



البعثة الدبلوماسية لجمهورية البحرين لدى الأمم المتحدة
لدى الأمانة العامة
جنيف، فيينا

OHCHR REGISTRY

Geneva, 14 December 2012
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BY FAX

Recipients: SPD
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The Permanent Mission of the Kingdom of Bahrain to United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and has the honour to enclose herewith the following documents:

"Medical staff issues - Salmaniya Case"

The Permanent Mission of the Kingdom of Bahrain avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurance of its highest consideration.

Office of the High Commissioner for Human Rights
United Nations Office at Geneva
Palais des Nations
CH - 121 1 Genève 10
Fax: +41 22 917 90 08



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Salmaniya Case

- *At the end of the judicial process only 4 accused medical professionals are in jail (the longest sentence is 5 years). Everyone else is free. Those acquitted have had their criminal record expunged.*
- *The complaints of torture were investigated and prosecutions have been commenced against two officers, including one member from the Royal Family.*

A. Two enduring misconceptions about the medic's cases

1. **The original 20 medical professionals were charged with felony offences (such as discriminatory treatment and compromising patient care) and not for treating patients. The idea of prosecuting medical professionals for treating patients is abhorrent and a myth that is simply not supported by the facts:**

- **Aside from Salmaniya, there are other hospitals in Bahrain that treated protestors, law enforcement officials and bystanders (in fact the Royal Medical hospital treated more of these patients than Salmaniya) and not one of the medical professionals at these institutions was charged.**
- **The offending doctors came from one place only. Even within that one place – Salmaniya Hospital – of the 2,658 doctors and nurses working there, only 20 were charged, with 11 found guilty.**

2. **The early agenda setting reports of Physicians for Human Rights (PHR) and Human Rights Watch (HRW) were rushed, partial and methodologically flawed as now confirmed by the BICI report. For example, none of the following findings of the BICI (recognised by both PHR and HRW as the definitive account) is reflected in the PHR or HRW reports, nor in the statements of the accused medical personnel, which simply do not bother to provide an accurate and balanced perspective:**

- **"During the period from 14 February to 16 March 2011, protestors gathered at the entry and exit of SMC [Salmaniya Medical Complex]. The Commission received video footage showing a Shia cleric calling on strong young men to control the entrance and exit of SMC." (¶ 833)**
- **"Some of the medical personnel controlled the Emergency Section, the ICU and most of the SMC's ground level ... had political ties with the opposition and pursued a political agenda. Among them were some who were seen leading demonstrations and chants against the regime both outside and inside SMC. These persons moved in and out of their**

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- roles as political activists and medical personnel, the latter being expected to carry out their professional, ethical and legal duties ..." (¶ 833-834).
- "Concerning GoB's claims that the accused medical staff intentional spread false rumors and information about the events at SMC, there is evidence supporting these claims with respect to some ... medical personnel." (¶ 835).
 - "The medical staff ... did not attempt to prevent the media from filming inside the Emergency Section and on the ground floor of SMC in general, thus contravening the Code of Ethics ... one of the doctors interviewed by the media showed the ID cards of patients allegedly working for the security forces." (¶ 836, footnote 449).
 - "The Commission concluded that unauthorized marches and protests did take place [on the premises of] SMC ... based on witness statements and footage ... Photographs received by the Commission show protestors, including some medical staff, participating in protests inside ... SMC." (¶ 837).
 - "The evidence presented to the Commission reveals that a number of injured expatriates who were brought to SMC were first attacked by protestors in different locations ... and that they were also assaulted by the protestors in front of the Emergency Section ... Video tapes and witness statements show cases of mistreatment against patients because they were Sunni expatriate workers ..." (¶ 838).
 - "Further, statements by witnesses suggest that the manner in which some of the doctors treated some injured expatriate persons rises to a level of human insensitivity and professional disregard for medical ethics." (¶ 838).
 - "[A]s a result of the seizure of the external part of SMC by the protestors who controlled access to the hospital ... the number of external patients accessing the hospital was significantly reduced." (¶ 839).
 - "In relation to the claim by the GoB that protestors used ambulances to transport protestors between the roundabout and the University of Bahrain [the scene of violent clashes] ... there is reason to believe that this occurred." (¶ 840).
 - "With respect to the claims made by the GoB and other sources that Sunni patients were denied treatment at SMC, the Commission

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received one video recording showing a Sunni carrying an infant and being denied access to SMC by three medical staff ... Several witness statements presented to the Commission also support allegations of discrimination and denial of medical care ... The SMC entrance and exit were controlled by protestors, as were the inside open spaces of the complex ..." (¶ 846).

- o "The Commission finds that the occupation and control of the area by protestors hampered general access to the hospital and created a perception of an unsecure environment for those requiring medical care. Some Sunni patients seeking to gain access to SMC for medical treatment were turned away. Most of the SMC's ground floor level, including the Emergency Section, the ICU and the administrative section, were taken over and controlled by [the convicted] medical personnel ... cases of discrimination against patients were documented." (¶ 847).
- o "More generally, the Commission considers 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 and highly disruptive to the optimum operation of an important medical facility in a time of crisis." (¶ 847).

B. Retrial in civilian court

- **Retrial in civilian courts.** All 20 of the accused, and initially sentenced in the National Safety Courts, were given a full re-trial in the civilian (appeals) courts in October 2011. At this retrial the prosecution made clear that:
 - o It would not rely on *any* confession evidence
 - o All charges relating to speech or protest-related activity were dropped
- All the accused were represented by lawyers.
- The court issued its verdict on 14 June 2012:
 - o 9 acquittals
 - o 2 not present
 - o 9 convicted; longest sentence was 5 years:
 - One person sentenced to 5 years;

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- One person sentenced to 3 years;
 - Two persons sentenced to 1 year each;
 - One person sentenced to 6 months;
 - Three persons sentenced to 1 month each; and
 - One person sentenced to 2 months.
- **Records expunged.** All those acquitted had their criminal convictions expunged.
 - **Evidence.** The civilian appeals court based its verdicts on witness testimonies (both civilian and from fellow medical professionals), as well as physical and technical evidence filed in the case showing discrimination based on sect, mistreatment of patients and keeping patients in custody for interrogation on the grounds that they were supporters of the Government.
 - **Freedom of expression/assembly.** The judgment of the appeals court makes clear that there were no convictions for acts of expression or assembly (the charges related to such acts were dropped from the prosecution case and no evidence was offered).

C. Judgment of Court of Cassation (final court of appeal)

- **Appeal.** The above judgment was appealed to the Court of Cassation. This Court heard the appeals and upheld the decision of the Appeals Court on 1 October 2012.

D. Where we are today

- As of today, four medical professionals are in prison:
 - (i) Dr Ali Al-Ekri for 5 years (including time served, he will be released on 10 March 2017). The findings made against him include:
 - Masterminded the politicization of the hospital environment (within the hospital and in its vicinity) and the take over of parts (including the emergency room) of the hospital by medical professionals and protestors. All this resulted in the disruption of the key operations of the hospital, resulting in patients not being treated:
 - Rallied doctors to actively co-operate, during working hours, with protestors to spread chaos and overthrow regime.
 - Provided support to protestors and led meetings with them in the hospital compound.
 - Asked doctors to demonstrate outside hospital, and collected signatures from doctors calling for the fall of regime.

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- As a result of his actions many patients could not be treated. For example, two students suffering from bullet wounds were turned away and not treated.
- (ii) Ibrahim Abdullah Ibrahim for 3 years (Ibrahim Abdullah Ibrahim) (accounting for time served, he will be released on 29 March 2015). The findings made against him include:
 - Main accomplice with Dr Al-Ekri in the actions above.
- (iii) Dr Ghassan Dhaif for 1 year (accounting for time served, he will be released on 13 March 2013). The findings made against him include:
 - Refused treatment to a student on the grounds of his sect (the student was Sunni)
 - Used force to keep an injured police officer inside the hospital, even though the hospital could not treat him. The purpose was to prevent the officer from getting treatment.
- (iv) Dr Saeed Al-Samahiji (accounting for time served, he will be released on 23 April 2013). The findings made against him include:
 - Discriminated against South Asian patients by treating them in a disrespectful way, calling them "thugs" and holding them back for interrogation which was filmed by protestors allowed into the hospital with cameras (the protestors not only filmed the interrogation but also the identification cards of the South Asian patients).

E. Accountability for torture

- The Public Prosecution has investigated torture allegations made by the defendants in this case. It took statements from 14 complainants, 13 civilian witnesses to torture (including 9 doctors, 2 nurses) (having first met and interview many more witnesses). 17 public security personnel were investigated as potential suspects.
- As a result of the investigations 2 police officers (concerning 6 complainants), including a first lieutenant from the Royal family and a lieutenant colonel, were charged for torture and mistreatment and referred to Court at the end of April 2012:
 - Their charges include the use of force and threats to force a confession to crimes (Articles 75.4 and 208.1 of the Penal Code);

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misdemeanor assault (Article 339 of the Penal Code); and misdemeanor slander (Article 365 of the Penal Code).

- The first officer was charged with the use of torture, force and threats (directly or through others) against 4 of the medics, in order to force them to confess to a crime.
- The Public Prosecution also made similar charges against the second officer for forcing two of the accused women to confess.
- Prosecutors have requested punishment as stipulated in Articles 75.4 and 208.1 of the Penal Code [ie up to a maximum of 15 years of imprisonment].
- The next scheduled hearing (to hear the witness evidence) is scheduled for 18 December 2012.

Misdemeanor case (against 28 defendants)

- 28 health professionals have been charged with illegal gathering to protest against the regime.
- Their sentences were announced on 21 Nov 2012, by the Lower Criminal Court:
 - 23 sentenced for three months (200 dinars for bail).
 - 5 acquitted
- All 23 have appealed the sentence (in the meantime all of them are out on bail).