Palaces). This aroused reservations within the regime to a

¹ Al-Wasat Newspaper Issue No. 3112 dated March 15th 2011, and personal co-existence

certain extent. Although these marches were peaceful, they included fiery slogans. The pace of protests and sit-ins in vital and strategic locations also increased, most significant of which was the sit-in in front of the Financial Harbour and the closure of the main highway between the diplomatic area and the Financial Harbour. This led security forces to enter the area by force and clear it from protestors, even though there were talks with the leaders of the opposition to assist in peacefully opening the areas. This resulted in some casualties on the 13th of March 2011.¹

3-10- On March 13, the Crown Prince stated that he has accepted a dialogue based upon seven principles, most important of which were a parliament with full legislative authority and a government that represents the will of the people. On March 14, the opposition political societies issued a statement during a press conference held at *Al-Wefaq* headquarters that they were and still are with the principle of dialogue, and they reiterated the need to form a constituent assembly to draft a new constitution. They demanded official clarifications from the crown prince about his acceptance of the principles of dialogue that were announced in media outlets in order for the dialogue to be meaningful and serious.² This statement was a step towards the beginning of the dialogue.

3-11- On March 14, people were surprised by the entrance of forces from the Saudi Military, accompanied by military units from the UAE under the banner of “the Peninsula Shield”. On the next day, March 15, H.M. the King issued Royal Decree No. (18) of the year 2011 regarding the Declaration of the “State of National Security”. The head of the Bahraini Defense Forces (BDF) was tasked with undertaking the necessary steps to execute the National Security Decree in all parts of the Kingdom for three months. On March 16th 2011, at 7 AM, the protestors at Pearl Roundabout were attacked by the Army. The Salmaniya Medical Complex (the main medical complex in the Country) was surrounded and its outer perimeters vacated from protesters, in conjunction with a wide ranging arrest campaign. This day witnessed 9 deaths, including members of the security forces. It should be noted here that the official media outlets undertook an extreme campaign filled with a spirit of vengeance and incitement against leading figures from the Shiite community specifically and the Opposition generally.³

3-12- It is worth mentioning that some leaders within the opposition had expressed a viewpoint that was disseminated in the name of “the Coalition for the Republic”, in which they stated the illegitimacy of the Regime and the necessity of changing it and replacing it with a republican system. They announced that their method for this was a popular referendum, upon which the regime change was conditional. If the people were not to agree, they would renounce the demand for a republic. They were subsequently detained and sentenced to life imprisonment in the courts of National Security.⁴

3-13 A widespread campaign of arrest targeting many leaders of the opposition and medical personnel ensued, which was accompanied by a curfew from 4pm to 4am in northern Manama. Gatherings, sit-ins and demonstrations were banned in all parts of the country. Private and public schools were suspended

¹ *Al-Wasat* Newspaper Annex of Issue No. 3403 dated January 1st 2012.

² BICI's Report – Clauses 669 onwards.

³ BICI's Report – Clause 688

⁴ Criminal/National Security Case No. 124/2011.

until further notice, while many were dismissed from their works, including university professors, teachers, administrators, unionists, students and officials in large companies and ministries. The number of those dismissed reached around 2464 in the private sector only according to the records of the Ministry of Labor, and a further 2075 dismissed and suspended in the public sector according to the records of the Court of Civil Service. The vast majority of these dismissals were Shiite.¹

3-14 On May 8 2011, royal decree number 48 was issued that lifted the state of National Security on the 1st of June 2011 instead of 14th of June. The largest of the opposition societies, Al Wefaq, welcomed this move. On May 18, President Obama declared that Bahrain has to respect human rights and that it should undertake serious political reforms, as well as declaring his rejection of the destruction of mosques. The Government welcomed the principles outlined in Obama's speech, while the Gathering of National Unity rejected this speech.²

3-15- The Crown Prince stated on 1 June 2011 that the dialogue should be inclusive of all spectrums and that it emanates from a desire for reform. This led many parts in the international community to welcome the National Dialogue as a way to resolve the current crisis and to encourage the Opposition to participate. The Government subsequently called for a conference for National Dialogue between 1 July and 28 July 2011. In the invitation to the dialogue, however, the authorities chose a majority of loyalists or individuals with no role in political matters. The invitees included individuals from opposition societies, including *Al-Wefaq*, but their representation was less than 10% of all of the conference's delegates (it is worth noting that *Al-Wefaq* held approximately 48% of the 40 elected legislative seats in the last elections despite the unfair electoral districts).³

3-16- On 29 June 2011, H.M. the King declared under Royal Decree No. 28 for the year 2011 the formation of the Bahrain Independent Commission of Inquiry ("BICI") under the leadership of Professor Mohammed Cherif Bassiouni and 4 international specialists. The commission presented its report on 23RD November 2011. Many of its recommendations were positive, and they were accepted in their entirety by the H.M. the King. The implementation of these recommendations, however, remains slow and patchy, with the crisis ongoing. Royal Decree No. (62) of 2011 was also issued, ordering the transfer of all cases still being heard before the National Security Courts to ordinary Courts. On 18 August 2011, however, Royal Decree No. (28) of 2011 was issued, which granted the continuance of the National Security Courts on the felonies cases which it has already commenced, and that the transfer of cases to ordinary Courts shall be limited to misdemeanors cases only.

Fourth: The current situation

By the current situation, I mean that situation which time frame started from mid-February, 2011, and which continues to this day as was outlined in the third section of this paper. This is a period that is

¹ BICI's Report – Clauses No. 538 & 1659

² <http://www.alarabiya.net/articles/2011/05/20/149884.html>

³ Statements by *Al-Wefaq* in *Al-Wasat* Newspapers dated July 27th 2011 – 31st 2011.

characterized by the intensification of the conflict between the ruling authorities and society. It is a conflict characterized by the face-off between the doctrine of total familial control and possession of the State's institutions and wealth resources and the societal forces aiming for change and reform via demanding real participation in the running of the country, in a manner that achieves the legitimate aspirations for a decent life and the assurance of the life of future generations. This would be done in a framework of a civil modern institutional state, based on the principles of citizenship and equality in rights and obligations, and going beyond the current situation of absolute monarchy and totalitarian rule.

This current situation is a connected episode in what preceded it from previous episodes of political conflict in Bahrain's modern history that we have previously addressed. This is a history that keeps repeating itself in a similar manner approximately every 10 years, where political confrontation intensifies, and where – unfortunately- brutal security confrontations also intensify, deepening the cracks and divisions between the two sides. This, at the end of the path, leads to an increase in complications that block the path towards peaceful long lasting solutions to this conflict.

I believe that the current situation is governed by a combination of factors that are similar to a large extent, with some differences, to the factors that governed previous periods or episodes of the relationship between the two sides. As I see it, these factors can be summarized into the following:

- Pursuing a security approach and resorting to an escalation in the use of suppression methods and excessive force against demands for reform;
- Continuing to endeavor obtaining the allegiance of one segment of the society in the face of popular demands for change and reform, with the aim of segmenting the society based on sectarian grounds. This is backed by political naturalization of non-Bahrainis from a particular religious sect;
- Dithering around calls for reform by utilizing a policy of cosmetically improving the regime's policies on the surface and avoiding any substantive and serious reform.

I shall deal with each of the above factors in more detail in the following paragraphs.

4-1- A Policy of suppression against calls for reform:

In dealing with the demands for political and constitutional reform in February 2011, the authorities used a policy of escalation of suppression in a manner not unlike how it dealt with previous popular movements. In this latest episode, it did not confine itself to the use of police and security forces to confront these movements, opting as well to use the Army and the National Guard, and calling for the assistance (even if symbolic) of forces from neighboring countries like Saudi Arabia and the United Arab

Emirates under what is called the Peninsula Shield. All of this was used to annihilate the forms of political opposition used by the popular movements.

The State has escalated in its methods of suppression both in terms of quantity and quality in the following manner:

4-1-1 Declaring a state of “National Security”

The declaration of a state of “National Security” formed the main headline for the policy of the State in confronting the political movement that gained momentum since mid-February 2011. The National Security Decree allowed for the imposition of a wide range of exceptional measures and practices, which entailed the oppression of a wide range of liberties and basic rights that are guaranteed by the constitution of the country, not to mention liberties articulated in international conventions and treaties related to political and civil liberties. This particularly includes the International Convention on Civil and Political Rights, which Bahrain became a member of via Law No. (56) of the year 2006, thereby becoming one of its national laws. The application of the state of “National Security” also entailed depriving those detained and charged from defense guarantees provided by the Law of Criminal Procedures.¹

The explanatory note to the 2002 Constitution made a distinction between a situation of “National Security” and a situation of Martial Law, where it explains that “this distinction entails that the necessary provisions to restore order when declaring National Security situation must be less extreme and oppressive of the rights of individuals and their liberties than those that would be utilized when declaring a situation of Martial Law.” The procedures and provisions actually used under the National Security Decree, however, were in reality much more abusive and forceful than the procedures outlined in the Decree No. (28) of the year 1981 regarding Martial Laws. This was noted in the BICI Report issued on the 23rd of November 2011 and included the following:

“Furthermore, despite the fact that the explanatory memorandum attached to the Constitution states that measures undertaken pursuant to a State of National Security must be less restrictive than those implemented during the application of Martial Law, in reality Royal Decree No. (18) of 2011 was interpreted in a manner that granted Government Agencies powers that exceed those stipulated in Amiri Decree No. (27) of 1981 on the Application of Martial Law. This was particularly evident in relation to the right to indefinitely detain individuals without recourse to a judicial authority.”²

4-1-2 Detention and Arrest Operations

With the declaration of the National Security Act, the security forces undertook a wide campaign of detention that involved large numbers of citizens estimated in the thousands (in a country of which the total citizen population does not exceed 550,000). According to the estimates of BICI Report’s clause

¹ See BICI’s Report – Clause No. 169. See also the defense submission in Criminal/National Security Case No. 124/2011

² BICI’s Report – Clause No. 169

1705, the number of those detained reached 2929 individuals during this period. It should be noted that this estimate revolves only around the period that the mandate of BICI focused on, which is from February 14 to March 31 2011 only. Detention operations and releases are still ongoing according to developments in the security situation on ground.

4-1-3 Illegal Killings

The number of deaths within nationals due to the operations undertaken by the various security and military apparatuses in relation to the political events from February 2011 until now reached 63 cases. Of these, at least 5 involved detainees who died under torture while in detention. There were also 4 police officers among the deaths, with those accused of killing them receiving convictions that reached to death penalty and life sentences.

4-1-4 Systematic physical and psychological torture

There are numerous testimonies and evidence that the majority – if not all – of those arrested and detained experienced physical and psychological torture and various forms of mistreatment, which included insults to religious beliefs of the Shiite sect and matters of honor and origin.¹

4-1-5 Undertaking widespread attacks on villages and areas, with the intent of spreading fear amongst citizens. In many instances (which are still being witnessed), these have been committed by groups of masked men that do not wear the official uniforms for security forces.²

4-1-6 Destroying several Shiite mosques and places of worships, some of which are hundreds of years old. According to the estimates of BICI, these reached 30 places of worship.³

4-1-7 Military trials:

The use of military trials in the modern history of Bahrain dates back to the mid-1970's, when opposition figures were put on trial in the State Security Courts that were inaugurated by the Decree of the State Security Act of 1974 that was issued on 22 October 1974. This Decree was abolished at the beginning of the political Détente that was witnessed in 2001⁴. The declaration of the National Security Act entailed, however, the return of exceptional courts through the employment of courts of a military nature headed by a judge from the military that were called "National Security Courts". These Courts held sessions for hundreds of citizens in a series of trials that lacked the standards of a fair trial, as was established by BICI.⁵

¹ BICI's Report – Clauses No. 848, 873 and 1049.

² BICI's Report – Clauses 154, 554, 791, 1137, 1172, and 1186. See also clauses 1203 and 1258.

³ BICI's Report – Clause 1707.

⁴ The State Security Act was abolished by Decree No. (11) of 2001 on 18/2/2001 and published in Official Gazette No. 2465

⁵ BICI's Report – Clauses 1701, 1702, and 1720.

4-1-8- Suspension of workers from their jobs and students from their universities and educational institutions:

Actions taken by the State – which were of a vindictive nature - were not confined to police suppression, unfair trials and illegal killings, but they also reached the level of straining livelihoods by dismissing thousands of individuals from their workplaces. According to the estimates of BICI, the numbers of those dismissed reached a total of 4539 individuals, distributed between the public and the private sector.¹

Several hundred students were either suspended or dismissed from the University of Bahrain and “Bahrain Polytechnic”, and 97 student had their scholarships cancelled (some of which have been reinstated).²

4-1-9 The entry of military forces from some GCC States:

The security situation that prevailed during the latest events did not – under any form – reach to the point of an external threat to the Country. This was established by the BICI report, which stated that there was no role for Iran (contrary to what was previously alleged by the State)³. Nor did the situation reach to the point of possible material danger to the vital facilities in the country. Although the Army, Security Forces and the National Guard have great capabilities, and although citizens are prohibited to carry weapons, the State – with the purpose of increasing the dosage of terror on participants in the protest movement- resorted to inviting in military forces from some of the GCC countries. This is a dangerous precedent that institutionalizes military and security intervention in internal matters that deal with political and constitutional reform demands in a member state of the GCC, especially given that it was proven that there were no external interventions in the uprisings.

4-2- Segmenting Bahraini society on a sectarian basis:

4-2-1 The regime in Bahrain has for a while employed a policy of segmenting the society and segregating it into Sunnites and Shiites. This policy was executed gradually by emptying military institutions – particularly the Army and the National Guard – the ministry of Interior, and the National Security Agency from Shiites, except for a notable few with insignificant presence, and abstaining from hiring Shiites in the National Guard since the inception of its institution.

4-2-2 At the advent of the events of February 14, and specifically the large gatherings at the Pearl Roundabout that marked February 20, people were surprised by the formation of a counter-group, the Gathering of National Unity. This group was formed with the pretended intent of defending the Sunnite sect and giving the impression that the gathering in Pearl Roundabout was a gathering of Shiites. The appearance of this gathering in conjunction with the Opposition’s protests and with the direction it took gave the widespread belief within the Opposition that the State is behind this gathering in order to deepen the sectarian segregation. Although this gathering included some nationalist elements, its

¹ BICI’s Report – Clause 1337 onwards

² BICI’s Report – Clauses 1457 onwards

³ BICI’s Report – Clause 1712

emergence –despite the existence of already active Sunnite groups (that vary in their stances between opposition and loyalism) such as *Al-Asala* and *Al-Menbar* – it has raised questions regarding the purpose of this Gathering during the protest movement. Despite the above, I am of the view that the Gathering has now become the representative of a segment of the society that has to be acknowledged, but this has to be in a way in which its members' roles is not duplicated in other political societies.

In addition to the military institutions, Shiites are barred from serving in the (non-*Sharia*) judiciary, the Customs Entities, Ports, Central Bank and the Ministry of Education, especially in senior positions (except in minuscule percentages). They have been further marginalized from such positions since February 2011, as institutions in which Shiites were normally prominent began to also vet them from such positions, as was witnessed in the Ministry of Health, the Bahrain International Circuit, the Labor Market Regulating Authority, amongst others. To the date writing this paper, there is not a single Shiite undersecretary. Companies and banks – overtaken by extremists within the loyalist camp– also sidelined Shiites from senior positions.

This systematic discrimination over the past twenty years has created a feeling within the Shiite community that the Regime regards them as an enemy, and hence they should oppose it. It also spread a perception within laymen of the Sunnite community that this Regime looks after them and remains close to them, so they associate themselves with it.

Political naturalization, which was focused on Sunnites brought in from Arab countries like Syria and Yemen, further complicated matters in terms of the sectarian division.

Ceasing sectarian discrimination and the policy of ostracisation and dealing with its symptoms is the first treatment needed to deal with the increasingly dangerous and deteriorating situation.

4-2-3 The authorities have resorted to the policy of diluting the popular demands. One of the main features of this dilution is the call to hold a “National Dialogue Conference” that was held from the 1st to the 28th of July 2011, in which 330 participants were invited, the vast majority of which were loyalists or participants who have no connection to political work and who are guaranteed to align with the Government. The proportion invited from the opposition societies, on the other hand, were less than 10% in the manner previously referred to.

This “Conference” was guided by the authorities in a very clear manner, which led the biggest opposition society – *Al-Wefaq* – to withdraw from it, and for other political societies to disassociate themselves from its results.¹

The conference produced recommendations for constitutional amendments of no substantive value in achieving the demands for democracy and reform. The essence of the Executive Authority in terms of its composition and jurisdiction were left untouched, and no real solutions were put forward for the

¹ See *Al-Wasat* Newspaper, issues dated 27th – 31st of July 2011.

separation of the three Authorities (Executive, Legislative and Judicial) and addressing the domination of the first over the other two.

4-2-4 In relation to the recommendations of BICI, these were either implemented in a manner that does not comply with the essence of the recommendations or they were not carried out at all.

Overall, the current scenario can be summarized in the following manner:

1. A tense security situation, especially in the rural areas and some (Shiite) neighborhoods in the Country wherein protests explode sporadically and are met with extreme oppression and excessive force, reaching the point of attacking homes and drowning them in tear gas and other means of violence.
2. Sometimes violent responses from protestors that have reached the point of using molotovs.
3. Large popular gatherings organized by opposition political societies and which are sometimes allowed by the Ministry of Interior, but at others banned by Security Forces.
4. A sectarian segmentation that threatens to dangerously escalate if not treated, with the authorities worsening the situation by a policy of sidelining Shiites and granting the extremists within the loyalty more authority.
5. Movements by some moderate reformist individuals to find common ground in viewpoints, but they are currently with limited effect.¹
6. Hardening stances within the rulers and attempts to dilute reform demands in the shape of shambolic national reconciliation forums with no political or substantive values.
7. Recommendations for reforms from BICI, but they are not implemented or are implemented incompletely.

Fifth: The Solution

There is a consensus, at least in theory, within the Rulers, the Opposition and neutral observers that dialogue, and only dialogue, is the sole exit out of the crisis. The nature of this dialogue is contested, however, and this is what needs to be treated.

¹ On January 28th 2012 prominent political figures of national independent leanings (some of whom were Dr. Ali Fakhro, Mr. Ali Rabe'a, and Mr. Jameel Al-Alawi) called for a national conference with the purpose of dealing with the current complicated situations. The conference elected a follow-up committee of 21 of its members led by Dr. Ali Fakhro. See *Al-Wasat* Newspaper's issue dated 29th January 2012.

In order to have a serious, productive and meaningful dialogue, there needs to be a serious review and establishment of the key elements that must have preliminary consensus. The main elements of this dialogue should be as follows:

1. The goal of the dialogue and its objectives
2. The Parties in the dialogue
3. The mechanisms and regulations of the dialogue.

5-1- The goal of dialogue and its objectives:

5-1-1 The reality and essence of the conflict between rulers and the people over the different historical epochs is the popular demands that are based on two fundamental aspects: 1. The participation in formulating political decisions. 2. The participation in the management of the national wealth, guaranteeing supervision over it and directing it to the public benefit- i.e. achieving democracy.

The goal of the dialogue should be established based on these principles. Thus the goal in essence is the establishment of a democratic system and the restructuring of the State to establish a civil state of modern institutions that is based on advanced humanistic principles – the state of modern civil legitimacy. It can be said that this state has been established in principle on the basis of the 1973 Constitution, which left the possibility of developing popular participation, and upon which the National Charter has been based and voted on.

In terms of the shape of the desired state, no longer does anybody have the right to contest this. Although everyone has the right to think about it, the people of Bahrain, including the Royal Family¹, headed by H.M. the King, have decided to choose the system of a constitutional monarchy without any contestation. This was confirmed by the approval of the “National Action Charter” with a 98.4% rating in a nationwide referendum.²

The “Charter” has established certain principles, most important of which have been outlined in the second chapter “The system of Rule” and under a sub-title of “The constitutional Shape of the State” as the following: *“It has become appropriate that Bahrain occupies its place between the democratic constitutional monarchies.”* It also stipulates in the fifth chapter under the title “Parliamentary life” that: *“In keeping with the established democracies, it has become in the State of Bahrain’s interest that the legislative authority is made of two chambers...”*.

As a confirmation and execution of these principles, the text in the fifth chapter “Harbingers of the Future” stipulates that: *“Secondly: The legislative authority: The content of the Second chapter of the*

¹ The Royal Family (*Al-A'a'ela Al-Malakeya*) is defined erroneously by the ruling powers in the GCC countries as the “Owning Family” (*Al-A'a'ela Al-Maleka*).

² Amiri Edict No. (16) of 2001 – Official Gazette No. 2465 – February 21st 2001

fourth section of the constitution concerned with the legislative authority should be modified to be compatible with the democratic and constitutional developments around the world, via the establishment of the two chambers system. The first of these should be a directly and freely elected chamber, where citizens choose their representatives and which undertakes legislative responsibilities; besides an appointed chamber that includes individuals of expertise and specialization that can be of assistance in matters of consultation that require expertise and specialization.“

Thus the authoritative, legal, and contractual basis for the legitimacy of the regime is the constitutional democratic (parliamentary) monarchy in accordance to the modern and established democracies.

To say otherwise is not only a danger to the popular rights, but it is even more dangerous to the Royal Family, which has become dependent for its ruling and international legitimacy on the principles agreed in the Charter, and any backtracking from either of the parties is a forfeit of the Charter that has been agreed between the rule and the people.

5-1-2 To achieve the primary goal of a parliamentary constitutional monarchy, there has to be agreement on the basic issues for dialogue, and the principles and basis that it will be built on, with the principle goal shaping the overall framework. I am of the view that the Crown Prince's initiative, the principles of the “Manama Document” published by the oppositional political societies, in addition to clarifying and remaining faithful to the Charter are the basis for such a dialogue. I am of the belief that the following principles can be preliminary agreed upon:

- Reaffirming the system of constitutional monarchy and holding on to the Royal Family as represented by H.M. King Hamad bin Isa Al Khalifa, with the rule being hereditary to his sons by direct lineage. The Family's integrity and highness should be enshrined, with a designated annual financial stipend that is not contestable (this can be achieved via a constitutional article).
- The formation of a national council of two chambers – one chamber whose members are elected independently and directly and which has the absolute authority to legislate and supervise, and which would have the deciding authority in legislation issues. This shall be coupled by another chamber of which members are appointed in a number that does not exceed half the number of the elected chamber, and which purpose is to revise the drafts of laws that are proposed from the Elected Chamber, where it would give its opinion, viewpoints and suggested modifications. The Appointed Chamber shall return such drafts to the Elected Chamber, and if the latter accepts the suggested modifications it shall approve them, and if they are rejected the law is issued as it, the Elected Chamber, sees fit.

The above is in agreement with the National Action Charter, the undisputed contractual document.

- The Constitution should include a guarantee that the Government must represent the popular will, either via being constituted by a parliamentary majority, or at the very least being approved by the Elected Chamber. The Elected Chamber would also have the right to dissolve or declare no-confidence in the Government's members, including the Prime Minister.

- Reformulating electoral districts to ensure the equality of citizens' votes (one vote for each citizen), and to reaffirm proportional representation for each MP in the Elected Chamber.
- The Appointed Chamber's composition should take into account the criterion of experience, good social standing, and national track record (and I do not mean that of the Opposition only).
- The establishment of reasonable general visions and basic strategies to tackle sectarianism, starting with the military and formal institutions (and this might require a timetable and gradual policies to ensure sound implementation). This should also include laws and legislations that punish sectarian discrimination and its implications.
- A revision of naturalization and its effects in a planned and humane manner that protects the demographic makeup of Bahrain but does not encroach on the rights of those who obtained the citizenship legitimately and does not harm those who have obtained it illegitimately (this group could be compensated, for example, with the consideration of the possibility of returning their original citizenship for those who have lost it).
- The release of all political detainees and prisoners immediately and without delay, beginning with the oppositional political leaders that have been sentenced under the National Security Courts.
- The immediate cessation of any personal mistreatment, whether verbal or physical, to any of the official or popular figures, including the Opposition leaders.

5-2- The Parties to the Dialogue

For the dialogue to be productive it has to include all the effective parties in order for the solutions that are reached by the participants to find a way to be implemented safely, and doing otherwise is meaningless.

I believe that the standards for the representation of each side in the dialogue must be based on the party's popular base in terms of its strength on the scene and its influence on daily events, with no disregard to the historical legacy in this regard, particularly the elevated position enjoyed by the Royal Family as represented by H.M. the King. This, however, should be in a manner which allows the Royal Family to have a leading role on matters rather than imposing irrational solutions that do not achieve the desired and applicable solutions.

The proportion of representation in any mechanism for dialogue must also be complementary to the strength and presence of the popular base and their inclinations. For it is not reasonable to have a dialogue system similar to the one upon which the (The National Dialogue Conference) was formed as discussed in paragraph 4-2-3 of the fourth section in this study. This is a manner that would fail to

convince any rational person in any way whatsoever and would be a waste of effort and resources, and this has been proven by actual events.

The election of a dialogue's body is the most appropriate, sound, and legally just approach. If this proves infeasible, however, it could be appropriate to return to the 2006 elections as a measure to determine the proportions of representations for the societies and political figures, without being confined to the individuals who won seats in those elections. There is a precedent for such an approach in the Al-Taif conference for the Lebanese national reconciliation.

This body or mechanism could be fortified with national figures that command respect, experience, or social standing that can be appointed by H.M. the King in consultation with the other active political forces.

What should also be affirmed without doubt is the necessity of including the opposition that did not participate in the elections but have their notable presence in the street, such as *Al-Haq* movement and *Al-Waffa* current, as well as the newer movements such as the Gathering of National Unity and the National Conference led by Dr. Ali Fakhro.

5-3- The Dialogues' Mechanism and Parameters

5-3-1- Once we agree on the dialogue's sides, it would be tremendously helpful if we can then conceptualize a mechanism for this dialogue and its parameters. As mentioned, the parties to this dialogue should be those individuals that actually represent the segments of the Bahraini population that are influential in general matters. Such figures must be given the opportunity to meet regularly, converse and exchange opinions and suggest solutions freely within the drawn parameters. The necessary mechanism for dialogue is a general conference for national dialogue, which any alternative thereto is useless and will be without effect.

5-3-2- For this meeting to be effective, the King has to be represented, given that he is an essential party in the constitutional contract. It should be reiterated here that a Constitutional Monarchy is a contract between the people and the King, as is agreed upon in Constitutional Jurisprudence.

5-3-3- The right amount of representatives should be elected from the licensed political societies, whether opposition or loyalists. This has to be done via direct elections, where special electoral districts are constructed that guarantee true equality in the votes of voters.

5-3-4- In the case that for whatever reason it is not possible to hold elections, an alternative is to appoint these members in accordance to the votes that the candidates of these societies gained in the 2006 parliamentary elections, even if they did not win a seat.

5-3-5- In reference to the unlicensed political societies such as *Al-Haq* and *Al-Waffa* and those that have appeared after the 2006 elections, such as TGONU and the National Meeting, potential delegates should be appointed by their leadership. Subsequently, consultations shall occur between H.M. the King, the

licensed societies and the non-licensed societies that are of interest in the appointment. An appropriate number of national and independent figures should also be appointed.

5-3-6- The national conference should be held under the patronage of H.M. the King and headed by the Crown Prince.

5-3-7- To prepare the conference, a preparatory committee headed by the Crown Prince should be established, which should include (at least) the licensed political societies in a manner representative with the results of their candidates in the 2006 parliamentary elections.

5-3-8- To avoid confusion, by the 2006 election results, I mean even the societies that did not win a seat but still participated.

5-3-9- I think a precise and suitable system of voting should be put in place, one that ensures procedural democracy, but which does not neglect the status of the Royal Family and its rights and the minimum level that has to be agreed upon to ensure its highness and enjoyment of the privileges of being a royal family. This has to be done without encroaching on the established constitutional principle that the *"people are the source of all authorities"*. This can be done in the way practiced in the established democracies and which has been agreed upon in the Charter.

5-3-10- A long period of time may be required for the conference to be fruitful, and such shall not discourage us from carrying it out. It is definitely worth investing a year to ensure the protection of our Kingdom, State and society for our future generations. This conference shall be backed by supportive media that promotes the principles of national unity, fights sectarianism and disdains its practitioners. Slanderous slogans against any segment of the Ruling Family or the society shall be discontinued, and employment opportunities in armed forces, security forces and other public entities or ministries shall be opened to Shiite citizens.

5-3-11- In order to ensure a sound and orderly conference and voting process, it is necessary to learn from previous international experience. We may take as an example previous reconciliation conferences such as the Lebanese Dialogue in the Al-Tai'f Conference, the Irish reconciliation conference "The Good Friday Agreement", and the Justice and Reconciliation Conference in Morocco. An international institution shall observe the conference. This shall not be understood as a call for external interference. The intention behind the presence of an international body is to assist and provide consultations that will allow us to accomplish Bahrain's reconciliation's mission. As such, the presence of a human rights monitoring authority, such as the UN High Commission for Human Rights, is necessary.

5-3-12- It goes without mention that for this conference to take effect, a Royal Decree has to proceed it to release all political prisoners, prisoners of conscience, and those detained or imprisoned in relation to the events that followed 14 February 2011 (including the key figures of the opposition that are sentenced by Courts). All those terminated from their jobs must be allowed to return to their jobs, and an improvement in the conditions of the devastated areas of Bahrain must begin.

Conclusion:

In this paper I have:

- A. Presented an overview of the history of Bahrain from the sighted sources.
- B. Put forth some conclusions, views, and suggestions that are completely personal and which I have not consulted on with any of the political leaders or activists. They represent my personal views, which may be shared by some extremely close friends.
- C. What the State has implemented in response to past popular movements and the current period, where it has resorted to security solutions and the use of excessive force, will certainly not solve the problem, even if the fire is put out temporarily. As to the request for military assistance from the Kingdom of Saudi Arabia and other neighborly Gulf States, it will only make matters worse and in my opinion will be the cause for troubles to erupt in those countries, as it is not in the interest of any of the peoples of the Region to introduce the element of segregation and discrimination between the inhabitants of the Region on sectarian grounds. For if such elements spread regionally it will not be possible to contain them afterwards.
- D. The unity of a nation and the treatment of its citizens with justice and equality is a perquisite to ensure the viability and sustainability of any rule. Discrimination, on the other hand, entails weakness, and the disintegration of such rule is the lesson taught by reason and history.
- E. Dialogue is **the only way out**.