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**Implementation of the Bahrain Independent
Commission of Inquiry Report**



Thank you Mr. Chairman for holding this hearing and for all the work you have done to keep the Congress focused on Bahrain. There is a powerful moral argument for doing so. Anyone who has been to Bahrain, who has met the people who have tried to bridge the country's divisions through reasoned dialogue, and who has witnessed the persecution they have suffered as a result, will attest to that. But there is also a strategic imperative for the United States in championing human rights in this cosmopolitan and complex nation. We see today in Syria what can happen when an authoritarian government resists popular demands for justice and reform until it is too late. Imagine if something similar were to happen in Bahrain, a country that not only has a close partnership with the United States, but that sits right on the fault line between the Sunni and Shia Muslim worlds, and between Saudi Arabia and Iran. It is not yet too late for Bahrain to avoid this fate, and many people in the country are working hard to avert it. The United States also has a lot more influence in Bahrain than it did in Syria. But the time to use that influence is running short.

Last November, Bahrain had a golden chance to close the dark chapter that began when its government suppressed a pro-democracy movement earlier in 2011. King Hamad had appointed the Bahrain Independent Commission of Inquiry (BICI), chaired by the esteemed international jurist Cherif Bassiouni, to look into the human rights violations committed when the country's pro-democracy movement was suppressed last year. Bassiouni wrote a fair-minded report, documenting the arbitrary arrest and torture of opposition leaders and urging far-reaching reforms to punish those responsible and end human rights abuses. To his credit, the king accepted the report and promised to implement it. The government dropped charges against some dissidents accused of speech "crimes," reinstated many people who had been dismissed from work and school for attending protests, and reduced abuse of prisoners in formal detention facilities. But since then, the momentum has dissipated.

There has been no real resumption of dialogue between the government and opposition to pursue what moderates on both sides recognize as the solution to Bahrain's crisis -- a constitutional monarchy in which government ministers are chosen by an elected parliament rather than appointed by the king.

The BICI's call to release political detainees has also not been fully heeded. The courts have agreed to retry key opposition leaders, but the government still refuses to release them, though their convictions were based on nothing more than the content of their speeches

and participation in peaceful meetings and rallies challenging the monarchy. These include Abdulhadi al Khawaja, who staged a long hunger strike earlier this year to protest his continuing detention. They also include Ibrahim Sharif, the Sunni leader of a secular-left party, whose detention, and very existence, demonstrates something that hard-liners in the government don't want us to know – that opposition to their authoritarian rule is not purely sectarian, that many Sunnis joined their Shia compatriots in demanding reform when the Arab Spring came to Bahrain last year.

Meanwhile, the government has once again started to arrest and prosecute dissidents for exercising their right to free expression. On July 9, 2012, a court in Manama sentenced the popular human rights and opposition activist Nabil Rajab to three months' imprisonment for a Twitter posting in which he called for Bahrain's prime minister to resign and for claiming the prime minister was unpopular in a village he had recently visited (thus, allegedly, "insulting" the people of the village).

There has been little progress in implementing the BICI's recommendation that those responsible for deaths and torture of opposition activists during Bahrain's state of emergency last year be investigated and prosecuted. The government has said that 70 officers have been investigated, but the highest known rank facing prosecution is a police lieutenant, and many of those facing trial are low-ranking non-Bahrainis serving in the riot police. No senior officials have been held accountable, despite the BICI's conclusion that torture was a systemic problem.

Bahrain has made progress in stopping the abuse of persons in custody once they are brought to a police station. But protesters still are often subjected to brutal beatings before they arrive at a formal facility. Defense lawyers are also reporting that some prisoners convicted in the crackdown are being denied vital medical care. And the police have continued to use crowd control tools like bird-shot and tear gas as offensive weapons, sometimes firing them directly at protesters at very close range – including, recently, at the leaders of the main opposition party, Wefaq, as they were walking peacefully to a demonstration.

On top of all this, there is no longer any approaching milestone -- no committee to be appointed, or report to be issued, or deadline to be met -- that might give moderate leaders in Bahrain reason to ask their people to be patient. The absence of hope is radicalizing both sides.

Relentless messaging in official media has convinced many Sunni supporters of the monarchy that opposition calls for democracy are an Iranian plot to impose a Shiite

theocracy on Bahrain. This pro-monarchy propaganda has increasingly taken on an anti-American tone. One newspaper in particular, *Al Watan*, has published article after article accusing the United States and the CIA of backing the opposition, in league, believe it or not, with both al Qaeda and Iran, and urged the expulsion of US diplomats. Before you conclude that this is some fringe publication, let me note that *Al Watan* is reportedly bankrolled by the brother of Bahrain's defense minister. The minister himself, who oversaw the fierce crackdown starting in March 2011, recently met the editor of *Al Watan* and "praised his outstanding work in serving the nation," according to the Bahrain News Agency. I suppose he sees no contradiction between praising the publication of preposterous conspiracy theories about the United States and receiving US military assistance.

Meanwhile, in opposition strongholds, protesters frustrated by the lack of progress and cynical about prospects for peaceful dialogue are increasingly turning to violence. In this climate, the toughest youth, the ones who fight back, become the heroes. Many of us have rightly called upon opposition leaders to denounce violence by their followers, but the hard truth is that those who preach nonviolence (as most opposition leaders still do) risk being marginalized (or, as in the case of Nabeel Rajab, are jailed on bogus charges). More and more, the youth on the streets are going their own way; the leaders are following them, not the other way around.

When I met Bahrain's chief of public security in Manama in April, he showed me videos of protesters throwing Molotov cocktails at police. In the opening sequences, the gas bombs are thrown from a distance; as the weeks go by the protesters get closer, until they are right in the officers' faces before dousing them with flames. The chief wanted to show me what his officers go through, and he succeeded. Inadvertently, the videos also showed that repressive tactics are failing. Protesters are not retreating -- they are losing their fear.

Much of Bahrain's police force consists of Sunni foreigners, recruited from countries like Syria, Pakistan, and Yemen. Sent to subdue Shiite neighborhoods that are alien territory, they seem bewildered by the youth who come at them every night. One of the BICI's most important recommendations was that members of Bahrain's Shia community be integrated into the police force. This has not happened, and it's hard to see how it can right now. Bahraini Shia are not likely to join the police until progress on the political front restores at least some degree of trust between them and their government.

If King Hamad hopes to break this vicious cycle of violence, he will have to assert the authority he is so eager to preserve and make a bold gesture soon, even at the risk of angering his hardline family members and supporters. The best way to do this would be to release Bahrain's imprisoned opposition leaders, to give the non-violent opposition the

space to protest peacefully, and to resume dialogue. These steps would be mutually reinforcing: if freed and given a stake in the political process, the detained leaders might have the moral authority to calm opposition supporters and restore their faith in political dialogue and compromise.

What should the United States do to promote this outcome?

Some critics of the Obama administration have accused it of siding with Bahrain's ruling family and being silent about its repression. The truth is more complex. Last year, State Department officials made an all-out effort to broker a compromise between the government and al-Wefaq, a deal that ultimately fell apart. When the king decreed emergency rule, the United States helped convince him not to ban the main opposition party and, later, to appoint the Bassiouni Commission and release many detainees. But few Bahrainis in the opposition give the United States any credit for its actions because it has exerted pressure quietly, always leavened with public pledges of fealty to the US-Bahraini partnership. The contrast with America's condemnation of abuses in Syria and Libya is, to them, obvious and painful.

I can understand why the administration decided to resume some military sales to Bahrain following the Bahraini crown prince's visit to Washington in May. The administration wanted to give the reformist crown prince (who just yesterday urged greater restraint by Bahraini police) something he could bring home; at the very least, they hoped, this would help him and other moderate elements in the ruling family maintain their relevance, so that at some point in the future they could assert themselves and push a democratic agenda. But I don't think that's the message that the hard-line leaders of Bahrain's defense forces, who are, after all, the recipients of this aid, took away from the administration's decision. They more likely concluded that they don't have to allow the crown prince to reform Bahrain to get American largesse – they simply have to send him to Washington.

And if the United States is willing to sell arms to Bahrain to shore up moderates in the government, what will it do to shore up moderates in the opposition, so that they too stay relevant? Isn't it just as important to give them something that they can bring back to their people, to show them that the international community heeds their legitimate concerns, and that their commitment to non-violence will bring rewards?

I think there is one step that the US government could take, Mr. Chairman, that would be just, that would help advance the recommendations of the BICI, and would help show moderate voices in the Bahraini opposition that the United States heeds their concerns as well. The United States should begin to deny visas and access to the US banking system to

those officials and members of the security forces in Bahrain who have been credibly linked – including by the BICI investigation – to serious crimes such as the torture of opposition activists in detention. Remember, the Bassiouni Commission conducted a thorough investigation of these crimes, turned over the evidence to the Bahraini government, and urged it to hold these individuals accountable. Accountability and respect for the rule of law is critical to restoring trust between the Bahraini people and their government. And the king of Bahrain accepted this principle when he accepted the BICI’s recommendations. But the government has not acted.

So long as the government does not act, so long as the persons responsible for these abuses remain untouched in Bahrain, it is perfectly reasonable for the US government to say that it will not allow those persons to travel to the United States or put their money in US banks. This would not be a sanction against the Bahraini government. It would enable the United States to maintain its current relationship with Bahrain, including a relationship with the Bahraini military as a whole, penalizing and isolating only those individuals who have credibly been accused of serious human rights violations. It would implement with respect to Bahrain a longstanding principle of US law, that those who commit grave crimes overseas should not be admitted to US soil.

US law, under the Immigration and Naturalization Act, already makes aliens inadmissible to the US if they “ordered, incited, assisted, or otherwise participated in the commission of any act of torture.” The administration could, and should, apply this provision proactively, developing a list of Bahrainis who merit exclusion, while announcing publicly that it is doing so, and that it will continue until Bahrain deals with the problem of accountability itself. Alternatively, the Congress could require the administration to act, by passing the Senate-adopted version of the Magnitsky Rule of Law and Accountability Act, which applies targeted sanctions to human rights violators world-wide, or adopting similar legislation specific to Bahrain.

As you consider this, Mr. Chairman, keep in mind that the Bahraini government has itself imposed a de-facto visa ban on certain Americans. I was allowed to visit Bahrain once, but Human Rights Watch staff who focus primarily on Bahrain have been denied visas for months. Employees of other human rights and democracy promotion organizations and journalists have also been banned. Even a delegation from the US Institute for Peace was turned back at the airport several weeks ago, apparently because of USIP publications that the government took issue with. Bahrain denies Americans visas when it disagrees with what they say or write. It could hardly complain if the United States denied Bahrainis visas when they are credibly alleged to have committed crimes.

Let me close with a few words about why I believe that resolving the crisis in Bahrain is important to the United States.

We all know the role that Bahrain plays in hosting the US Navy's 5th Fleet, and helping the US military project its power in the Persian Gulf and contain Iran. US military leaders want to preserve their foothold in Bahrain, and one can understand why, in their view, this should be a paramount priority in US policy towards the country. It is also true that the US security partnership with Bahrain gives it a degree of influence with the ruling family, which the administration naturally wishes to preserve.

But it is important to remember what is equally true -- that America's military presence on the island won't be sustainable if the government responds to protest by intensifying violent repression to an intolerable point. If Bahrain's rulers believe the United States will continue to depend on them no matter what they do, they will be less likely to heed US concerns, increasing the likelihood of an outcome that forces a fundamental breach between the two countries. Showing a willingness to reconsider the partnership may be the best way to save it.

And then there is a larger, regional concern. Indeed, the problem with US policy toward Bahrain is not that it has taken geopolitics into account. It's that US officials may be calculating the geopolitics incorrectly. There is a growing feeling in the Middle East that, however high-minded President Obama's rhetoric about democracy may be, the United States will always line up with its autocratic Sunni allies in the Gulf against their opponents, especially if those opponents are Shiite. To many, it looks like the United States opposes dictators like Syria's Bashar-al Assad not for the sake of oppressed people, but to aid one side in a Saudi-Iranian cold war. The Iranian government, as well as every anti-American group in the region, benefits from this perception. Bahrain is the place where the United States can disprove it.

I came away from my visit to Bahrain in April believing that there is still time for Bahrain to resolve its crisis, and for the United States to help. The government is persecuting its critics, but not killing them on a large scale as in Syria. As everyone we met told us, Bahrain is a small country: The protagonists on both sides know each other, and there still seems to be room for compromise. But the window is rapidly closing, and once it shuts it will be hard to turn back. Preventing this outcome by holding Bahrain to the commitments it made to the Bassiouni Commission, and encouraging political compromise, is America's most urgent interest in Bahrain.