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Human Rights in Bahrain: Next Steps



Congressman McGovern, Congressman Pitts, thank you for holding this hearing and for all that you have done to keep Congress focused on Bahrain.

Today's discussion is particularly timely, as the Bahraini government has dramatically escalated its systematic, widespread crackdown on peaceful dissent over the past several months - the scale of which we have not seen since March 2011. Also coinciding with this summer's crackdown in Bahrain is the State Department's release of its latest assessment on the implementation of the recommendations of the Bahrain Independent Commission of Inquiry (BICI), which was sent to Congress in June.

Your sustained interest and attention to the human rights situation in Bahrain is admirable and welcome, especially in a region where the United States has so many pressing crises. You have demonstrated the foresight to recognize that without a strong focus on resolving the political crisis in Bahrain, the country could soon resemble many of the other countries in the region, which are characterized by seemingly intractable conflict and widespread violence.

Unfortunately, your consistent focus on Bahrain has not been shared by the administration, where the attention to Bahrain's political crisis has been quite erratic over the past five years. At a few key points, especially after large-scale protests erupted in Spring 2011, senior administration officials worked diligently behind the scenes to try to move a political process forward in Bahrain that would resolve the political crisis and respond to the demands of Bahrain's citizens for accountability, justice, and fair representation in their government. Unfortunately, the Bahraini government ultimately rejected such an approach, opting instead for a path marked by repression and exclusion.

One main component of our discussion today will be the BICI report and the status of its implementation. But we should also be cognizant of the larger context: at the time the BICI was produced in 2011, it was designed to be an absolute minimum, a confidence-building mechanism intended to be *the bridge* toward a more comprehensive political settlement in Bahrain. Even if the Bahraini government had implemented all 26 recommendations as it promised, swiftly and seriously, that alone would not have been enough to solve the country's problems. Five years later, the fact that the Bahraini government has implemented only a handful of those recommendations goes a long way in explaining why the crisis in Bahrain has persisted, and even worsened.

The Bahrain Independent Commission of Inquiry (BICI) Recommendations and Implementation

When the King of Bahrain established the independent Bahrain Independent Commission of Inquiry (BICI) in the summer of 2011, it was a welcome step. Never before had a Middle Eastern government that violently cracked down on peaceful protesters willingly opened its record to outside scrutiny, pledging transparency and accountability as a way to move the country forward. The 500-page BICI report released in November 2011 described in detail the frequent use of excessive force by security forces, systematic abuse and torture of detainees, mass discrimination and dismissals of workers and students, and grave violations of medical neutrality. The chair of the commission, Cherif Bassiouni, read aloud the stark findings of his report to King

Hamad - a striking scene in a country that threatens those who publicly insult the monarch with jail terms of up to seven years.¹ The King publicly pledged to “urgently” implement the BICI’s 26 recommendations.²

BICI Implementation

But an entire year after pledging to “urgently” implement those reforms, an independent assessment in November 2012 by the Project on Middle East Democracy (POMED) found that the Bahraini government had fully implemented only three of the 26 recommendations.³ Alarming, the government had made no meaningful progress whatsoever toward six of the recommendations, which were precisely the most important steps that needed to be taken - accountability for officials responsible for torture and severe human rights violations, the release of political prisoners, prevention of sectarian incitement, and relaxation of censorship and controls on free expression.

Some administration officials argued that perhaps Bahrain’s rulers just needed more time, as these were inherently difficult, long-term processes. But nearly a year later, in August 2013, the State Department’s own assessment of progress on BICI implementation was no more encouraging, as U.S. officials described just five of the 26 recommendations as being fully implemented.⁴ And in June 2016 - nearly five years after the King of Bahrain had pledged to the Bahraini people and the international community to “urgently” implement the BICI recommendations - the State Department assessment characterized just seven of the 26 recommendations as fully implemented.⁵ This is broadly consistent with the conclusion of the Chairman of the BICI, Cherif Bassiouni, who stated on June 5 that only 10 of the 26 recommendations had been meaningfully implemented.⁶

Whether it is three, five, seven, or ten recommendations implemented, the main takeaways are clear: 1) Even by the most generous terms, the Bahraini government has not even crossed the halfway line in carrying out the reforms recommended by the BICI, five years after King Hamad pledged to do so; and 2) The situation in Bahrain has deteriorated dramatically in the meantime. The larger context here is key: swift and complete implementation of the BICI recommendations was intended to be the beginning, the launching point, for the comprehensive political settlement needed in Bahrain. Five years later, the absence of an overall political solution to Bahrain’s crisis should not be surprising in an environment where only seven of the 26 BICI recommendations have been implemented.

U.S. Calls for Reform

Following the release of the BICI report in November 2011, the Obama administration repeatedly emphasized the importance of the Bahraini government implementing these reforms to move the country out

¹ Schams Elwazer, “New law: Insult Bahrain’s King, Get Thrown In Jail,” CNN, February 6, 2014, <http://www.cnn.com/2014/02/06/world/meast/barhain-new-law/>

² “HM King Hamad Receives BICI’s Report and Delivers a Keynote Speech,” Bahrain News Agency, November 23, 2011, <http://www.bna.bh/portal/en/news/481652>

³ “One Year Later: Assessing Bahrain’s Implementation of the BICI Report,” Project on Middle East Democracy, November 23, 2012, <http://pomed.org/pomed-publications/one-year-later-assessing-bahrains-implementation-of-the-bici-report/>

⁴ “Implementation by the Government of Bahrain of the recommendations by the Bahrain Independent Commission of Inquiry” U.S. Department of State, August 14, 2013, <http://adhrb.org/wp-content/uploads/2015/06/State-Report-on-Implementation-of-BICI-3-2.pdf>

⁵ “Steps Taken by the Government of Bahrain to Implement the Recommendations of the 2011 Report of the Bahrain Independent Commission of Inquiry,” U.S. Department of State, June 21, 2016, <http://pomed.org/wp-content/uploads/2016/06/State-BICI-Report.pdf>

⁶ M. Cherif Bassiouni, “Bahrain: The Right Thing to Do,” June 5, 2016, <http://mcherifbassiouni.com/bahrain-right-thing/>

of its political crisis.⁷ But as the Bahraini government failed to implement the BICI recommendations, and even moved backward by escalating the level of repression, the U.S. government gradually downplayed the importance of the BICI recommendations.

The administration has repeatedly “lowered the bar” over the past several years when it came to reform in Bahrain.

For example, President Obama publicly declared in 2011 that “you can’t have a real dialogue [in Bahrain] when parts of the peaceful opposition are in jail,” a reference to the group of political opposition and human right leaders known as the Bahrain 13 who were rounded up in the crackdown of March 2011.⁸ Yet, when the Bahraini government moved forward with half-hearted and cosmetic attempts at national dialogue - without releasing any of these key figures to participate - the State Department nonetheless pushed other opposition leaders to participate anyway,⁹ and then joined the Government of Bahrain in blaming the opposition for the continued political crisis.¹⁰ Today, 11 of those 13 leaders remain in jail,¹¹ more than five years after President Obama’s call for their release.

In another example, U.S. Ambassador to Bahrain William Roebuck, in his 2014 Senate confirmation hearing, called for a political compromise between the government and opposition to pave the way for the opposition to participate in upcoming elections.¹² That political compromise failed to materialize, yet during Secretary Kerry’s visit to Bahrain in April 2016, he criticized the decision by the opposition to boycott the elections as a “great mistake” that “polarizes things rather than helps them.”¹³ Even amid the escalating crackdown this summer - after the Bahraini government revoked the citizenship of Sheikh Isa Qassim and arrested human rights defender Nabeel Rajab - Secretary Kerry went out of his way to publicly express his “disappointment” with the 2014 boycott by the opposition, as somehow suggesting they were to blame for the government crackdown against them.¹⁴

⁷ “Release of the Bahrain Independent Commission of Inquiry (BICI) Report” U.S. Department of State, November 23, 2011,

<http://www.state.gov/secretary/20092013clinton/rm/2011/11/177735.htm>

“Secretary Clinton’s Meeting with Bahraini Crown Prince Salman,” U.S. Department of State, May 9, 2012,

<http://www.state.gov/r/pa/prs/ps/2012/05/189575.htm>

“Anniversary of the Bahrain Independent Commission of Inquiry Report,” U.S. Department of State, November 23, 2012,

<http://www.state.gov/r/pa/prs/ps/2012/11/200986.htm>

“Daily Press Briefing,” U.S. Department of State, June 22, 2016,

<http://www.state.gov/r/pa/prs/dpb/2016/06/258980.htm#BAHRAIN>

⁸ “Briefing Room: Remarks by the President on the Middle East and North Africa,” The White House, Office of the Press Secretary, May 19, 2011, <https://www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-middle-east-and-north-africa>

⁹ “Daily Press Briefing,” U.S. Department of State, October 28, 2014,

<http://www.state.gov/r/pa/prs/dpb/2014/10/233460.htm#BAHRAIN>

¹⁰ “Joint Press Availability With Bahraini Foreign Minister Sheikh Khalid bin Ahmed al-Khalifa,” U.S. Department of State, April 7,

2016, <http://www.state.gov/secretary/remarks/2016/04/255568.htm>

¹¹ Ryan McChrystal, “The Bahrain 13: One year since Index magazine sent to jailed academic and blogger,” Index on Censorship, August 17, 2016, <https://www.indexoncensorship.org/2016/08/the-bahrain-13-one-year-since-index-magazine-sent-to-jailed-academic-and-blogger/>

¹² “Testimony of William Roebuck Ambassador-Designate to the Kingdom of Bahrain,” U.S. Department of State, September 10,

2014, http://www.foreign.senate.gov/imo/media/doc/Roebuck_Testimony.pdf

¹³ “Joint Press Availability With Bahraini Foreign Minister Sheikh Khalid bin Ahmed al-Khalifa,” U.S. Department of State, April 7,

2016, <http://www.state.gov/secretary/remarks/2016/04/255568.htm>

¹⁴ “Recent Developments in Bahrain,” U.S. Department of State, July 17, 2016,

<http://www.state.gov/secretary/remarks/2016/07/260157.htm>

Even when the administration suspended arms sales to Bahrain pending reform in 2011, the administration backed down, releasing pieces of that ban in 2012, and lifting nearly all of the remaining restrictions in 2015 while citing “meaningful progress on human rights reforms and reconciliation”¹⁵ - despite significant evidence pointing in the opposite direction, i.e. massive regression on human rights.¹⁶ In the wake of this summer’s crackdown, the administration has openly hinted that it would be willing to re-impose an arms ban if the Bahraini government doesn’t reverse negative steps,¹⁷ but has still not acted.

State Department BICI Assessment

I also want to say a few words specifically about the State Department’s recent BICI assessment. As you know, this is the second congressionally-mandated assessment of the Bahraini government’s implementation of the BICI recommendations produced by the State Department, following the first in August 2013. But in this new report, it appears that the State Department made a real effort to pull punches and avoid clear evaluations of progress, in order to avoid antagonizing the Bahraini government. And the report simply doesn't fulfill what was required by law - the FY16 appropriations act requires this report to do three things: (1) describe the steps taken by the Bahraini government to implement each recommendation, (2) identify further steps the government should take to fully implement each recommendation, and (3) provide an assessment of the impact of the findings on U.S. security in the region. The report produced in June 2016 - 141 days *after* it was due to Congress - seems to fully address the first point, inconsistently and incompletely address the second point, and not meaningfully address the third at all. As Bahrain is now in the midst of the worst crackdown we have seen since 2011, it is even more important that such a report be comprehensive and accurate, charting out what remains to be done *and* the impact that the Bahraini government’s lack of progress in implementation has for U.S. security posture in the Gulf.

Unfortunately, the incomplete nature of the State Department’s BICI assessment fits a larger pattern of wavering U.S. attention to human rights and reform in Bahrain. This administration has repeatedly backed down on its demands, looked the other way, and changed the subject when Bahrain’s rulers have openly rebuffed them. It is not unsurprising, then, that the Bahraini government so easily ignores public calls for reform from the U.S. government today. This soft-glove approach has simply failed to convince Bahraini officials of the need for reform or reconciliation. Fortunately, the U.S. government has a deep and long-lasting relationship with Bahrain, and no shortage of policy tools at its disposal to try and persuade the monarchy to change course. As we now witness the worst crackdown in Bahrain since 2011, the administration must move beyond merely debating potential policy options, it is time for decisive action.

Policy Recommendations

- The administration should immediately reinstate a suspension of arms sales to the Bahraini military, and keep a suspension of arms sales or transfers in place at least until the Bahraini government has fully implemented *all* of the BICI recommendations. Concerned members of Congress should also

¹⁵ “Lifting Holds on Security Assistance to the Government of Bahrain” U.S. Department of State, June 29, 2015, <http://www.state.gov/r/pa/prs/ps/2015/06/244478.htm>

¹⁶ Rupert Colville, “UN - Press briefing notes on justice for rights abuses in Nigeria, Central African Republic and Bahrain,” Bahrain Center for Human Rights, June 5, 2015, <http://www.bahrainrights.org/en/node/7552>

“Country Reports on Human Rights Practices for 2014: Bahrain,” U.S. Department of State, June 25, 2015, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236594>

¹⁷ “Daily Press Briefing,” U.S. Department of State, June 30, 2016, <http://www.state.gov/r/pa/prs/dpb/2016/06/259243.htm#BAHRAIN>

cosponsor H.R.3445, the bill introduced by Congressman McGovern and Congressman Pitts, which would tie certain arms sales to full implementation of the BICI recommendations. Doing so will help bring pressure on the administration to re-impose the arms sale ban that it wrongly lifted more than a year ago.

- The administration should deny visas and freeze assets of Bahraini officials and security forces who have been credibly linked - as the BICI report documented thoroughly - to gross human rights violations. The administration could apply these restrictions proactively under current U.S. law, but has not yet been willing to do so for Bahraini officials. If this does not change, Congress should force the administration's hand by passing the Global Human Rights Accountability Act, also known as "Global Magnitsky." That bill has passed the Senate, and the House Foreign Affairs Committee, and should now move to a full vote on the House floor to become law.
- Congress should include in the final FY17 appropriations act the Senate's language on Bahrain, which would require the State Department to produce an updated BICI assessment. Members of Congress should impress upon administration officials the need for that report to 1) clearly label each recommendation as fully, partially, or not implemented, 2) outline what remains to be done, and 3) analyze the impact of those findings on U.S. security in the region - which it completely failed to do this year.
- Congress should also press the Defense Department to publicly release its report on an assessment of the security situation in Bahrain, including contingency plans for relocating the U.S. Fifth Fleet. That report is an opportunity for the administration to correct its error in the State Department's BICI assessment, which fails to describe the impact of lack of reform on U.S. security interests in the region. As President Obama said in April 2015, "The biggest threats that [Gulf governments] face may not be coming from Iran invading. It's going to be from dissatisfaction inside their own countries." The DOD report should adequately account for the security threat the Bahraini government is actively stoking by ignoring peaceful demands for change from its people.