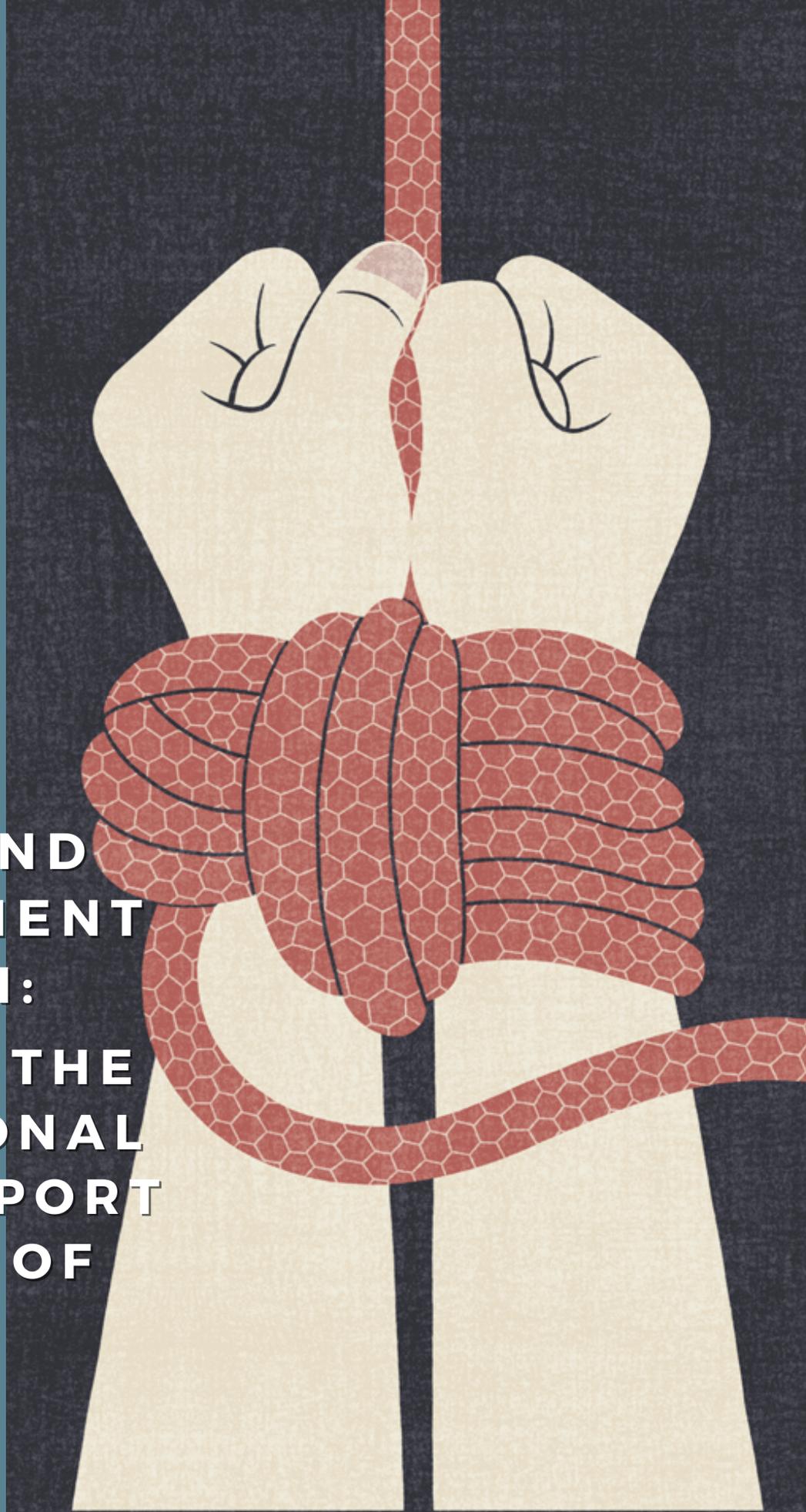




**TORTURE AND  
ILL-TREATMENT  
IN BAHRAIN:  
REPORT ON THE  
INTERNATIONAL  
DAY IN SUPPORT  
OF VICTIMS OF  
TORTURE**



**SALAM FOR DEMOCRACY AND HUMAN RIGHTS**

June 26, 2021



Salam for Democracy and Human Rights (SALAM DHR) is an NGO that endeavours to preserve universal principles of dignity and respect by shielding democracy and human rights. In the pursuit of this vision, SALAM DHR aims to influence the international community, including UN representatives to improve the situation in the Middle East, and foster advocacy of human rights and democracy. To accomplish these goals, SALAM DHR conducts monitoring and analysis, produces reports, develops recommendations on policy and legislation, organizes advocacy campaigns, conducts training, and joins effective coalitions. For more information see: [www.salam-dhr.org](http://www.salam-dhr.org)

The lead researcher and principle author of this report is Shayma AlQahs. Abbas Taleb edited the report and provided additional drafting input. The report was designed by Anna Morel and Bérénice Marcotte.

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# I. Introduction

On June 26th, the United Nations annually commemorates the International Day in Support of Victims of Torture. (1) After the adoption of Resolution 52/149 (2) in 1998 by the General Assembly, the 26th of June was inaugurated as a day intended to mark and acknowledge the date of entry into force of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (3) heralded as “one of the key instruments in fighting torture”. (4) Torture’s illegality in international law, however, and its contravention of longstanding international legal norms that precede the CAT, or other binding international conventions relating to its rejection, has not led to a universal prohibition of the act. Today, nearly four decades after the CAT’s ratification and entry, victims’ dignity and personality are still being violated in the most egregious ways.

At last year’s commemoration of the international day, UN-Secretary General, António Guterres, highlighted the dangers of upholding systems “that enable torture” and stressed that they should be “dismantled or transformed”. (5)

What the Secretary-General was referring to was not only system that legitimize the violent practice of torture, but also systems that allow a culture of impunity to flourish; thus mainstreaming, incentivizing, and rewarding perpetrators of torture. This is not a new phenomenon; Katherine E. Tate writes that “torture was not an illegal or even an immoral act in the distant past” but a “legitimate means of extracting information from certain persons”. (6) Nevertheless, the acceptability of torture in a legal capacity has waned. Although there was a “dip in the use of torture during the nineteenth century, the twentieth century witnessed the resurgence of the use of torture on massive levels”. (7) It was the alarming increase of this trend that international law enshrined the right to prohibit protected from torture, put forth in several binding documents, analyzed further below.

(1) More information on the event available at <<https://www.un.org/en/observances/torture-victims-day>>

(2) United Nations General Assembly, A/RES/52/149, 18 February 1998, available at <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N98/766/57/PDF/N9876657.pdf?OpenElement>> [accessed 15 Jun 2021]

(3) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, UNTS 1465 85 [hereinafter CAT]

(4) Why do we mark 26 June? Available at <<https://www.un.org/en/observances/torture-victims-day>> [accessed Jun 14 2021]

(5) UN Secretary General’s 2020 message, available at <<https://www.un.org/en/observances/torture-victims-day/messages>> [accessed 15 Jun 2021]

(6) Katherine E Tate, ‘Torture: Does the Convention against Torture Work to Actually Prevent Torture in Practice by States Party to the Convention?’ (2013) 21 194, 199.

(7) *Ibid.*, 200.

Bahrain has witnessed frequent waves of protests throughout its history – in turn, it has also witnessed torture utilized against protesters. Under colonial rule, and later cooperation, by the United Kingdom, Ian Henderson – dubbed the ‘Butcher of Bahrain’ (8) due to his use of brutal methods of torture against anti-government protestors – worked with the Bahraini state in campaigns of torture for 30 years, heightened in severity between 1994 and 1999, during the 1990s Uprising. Accountability for the State and its British accomplice never manifested. A culture of impunity towards torture was established by the State and its allies: Henderson retired and faced no consequences in Bahrain or the United Kingdom, and, upon his ascension, King Hamad bin Isa

Al-Khalifa pardoned members of state security that had engaged in torture during the protests in Royal Decree No. 56 of 2002.

It is not out of the ordinary, then, to see the Government of Bahrain approach the incidents of torture during 2011 Uprisings with a similar laissez-faire attitude, despite its own state-commissioned report indicts it for torture and lack of accountability. The report, drafted by the Bahrain Independent Commission of Inquiry (BICI) (9), revealed the extent and severity of violence suffered by the protestors at the hands of the State and its security forces. The recommendations offered therein were largely ignored by the government; implementations of proper redress and mechanisms of accountability were never followed through.

On the International Day in Support of Victims of Torture, this report attempts to commemorate the entry into force of the CAT – analyzing briefly the prohibition of torture throughout multiple legal mechanisms and norms – before examining Bahrain’s role in the facilitation of torture against its citizens – a fact of torture largely inconsistent with the practice of torture. This analysis will also be interwoven with stories of Bahraini citizen’s torture at the hands of the State.

(8) The Guardian, ‘Britain Silent on Butcher of Bahrain’, 2002, available at <<https://www.theguardian.com/politics/2002/jun/30/uk.world>> [accessed 16 Jun 2021]

(9) Bahrain Independent Commission of Inquiry (BICI), Report of the Bahrain Independent Commission of Inquiry, 2011, available at: <<http://www.bici.org.bh/>> [accessed 15 Jun 2021]

## II. The Role of Torture in the Law: Regional and International Norms and Mechanisms

Prior to the CAT, torture was prohibited by international legal norms, a jus cogens norm by which no admissibility is allowed. Following the mass atrocities witnessed during the twentieth century – of colonization, two World Wars, mass executions, and genocide – the Universal Declaration of Human Rights was promulgated by the United Nations in 1948. (10) The Preamble to the UDHR states that in “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” and establishes the UDHR’s role as a:

*common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society...shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction*

The UDHR is the first of many attempts by international intergovernmental bodies to set out an international human rights framework to protect and promote the full enjoyment of rights inherent to all. One such right is the prohibition of torture, drafted in Article 5, as “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Although the UDHR is non-binding, customary international law has long communicated the same prohibition. Similarly borne out of the same harrowing circumstance and desire to prevent a reoccurrence are the Geneva Conventions of 1949, throughout which “the prohibition of torture is mentioned” (11) in all four of its treaties in a binding nature but within the context of humanitarian law.

In 1966, torture was categorically prohibited within the framework on international human rights law in the International Covenant on Civil and Political Rights. (12)

(10) UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <<https://www.refworld.org/docid/3ae6b3712c.html>> [hereinafter the UDHR] [accessed 16 June 2021]

(11) Tate (n. 5), 203.

(12) International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171 (hereinafter ICCPR)

The ICCPR became “the first universal human rights treaty explicitly to include a prohibition of torture and other cruel, inhuman or degrading treatment which aims to protect both the dignity and the physical and mental integrity of the individual.” (13) This is referenced twice in the ICCPR: firstly, in Article 7, “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.” It is worthwhile to note that the “first statement [in the aforementioned article] is a verbatim restatement of Article 5 of the UDHR.” (14)

Article 10(1) of the ICCPR echoes the content of the Geneva Conventions. It states that “[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”. That is, “even though they are no longer free members of society, they are still human beings and as such deserve to be treated with the level of dignity that all humans should be given.” (15) It is important to highlight that the ICCPR “does not have a requirement for state official involvement in order for an action to qualify as torture” (16), and as such, differentiates the character of the perpetrators from that found in the CAT, which has a requirement of state official involvement. (17)

The UDHR, Geneva Conventions, and the ICCPR dealt with the prohibition of torture as a matter that, though connected, is of a corollary and thematic nature. Consequently, a new convention was needed to enshrine the spirit of the prohibition of torture and mistreatment and center it as its aim. (18) Thus, the CAT was drafted and adopted following the UN General Assembly Resolution 39/46 of 10 December 1984 and entered into force on June 26th, 1987. Prior to its adoption and enforcement, the UN General Assembly had also adopted in 1975 the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (19) The Declaration, though non-binding, was similar to the UDHR in its intent to realize efforts to protect and prohibit – in this context, specifically torture – in the framework of a progressive law of international human rights.

(13) Center for Justice and International Law, Association for the Prevention of Torture, *Torture in International Law, a guide to jurisprudence*, 2008, 7, available at: <<https://www.corteidh.or.cr/tablas/26562.pdf>> [accessed 16 Jun 2021]

(14) Tate (n. 5), 204.

(15) *Ibid.*

(16) *Ibid.*, 203

(17) From Art. 1 of the CAT: “...when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” (emphasis mine)

(18) Tate (n. 5), 204.

(19) UN General Assembly, Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 9 December 1975, A/RES/3452(XXX), available at: <<https://www.refworld.org/docid/3b00f1c030.html>> [accessed 16 June 2021]

June 26, then, not only marks the adoption of the CAT, but also commemorates the cumulative efforts to prohibit torture up until the passing of the CAT. It also marks ongoing efforts made today by human rights actors and bodies in engagement with the legal canon of the prohibition of torture and the implementation of mechanisms of prosecution and redress.

## III. The Case of Torture in Bahrain

Analysis of the efforts made thus far locate the prohibition of torture in international law and norms. Although these laws and norms apply to Bahrain with the same legitimacy as they do to other members of the international community, it is important to locate such efforts in regional contexts, as well.

Bahrain is both a signatory to the CAT as well as the Arab Charter on Human Rights, drafted and adopted by the Arab League in 2004. (20) Bahrain is a founding member of the Arab League, and as such, also had, in effect, a role in the drafting of the articles. Several articles in the Arab Charter deal with torture, specifically, Arts. 8, 9, and 20, which state:

### **Article 8**

1. No one shall be subjected to physical or mental torture or to cruel, inhuman or degrading treatment or punishment.
2. The State Parties shall protect every person in their territory from being subjected to such practices and take effective measures to prevent such acts. The practice thereof, or participation therein, shall be regarded as a punishable offense. Each victim of an act of torture is entitled to a right to compensation and rehabilitation.

### **Article 9**

No medical or scientific experimentation or use of organs shall be carried out on any person without his free and informed consent about the consequences resulting from it. Ethical, humanitarian, and professional rules shall be complied

(20) 2004 Arab Charter on Human Rights, available in English at: [https://www.eods.eu/library/LAS\\_Arab%20Charter%20on%20Human%20Rights\\_2004\\_EN.pdf](https://www.eods.eu/library/LAS_Arab%20Charter%20on%20Human%20Rights_2004_EN.pdf) [henceforth the Arab Charter] [accessed 16 Jun 2021]

with. Medical procedures in conformity with the relevant laws of each State Party aiming to ensure the concerned person's security shall be respected. The market of human organs is prohibited under all circumstances.

## **Article 20**

1. Persons sentenced to a penalty of deprivation of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. (21)

As such, Bahrain cannot claim ignorance of the gravity of the issue of torture in both international and regional law. In fact, Article 19 of the Bahraini Constitution of 2002 (22) states:

## **Article 19**

a) Personal freedom is guaranteed under the law.

b) A person cannot be arrested, detained, imprisoned, or searched, or his place of residence specified or his freedom of residence or movement restricted, except under the provisions of the law and under judicial supervision.

c) A person cannot be detained or imprisoned in locations other than those designated in the prison regulations covered by health and social care and subject to control by the judicial authority.

d) No person shall be subjected to physical or mental torture, or inducement, or undignified treatment, and the penalty for so doing shall be specified by law. Any statement or confession proved to have been made under torture, inducement, or such treatment, or the threat thereof, shall be null and void.

Articles 208 and 232 of the 1976 Bahraini Penal Code (23) also state:

## **Article 208**

A prison sentence shall be the penalty for every civil servant or officer entrusted with a public service who uses torture, force or threat, either personally or through a third party, against an accused person, witness or expert to force him to admit having committed a crime or give statements or information in respect thereof.

(21) Only parag. 1 of Art. 20 is quoted.

(22) See Bahrain's 2002 Constitution, available in English at: <<https://www.wipo.int/edocs/lexdocs/laws/en/bh/bh020en.pdf>> [accessed 16 Jun 2021]

(23) See Bahrain's 1976 Penal Code, available in English at: <[https://menarights.org/sites/default/files/2016-12/BHR\\_PenalCode\\_1976.EN\\_.pdf](https://menarights.org/sites/default/files/2016-12/BHR_PenalCode_1976.EN_.pdf)> [accessed 17 Jun 2021]

The penalty shall be life imprisonment should the use of torture or force lead to death.

## **Article 232**

- A prison sentence shall be the penalty for any person who uses torture, force or threatens to use them, either personally or through a third party, against an accused person, witness or expert to make him admit the commission of a crime or to give statements or information in respect thereof.

- The punishment shall be imprisonment for at least six months if the torture or use of force results in harming the safety of the body.

- The punishment shall be imprisonment if the use of force or torture leads to death.

The abundance of legal norms, laws, and jurisprudence available on the matter in local, regional, and international levels have, unfortunately, done little to prevent Bahrain from engaging in torture or providing a culture of impunity towards those who torture its citizens. Incidentally, the Bahraini case, though it is not the only case pertaining to this matter, can offer a unique analysis of the peculiar shift in the manifestations of torture in the twentieth and twenty-first centuries.

## *The BICI Report*

The BICI found that claims of torture and mistreatment of the protestors and detainees by the State were true. Specifically, it confirmed that:

1. Many detainees were subjected to torture and other forms of physical and psychological abuse while in custody. That mistreatment was systematic.
2. There was a lack of accountability of officials within the security system in Bahrain that led to a culture of impunity, whereby security officials had few incentives to avoid the mistreatment of prisoners or to take action to prevent their mistreatment by other officials. (24)

(24) SALAM for Democracy and Human Rights (SALAM DHR), "The BICI Report: Findings and Shortcomings" in Decade of Oppression: Authoritarianism in Bahrain, 2011-2020, 2021, available at <<https://salam-dhr.org/wp-content/uploads/2021/02/Salam9FEB2021.pdf>> [accessed 15 Jun 2021]

Bahrain's mistreatment of the protestors and detainees were justified, in a twisted sense, by the State's supposed fears of treason and terrorism. Their actions, however, remain unjustifiable and were not only confirmed to have occurred and condemned by the BICI report, but were also a cause of concern internationally. The UN High Commissioner of Human Rights, Michelle Bachelet, spoke about the appeal made by the UN Human Rights Office for "Bahrain to bring its overly broad counter-terrorism and counter-extremism legislation in line with its international human rights obligations" (25), following her expression of alarm "at a court decision in Bahrain that revoked the nationalities of 138 people after a mass trial" (26) after sentencing them with lengthy sentences or life sentences, as well as large fines.

The BICI found that the allegations of mistreatment included blindfolding and handcuffing, severe beatings, verbal abuse, sleep deprivation, use of electro-shock devices and cigarettes on bare skin, sexual abuse, and threats of rape, among other degrading treatment. (27) Although confessions were extracted under such conditions, the defendants were still tried and convicted to prison sentences. Though the government professed its intention to abide by the recommendations and mechanisms of redress, the fact remains that "despite their implication in torture, several of [the perpetrators] have not been subject to any investigations and others have been promoted within their relevant departments." (28) It is worthwhile to note that many of the torturers themselves were members of the ruling family, as well. (29)

## *Examples of Cases of Torture:*

*New live testimonies by victims of torture to Salam DHR:*

In June 2021, the following three victims of torture shared their testimonies with Salam DHR.

**Ayoub Adel Ahmad:** Ayoub was arrested by the National Security Agency officers on 13 May 2015, after he escaped from Al Salmaniya Hospital, where he was being treated for a severely injured leg. In the first hours of his arrest, officers beat him continuously on his injured leg. He was detained for hours in a cold place and deprived of sleep.

(25) Office of the High Commissioner of Human Rights, 'UN human rights chief deeply concerned by mass terrorism convictions in Bahrain', 2019, available at: <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24502&LangID=E>> [accessed 15 Jun 2021]

(26) Ibid

(27) SALAM DHR (n.28), 'Torture and Mistreatment', 59, 60

(28) Ibid.

(29) Ibid.

Later, he was taken to a nearby police station in the early morning to sleep in a cell for only one hour, he was then transferred to the Criminal Investigation Bureau. The torture lasted for days until he was transferred to Jau Prison. The warden 'N.S' ordered that Ayoub be held in building number ten, a place known for torture. He was beaten severely for some time, until he was taken to the prison clinic. Upon being released from the clinic, Ayoub was severely beaten by high-ranking prison officer "I.Y". Sometimes, when Ayoub was held in building number ten, he was forced to stand on his injured leg for hours, for no reason. The torture lasted for at least one month.

From 2016 until today, Ayoub has been denied the proper medical care for his injured leg, which requires surgery. In 2018, he was taken to al Salmaniya hospital. The doctors scheduled surgery for his leg, but the appointment was canceled later, with no further explanations. He was later transported to Al Qalaa hospital, but he was denied surgery and transferred back to Jau Prison. Until today, Ayoub continues to be denied proper medical treatment for his leg, despite his continuous complaints to the IRC, the National Institute for Human Rights and the Ombudsman office. The authorities claim Ayoub is receiving the appropriate treatment, but all Ayoub mentioned to Salam DHR is that he is only allowed some visits to the prison's clinic, while his leg needs surgery. In his testimony, Ayoub called the international community to help him: *"I can't sleep from the pain. All I want is treatment, nothing more"*.

**Mohammad Abdulnabi Juma:** Mohammad was arrested on 29 August 2015 in Abou Huwaa village. During his interrogation at the investigation office, he was blindfolded, stripped of his clothes, and beaten for hours on his genitals. Mohammad was also deprived of sleep, which caused his health to deteriorate. He was then taken to Al Qalaa Hospital. After three days at the hospital, officers transferred Mohammad to Al-Hawd al-Jaf (Dry Dock) Detention Center without his doctors' permission. While at Dry Dock, he was regularly threatened, insulted, and kicked on his body and his face. Mohammad's confession during investigation, which resulted in a life sentence in prison, was extracted under torture.

**H.A.:** Prisoner (identity withheld for their protection). 'H.A' was first arbitrarily arrested with no charges on 17 October 2010, he was a seventeen-year-old high school student at the time. He was transferred to Qudaibiya police station, where he was stripped of his clothes and beaten severely on his genitals. Later, H was tortured by an electric wire twice, which caused him body to urinate blood for some time.

H was also sexually harassed many times during his arrest. The torture of H lasted for 16 days, under lead investigation officer 'A.S.A'. H was released after 4 months and 6 days. He was arrested again on 4 June 2014, when he was 21 years old. During his second arrest, H was severely beaten on his head and stripped of his clothes. He was continuously threatened with rape, sexual harassment, and other forms of torture if he would not sign a confession without reading or understanding his charges. H was tortured by electric shocks and denied access to a bathroom. H was later transferred to Jau Prison, where he was regularly tortured and insulted over for years. On 16 June 2021, H was attacked by prison officers. They threw peppers in his eyes and body parts. H mentions to Salam DHR: "Until today I have marks from torture all over my body. Torture is an ongoing practice here, they fear nothing".

#### *Other examples of Torture:*

**Yunis Sultan:** Younis Ahmed Sultan was detained for questioning regarding his brother, Mohamed Sultan, a human rights defender. Younis Sultan told Salam DHR:

*"I received a call on 26 November 2017 from the police station in roundabout number 17 in Hamad Town. They asked me to come immediately to meet Officer Tahir Al-Alawi. During the interrogation session, Al-Alawi ordered two of his assistants to pull me down and do everything to me. And then the two of them and the officer, Tahir Al-Alawi, directed me towards the wall and stripped me by force. I tried to stop them but couldn't. Then one of them put my head between his legs and squeezed with force while the other managed to strip me of all my clothes. Then they spat in my bottom and inserted a wooden rod into my anus and hit my bottom with sticks and kicking.*

*After they finished their crime, Al-Alawi ordered his assistants to leave the room and take all my clothes with them. Al-Alawi continued interrogating me while I was completely naked. He accused me of carrying out terrorist activities and gave me an offer that he would drop the charges if I agreed to provide them with private information related to my brother's activism with the UN Human Rights Council. I was asked to work as a spy. They gave me back my clothes and later I discovered that the underwear was not mine, which indicated that there was another person being tortured and assaulted, and these clothes belonged to him."*

**Ebtisam AlSaegh:** a human rights defender and member of Salam DHR said:

*“When I received a phone call from the National Security Agency on May 25, 2017, the caller asked me to come to the NSA building. When I arrived at the building in Muharraq, they blindfolded and interrogated me because of my human rights activities. During the interrogation, they used the worst forms of physical torture. They told me some harsh words, threatened me, and sexually abused me in a way that made me hit a sequential collapse. They repeatedly chanted that no one could protect you”.*

International human rights organizations have repeatedly raised her case. Following two interventions in July 2017, Special Procedures of the UN’s High Commissioner for Human Rights once again drew attention to the abuse she faced. In August 2017, the government responded by asserting politically motivated charges: claiming that she was working for ‘terrorists’ and stating that no allegations of ill treatment had been filed. They did not address the substantive allegations as they were dismissed, out of hand

## *Ongoing Ill-treatment of Prisoners During the Pandemic:*

During the commemoration of the 2020 International Day in Support of Victims of Torture, UN Anti-Torture mechanisms released a statement warning that “the COVID-19 pandemic is leading to an escalation of torture and ill-treatment worldwide” (30), stressing that persons imprisoned were “already subject to the risk of cruel, inhuman and degrading treatment behind bars and in other confined spaces” with the new threat of the pandemic worsening their conditions and putting them at greater risk. Their statement was issued shortly after the same sentiment was expressed by High Commissioner Michelle Bachelet on March 25, calling on “governments to take urgent action to protect the health and safety of people in detention and other closed facilities, as part of overall efforts to contain the COVID-19 pandemic.” (31)

(30) Office of the High Commissioner of Human Rights, “COVID-19 exacerbates the risk of ill-treatment and torture worldwide – UN experts”, 2020, available at: <<https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=25995&LangID=E>> [accessed 17 Jun 2021]

(31) Office of the High Commissioner of Human Rights, “Urgent action needed to prevent COVID-19 “rampaging through places of detention” – Bachelet”, 2020, available at <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745>> [accessed 17 Jun 2021]

High Commissioner Bachelet stressed the following: “Now, more than ever, governments should release every person detained without sufficient legal basis, including political prisoners and others detained simply for expressing critical or dissenting views.” (32)

A year later, the situation of inmates has not improved in Bahrain’s prisons, notwithstanding the recommendations regarding prevention and protection against the spread of the virus offered by the OHCHR. Not only are the inmates imprisoned in a climate of routine mistreatment – including lack of natural ventilation, sunlight, and clean water, overcrowding, irregular mealtimes, and insufficient portions of food (33) -- but they are also denied accurate information regarding their safety. Due the overcrowded wards and cells, the concerns expressed by the OHCHR regarding the spread of the virus due to overcrowding and no procedural oversight to ensure proper health regulations have materialized. Furthermore, prisoners in Bahrain have no knowledge at all of the COVID-19 situation in their buildings. (34) As such, exact official data of prisoners infected is unknown, creating a two-fold complication: firstly, prisoners’ kin are unaware of the condition of their imprisoned family members, a cause for anxiety made doubly worse in a pandemic wherein a virus can easily spread. Secondly, the prisoners are not informed of how dire the health situation is in their own buildings, preventing them from attempting to take any form of health precautions.

As a result of these worsening conditions, several prisoners have lost their lives due to the mistreatment, most recently Abbas Mal Allah (35) and Hussein Barakat. (36) Both victims lost their lives due to medical negligence by the prison authorities. The prison medical clinic and proper healthcare services were not administered promptly and efficiently. Their deaths sparked grief, anxiety and anger amongst the prisoners and their families, leading to protests across the prisons and country. (37)

The General Directorate of Reformation and Rehabilitation in the Bahraini Ministry of Interior announced on the 6th of April the death of the prisoner of conscience and victim of torture, Abbas Hassan Ali Mal Allah (aged 50).

(32) Ibid.

(33) SALAM for Democracy and Human Rights, Bahrain Forum for Human Rights, ‘Bahrain Forum and SALAM DHR: An Update on Prisoner Covid Cases in Bahrain’, 2021, available at: <<https://salam-dhr.org/?p=4370>> [accessed 17 Jun 2021]

(34) SALAM for Democracy and Human Rights, Bahrain Forum for Human Rights, “Third Bahrain Forum and SALAM DHR Update: No Transparency by Authorities over Number of Infected Detainee Cases, and 24 Summonses issued in the Last 2 Days”, 2021, available at <<https://salam-dhr.org/?p=4417>> [accessed 17 Jun 2021]

(35) To read more about Abbas Mal Allah’s case, please see the referenced article above.

(36) To read more about Hussein Barakat’s case, please see “SALAM DHR: The Government is Held Accountable for the Death of Prisoner of Conscience Hussein Barakat due to COVID-19” available at <<https://salam-dhr.org/?p=4515>> [accessed 17 Jun 2021]

(37) SALAM DHR (n. 40)

His death followed delays of medical aid deliveries, according to information received from inside the prison.

June 9, 2021, marked the death of Bahraini prisoner of conscience, Hussein Ahmed Eissa Barakat, aged 48, due to COVID-19 complications after contracting the virus on May 27, 2021. According to an audio clip of his wife, which was widely shared on social media, she received calls from her husband asking her to mobilize on his behalf to get help, for he was barely able to stand on his feet and that his death was imminent. In the clip, his wife demanded the Bahraini authorities allow her to see him, if only for an instance and a single glance. On June 9, SALAM DHR received a call from Barakat's wife in which she informed them that she received a call from Salmaniya Medical Hospital notifying her of her husband's death. It is worth noting that Hussein Barakat received two dosages of the COVID-19 vaccine. His fellow inmates, jailed with him in the same building, had failed in their attempts to take him to the hospital; the prison administration thought it sufficient to take Barakat only to the prison clinic, after which he was diagnosed with having severely low oxygen. Despite the diagnosis, Barakat was returned to his cell, where he remained for five days, before his condition rapidly deteriorated and he was transferred from Jau Central Prison to the ICU at Salmaniya Medical Hospital.

Hussein Barakat was a victim of torture, previously sentenced to life imprisonment on May 18, 2018, in the trial of 138 defendants, known as 'Zulfiqar Brigades', who were tried under the internationally condemned anti-terrorism law. The trial did not meet the set international standards for fair trials.

In its fourth periodic report to the Committee against Torture (38), submitted on 26 May 2021, Bahrain states that it took the measures necessary to combat the spread of the virus, including but not limited to ensuring proper health guidelines are being followed, provision and availability of a medical team, provision of tests for those who show symptoms, and many other assurances of proper medical care. The unfolding situation in the Bahraini prisons, the information provided by families of prisoners, the protests occurring across the country, and the statement (39) issued by the Office of the High Commissioner of Human Rights proves otherwise.

(38) Fourth periodic report submitted by Bahrain to the Committee against Torture, available in the original Arabic at: <[https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BHR/CAT\\_C\\_BHR\\_4\\_8243\\_A.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BHR/CAT_C_BHR_4_8243_A.pdf)> [accessed 17 Jun 2021]

(39) Office of the High Commissioner of Human Rights, 'Press briefing notes on Bahrain', 2021, available at <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27042&LangID=E>>

## *Lack of Accountability:*

Based on the analysis advanced by Christopher J. Einolf in his comparative and historical analysis of the so-called rise and fall of torture (40), Tate's work has endeavored to examine the binding effects of the CAT on its then-154 party members. (41) Although modern political systems today do not codify torture as legal parts of their judicial process, many states today continue to commit it at an alarming rate. Einolf's work reveals that, though there is no legal consistency regarding the nature of torture throughout history, its characteristic values have resisted change.

In this context, it is not surprising that a culture of impunity arises in situations where the State's dependency on torture guarantees its survivability. Firstly, torture is most commonly practiced on the most vulnerable members of societies – therefore, those who are believed to lack adequate justiciable safeguards to protect themselves against such acts or to gain proper redress. Secondly, torture is more rarely used against a State's own citizens – that is, members whose qualitative character possesses value. This value, however, decreases in two instances which make torture more probable: 1) in moments of probable guilt and 2) if the act committed is severe to the integrity of the State. 3) torture, in the eyes of the State, becomes an act of justified self-preservation when it believes itself to be under threat.

States torture of citizens, then, generally occurs in three environments: that of guilt, of attacks against State integrity, and as an act of State self-preservation. Einolf further explains the increase in the use of torture in the twentieth century, surmising that the manifestation of torture is often an inward activity – i.e., toward a sovereign's citizens rather than toward noncitizens – is a sort of attempt at survivability. He explains:

*Torture against citizens suspected of treason:* Changes to the relationship the sovereign and citizens have expanded definition of treason, and states have also become more effective at monitoring and prosecuting activities seen as treasonous. This change explains the continued prevalence and expansion of torture in the 20th century. (42)

(40) See Christopher J Einolf, 'The Fall and Rise of Torture: A Comparative and Historical Analysis' (2007) 25 101.

(41) At the time of writing, the number of states party to the CAT has reached 171. For full list of party members and reservations, see copy available at <[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-9&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&clang=_en)> [accessed Jun 15 2021]

(42) Ibid., 106

The above statement can be equally applied to the 21st century, with the addition of 'citizens suspected of terrorism', as broad anti-terrorism laws have paved much of the way for States to commit acts of torture against its citizens and noncitizens alike. The charge of terrorism, in fact, offers carte blanche for many States with blanket convictions. Such reasoning is not new to the Kingdom of Bahrain, located in the Persian Gulf. Ruled by the Al-Khalifa family was a state whose human rights track record has consistently concerned human rights committees, NGOs, and activists. The country, whose Shiite-majority citizens live as second-class citizens in a stratified society, underwent an uprising in 2011 after a series of peaceful protests demanding for a more human-rights oriented society were broken apart by police and military at the behest of the government and the ruling family. What followed were grave violations of human rights, verified and recorded in the BICI report commissioned in 2011 by King Hamad himself.

It's important to note the ease with which the State used torture, as well as with the lack of accountability or redress after. This doesn't only stem from the State's perceived fear of terrorism or their wider definition of treason, it is also supported by the marginalization of the Bahraini Shiite citizens, whose dehumanization by the State occurs in their initial marginalization, subsequent isolation from 'good' citizens as detainees or prisoners, and further disenfranchisement as stateless people.

Despite the BICI findings of 'systematic torture', there's no indication to this day that any Bahraini high officials involved in torture or ill-treatment have been held responsible or prosecuted for their actions. The BICI concluded that "those responsible for abuses, including high-ranking personnel, should be held to account through disciplinary action". Moreover, the Commission recommended that all victims should receive compensation, that security forces should be trained in the human rights dimensions of detention and interrogation, and should be obligated to refuse participation in any actions involving torture and other prohibited mistreatment, and that judiciary and prosecutorial personnel should be trained on the need to ensure that their activities contribute to the prevention and eradication of torture and mistreatment.

Rather than implementing the BICI's recommendations, ten years after, Bahrain security forces enjoy a culture of impunity, where no one is held accountable for their torture or ill-treatment, and no compensation is given to victims.

In the latest concluding observations on the second and third periodic reports of Bahrain, the Committee against Torture raised its concern about continuous allegations of widespread torture and ill-treatment of persons who are deprived of their liberty in all places of detention. The Committee also mentioned the prevailing culture of impunity resulting from a low number of convictions for torture. (43)

## *Torture - Dispute Resolution of CAT and UPR*

Salam for Democracy and Human Rights decries the reservation imposed to Article 30.1 of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment given by the Government of Bahrain. It states that:

*1. Any dispute between two or more State Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.*

The reservation to this article arrogates to the state party the position that it is above any accountability save for the assessments and recommendations made by the treaty body itself.

It asserts, in other words, that the state party limits its engagement with the spirit and letter of international human rights treaties insofar as it is convenient, or merely enough to imply that the Government of Bahrain adheres to international human rights standards.

This is why the government of Bahrain has failed to take any concrete step to address any voluntary commitment given in relation to torture, as substantiated by the mid-term evaluation of Bahrain's freely-made promises in respect to the peer-led Universal Periodic Review (UPR), prepared by SALAM for Democracy and Human Rights (SALAM DHR), Bahrain Forum for Human Rights (BFHR) and the Gulf Institute for Democracy and Human Rights (GIDHR).

(43) See Concluding observations on the second and third periodic reports of Bahrain, Committee against Torture, 29 May 2017: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqYPuFZC34VM6MoD0MvS%2bS%2bhclj3TUrOwF%2fGuWWUtDMNTj4IYASRqLw7nbc8IcS25V04LG18FMQtufqvlxyVSqBsgx3LVgllkCx%2bAgXg%2bL>

It is why the government has refused every request for visits by the Special Rapporteur on Torture, the Working Group on Enforced or Involuntary Detention (WGEID) and the Working Group on Arbitrary Detention (WGAD) since 2005.

During the 2017 UPR, for example, the government supported, amongst other items, 114.4: Continue the ratification process of the main international human rights-related instruments, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Italy) and 114.27: Continue to strengthen its cooperation with United Nations human rights mechanisms, in particular by accepting country visits of special rapporteurs (Republic of Korea).

In contrast, paragraph 40 of the Committee against Torture, Concluding observations on the second and third periodic reports of Bahrain, 29 May 2017, CAT/C/BHR/CO/2-3, states that:

*"The Committee is concerned that, despite repeated requests to visit the country by the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the State Party postponed the visit, claiming that it had come at an inopportune time on account of its efforts to implement the recommendations of the Bahrain Independent Commission of Inquiry and a far-reaching process of reform and development. The Committee is also concerned that the representatives of the State Party were not able to indicate when the United Nations High Commissioner for Human Rights would be permitted to visit the country in response to the invitation that the Parliament of Bahrain issued through the media to visit places of detention and Shia villages in Bahrain. The invitation had been accepted by the High Commissioner, but the Government of Bahrain had taken no action in that regard at the time of the dialogue with the Committee."*

The Committee, in paragraph 41:

*"[R]ecommends that the State Party promptly accept the request of the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the country. The State Party is encouraged to enable the United Nations High Commissioner for Human Rights to visit the country, particularly its places of detention, which are a matter of relevance to the compliance by Bahrain with the provisions of the Convention."*

# Conclusion

The commemoration of the International Day in Support of Victims of Torture on June 26th is not only a commemoration of the CAT and its legal enshrinement of the right to be protected from torture. Rather, it provides support to victims of torture by offering mechanisms of restitution and redress and evoking structural change to ensure the complete elimination of torture. The citizens of Bahrain have yet to have their situation rectified: those who were partook in torture have faced no convictions and still perform their roles, the recommendations of the BICI report have yet to be fully and systematically honored, and the protestors and detainees who were tortured still suffer from torture, are imprisoned, have had their allegiance questioned, their nationality stripped, and their health continually put at risk. To implement the prohibition of torture would mean guaranteeing the complete promotion of the enjoyment of other human rights, for it is through the indivisibility of these rights would a net of proper protection arise.

In the ten years that followed the Bahraini uprising, there continues to be numerous widespread torture and ill-treatment of citizens, mainly human rights defenders, and prisoners of conscience, in detention places. Personnel who are involved in the torture of citizens, and in the ill-treatment of prisoners, still enjoy impunity until today.

With the outbreak of the COVID-19 pandemic, prisoners have suffered further – for they are “especially in danger of getting infected by the lethal virus due to their vulnerable situation” (44) -- and those impacted directly in dire confinement conditions will only worsen until the proper procedure of redress and protection are established. To honor victims of torture and ill-treatment is to be in an active position. It is the act of ensuring the removal of victims from such settings that inevitably leads to torture or mistreatment of some kind. To offer proper compensation and redress, and, finally, to prevent the occurrence of these situations in the future.

(44) OHCHR (n. 36)

# *Recommendations*

Salam for Democracy and Human Rights urges the authorities in Bahrain to implement the following recommendations:

- End the climate of impunity for perpetrators of torture;
- Investigate all allegations of torture and ill-treatment, and prosecute all those found guilty of torture;
- Establish mechanisms for compensation and redress for victims, including drafting legislation to ensure redress and rehabilitation;
- End the ill-treatment and torture of prisoners, especially the ongoing ill-treatment in Jau Prison;
- Release all prisoners of conscience, and all detainees whose confessions were extracted under torture;
- Fully respect and comply with international human rights law standards, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and
- Fully implement the recommendations of the BICI report.



SALAM for Democracy and Human Rights

English: @salam\_DHR | Russian: @SalamDHR\_RU | Spanish: @SalamDHR\_ES | Arabic:  
@SalamDHR\_AR

[www.salam-dhr.org](http://www.salam-dhr.org) | [info@salam-dhr.org](mailto:info@salam-dhr.org)



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