

Report confirms torture of doctors

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Prof O'Brien with the delegation that visited Bahrain earlier this year

*In light of the Independent Commission of Inquiry's findings into the Bahraini government's treatment of doctors, **Prof Eoin O'Brien** writes that the RCPI and the RCSI must redeem themselves.*

Much has happened in the small island of Bahrain since it was engulfed in the Arab spring in February 2011. What began as a peaceful protest was a reaction to years of sectarian suppression and mounting poverty among the Sunni-ruled Shiite majority, with a reasonable demand not for the downfall of the ruling regime, as in other Arab states, but rather for the establishment of a democratic constitutional monarchy and the recognition of human rights. This protest was brutally suppressed when the King of Bahrain, Hamad bin Isa al-Khalifa, sought the assistance of Saudi-led forces in March. More than 35 people were killed and 47 doctors were among at least 1,000 citizens imprisoned without trial, tortured, charged in military courts and given preposterous sentences.

The aftermath of a brutal suppression has engaged world attention and Ireland has drawn national and international opprobrium because the Royal College of Surgeons in Ireland (RCSI) and the Royal College of Physicians of Ireland (RCPI) failed to support the imprisoned doctors, some of whom were Dublin-trained RCSI Fellows and at least one of whom was a lecturer in RCSI-Bahrain, the medical college in which the RCSI has invested over €60 million. In July, a delegation from Ireland visited Bahrain and reported unequivocally that the accused doctors had endured serious abuses of human rights that included torture, and called for the relevant authorities in Ireland to support the accused medical personnel. In the same month, the King issued a Royal Order to establish an Independent Commission of Inquiry, consisting of international legal and human-rights experts, to investigate and report on the

events that had occurred in Bahrain during and after the Arab spring protests and to make appropriate recommendations.

The Chairman of the Commission was Prof Mahmoud Cherif Bassiouni, (USA/Egypt) and his fellow Commissioners were Prof Sir Nigel Simon Rodley (UK), Dr Badria Al-Awadhi (Kuwait), Judge Philippe Kirsch (Belgium/Canada) and Dr Mahnoush H Arsanjani (Iran). The Report was presented to the King of Bahrain on November 23.

The Commissioners examined over 8,000 complaints, conducted interviews with over 5,000 individuals and documented their evidence in a 500-page document, which contains an abundance of harrowing detail. The Report presents the evidence in the context of both Bahraini law and international law, to which Bahrain is subject.

The report is a damning indictment of the both the Bahraini government, which countenanced the abuse of human rights, and the legal system, which used evidence obtained by illegal means to convict accused persons. The Report clearly shows that Bahrain is party to a number of international human-rights treaties, which oblige the Kingdom to “respect, protect, promote and fulfil the human rights of all persons within its jurisdiction”.

This obligation extends to providing an effective remedy to individuals whose rights have been violated and “to undertake genuine investigations into allegations of human rights violations and to hold the perpetrators of those violations accountable”.

Ambivalence With regard to the charges against the doctors, the Commissioners are less than frank in their assessment of events at the Salmaniya Medical Complex (SMC), and in contrast to many other commendable criticisms and far-reaching recommendations, there is ambivalence about the extraordinary difficulties faced by the doctors in performing their medical duties in the hospital.

For example: “It is not within the mandate of the Commission to comment on ongoing judicial matters in so far as the merits of these cases are concerned... This Report addresses the conduct of the medical personnel. At the time of delivery of this Report, cases relating to the criminal responsibility of some of these medical personnel are before the Bahraini courts. The Commission is unwilling to comment on the merits of these cases.” Whereas the Commission was not provided with “undisputed evidence that any of the medical personnel inside the hospital refused treatment to any injured or sick person on the basis of their sect”, it acknowledges that “some cases of discrimination against patients were documented”.

The Commissioners were clearly faced with the dilemma of having to address the possibility that “the involvement of some doctors and medical personnel in various political activities on and around the SMC premises was clearly difficult to reconcile with the full exercise of their medical responsibilities”, with the fact that “the security services executed unlawful arrests on SMC

premises and attacked and mistreated some individuals, including medical personnel”.

It also had to reconcile the first possibility with the fact that “the Bahrain Defence Force took control of the entire complex and placed some injured persons, whom it sought to keep under its control” in a special ward of the hospital.

The Commission had no hesitation in accusing the Public Security Forces of violating “the principles of necessity and proportionality” by systematically raiding houses, terrifying the occupants, forcibly entering and sometimes ransacking houses without arrest warrants, while verbally abusing the occupants in front of women and children.

The Security Forces then went on to subject detainees to: blindfolding; handcuffing; enforced standing for prolonged periods; beating with rubber hoses, cables, whips, metal, wooden planks or other objects; punching; electrocution; sleep-deprivation; exposure to extreme temperatures; verbal abuse; threats of rape to the detainee or family members; and insulting the Shia religion with the purpose of obtaining incriminating statements or confessions.

Taken with forensic medical evidence, the Commission adjudged that torture had occurred and acknowledged “the immense courage that was required for the victims of torture and mistreatment to report their experiences to Commission investigators”.

Such practices were judged to be a flagrant disregard for Bahraini law and international human rights law and fell within the meaning of ‘torture’, as defined in the Convention Against Torture, to which Bahrain is a State Party. Perhaps the most chilling account of many instances of brutality in the Report is: “The witness stated that all the detainees in the same cell were blindfolded and handcuffed, and forced to lie on their stomachs. On one of the mornings, the deceased began to experience hallucinations or confusion, whereby he began banging on the door, shouting his name. The prison guards shouted at him to be quiet and when he did not comply, they entered his cell. The witness heard the deceased being beaten and he heard him scream after each beating. The witness then heard a shuffling noise, after which the deceased’s shouts became muffled. The witness then heard a Pakistani say in Urdu, ‘He is dead’.”



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Perhaps one of the most important aspects of the Report is the serious criticism of the Bahrain judicial system, which must call into the question the validity of any of the sentences that have been passed. The Commission viewed the “lack of accountability” of the judicial and prosecutorial personnel in the National Safety Court as “a subject of great concern”, which was compounded by the acceptance of forced confessions in criminal proceedings in the special courts and even in the ordinary criminal courts.

Recommendations The recommendations of the Commission were far-reaching and must leave many Bahrainis fearing the retributive consequences that must ensue if the recommendations are enacted. The government is to establish a “national independent and impartial mechanism to determine the accountability of those in government who have committed unlawful or negligent acts resulting in the deaths, torture and mistreatment of civilians with a view to bringing legal and disciplinary action against such individuals, including those in the chain of command, military and civilian, who are found to be responsible under international standards of superior responsibility”. The government must, moreover, “adopt legislative measures requiring the Attorney-General to investigate claims of torture and other forms of cruel, inhuman or degrading treatment or punishment, and to use independent forensic experts”. These recommendations “should be capable of leading to the prosecution of the implicated individuals, both direct and at all levels of responsibility, with a view to ensuring that punishment be consistent with the gravity of the offence”.

Other recommendations include that legislation should provide for remedies for anybody claiming retribution for having raised a claim of torture or other forms of cruel, inhuman or degrading treatment or punishment, that charges should be dropped or at least reviewed for persons charged with offences involving political expression, victims of torture, ill treatment or prolonged incommunicado detention.

The Report calls for victims to be compensated, and for employees dismissed because of the exercise of their right to freedom of expression, opinion, association or assembly to be reinstated, and for death sentences for murder to be commuted.

Finally, the Commissioners warn that “the state should never again resort to detention without prompt access to lawyers” and access to the outside world. The Commissioners must be commended for their thoroughness in documenting the abuses against human rights that occurred in the aftermath of the Arab spring in Bahrain.

The government of Bahrain stands accused of serious crimes in contravention of the international treaties to which it is party and it is now called upon to find and punish the perpetrators of these crimes. It may well be that the members of Royal Family itself will be implicated in the atrocities that have occurred. The question that must be answered is whether or not the King will enforce the recommendations of the Commission he established by royal decree. This seems unlikely, given one recent incident. Front Line Defenders’s Adam Shapiro was an observer at the latest stage in the appeal by the 20 doctors and health professionals, including Irish-trained Dr Ghassan Daif, Dr Basim Daif and Dr Ali Al Ekri, who face sentences of between five and 15 years. At this appeal, the prosecution attempted to introduce new evidence, which had never been presented in the original hearing.

Though finding that the medics, among others, were subject to unfair trial practices, and despite a commitment by the public prosecutor to uphold standards of a fair trial, what apparently transpired in the courtroom amounted to comic farce, except that the consequences of such a dysfunctional legal process are far from amusing for the accused.

Although this was an appeal and not a retrial, the Attorney General granted permission for new evidence that had apparently been found in the back of an ambulance many months ago to be presented. When court officers finally managed to open three taped boxes, they were greeted by laughter from the court as they produced two Kalashnikovs, kitchen knives, swords, daggers and Molotov cocktails, among other sundry items of assault, only some of which were tagged and all of which were handled by the guards, thereby contaminating any possible fingerprint evidence on the weapons. The permission to allow this evidence to be presented, quite apart from the legal irregularity, ignored the finding of the Commission, which clearly states: “The Commission finds the allegations that medical personnel assisted the demonstrators in the form of supplying them with weapons to be unfounded.” The result of this miscarriage of justice is that the doctors remain accused and

must face what the Commission has shown to be a dysfunctional legal system by both Bahraini and international standards.



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Given the ineptitude of the Bahraini legal system as highlighted in the Report, there would seem to be only two courses open to the King — either to drop all charges on legal grounds, or to grant pardons to the accused. Neither option is guaranteed but either event would be a welcome outcome of the Report and a chance for Bahrain to rebuild its democratic institutions.

Royal Colleges in Ireland The RCSI and RCPI have been rightly criticised at home and abroad for failing to support their medical colleagues in Bahrain. They stood apart from international human rights organisations such as Front Line, Médecins Sans Frontières, Human Rights Watch and Physicians for Human Rights in condemning the Bahraini authorities.

As a result, the Colleges have been criticised by the *Lancet* and the *BMJ*, two of the world's pre-eminent and most widely-read medical journals, with the latter accusing RCSI-Bahrain of complicity with the ruling regime. However, doctors who have been imprisoned without trial, tortured and damaged irreparably both physically and psychologically continue to face sentences of imprisonment ranging from five to 15 years.

Is it not now time for the Colleges to face the Bahraini authorities and demand the release of all doctors, given the findings of the Royal Commission? The Colleges need no longer fear that such a stance will damage their standing with the ruling regime in Bahrain, as the findings have been published at the request of the King. By so doing, even at this late stage, the Colleges could do much to restore not only their reputations, but also Ireland's hard-earned international reputation in upholding human rights.

The report can be read at: <http://iti.ms/tefzrn>. **Prof Eoin O'Brien** is Professor of Molecular Pharmacology, Conway Institute, UCD.