

European Centre for Democracy and Human Rights (ECDHR)
For consideration at the 27th session of the UN working group

1. ECDHR is a non-profit organization that raises awareness and promotes human rights in the Middle East and North Africa (MENA) region.
2. ECDHR welcomes the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of Bahrain. This submission focuses on Bahrain's compliance with its second-cycle recommendations to commute the death sentences of prisoners on death row, abolish the death penalty, introduce a formal moratorium, or consider the possibility of removing the death penalty from its legal system.

Current Status: Not Implemented

Introductory Assessment

3. The Government of Bahrain has not implemented its recommendations to end capital punishment. Although its last execution took place in 2010, Bahrain's courts have continued to issue death sentences, including one handed down as recently as December 2015. In some cases, death row inmates have reported that the authorities tortured them into making coerced confessions and prevented them from accessing legal counsel. There are currently 10 individuals sentenced to death in Bahrain; they are at risk of imminent execution.

Trends and Examples

a. Legal Framework

4. The Government of Bahrain has not abolished the death penalty. Offenses such as apostasy, drug trafficking, and treason – which includes ambiguous crimes like harming the territorial integrity and independence of the state and assisting enemies of the state – are all punishable by death. The Penal Code also provides judges wide discretion to determine sentencing in “serious” crimes.ⁱ The penalty for an infraction determined to be “serious” can range from capital punishment to civil disqualification for a period of three to fifteen years.
5. Minors, defined as persons below the age of 18, are not subject to the death penalty in Bahrain. If the accused is between the ages of 15 and 18, the death sentence must be reduced to a jail sentence or imprisonment. Furthermore, the government does not apply the death penalty to mentally ill prisoners.
6. In addition to the Penal Code, recent amendments to Bahrain's anti-terror law have listed the death penalty as a possible sentence for acts of terror and crimes against “state security.” The anti-terror law lacks a precise definition of terrorism, however; according to the language, the government may charge an individual with a terror offense when there is no specific intent to commit a terrorist act, and even if there is no intent to cause death or serious injury. The government has exploited this broad definition to charge nonviolent activists and terrorists and to criminalize acts of peaceful expression, assembly, and association. Bahraini authorities have used the anti-terror law to prosecute children as young as 15 years old.

7. Individuals sentenced to death can appeal their convictions to the Court of Cassation, Bahrain's highest court of appeals, though this court typically considers only procedural technicalities. Once the Court of Cassation upholds a death sentence, it is sent to the king, who has the authority to ratify the sentence, commute it, or grant a pardon.

Findings

1. In 2015, Bahraini courts issued or confirmed seven death sentences. The Court of Cassation rejected the appeals of death row inmates Mohammed Ramadan and Husain Ali Moosa in November 2015. A lower court initially sentenced Ramadan and Moosa to death on 29 December 2014 for their alleged involvement in a February 2014 bomb explosion. Both men report that they were tortured into confessing, and both men later recanted their confessions. Nevertheless, the court convicted Ramadan and Moosa based solely on their coerced confessions. With the rejection of their final appeals in November 2015, Ramadan and Moosa became the first people since 2010 to have exhausted all legal avenues of appeal. They stand at risk of imminent execution. On 31 December 2015, a court rejected death row inmate Salman Isa's first appeal. The High Criminal Court had originally sentenced Salman Isa to death on 29 April 2015 for his alleged involvement in a bomb attack that killed a police officer in 2014. That same day, a court sentenced Hussein Abdullah Khalil Ebrahim, 27, on charges of forming a terrorist organization, engaging in rioting, and killing a police officer in 2014 with the aim of overthrowing the government. Though Hussein Ebrahim was the only one sentenced to death, he and ten of his co-defendants – including two minors – claim that security forces subjected them to enforced disappearance and torture.

a. Individual Cases

2. **Mohamed Ramadan 'Issa 'Ali** is a 32-year-old airport security guard in Bahrain. On 20 March 2013, Bahraini authorities arrested Ramadan for his alleged involvement in a bomb explosion that had killed a police officer on 14 February 2013. Without a warrant, and without informing his family, security forces detained Ramadan for at least four days. During this time, officials with the Ministry of Interior (MoI) subjected Ramadan to severe torture. Ramadan eventually signed a confession in order to stop the abuse, but when he attempted to explain this to a judge the authorities tortured him for another 10 to 13 days. According to Ramadan, he was told the government knew he was innocent, but his involvement in the pro-democracy movement made him a traitor who deserved the death sentence. On 29 December 2014, Ramadan was convicted of murder and sentence to death based on his false confession and the coerced testimony of other defendants. On 26 May 2015, an appeals court upheld the ruling. He is currently detained at Jau Prison, awaiting execution.
3. **Hussain 'Ali Moosa Hussain**, 28, was tried along with Mohammad Ramadan for his alleged assistance in the 14 February 2013 bombing attack. The authorities arrested Moosa on 21 February 2013 and took him to a security facility. For three days, security officials reportedly hung Moosa from the ceiling while they beat him with batons and threatened to harm his family, specifically his sisters. Like Ramadan, Moosa eventually signed a false confession in exchange for an end to his torture. Also like Ramadan, when Moosa recanted his confession, he was subjected to further torture. This period of abuse reportedly lasted three months.

4. During his trial, Moosa was denied consistent access to legal counsel. When Moosa did have access to an attorney, the judge prevented the defense from properly preparing and refused to provide appropriate documentation. Furthermore, the prosecution used Moosa's coerced confession to not only convict him, but also to falsely incriminate Ramadan. Moosa and Ramadan were sentenced to death on the same day, 29 December 2014. Moosa is also being held at Jau Prison, awaiting execution.
5. **Sami Mushaima** was arrested on 3 March 2014 when Bahraini security forces raided the home of the prominent Mushaima family. Due to the family's association with the pro-democracy movement – Hassan Mushaima is a political leader sentenced to life in prison for his involvement in the 2011 uprising – the home had been previously raided at least 23 separate times. On this occasion, approximately 15 security officials came to arrest Sami Mushaima for his alleged involvement in a bomb explosion that killed three police officers only a few hours earlier. Though he did not resist arrest, the security forces violently subdued Mushaima and transported him to a detention facility. Over the next several weeks, he was subjected to extreme torture. Security officials routinely beat, electrocuted, and sexually assaulted him, among other severe forms of mental and physical abuse. Mushaima's family believes he was coerced into falsely confessing through the use of torture. His family has stated that Mushaima is illiterate and lacks the skill necessary to assemble a remote-controlled explosive device. Nonetheless, on 26 February 2015, a court sentenced Mushaima to death. He is currently waiting on an appeal.
6. **Abbas al-Samea** is a 25-year-old teacher who was arrested on 3 March 2014, the same day as Sami Mushaima, for his alleged participation in the same bomb explosion. Despite credible evidence that al-Samea was in school at the time of the bombing, a judge sentenced him to death on 26 February 2015.
7. Security forces arrested **Ali Abdulshaheed** around the same time as Sami Mushaima and Abbas al-Samea, accusing him of having participated in the same bomb explosion. Like Mushaima and al-Samea, Abdulshaheed was sentenced to death on 26 February 2015 after an unfair trial.
8. On 19 February 2014, a court sentenced **Maher al-Khabaz** to death for his alleged use of a flare gun to kill a police officer on 14 February 2013. Three days after the alleged attack, plainclothes officers arrested al-Khabaz at his place of business and disappeared him to a local security facility. There, the officers subjected al-Khabaz to severe physical torture including electrocution and *falaka*, a technique of whipping most sensitive areas of the feet and hands. After a week, and although he is illiterate and was blindfolded, the authorities extracted a signed confession from al-Khabaz. The ensuing trial was based on this false confession, the coerced confessions of alleged compatriots, and the testimony of the involved police officers. Throughout the proceedings, al-Khabaz was denied consistent access to an attorney and threatened with continued torture. The Court of Appeals upheld al-Khabaz' death sentence on 31 August 2014. He is currently detained at Jau Prison, where he awaits execution.
9. The High Criminal Court sentenced **Salman Isa**, 30, to death on 29 April 2015 for his alleged involvement in a bomb attack that killed a police officer a year prior. Along with Isa, the court sentenced 11 other defendants to prison terms ranging from 10 years to life. There are reports that the authorities subjected the defendants to torture or other forms of coercion in order to extract false confessions. In December 2015, a court rejected his first appeal.

Conclusion and Recommendations

10. The Government of Bahrain's use of the death penalty violates its obligations under the International Covenant for Civil and Political Rights (ICCPR), to which Bahrain acceded in 2006. The ICCPR stipulates that the death penalty must only be handed down for the most serious crimes and that fair trial standards must be applied, including an absolute prohibition against torture. Individuals on death row have reported frequent violations of their due process rights. Among the violations has been severe torture during detention and interrogation. Defendants have also reported arrests without warrants and torture for the purpose of extracting confessions.
11. To comply with its recommendations to end the death penalty, the Government of Bahrain should:
 - Commute all death sentences.
 - Establish a moratorium on the death penalty with a view to abolition.
 - Investigate and prosecute all acts of torture, mistreatment, and enforced disappearance.
 - Dismiss all convictions made on the basis of confessions obtained under conditions of torture or coercion.
 - Establish further procedures to ensure the fairness of all criminal trials and appeals.
 - Amend articles of the Penal Code and repeal anti-terror legislation that ambiguously define 'serious' and 'terror' offenses or criminalize free expression, assembly, and association.

i "Bahrain Penal Code, 1976," Government of Bahrain, see:

https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdfpg32-36, 45.