



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.
GENERAL

CAT/C/CR/34/BHR
21 June 2005

Original: ENGLISH

COMMITTEE AGAINST TORTURE
Thirty-fourth session
2-20 May 2005

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture

BAHRAIN

1. The Committee considered the initial report of Bahrain (CAT/C/47/Add.4) at its 653rd and 656th meetings (CAT/C/SR.653 and 656), held on 12 and 13 May 2005, and adopted, at its 663rd meeting (CAT/C/SR.633), the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the initial report of Bahrain although it regrets that the report, due in April 1999, was submitted with a five-year delay.

3. The Committee notes that the report does not fully conform to the Committee's guidelines for the preparation of initial reports and lacks information on practical aspects of implementation of the Convention's provisions.

4. The Committee welcomes the opportunity to discuss the report with a large delegation knowledgeable about diverse matters addressed in the Convention, and the full and constructive dialogue that resulted.

B. Positive aspects

5. The Committee notes the following positive developments:

(a) The extensive political, legal and social reforms on which the State party has embarked, including:

- (i) The adoption of the National Action Charter in 2001 which outlines reforms aimed at enhancing non-discrimination, due process of law and the prohibition of torture and arbitrary arrest and stating, inter alia, that any evidence obtained through torture is inadmissible;
 - (ii) The promulgation of the amended Constitution;
 - (iii) The creation of the Constitutional Court in 2002;
 - (iv) The establishment of a new bicameral parliament with an elected chamber of deputies;
 - (v) Decree No. 19 of 2000 giving effect to the new constitutional provision establishing the Higher Judicial Council, drawing a clear dividing line between the executive branch and the judiciary and thereby reinforcing a separation of powers stipulated in the Constitution;
 - (vi) Decree No. 4 of 2001 abolishing the State Security Court which had jurisdiction over offences against the internal and external security of the State and emergency legislation, which are now heard by the ordinary criminal courts;
 - (vii) Decree No. 11 of 2001 repealing the State Security Law;
- (b) The State party's accession to international human rights treaties including the Convention against Torture in 1998 and the Convention on the Elimination of All Forms of Discrimination against Women in 2002 and assurances from the delegation that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights "have been agreed upon and are in the process of ratification";
- (c) The withdrawal of its reservation to article 20 of the Convention;
- (d) The visit to Bahrain in 2001 by the Working Group on Arbitrary Detention which was granted unrestricted access to all prisons and police station holding cells and was able to speak freely and without witnesses to prisoners it selected at random;
- (e) The publication of the foreign worker's manual;
- (f) Reports that systematic torture no longer takes place following the 2001 reforms.

C. Subjects of concern

6. The Committee expresses its concern at:

- (a) The persistent gap between the legislative framework and its practical implementation with regard to the obligations of the Convention;
- (b) The lack of a comprehensive definition of torture in the domestic law as set out in article 1 of the Convention;

- (c) The large number of allegations of torture and other cruel, inhuman or degrading treatment or punishment of detainees committed prior to 2001;
- (d) Reports of incommunicado detention of detained persons following the ratification of the Convention and prior to 2001, for extended periods, particularly during pre-trial investigations;
- (e) The inadequate access to external legal advice while in police custody, to medical assistance and to family members, thereby reducing the safeguards available to detainees;
- (f) The apparent failure to investigate promptly, impartially and fully the numerous allegations of torture and ill-treatment and to prosecute alleged offenders, and in particular the pattern of impunity for torture and other ill-treatment committed by law enforcement personnel in the past;
- (g) The blanket amnesty extended to all alleged perpetrators of torture or other crimes by Decree No. 56 of 2002 and the lack of redress available to victims of torture;
- (h) The inadequate availability in practice of civil compensation and rehabilitation for victims of torture prior to 2001;
- (i) Certain provisions of the draft law on counter-terrorism which, if adopted, would reduce safeguards against torture and could re-establish conditions that characterized past abuses under the State Security Law. These provisions include, inter alia, the broad and vague definition of terrorism and terrorist organizations and the transfer from the judiciary to the public prosecutor of authority to arrest and detain, in particular, to extend pre-trial detention;
- (j) Lack of access by independent monitors to visit and inspect all places of detention without prior notice, notwithstanding the assurances of the State party that it will allow some access by civil society organizations;
- (k) The absence of data on complaints of torture and ill-treatment, and the results of investigations or prosecutions related to the provisions of the Convention;
- (l) Information received regarding limits on human rights non-governmental organizations to conduct their work, in particular regarding activities relevant to the Convention, within the country and abroad;
- (m) The different regimes applicable, in law and in practice, to nationals and foreigners in relation to their legal right to be free from conduct that violates the Convention. The Committee reminds the State party that the Convention and its protections are applicable to all acts that are in violation of the Convention that occur within its jurisdiction, from which it follows that all persons are entitled, in equal measure and without discrimination, to the rights contained therein;
- (n) The rejection by the House of Deputies in March 2005 of the proposal to establish an independent national human rights commission;

(o) The overbroad discretionary powers of the Shariah court judges in the application of personal status law and criminal law and, in particular, reported failures to take into account clear evidence of violence confirmed in medical certificates following violence against women;

(p) Reports of the beating and mistreatment of prisoners during three strikes in 2003 at Jaw Prison, followed by an agreement to establish an investigative commission whose findings, however, have not been made public.

E. Recommendations

7. The Committee recommends that the State party:

(a) Adopt in domestic penal law a definition of torture in terms consistent with article 1 of the Convention, including the differing purposes set forth therein, and ensure that all acts of torture are offences under criminal law and that appropriate penalties taking into account the grave nature of the offences are established;

(b) Provide complete and disaggregated information about the number of detainees who have suffered torture or ill-treatment, including any deaths in custody, the results of investigations into the causes, and whether any officials were found responsible;

(c) Respect the absolute nature of article 3 in all circumstances and fully incorporate it into domestic law;

(d) Consider steps to amend Decree No. 56 of 2002 to ensure that there is no impunity for officials who have perpetrated or acquiesced in torture or other cruel, inhuman or degrading treatment;

(e) Ensure that its legal system provides victims of past acts of torture with redress and an enforceable right to fair and adequate compensation;

(f) Ensure that any measure taken to combat terrorism, including the draft law, is in accordance with Security Council resolutions which require, inter alia, that anti-terrorism measures be carried out with full respect for the applicable rules of, inter alia, international human rights law, including the Convention;

(g) Establish an independent body with a mandate to visit and/or supervise places of detention without prior notice, and allow impartial and non-governmental organizations to make visits to prisons and places where the authorities keep detainees;

(h) Fully ensure the independence of the judiciary and include female judicial officials in its judicial system;

(i) Consider adopting a Family Code, including measures to prevent and punish violence against women, especially domestic violence, including fair standards of proof;

(j) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families, and that detainees held by the Criminal Investigation Department are given prompt access to a judge;

(k) Take effective measures to prevent and redress the serious problems commonly faced by foreign workers, particularly female domestic workers;

(l) Consider the establishment of a national human rights institution in accordance with the Paris Principles;

(m) Remove inappropriate restrictions on the work of non-governmental organizations, especially those dealing with issues related to the Convention;

(n) Ensure that law enforcement, civil, military and medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual deprived of his/her liberty are trained to recognize the physical consequences of torture and respect the absolute prohibition of torture;

(o) Provide information to the Committee about the proposed committee for the prevention of vice and promotion of virtue, including whether it exercises a precise jurisdiction in full conformity with the requirements of the Convention and is subject to review by ordinary judicial authority.

8. The Committee recommends that the next periodic report comply with its guidelines and include:

(a) Statistical data, disaggregated by crime, age, gender and nationality, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials, as well as on the related investigations, prosecutions, and penal and disciplinary sentences;

(b) Information on any compensation and rehabilitation provided to the victims;

(c) Detailed information on the practical implementation of legislation and the recommendations of the Committee;

(d) A core document with updated information in conformity with the guidelines.

9. The Committee encourages the State party to consider making the declarations under articles 21 and 22 of the Convention and ratifying the Optional Protocol to the Convention.

10. The State party is encouraged to widely disseminate the reports submitted by Bahrain to the Committee as well as the Committee's conclusions and recommendations, in appropriate languages and through official web sites, the media and non-governmental organizations.

11. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 6 (e), (m) and (o).

12. The State party is invited to submit its second periodic report by April 2007.
