**SALAM DHR Submission**

**Current issues and good practices in prison management –**

**Thematic report of the Special Rapporteur on Torture – November 2023**

**Introduction**

1. This submission focuses on the legislative, investigative, and prosecutorial practices concerning torture in Bahrain, in addition to the mechanisms and institutions involved in such practices.
2. This submission examines the continuous use of torture of detainees, particularly in pre-trial detention, to extract confessions, as well as the practice of subjecting prisoners to cruel, inhuman or degrading punishments, in a context of total impunity.

**The legislative framework**

1. A fundamental principle of international law is the outright prohibition of torture. In terms of ending torture, the GoB's legislative framework is insufficient. In 2006, Bahrain acceded to the International Covenant on Civil and Political Rights (ICCPR) which states in Article 7 that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” In 1998, Bahrain acceded to the [Convention Against Torture (CAT)](https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading) but not to its Optional Protocol (OPCAT). It is a State Party to the League of Arab States’ [Arab Charter on Human Rights](http://www.lasportal.org/ar/humanrights/Committee/Documents/%D8%A7%D9%84%D9%85%D9%8A%D8%AB%D8%A7%D9%82%20%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%20%D9%84%D8%AD%D9%82%D9%88%D9%82%20%D8%A7%D9%84%D8%A5%D9%86%D8%B3%D8%A7%D9%86.pdf), which was amended in 2004. The charter criminalizes torture and other forms of ill-treatment in Articles 8, 9, and 20. In addition, the GoB is not believed to have implemented limitations such as the Death Penalty Safeguard, which was endorsed by the UN’s Economic and Social Council (ECOSOC) in 1984, where it states that the implementation of the death penalty should “inflict the minimum possible suffering.”
2. The Bahraini [constitution](https://www.wipo.int/edocs/lexdocs/laws/en/bh/bh020en.pdf) bans torture in Articles (19(d) and 20(d)). Bahrain’s 1976 [Penal Code](https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=589b5cbe4#:~:text=%EF%BB%B3%EF%BA%B4%EF%BA%AE%D9%8A%20%D9%87%EF%BA%AC%D8%A7%20%D8%A7%EF%BB%9F%EF%BB%98%EF%BA%8E%EF%BB%A7%EF%BB%AE%D9%86%20%EF%BB%8B%EF%BB%A0%EF%BB%B0%20%D8%A7%EF%BB%9F%EF%BA%A0%EF%BA%AE%D8%A7%EF%BA%8B%EF%BB%A2,%D8%A3%EF%BA%9B%EF%BB%A8%EF%BA%8E%D8%A1) prohibits torture in Articles 208 and 232, with both permitting imprisonment for any official that uses force to elicit a “confession”. As per Law 52/2012, Article 208, a public official who intentionally inflicts pain shall be sentenced to prison, while Article 232 criminalises the infliction of pain for the purpose of obtaining information or a “confession”.
3. Furthermore, Article 81 of [Decree Law No. 53 of 2012](https://www.legalaffairs.gov.bh/HTM/L5312.htm) amending the [2002 Code of Criminal Procedure](https://www.legalaffairs.gov.bh/HTM/L4602.htm) states: “The Public Prosecution shall exercise its jurisdiction to consider allegations of torture or inhuman or degrading treatment or death against the accused, witness, or expert during the identification, investigation or proceedings before the court. In other cases, the Public Prosecution shall exercise its jurisdiction for the General Security Forces based on what is referred to it by the Ombudsman or the Inspector General.”
4. The Bahraini Minister of the Interior issued [Decree No. 14 of 2012](https://www.legalaffairs.gov.bh/HTM/RINT1412.htm) on the Code of Conduct for Policemen, which prohibits law enforcement from using torture or other ill-treatment and they may not invoke superior orders or exceptional circumstances such as a state of war or the existence of a threat to national public security to justify the use of torture or ill-treatment.
5. The GoB's legislative framework is also deficient in terms of its lack of safeguards: faulty arrest procedures - and the disregard for current procedure - means that cruel, inhuman and degrading treatment (CIDT) can and does happen from the time of arrest through interrogation and pre-trial detention.
6. The incidents presented below demonstrate that torture or cruel, inhuman or degrading treatment remain a structural component of the GoB, particularly when the victims are political or human rights defenders. It is also evident that CIDT is mainly occurring in pre-trial and post-sentence detention, where prisoners demand their rights.

**Persistence of Torture and Cruel, Inhuman and Degrading Treatment and Punishment**

1. NGOs have expressed concern in 12 specific instances where there appeared to be a link between torture and ill-treatment and the implementation of the death penalty in the cases of **Hussein Ali Moosa** and **Mohamed Ramadan**. Despite persistent allegations of torture and ill-treatment, the Court of Cassation upheld the death penalty handed down to them for alleged murder. [SALAM DHR’s and others’ 8 August 2020 open letter](https://salam-dhr.org/bahrain-open-appeal-to-his-majesty-king-hamad-bin-isa-al-khalifa-kingdom-of-bahrain/) to King Hamad detailed these and a further 10 such cases this and other instances in which torture may have shaped the use of the death penalty in Bahrain.
2. **On 17 April 2021,** the Bahraini authorities used disproportionate force against detainees who peacefully protested prison conditions. An [OHCHR statement](https://www.ohchr.org/en/2021/04/press-briefing-notes-bahrain?LangID=E&NewsID=27042) expressed concern over “[...] the use of unnecessary and disproportionate force by police special forces to dismantle a peaceful sit-in in Bahrain’s Jau prison on 17 April. According to accounts received from eyewitnesses of the incident, special forces threw stun grenades and beat detainees on their heads, badly injuring many of them [...]” To the best of the submitting organisations’ knowledge **the authorities have not carried out an independent investigation into this matter.**
3. Detainee **HA** (identity withheld for protection), held at Jau Central Prison, in eastern-central Bahrain, [told SALAM DHR](https://salam-dhr.org/?p=4533) in June 2021 that officers regularly torture and ill-treat detainees. He claimed that prison officers attacked him, asserting that guards used harmful substances on his person. “Until today, I have marks from torture all over my body. Torture is an ongoing practice here, they fear nothing”, he told SALAM DHR. **The submitting organisation is unaware whether there has been any independent investigation.**
4. In March 2022, a [news report revealed that activist **Najah Yousuf**](https://bahrainileaks.com/2022/03/18/%D9%88%D8%BA%D9%8A%D8%A7%D8%A8-%D8%A7%D9%84%D8%A5%D9%86%D8%B5%D8%A7%D9%81/) continued to wait for compensation in connection with ill-treatment she experienced in custody in 2020, as called for by the United Nations Working Group on Arbitrary Detention.
5. Measures to prevent or punish incidences of torture and ill-treatment have been incomplete and symbolic, rather than structural. As the cases above indicate, the GoB has not implemented structurally routine or effective investigations of ill-treatment.
6. In **August 2023**, prisoners at Bahrain’s larget prison, Jau Prison, undertook a hunger strike in protest against poor conditions, including mistreatment, medical neglect and limited visitation rights and also a lot of them asking to be freed since they are imprisoned for political reasons or for their human rights activism, including prominent human rights defender and Danish citizen Abdulhadi AL Khawaja.
7. Approximately 800 inmates participated in this strike, making it the most significant hunger strike in Bahrain's history. However, Bahraini authorities claim only 121 prisoners were involved. The strike was suspended due to an offer from authorities to improve conditions and deteriorating health among some prisoners.

**Mechanisms/institutions involved in complaints, investigations and prosecution**

1. In accordance with the recommendations of the Bahrain Independent Commission of Inquiry (BICI), the GoB established under Decree 27 of 2012 the [Ombudsman office](https://www.ombudsman.bh/) of the Ministry of Interior (MoI). It is specialized in receiving and examining complaints related to policemen and officials from the MoI abuses towards detainees and referring them to the SIU or to the suitable court. In its [8th Annual Report](https://www.ombudsman.bh/mcms-store/magazine/2020-2021/ar/) (2020-21), it is stated that 900 was the total number of grievances received by the secretariat, 209 of those were complaints, 10 were investigated by the ombudsman’s office and 31 complaints were referred to the Special Investigation Unit (SIU). In none of the cases is there any account of prosecution or sentencing; nor even suspension from employment pending a review of conduct.
2. In line with BICI recommendations, the public prosecution created the SIU under Decree 8 of 2012. Its mandate is to investigate, dispose, and initiate criminal proceedings in all crimes of torture committed by the law enforcement and the security forces during their duties. On [8 May 2019, the Rai al-Youm](https://www.raialyoum.com/%D8%A7%D9%84%D8%A8%D8%AD%D8%B1%D9%8A%D9%86-%D8%AA%D8%AD%D8%A7%D9%83%D9%85-12-%D9%85%D9%86-%D8%A3%D9%81%D8%B1%D8%A7%D8%AF-%D9%82%D9%88%D8%A7%D8%AA-%D8%A7%D9%84%D8%A3%D9%85%D9%86-%D8%A8%D9%8A/) news platform reported that the SIU was intended to prosecute 12 officials. On [6 September 2019, the Bahrain Mirror platform reported](http://bahrainmirror.com/en/news/55756.html) that one member of the security services had been referred to the SIU. The report stated that the [...] “unit heard the statements of 29 plaintiffs and 23 witnesses, and questioned 30 defendants and suspects from the security forces. It referred 12 plaintiffs to a forensic doctor and two others to the psychiatrist in the unit”. Despite conducting desk and other forms of research, we have not been able to find a specific outcome to this process.
3. The [2021 annual report of the SIU](https://drive.google.com/file/d/1dMmD44y68pyRSWl0oDR3uWUeWaSE6DVC/view) offers very little proof that the GoB regularly intervened to stop torture. The report lists cases that have been reported to all of the government's human rights authorities, but it only lists seven referrals to the criminal court and confirms four minor assault convictions without providing details about the cases' specifics. Additionally, it noted that nine personnel from the Public Security Forces had been subjected to sanctions in five separate cases by the Military Courts Department of the MoI. It provided no information regarding the punishment issued.
4. SALAM DHR was unable to find independent confirmation regarding cases concluded, nor the fate of pending cases up to the present.

**Recommendations**

Salam for Democracy and Human Rights urges the Special Rapporteur on Torture to call on the government of Bahrain to take the following actions:

* **Investigate Allegations of Torture:** Thoroughly investigate all claims of torture and ill-treatment;
* **End the Climate of Impunity:** Ensure that perpetrators of torture face appropriate legal consequences;
* **Compensation and Redress for Victims:** Establish mechanisms for victim compensation and redress;
* **Allow Visitation by the Special Rapporteur:** Permit the Special Rapporteur on Torture to visit Bahrain to conduct assessments;
* **Cease Ill-treatment in Prison Facilities:** Specifically end all forms of ill-treatment and torture in detention centres and prisons, including the ongoing issues in Jau Prison;
* **Release of Prisoners of Conscience:** Free all prisoners of conscience, and detainees who have been coerced into confessions through torture;
* **Adherence to International Human Rights Standards:** Fully respect and comply with international human rights laws, particularly the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.