



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Report on follow-up to the concluding observations of the Human Rights Committee\*

#### Addendum

#### Evaluation of the information on follow-up to the concluding observations on Bahrain

*Concluding observations (123rd session): CCPR/C/BHR/CO/1, 19 July 2018*

*Follow-up paragraphs:* 14, 32 and 54

*Information received from State party:* CCPR/C/BHR/FCO/1, 14 June 2021

*Information received from stakeholders:* Alwefaq National Islamic Society, 14 April 2022; Americans for Democracy & Human Rights in Bahrain, 12 April 2022; Bahrain Forum for Human Rights, 15 April 2022; International Center for Supporting Rights and Freedoms, 15 April 2022; Salam for Democracy and Human Rights, 14 April 2022

*Committee's evaluation:* 14[C], 32[C] and 54[E][C]

#### Paragraph 14: Military courts<sup>1</sup>

##### Summary of the information received from the State party

The April 2017 amendment to the Constitution was made in the context of State efforts to combat terrorist operations and increasing threats. As a result, the Code of Military Justice has been amended to introduce an exception whereby the Public Prosecutor may, with the approval of the military courts, refer to those courts any of the offences contained in the Act on the Protection of Society from Acts of Terrorism or any of the offences against the security of the State contained in chapters I and II of title I of the special section of the Criminal Code and related offences (art. 17 ter). The basic jurisdiction for these offences remains with the ordinary courts, unless the Public Prosecutor exceptionally decides to refer them to the military courts. The military courts hold public hearings and have courts of appeal and cassation. The same safeguards are applied in military courts as are applied in civilian courts. Under the National Human Rights Institution Act, the Institution is allowed to attend court hearings.

\* Adopted by the Committee at its 135th session (27 June–27 July 2022).

<sup>1</sup> The paragraphs containing the Committee's recommendations are not reproduced in the present document owing to the word limit specified in General Assembly resolution 68/268, para. 15.



### **Summary of the information received from stakeholders**

According to Americans for Democracy & Human Rights in Bahrain, there has been no formal review of the 2017 amendment. The actions of the Government have aggravated judicial irregularities and the lack of transparency in the criminal justice system. There has been no news of civilians being tried in military courts since 2018.

Bahrain Forum for Human Rights lists the possible violations of civilians' right to a fair trial if tried in military courts, with reference to specific provisions of the Code of Military Justice.

### **Committee's evaluation**

[C]

The Committee notes the information on the 2017 amendment to the Constitution and the safeguards available in military court proceedings. Nevertheless, it regrets the lack of information on any measures taken after the adoption of its concluding observations to review the 2017 amendment in order to ensure that military courts are prevented from exercising jurisdiction over civilians. The Committee reiterates its recommendation.

## **Paragraph 32: Death penalty**

### **Summary of the information received from the State party**

The death penalty is not prohibited per se under international law and State practice in this regard is in line with the safeguards guaranteeing protection of the rights of those facing the death penalty, as set out in Economic and Social Council resolution 1984/50. The death penalty may be imposed only for the most serious crimes against society, and the accused must have a lawyer or be provided with one by the State. All death sentences provide for the basic fair trial guarantees and are subject to mandatory appeal. Their imposition requires a unanimous decision of the judges involved and is carried out only with the King's approval. He can waive and commute the death penalty in certain cases. The death sentence may be returned to the court of cassation for review, which results in a stay of execution pending final judgment. The death penalty cannot be applied to pregnant women or juveniles. In death penalty cases, the accused's confession cannot be taken into account. The death penalty is rarely carried out. In the event that other States, especially those in the region, agree to review or abolish the death penalty, Bahrain will seriously reconsider the matter.

### **Summary of the information received from stakeholders**

According to Americans for Democracy & Human Rights in Bahrain and Salam for Democracy and Human Rights, the number of death sentences, of people on death row facing imminent execution and of actual executions has increased in the last decade, as has the execution rate per capita. Americans for Democracy & Human Rights in Bahrain claims that the death penalty has been imposed for offences other than the most serious crimes, including non-lethal drug offences, and in a manner that discriminates against foreign nationals, specifically nationals of Bangladesh. It also claims that the increase in the imposition of the death penalty is directly linked to the promulgation of overly broad anti-terrorism legislation.

Americans for Democracy & Human Rights in Bahrain indicates that 26 people are currently on death row. Salam for Democracy and Human Rights lists 12 individuals who were sentenced to death between January 2018 and July 2020. Both organizations note that Ali al-Arab, Ahmed al-Malali and an unnamed national of Bangladesh were executed on 26 July 2019, despite complaints of abuse, mistreatment and the use of torture to extract their confessions, and that confessions made under torture and threats against family members have been used to sentence to death Mohammed Ramadhan and Husain Ali Moosa. Americans for Democracy & Human Rights in Bahrain also notes the use of torture and violations of fair trial guarantees in the cases of Maher al-Khabbaz and Salman Isa Salman.

According to Bahrain Forum for Human Rights, death penalty cases under the Criminal Code, the Military Criminal Code and the Act on the Protection of Society from Acts of Terrorism

have fallen into the hands of the military judiciary, which has increased the risk that the death penalty will be imposed on members of the opposition and human rights activists.

#### **Committee's evaluation**

[C]

The Committee notes the information on the safeguards in death penalty cases and the State party's intention to consider abolishing the death penalty if other States do so. Nevertheless, it regrets the lack of information on any specific measures taken to reinstate the moratorium on the death penalty and to ensure that it is imposed only for the most serious crimes and is not imposed by military courts.

The Committee reiterates its recommendation and requests: (a) information on investigations into cases of the use of torture to extract confessions and violations of procedural safeguards in death penalty cases, and their outcomes; and (b) statistics on death sentences and executions during the reporting period, disaggregated by age, sex, nationality and type of offence.

#### **Paragraph 54: Freedom of expression**

##### **Summary of the information received from the State party**

The authorities do not take any legal measures to investigate or institute proceedings for engaging in political, rights-related or social activities. Nobody is charged unless there is clear evidence that he or she has committed an offence defined by law. Political activity and the public exercise of freedom of expression are not criminalized by law. National legislation, laws and redress mechanisms are sufficient to prevent the violation of these rights. All national guidelines aim to advance human rights and to promote the exercise of these rights through the national channels regulating them.

The amendments to the Regulation of the Press, Printing and Publishing Act currently before the Legislative Council, approved by the Council of Ministers on 5 April 2021, emphasize that journalists should not be imprisoned in publishing cases. They also include the addition of a chapter on electronic media and the regulation of websites and accounts of media organizations, and the inclusion of new definitions to keep pace with the development of the media.

##### **Summary of the information received from stakeholders**

(a) According to Americans for Democracy & Human Rights in Bahrain, it is clear that criticism of the Government is not tolerated. Alwefaq National Islamic Society reports retaliation against its Secretary General, Sheikh Ali Salman, for his criticism of government officials and institutions. According to Salam for Democracy and Human Rights, the vague wording in the nationality legislation could be used by the King against his critics, including journalists. In one case, the artist Qahtan al-Qahtani was charged with insulting a regulatory body and the abuse of telecommunications devices for having resent a message on social media expressing criticism of the reappointment of the Minister of Information Affairs.

(b) No information is provided concerning defamation.

(c) Salam for Democracy and Human Rights notes that the human rights defenders Abdulhadi al-Khawaja, Abduljalil al-Singace and Naji Fateel remain in detention.

(d) Salam for Democracy and Human Rights indicate that, despite the 2021 amendment to the press, printing and publishing law, replacing prison sentences with fines, the Criminal Code still allows imprisonment and the Government relies on that Code to punish human rights defenders and journalists. Alwefaq National Islamic Society notes that article 165 of the Criminal Code has been applied in a manner that violates freedom of opinion and expression.

According to Americans for Democracy & Human Rights in Bahrain, the 2021 amendment to the press, printing and publishing law extended government jurisdiction over Internet and

digital content. Articles 19, 20, 70 and 78 of that law are used to intimidate and prosecute journalists and human rights defenders working online or abroad. Online criticism can also be punished under the cybercrime law. The Ministry of the Interior declared in 2019 that anyone interacting with social media accounts that “incite sedition and threaten civil peace” can be prosecuted. Americans for Democracy & Human Rights in Bahrain and Salam for Democracy and Human Rights list cases of activists and journalists who have been charged for their online criticism of the authorities, including the head of the Bahrain Centre for Human Rights, Nabeel Rajab, who was convicted for posting messages on social media containing such criticism.

(e) According to Americans for Democracy & Human Rights in Bahrain, the journalists Nazeeha Syeed and Moosa Abd-Ali have been subjected to torture and abuse for covering human rights violations. In August 2021, independent media discovered that nine activists had been targeted in 2020 and 2021 by spyware purchased by the Government.

According to International Center for Supporting Rights and Freedoms, in January 2019, Bahrain began to exploit its membership of the Committee on Non-Governmental Organizations to retaliate against human rights organizations that had submitted reports to the United Nations regarding continued violations of human rights in Bahrain. Bahrain has consistently prevented the Center from obtaining consultative status with the Economic and Social Council.

#### **Committee's evaluation**

[E]: (a)

The Committee regrets that the State party considers national legislation, laws and redress mechanisms to be sufficient to prevent the violation of freedom of expression. It reiterates its recommendation.

[C]: (b), (c), (d) and (e)

The Committee regrets the lack of information on measures taken to decriminalize defamation and apply criminal law only in the most serious cases, and to release anyone held solely for the peaceful exercise of his or her rights. It reiterates its recommendations and requests information on plans to release three human rights defenders: Abdulhadi al-Khawaja, Abduljalil al-Singace and Naji Fateel.

While welcoming the information on the prohibition of the imprisonment of journalists under the amended press, printing and publishing law, the Committee regrets the lack of information on other measures taken to review and amend the provisions of the Criminal Code, Decree Law No. 47 and regulations on digital rights. It reiterates its recommendations and requests information on: (a) the restriction on freedom of expression on the Internet, including through the 2021 amendments to the press, printing and publishing law and the 2019 declaration made by the Ministry of the Interior concerning the use of social media; and (b) increased targeting of the online activities of journalists and human rights defenders, including through the use of surveillance spyware.

The Committee regrets the absence of information on measures taken to protect journalists, activists and human rights defenders, investigate any violations against them and bring perpetrators to justice. It reiterates its recommendation and requests information on reports of reprisals against human rights organizations that have submitted reports to the United Nations.

**Recommended action:** A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

**Next periodic report due:** 2027 (country review in 2028, in accordance with the predictable review cycle).