



**Input for Secretary-General's Report
on a moratorium on the use of the death penalty**

***Joint submission on Kingdom of Bahrain
by Bahrain Institute for Rights and Democracy (BIRD) and Reprieve***

April 2022

ABOUT REPRIEVE

Reprieve is a charitable organisation registered in the United Kingdom (No. 1114900) with special consultative status with the United Nations Economic and Social Council (ECOSOC). Reprieve provides free legal and investigative support to those who have been subjected to state-sponsored human rights abuses. Our clients belong to some of the most vulnerable populations in the world. In particular, we protect the rights of those facing the death penalty and deliver justice to victims of arbitrary detention, torture, and extrajudicial execution.

ABOUT BAHRAIN INSTITUTE FOR RIGHTS AND DEMOCRACY

Bahrain Institute for Rights and Democracy (BIRD) is a UK-based non-profit and non-governmental organization established in 2013 that investigates human rights abuses in Bahrain, exposes them to the world, and advocates for an end to abuse and accountability in the country. BIRD is independent and apolitical with a mission to promote human rights, effective accountability, and democratic reform in Bahrain. BIRD regularly communicates with Special Rapporteurs at the United Nations, including the Special Rapporteur on Torture, the secretariat of the Working Group on Arbitrary Detention and the High Commissioner for Human Rights.

SUMMARY

This joint submission provides an update on developments in Bahrain since 16 December 2020 on the following topics:

- Safeguards guaranteeing protection of the rights of individuals facing the death penalty;
- Disaggregated statistical information about persons sentenced to death or currently on death row;
- Disaggregated statistical information on executions carried out;
- Restrictions on the use of the death penalty;
- Reduction of the number of offences for which the death penalty may be imposed; and
- Initiatives to establish a moratorium on executions with a view to abolishing the death penalty.

The data in this submission is taken from BIRD and Reprieve's up-to-date joint database on the death penalty and from our joint report 'From Uprisings to Executions: The death penalty in Bahrain, ten years on from the Arab Spring', analysing our findings on the death penalty and torture between 2010 and February 2021 ([Annex](#))¹.

We hope that the information contained within this submission is illuminating and that it aids in the completion of the Secretary-General's report on the question of a moratorium on the use of the death penalty.

Word count: The word count of this submission excluding the Annex is **1464 words**.

¹ BIRD and Reprieve, *From Uprisings to Executions: The Death Penalty in Bahrain, Ten Years on from the Arab Spring*, 2021, available at: https://reprieve.org/wp-content/uploads/sites/2/2022/01/Reprieve_BahrainDeathPenalty_28.01.2022_Pages-1.pdf [accessed on 19 April 2022].

SUBMISSION

Safeguards guaranteeing protection of the rights of individuals facing the death penalty

1. Bahrain's continued application of the death penalty is in breach of the right to life under Article 6 of the International Covenant on Civil and Political Rights (ICCPR)², falling below international minimum standards. Bahrain's justice system does not comply with international human rights obligations, including the right to fair trial, and the prohibition against torture and discrimination provided across international legal instruments.³
2. Reprieve and BIRD's monitoring of death row in Bahrain shows there are currently 26 men at risk of execution. As Bahrain has failed to make publicly available any disaggregated data on the death penalty, the true number of Bahrain's death row population may be much higher.⁴
3. Reprieve and BIRD's investigations into cases of individuals on death row has shown that torture is widespread, in violation of Article 14 of the ICCPR. Of the 26 men currently at risk of execution, 42% allege torture.⁵
4. BIRD and Reprieve's data shows that Bahrain's increased use of the death penalty is inextricably linked to Bahrain's failure to substantively reform oversight bodies tasked with investigating torture complaints. The Ombudsman within the Ministry of Interior and the Special Investigations Unit (SIU) within the Public Prosecutor's Office are responsible for

² Bahrain ratified the International Covenant on Civil and Political Rights on 20 September 2006. UNOHCHR UN Treaty Body Database, available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=13&Lang=EN [accessed on 28 April 2022].

³ International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS, arts 9, 14, 7 and 26 (entered into force 23 March 1976); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85 (CAT).

⁴ UNGA, Res 75/183 (16 December 2020) para 7(c).

⁵ BIRD and Reprieve, *From Uprisings to Executions: The Death Penalty in Bahrain, Ten Years on from the Arab Spring*, 2021, p.3, available at: https://reprieve.org/wp-content/uploads/sites/2/2022/01/Reprieve_BahrainDeathPenalty_28.01.2022_Pages-1.pdf [accessed 19 April 2022]

investigating allegations of torture in Bahrain. Both bodies were formed in 2012 following the Bahrain Independent Commission of Inquiry's (BICI) findings that torture was systematically used to crack down on Arab Spring protests.⁶

5. The UN Committee Against Torture reviewed Bahrain's compliance with the Convention Against Torture in 2017. Their review found that the Ombudsman and the SIU, and other security bodies, "are not independent, that their mandates are unclear and overlap, and that they are not effective given that complaints ultimately pass through the Ministry of the Interior."⁷
6. The full recommendations of the BICI report and the UNCAT review remain unimplemented. No steps have been taken on implementation since December 2020.
7. The imposition of the death penalty in torture-tainted cases encourages impunity, breaches fair trial rights, undermines any movement towards reform in Bahrain and is a violation of Article 7 and Article 14 of the ICCPR.⁸
8. Reprieve and BIRD's clients Mohamed Ramadhan and Husain Moosa remain on death row despite the UN Working Group on Arbitrary Detention (WGAD) Opinion No.4/2021 (31 May 2021) calling for their immediate and unconditional release.⁹

⁶ Human Rights Watch, 'Bahrain: Lagging Efforts to End Torture', 13 June 2016, available at, <https://www.hrw.org/news/2016/06/13/bahrain-lagging-efforts-end-torture> [accessed 28 April 2022]

⁷ UN Committee Against Torture, *Concluding observations on the second and third periodic reports of Bahrain*, 29 May 2017, CAT/C/BHR/CO/23, para 28, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqYPuFZC34VM6MoD0MvS%2bS%2bhcJl3TUrOvvF%2fGuWWUtDMNTj4IYASRqLw7nbC8IcS25V04LGf8FMQtufqvlxyVSqBsgx3LVglkkCx%2bAgXg%2bL> [accessed 19 April 2022].

⁸ International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS, arts 7 and 14, para 3(g) (entered into force 23 March 1976).

⁹ UN Human Rights Committee, *Opinions adopted by the Working Group on Arbitrary Detention at its ninetieth session, 3-12 May 2021: Opinion No.4/2021 concerning Mohammed Ramadhan Isa Ali Husain and Husain Ali Moosa Hassan Mohamed (Bahrain)*, 31 May 2021, A/HRC/WGAD/2021/4, para 110, available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session90/A_HRC_WGAD_2021_4.docx [accessed

9. Reprieve and BIRD have found through regular monitoring that death row inmates in Bahrain are subject to reprisals by the Bahraini authorities. Mohamed and Husain have been subject to reprisals in prison in retaliation for the political and media attention on their case. Prison guards closely monitor and restrict their phone calls, which have been their sole means of communicating with their family during the COVID-19 pandemic. Guards have threatened to revoke their phone privileges entirely if they speak with the media or comment on their case. In the months following the imposition of his death sentence, amidst increasing restrictions on his phone access, Mohamed's mental health deteriorated, and he has repeatedly expressed to his wife his overwhelming distress that his execution could be carried out at any moment.
10. Three Bahraini men are at risk of imminent execution for charges relating to non-lethal drug offences. There have been no developments on their cases; all have exhausted legal remedies.
11. The Government of Bahrain maintains that it imposes the death penalty "in accordance with international law and human rights standards including the United Nations Safeguards."¹⁰ However, Bahrain's imposition of the death penalty for non-lethal offences is explicitly prohibited under the ICCPR, rendering any death sentence unsafe and any execution in breach of the right to life.¹¹ It is also a fundamental breach of the safeguards guaranteeing protection of the rights of those facing the death penalty.¹²

19 April 2022], Reuters, *U.N. watchdog seeks release of two Bahrainis from death row*, 19 June 2021, available at: <https://www.reuters.com/world/middle-east/un-watchdog-seeks-release-two-bahrainis-death-row-2021-06-18/> [accessed 28 April 2022]

¹⁰ Bahrain Embassy UK (@BahrainEmbUK), '#Statement #Bahrain Cassation Court Upholds Death Sentences for Killing Police Officers', Twitter, 13 July 2020, available at: <https://twitter.com/BahrainEmbUK/status/1282651389072748545> [accessed 19 April 2022]

¹¹ UN HRC, *General Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights*, on the right to Life, 2018, CCPR/C/GC/36, para 35.

¹² UN Economic and Social Council, *Safeguards guaranteeing protection of the rights of those facing the death penalty*, 1984, Safeguard 1, available at: https://www.unodc.org/pdf/criminal_justice/Safeguards_Guaranteeing_Protection_of_the_Rights_of_those_Facing_the_Death_Penalty.pdf.

12. On 15 January 2017, Bahrain executed three Bahraini nationals. On 29 July 2019, Bahrain executed two Bahraini nationals and one Bangladeshi national. All five of the Bahraini nationals executed had reported credible allegations of torture used to extract false confessions relied upon at trial to secure death sentences. Little information is known about the Bangladeshi national executed on 29 July 2019.¹³
13. To BIRD and Reprieve's knowledge, no steps have been taken by Bahrain to investigate the alleged torture of the five Bahraini nationals or to bring the alleged perpetrators to justice.
14. Bahrain's King Hamad bin Isa Al Khalifa retains executive power to pardon or commute the sentences those on death row.¹⁴ Reprieve and BIRD are not aware of any individuals sentenced to death who have received a pardon or commutation since December 2020.

Disaggregated statistical information about persons sentenced to death or currently on death row

15. The number of people on death row facing imminent execution in Bahrain has increased by 2500% over the past decade, from one person at the end of 2010 to at least 26 in 2022.¹⁵
16. Reprieve and BIRD's data shows that as of 29 April 2022, there are currently:
 - a. 26 individuals on death row at risk of execution, having exhausted all legal remedies;
 - i. All 26 individuals are male;

¹³ BIRD and Reprieve, *From Uprisings to Executions: The Death Penalty in Bahrain, Ten Years on from the Arab Spring*, 2021, p.9, available at: https://reprieve.org/wp-content/uploads/sites/2/2022/01/Reprieve_BahrainDeathPenalty_28.01.2022_Pages-1.pdf [accessed 28 April 2022]

¹⁴ Constitution of the Kingdom of Bahrain, art 41, sec 1 available at https://adsdatabase.ohchr.org/IssueLibrary/BAHRAIN_Constitution.pdf [accessed 28 April 2022]

¹⁵ BIRD and Reprieve, *From Uprisings to Executions: The Death Penalty in Bahrain, Ten Years on from the Arab Spring*, 2021, p.3, available at: https://reprieve.org/wp-content/uploads/sites/2/2022/01/Reprieve_BahrainDeathPenalty_28.01.2022_Pages-1.pdf [accessed 19 April 2022]. Up to date data is held by Reprieve and BIRD.

- ii. 18 men are Bahraini, eight men are Bangladeshi;
 - iii. BIRD understands that 25 of the men are held in Jau Prison, and that one unnamed Bahraini convicted of murder is held in military custody;
- b. 12 of the 26 men (46%) facing execution were convicted of trumped-up terrorism-related offences, 11 of the 12 (92%) allege they were tortured, and at least 27% were convicted on the basis of torture-tainted confessions;
- c. 11 of the 26 men (42%) facing execution were convicted of murder. This includes all eight Bangladeshi nationals; and
- d. 3 of the 26 (12%) facing execution were convicted of non-lethal drug offences.

Disaggregated statistical information on executions carried out

17. No executions are known to have been carried out since 29 July 2019.

Restrictions on the use of the death penalty

18. On 24 February 2021, Bahrain's Court of Appeal overturned the death sentence of Sudanese national Aqeel Abu Bakr who was convicted of murder in July 2019. The Court of Appeal declared that Bakr was innocent on the basis that he has bipolar disorder and ordered that he be placed in a medical institution.¹⁶

¹⁶ Muhammad Bumtaia (@bumtaia.m) 'Instagram post by lawyer Muhammad Bumtaia detailing his client's case and verdict with accompanying photo', Instagram, 24 February 2021, available at: https://www.instagram.com/p/CLq_nbLhfSt/?igshid=1c wd3rjq40l2i [accessed on 18 April 2022]; Hani Alfardan (@hani.alfardan), 'Instagram post by journalist Hani Alfardan providing details on the case of Aqeel Abu Bakr and the Court of Appeal verdict', Instagram, 24 February 2021, available at: <https://www.instagram.com/accounts/login/?next=/p/CLrLkzJrrSk/> [accessed on 18 April 2022]

Reduction of the number of offences for which the death penalty may be imposed

19. Since 16 December 2020, to BIRD and Reprieve's knowledge, there has been no reduction in the number of death-eligible offences. Bahrain retains the death penalty for offences which do not cross the most serious crimes threshold, including:

- i. Article 30 of Bahrain's Law on Narcotic and Psychotropic Substances (Law 15/2007) retains the death penalty for non-lethal drug offences.¹⁷
- ii. Bahrain's Law on Protecting Society from Terrorist Acts (Law 58/2006) provides an overly broad definition of terrorism.¹⁸ Since pro-democracy protests swept the country in 2011, this definition has been applied to sentence people to death for non-lethal offences, which do not meet the 'most serious crimes' threshold under international law.¹⁹

Initiatives to establish a moratorium on executions with a view to abolishing the death penalty

20. Reprieve and BIRD are not aware of any initiatives undertaken by Bahrain to establish a moratorium on the use of the death penalty.

¹⁷ According to data held by Reprieve and BIRD, Bahrain imposed the death penalty for drug offences for the first time in the country's history in 2018.

¹⁸ Law No.58 of 2006 on Protecting Society from Terrorist Acts as amended in 2013 and 2014 (official English translation), available at: [https://www.mofa.gov.bh/Portals/0/pdf/AntiTerrorist/LAW%20NO.%20\(58\)%20OF%202006%20amended%20by%20law%20\(68\)%20and%20\(20\)%20PDF.pdf](https://www.mofa.gov.bh/Portals/0/pdf/AntiTerrorist/LAW%20NO.%20(58)%20OF%202006%20amended%20by%20law%20(68)%20and%20(20)%20PDF.pdf).

¹⁹ BIRD and Reprieve, *From Uprisings to Executions: The Death Penalty in Bahrain, Ten Years on from the Arab Spring*, 2021, p.9 and p.14, available at: https://reprieve.org/wp-content/uploads/sites/2/2022/01/Reprieve_BahrainDeathPenalty_28.01.2022_Pages-1.pdf [accessed 19 April 2022]

21. Bahrain abstained from voting on the UN General Assembly Resolution on Moratorium on the Use of the Death Penalty in 2014²⁰ and 2016,²¹ voting against the resolution in 2018²² and 2020.²³ Bahrain's voting pattern on the moratorium reflects its use of the death penalty. Bahrain maintained a de facto moratorium between 2011 and 2017, resuming executions in January 2017.

²⁰ UNGA, *Moratorium on the use of the death penalty*, 18 December 2014, A/RES/69/186, available at: <https://digitallibrary.un.org/record/820128?ln=en> [accessed 25 April 2022]

²¹ UNGA, *Moratorium on the use of the death penalty*, 19 December 2016, A/RES/71/187, available at: <https://digitallibrary.un.org/record/855172?ln=en> [accessed 25 April 2022]

²² UNGA, *Moratorium on the use of the death penalty*, 17 December 2018, A/RES/73/175, available at: <https://digitallibrary.un.org/record/1656169?ln=en> [accessed 25 April 2022]

²³ UNGA, *Moratorium on the use of the death penalty*, 16 December 20, A/RES/75/183, available at: <https://digitallibrary.un.org/record/3894866?ln=en> [accessed 25 April 2022]