



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the fourth periodic report of Bahrain*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee's previous recommendations

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (CAT/C/BHR/CO/2-3),¹ the Committee requested the State party to provide information on follow-up to the Committee's recommendations on issues of particular concern, namely on the prompt re-establishment of a moratorium on the use of the death penalty; on allowing regular unannounced visits by independent monitoring bodies, including international bodies, to all places of detention and to meet in private with detained persons; and visits by United Nations human rights mechanisms, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the State party (see paras. 13 (a), 23 (d), 26 and 41). The Committee expresses its appreciation for the State party's follow-up response on those and other matters contained in its concluding observations and the substantive information provided on 11 May 2018 on the follow-up issues (CAT/C/BHR/CO/2-3/Add.1). However, the Committee considers that the recommendations included in paragraphs 14 (a), 23 (d) and 41 mentioned above have not been implemented (see paras. 3, 14 (d) and 22 of the present document).

Articles 1 and 4

2. With reference to the Committee's previous concluding observations (paras. 6 and 7), please provide information on the steps taken during the period under review to bridge the gap between the amended legislative and institutional frameworks and their implementation in practice in relation to the State party's obligations under the Convention. In that context, please provide updated information about any investigations and criminal prosecutions of perpetrators of torture, including those with command responsibility and persons otherwise complicit or acquiescent in acts of torture, as well as on any penalties received by those found guilty. Please also provide information on the steps taken by the State party to give full effect to the Convention in its domestic legal order and to raise awareness of its applicability in domestic law among judges, prosecutors, lawyers, law enforcement and prison officials (CCPR/C/BHR/CO/1, para. 6).

* Adopted by the Committee intersessionally on 7 May 2020.

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee (CAT/C/BHR/CO/2-3).



Article 2²

3. With reference to the Committee's previous concluding observations (paras. 12 and 13) and in pursuance of the request for further clarification sent on 23 October 2018 by the Rapporteur for follow-up to concluding observations, please provide updated information on:

(a) Any concrete measures taken during the period under review towards the re-establishment of the moratorium on the use of the death penalty since the executions of Abbas al-Samea, Sami Mushaima and Ali al-Singace carried out on 15 January 2017, which are reported to have been based on inadequate investigations and on confessions obtained under torture. In addition, please provide information on the execution on 27 July 2019 of Shiite activists Ali al-Arab and Ahmed al-Malali, who are reported to have been tortured by security officers, including through electric shocks and beatings, while Ali al-Arab's toenails were also ripped out. Please also provide information on the execution of a third unnamed person on the same day;

(b) The current situation of Mohammed Ramadan and Hussain Ali Moosa, whose death sentences were upheld on Wednesday 8 January 2020 by the Bahrain High Criminal Court of Appeal, a verdict that is still subject to appeal before the Court of Cassation. Please provide information with regard to the possibility of their retrial in accordance with international law standards, including effective and confidential access to their lawyers, in view of the concerns regarding the fairness of their trial that is reported to have been based on false confessions extracted under torture;

(c) The situation of the other Bahrainis who currently face the death sentence and on any considerations given to introducing a mandatory system of review of cases in which capital punishment has been handed down, with suspensive effect following a death penalty sentence in the first instance, as well as on any consideration given to pardoning and relieving all inmates currently on death row and commuting their sentences;

(d) The steps taken during the period under review to ensure that allegations by defendants that their confessions have been obtained under torture are properly investigated by competent bodies and to ensure that the courts do not base their rulings on confessions obtained as a result of torture, which violates the State party's Constitution and its obligations under the Convention;

(e) Any consideration given to abolishing the death penalty, voting in favour of the recurring resolutions on a moratorium on the use of death penalty, adopted by the General Assembly since its sixty-second session³ and acceding to the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Please also provide information on any steps taken to ensure that the death penalty is imposed only for the most serious crimes, such as intentional killing, is never mandatory, that pardons or commutations of sentences are available in all cases, regardless of the crime committed, that the death penalty is never imposed in violation of the provisions of the Convention, and that it is not imposed by military courts on civilians (CCPR/C/BHR/CO/1, para. 32).

4. With reference to the Committee's previous concluding observations (paras. 16 and 17), please provide information on:

(a) Any measures undertaken to ensure the effective implementation of article 253 of the Code of Criminal Procedure, so that evidence obtained through torture and

² The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligation to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also section V of the same general comment.

³ See resolutions 62/149 (Bahrain voting against), 63/168 (Bahrain abstaining), 65/206 (Bahrain abstaining), 67/176 (Bahrain voting against), 69/186 (Bahrain abstaining), 71/187 (Bahrain abstaining) and 73/175 (Bahrain voting against).

coercion is inadmissible in all judicial proceedings, in accordance with article 15 of the Convention;

(b) Whether any new legislation has been enacted during the period under review that provides for inquiries into well-founded allegations of torture that are brought to the attention of judges by defendants or their lawyers. In addition, please indicate whether judges have begun to take into account in court visible signs of torture shown by defendants;

(c) Whether judges have reviewed cases of convictions based solely on confessions, in view of the fact that many convictions, some of them reportedly amounting to up to 25 years of imprisonment, may have been based on evidence obtained through torture and ill-treatment. Please also inform the Committee about the results of any such reviews;

(d) Whether any investigations have been carried out during the period under review into cases of convictions reported to have been extracted under torture and ill-treatment, in particular in Jaw prison (CCPR/C/BHR/CO/1, para. 37), whether confessions obtained under duress have continued to be used as evidence in court, whether allegations of forced confessions, including under torture and ill-treatment, have been adequately investigated, whether the burden of proving that confessions were made voluntarily falls on the State authorities (CCPR/C/BHR/CO/1, para. 38), whether any remedial measures have been undertaken and whether any officials have been prosecuted and punished for extracting such confessions and the type of sentences received.

5. With reference to the Committee's previous concluding observations (paras. 14 and 15), please provide information on whether the enjoyment of fundamental legal safeguards by persons deprived of their liberty from the outset of their detention, in accordance with international standards, has improved during the period under review. In addition, please indicate whether persons deprived of their liberty are interrogated exclusively in rooms with audiovisual equipment for recording interrogations of suspects and detainees and whether such equipment has been installed in order to identify and investigate any torture.

6. With reference to the Committee's previous concluding observations (paras. 8 and 9), please provide information on specific measures taken to effectively implement the recommendations of the Bahrain Independent Commission of Inquiry, and in particular recommendation No. 1719, with a view to reducing the incidence of torture and ill-treatment in all places where persons are deprived of their liberty and eliminating impunity for such crimes. Please indicate whether a plan for the implementation of the recommendations of the Bahrain Independent Commission of Inquiry has been drawn up during the period under review.

7. With reference to the Committee's previous concluding observations (paras. 10 and 11), please provide updated information on:

(a) Any steps taken to repeal legislative provisions (amendments to article 105 (b) of the Constitution made in March 2017 and to the Military Justice Code made in April 2017) allowing for civilians to be tried in military courts outside a declared state of emergency (CCPR/C/BHR/CO/1, para. 13), which appears to be contrary to recommendation No. 1720 of the Bahrain Independent Commission of Inquiry;

(b) The steps taken to implement recommendation No. 1720 of the Bahrain Independent Commission of Inquiry and on any full reviews in ordinary courts of convictions and sentences rendered by the national safety courts, whose proceedings do not respect the fundamental principles of a fair trial, including prompt and full access to legal counsel and the inadmissibility of coerced testimony;

(c) The steps taken to implement recommendation No. 1718 of the Bahrain Independent Commission of Inquiry aimed at ensuring that the National Security Agency is an intelligence-gathering agency without law enforcement and arrest authorities.

8. With reference to the Committee's previous concluding observations (paras. 26 and 27), please provide updated information on any steps taken to amend national legislation with a view to raising the minimum age of criminal responsibility. Please also provide information on any steps taken to use non-custodial measures for minors in conflict with the law; detain minors only as a last resort and for the shortest possible period; ensure that they enjoy full legal safeguards; are not subjected to torture; and that they are separated

from adults while in detention. In addition, please provide information on the situation of some 200 minors who were incarcerated in 2015, about half of whom were detained in facilities for adults due to overcrowding.

9. With reference to the Committee's previous concluding observations (paras. 18 and 19), please provide updated information on:

(a) Whether persons arrested on criminal charges, including under the Act on the Protection of Society from Terrorist Acts, are brought before a judge within 48 hours;

(b) Whether pretrial detention is regulated clearly, is subject to judicial supervision at all times in order to guarantee fundamental legal safeguards, has been shortened, and is used as a measure of last resort and for limited periods of time. Please also provide information on whether pretrial detention for minor crimes has been replaced by non-custodial measures, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), and whether victims of unjustifiably prolonged pretrial detention have received redress, including compensation;

(c) Any amendments to article 147 of the Code of Criminal Procedure which allow for detention on remand that can be imposed by a lower court for a period or consecutive periods of up to 30 days, on condition that no period exceeds 15 days, and the extent to which this article has been applied during the period under review;

(d) Whether the public prosecution can still continue to submit applications to lower court judges to issue warrants for holding detained persons for additional 15-day periods or for successive periods amounting in total to no more than 30 days;

(e) Any amendments to chapter I of the special section of the Criminal Code concerning State security offences, which allows the public prosecution to detain suspects for an initial period of 28 days or for up to six months under the Act on the Protection of Society from Terrorist Acts, and on the extent to which this article has been applied during the period under review.

10. With reference to the Committee's previous concluding observations (paras. 20 and 21), please provide updated information on:

(a) The effective implementation of the Reform and Rehabilitation Institution Act which stipulates that solitary confinement should not last for more than seven days and whether punitive solitary confinement for prolonged periods of time in different detention centres has ceased;

(b) Whether clear and specific criteria relating to the imposition of solitary confinement have been established, whether it is kept under strict supervision and judicial review, does not last longer than provided for by law and is not renewed for successive periods. Please also provide information on whether detainees have the right to appeal decisions concerning solitary confinement and whether qualified medical personnel monitor the physical and medical condition of detainees on a daily basis throughout the period of solitary confinement, in keeping with international standards;

(c) Please provide information on any response by the State party to opinion No. 13/2018 of the Working Group on Arbitrary Detention in relation to categories II and V of the arbitrary detention of Nabeel Rajab, pursuant to the High Criminal Court of Appeal upholding in 2018 Mr. Rajab's five-year sentence issued on 21 February 2018 by the Bahrain Criminal Court (A/HRC/42/39, p. 7), as well as regarding information that the Bahrain High Court of Appeal rejected the request to grant Mr. Rajab a non-custodial sentence on 17 September 2019. Please also indicate whether Mr. Rajab continues to be subject to solitary confinement, if he has been provided with medical care for his skin condition, which requires surgery, and for any other ailments that he may have, whether he is held for 23 hours a day together with five other prisoners in a dirty 3 x 3 m cell infested with insects that is arbitrarily raided at night, with confiscation of his personal items, is subjected to humiliating and degrading body searches, has his head shaven forcibly and has on occasion been denied drinking water for up to 24 hours. In addition, please provide information about the current situation of other jailed human rights defenders, journalists and any other critics who are political activists and not in favour of the authorities.

11. With reference to the Committee's previous concluding observations (paras. 32 and 33), please provide updated information on:

(a) The specific steps taken to implement recommendation No. 1722 of the Bahrain Independent Commission of Inquiry regarding the use of force, arrest, treatment of persons in custody, detention and prosecution relating to the exercise of freedom of expression, assembly and association, including with regard to acts of intimidation, reprisals, threats, revocation of citizenship as a form of reprisal, as well as reprisals against human rights defenders, journalists and their relatives and their arrest and arbitrary imprisonment, in retaliation for their work;

(b) The measures taken to investigate promptly, thoroughly and impartially all allegations of harassment, arbitrary arrest, torture or ill-treatment of human rights defenders and journalists, ensure that they have access to justice and are guaranteed fundamental legal safeguards, and prosecute and punish appropriately those found guilty;

(c) The current situation of Abdulhadi al-Khawaja, Naji Fateel, Abduljalil al-Singace, Hussain Jawad and Abdulwahab Hussain and on any consideration given to releasing Mr. Rajab and other imprisoned human rights defenders in the State party.

12. With reference to the Committee's previous concluding observations (paras. 34 and 35), please provide information on:

(a) Any steps taken to define and include domestic violence, including sexual violence and marital rape, as specific criminal offences in the Criminal Code, with appropriate sanctions; as well as on the status of the bill on domestic violence whose drafting began in 2007;

(b) Any steps taken during the period under review to repeal articles 334 and 353 of the Criminal Code;

(c) The measures taken during the period under review to ensure that allegations of violence against women, including domestic and sexual violence, are registered by the police and that all allegations of violence are promptly, impartially and effectively investigated and the perpetrators prosecuted and punished;

(d) Whether victims of domestic violence benefit from protection, including restraining orders, and have access to medical and legal services, including counselling, redress and rehabilitation, as well as to safe and adequate government-funded shelters throughout the country;

(e) Whether police, other law enforcement officials, social workers, prosecutors and judges receive mandatory training on the vulnerability of victims of gender-based and domestic violence.

Article 10

13. Please provide information on whether:

(a) Training on the absolute prohibition of torture and on the provisions of the Convention has been made mandatory for all public officials coming into contact with persons deprived of their liberty, including law enforcement personnel and those conducting interrogations;

(b) The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is an essential part of the training of all medical professionals and other public officials working with persons deprived of their liberty;

(c) Any methodologies have been developed to assess the effectiveness of the training provided to relevant public officials and its impact on the reduction of the incidence of torture;

(d) Efforts to effectively prevent and eradicate the excessive use of force by law enforcement, security and prison officials include training on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (CCPR/C/BHR/CO/1, para. 36).

Article 11

14. With reference to the Committee's previous concluding observations (paras. 22 and 23), please provide updated information on:

(a) Any new buildings constructed during the period under review to accommodate inmates and alleviate overcrowding in detention facilities, and any renovations of specific existing facilities and equipment and their locations;

(b) The specific steps taken to enhance respect for the inherent dignity of the human person and to improve the poor material and hygiene conditions in prisons, including inadequate sanitary conditions such as bathing and toilet facilities, especially in Jaw prison, the lack of access to adequate quantities of food and good quality of food, the inadequate access to drinking water (CCPR/C/BHR/CO/1, para. 41), health care and outdoor activities, as well as unnecessary restrictions on family visits, in order to bring the conditions of detention into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(c) The measures introduced to reduce the rate of incarceration, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(d) The specific steps taken to enable independent monitoring bodies, including international bodies, to carry out regular unannounced visits to all places of detention and meet in private with detained persons;

(e) Any follow-up reports by the State party relating to the visits to places of detention carried out by the Prisoners and Detainees Rights Commission pursuant to the request for further clarification sent on 23 October 2018 by the Rapporteur for follow-up to concluding observations.

15. With reference to the Committee's previous concluding observations (paras. 24 and 25), please provide updated information on:

(a) Whether any effective investigations have been carried out relating to members of the security forces, prison administration and other officials, whether any and how many have been prosecuted and punished in relation to the violence and excessive use of force, including the use of rubber bullets, tear gas and shotguns in places of detention. Please also provide information on the collective punishment amounting to torture and ill-treatment in Jaw Prison in March 2015 and January 2017 and in Dry Dock Prison in 2016, and any sentences that were handed down to the officials concerned;

(b) The specific measures taken to ensure that the use of force by the security forces in places of detention during security operations is not excessive, does not endanger the lives of inmates and that tear gas is not fired in closed spaces to quell riots;

(c) The specific measures taken to ensure the basic rights of detainees in all circumstances, that the conditions of detention do not give rise to riots by inmates and that they are not subjected to collective punishment by the prison administration;

(d) The steps taken to ensure that thorough investigations are conducted into all allegations of torture and ill-treatment in detention facilities and that any perpetrators who are found guilty are punished and the victims provided with redress, including medical and psychological rehabilitation.

16. Please provide information on any investigations carried out during the period under review with regard to allegations of widespread sexual abuse and threats to resort to sexual abuse of both men and women in detention and on the results of any investigations carried out by the Ombudsman and the Special Investigation Unit. Please also provide information on any investigations and prosecutions that may have been carried out in relation to the sexual assault on 26 May 2017 on human rights defender Ebtisam Al-Saegh when she was summoned by the National Security Agency to Muharraq police station in the north of the country and sexually assaulted by her interrogators.

17. With reference to the Committee's previous concluding observations (paras. 30 and 31), please provide information on:

(a) The specific measures taken during the period under review to prevent law enforcement and prison officials from engaging in conduct that is contrary to the Convention, including by ensuring that an effective and independent monitoring

mechanism regularly inspects all places of detention, without prior notice, is able to meet in private with detainees, receive complaints and conduct investigations into alleged conduct by law enforcement and prison officials that violates the Convention;

(b) The steps taken to strengthen cooperation with United Nations human rights mechanisms by permitting visits by special procedure mandate holders who have requested them and on any consideration given to ratifying the Optional Protocol to the Convention.

Articles 12 and 13

18. With reference to the Committee's previous concluding observations (paras. 28 and 29), please provide information on:

(a) The measures taken to ensure the independence of all mechanisms empowered to consider complaints by pretrial detainees and convicted prisoners in all places of detention and that complainants are protected in practice against any reprisals as a consequence of their complaint. Please also provide information on any measures taken to facilitate the submission of complaints by victims of torture and ill-treatment, including by obtaining medical evidence in support of their allegations from competent and independent doctors;

(b) The measures taken to clarify the mandates and remove the overlap of competence between the bodies to which persons deprived of their liberty can file complaints about torture and ill-treatment pursuant to the recommendations of the Bahrain Independent Commission of Inquiry, such as the Office of the Ombudsman (General Secretariat of Complaints) of the Ministry of the Interior, the Directorate of Internal Investigations of the Ministry of the Interior, the General Directorate of Reform and Rehabilitation of the Ministry of the Interior, the Ombudsman's Office of the National Security Agency, the Special Investigation Unit in the Public Prosecutor's Office, the National Institution for Human Rights and the Prisoners and Detainees Rights Commission. Please also indicate whether complaints continue to ultimately pass through the Ministry of the Interior;

(c) Whether loopholes have been removed from the existing complaints mechanisms, whereby prison inmates have to submit complaints regarding torture or ill-treatment through prison wardens, the prison Director or Deputy Director, which does not guarantee that they will be submitted to the competent authorities. Please also provide information on whether all reports of torture or ill-treatment are investigated promptly, effectively and impartially by an independent mechanism in which there is no institutional or hierarchical connection between the investigators and the alleged perpetrators;

(d) The steps taken to ensure that persons under investigation for having committed acts of torture or ill-treatment are immediately suspended from their duties and remain so throughout the investigation.

19. Please provide information on:

(a) The reported reluctance of the victims of abuse of authority, misconduct or criminal offences committed by employees and public security personnel of the Ministry of Interior to complain to the Ombudsman established by the Ministry and on the outcome of the 7 per cent of complaints submitted to the Ombudsman that he forwarded to a disciplinary or prosecutorial authority;

(b) Allegations of reprisals against detainees who have complained to independent international bodies and who have been made to sign documents stating that they refused to go to hospital and were thus prevented from receiving medical treatment, precisely after they had complained about their health situation.

Article 14

20. With reference to the Committee's previous concluding observations (paras. 38 and 39), please provide updated information on whether the National Fund for the Compensation of Victims has provided compensation to all victims of torture and ill-treatment entitled to receive it, including all those identified by the Bahrain Independent Commission of Inquiry.

Article 16

21. With reference to the Committee's previous concluding observations (paras. 36 and 37), please provide updated information on whether the State party has enacted legislation to explicitly and clearly prohibit corporal punishment in all settings, including in the home, in alternative care and day-care settings and in penal institutions.

22. With reference to the Committee's previous concluding observations (paras. 40 and 41), please provide updated information on the status of the request by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the State party and on the status of requests of any other special procedure mandate holders.

Other issues

23. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Also, please describe how the State party has ensured that those measures are compatible with all its obligations under international law, especially the Convention. Please also indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under the legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subject to anti-terrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

24. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions comply with its obligations under the Convention. Also, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement such as in homes for the elderly, hospitals or institutions for persons with mental and psychosocial disabilities.

General information on the other measures and developments relating to the implementation of the Convention in the State party

25. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.
