



Cornell Law School  
Cornell Center on the  
Death Penalty Worldwide



## **Bahrain's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: The Death Penalty**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

**Salam for Democracy and Human Rights**

**The Cornell Center on the Death Penalty Worldwide**

and

**The World Coalition Against the Death Penalty**

**for the 84th Session of the Committee on the Elimination of Discrimination Against  
Women**

**6–24 February 2023**

**Submitted 9 January 2023**

**The Advocates for Human Rights** (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**Salam for Democracy and Human Rights (SALAM DHR)** is a non-governmental organisation (NGO) whose members are based in the United Kingdom, Germany, France, and Lebanon. Its work focuses, mainly, on Bahrain and the Gulf and the issue of statelessness / deprivation of citizenship. Formally registered in the UK, France and Switzerland, it has supporters in Bahrain, where it is unable to register. As part of its mission, SALAM DHR endeavours to preserve universal principles of dignity and respect by shielding democracy and human rights. The NGO conducts research, produces reports and recommendations. It builds coalitions including through its membership of, amongst others, CIVICUS and World Coalition Against the Death Penalty.

**The World Coalition Against the Death Penalty** is a volunteer-based non-governmental organization committed to strengthening the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

**The Cornell Center on the Death Penalty Worldwide** is a US-based research, advocacy, and training center focused on capital punishment and international law. It publishes reports and manuals on death penalty issues, provides transparent data on death penalty laws and practices around the world, trains capital lawyers in best practices, and engages in targeted advocacy and litigation. Its staff and faculty advisors have collectively spent more than eight decades representing hundreds of prisoners facing the death penalty. In 2019 it was awarded the World Justice Challenge Award in recognition for its work on behalf of death-sentenced prisoners in Malawi.

## EXECUTIVE SUMMARY

1. This report addresses Bahrain's compliance with its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women with respect to the death penalty. The report examines Bahrain's laws regarding the death penalty human rights violations experienced by persons sentenced to death in Bahrain. This report recommends that Bahrain adopt a number of key recommendations to better align its death penalty practices with its obligations under the Convention. These steps, among other things, include: (1) abolishing the death penalty and, in the interim, limiting the death penalty to only the most serious crimes; (2) ensuring proper gender-sensitive training in the judicial system and protecting women in conflict with the law when gender-based violence is involved; (3) developing and implementing programs to prevent gender-based violence and discrimination; and (4) ensuring fair access to counsel to women sentenced to death or at risk of being sentenced to death.
2. Bahrain acceded to the Convention on March 2, 2002. Bahrain stipulated reservations with respect to the following provisions of the Convention: (i) Article 2, in order to ensure its implementation within the bounds of the provisions of the Islamic Sharia; (ii) Article 9, paragraph 2; (iii) Article 15, paragraph 4; (iv) Article 16, in so far as it is incompatible with the provisions of the Islamic Sharia; and (v) Article 29, paragraph 1. These reservations relate to the Convention's requirements that State parties pursue policies that eliminate discrimination against women, ensure the equal rights of women with respect to the nationality of their children, ensure that all women have the ability to move and freely choose their residence, and eliminate discrimination against women in matters relating to marriage and family relations. Bahrain has not acceded to or ratified the Convention's Optional Protocol.

### **Bahrain fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women with regard to the death penalty.**

3. Bahrain is a retentionist country. Bahrain has executed six people since the end of a de facto moratorium on executions in 2017.<sup>1</sup> Bahrain's last three reported executions occurred in 2019, during which two Shia activists who had been accused of terrorism were sentenced to death in a mass trial.<sup>2</sup> Courts in Bahrain did not sentence anyone to death in 2021,<sup>3</sup> but three people were sentenced to death in 2020.<sup>4</sup> Reported death sentences have increased from just 7 between

---

<sup>1</sup> Human Rights Watch, "*The Court is Satisfied with the Confession*": Bahrain Death Sentences Follow Torture, Sham Trials, Oct. 10, 2022, <https://www.hrw.org/report/2022/10/10/court-satisfied-confession/bahrain-death-sentences-follow-torture-sham-trials> (last visited Dec. 28, 2022).

<sup>2</sup> Aziz El Yaakoubi & Ali Abdelaty, *Bahrain executes three, including Shi'ite activists*, Reuters, July 27, 2019, <https://www.reuters.com/article/us-bahrain-execution/bahrain-executes-three-including-shiite-activists-idUSKCN1UM04R> (last visited Dec. 30, 2022).

<sup>3</sup> Amnesty International, *Death Sentences and Executions 2021* (2022), at 13, available at <https://www.amnesty.org/en/documents/act50/5418/2022/en/> (last visited Dec. 29, 2022).

<sup>4</sup> Amnesty International, *Death Sentences and Executions 2020* (2021), at 12, available at <https://www.amnesty.org/en/documents/act50/3760/2021/en/> (last visited Dec. 28, 2022).

2001 and 2010 to at least 51 between 2011 and 2020.<sup>5</sup> Research suggests that there have been no women on death row in Bahrain since at least 2011.<sup>6</sup>

4. There are currently at least 26 people under sentence of death in Bahrain.<sup>7</sup> Of that number, at least 15 are foreign nationals.<sup>8</sup> The number of people on death row facing imminent execution has increased from 1 person at the end of 2010 to at least 26 as of November 2022.<sup>9</sup> Of the 26 prisoners on death row in Bahrain, 12 have been sentenced in political cases.<sup>10</sup> All 26 are at risk of imminent execution as they have exhausted all domestic remedies, the final step being the ratification of their death sentences by King Hamad bin Isa Khalifa.<sup>11</sup>
5. In 2018, Bahrain began imposing the death penalty for drug-related offenses, and three people are currently on death row for non-lethal drug offenses,<sup>12</sup> such as transporting, selling, or possessing hashish.<sup>13</sup> Bahrain also authorizes the death penalty for non-lethal “terrorism-related” offenses, and courts have sentenced nine people to death for such offenses since 2011.<sup>14</sup> Authorities use drug-related charges eligible for the death penalty “to strengthen cases against defendants whose charges are political in nature. Aware that the charge of terrorism is . . . far reaching and vague in Bahrain, drug charges can add to the severity of a defendant’s cases, as well as smear their reputations in the national and international press.”<sup>15</sup>

---

<sup>5</sup> Bahrain Institute for Rights and Democracy & Reprieve, *From Uprising to Executions: The death penalty in Bahrain, ten years on from the Arab Spring* (2022), at 3, available at file: <https://reprieve.org/uk/2021/07/27/death-penalty-in-bahrain/> (last visited Dec. 29, 2022).

<sup>6</sup> “No One Believed Me”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, Cornell Center on the Death Penalty Worldwide, <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/> (last visited Dec. 29, 2022), citing Bahrain Institute for Rights and Democracy & Reprieve, Continuously Updated List of Death-Sentenced Prisoners in Bahrain from 2011 to today, last updated on May 22, 2020, Internal document emailed to Cornell Center on the Death Penalty Worldwide, Apr. 29, 2021.

<sup>7</sup> Human Rights Watch, *Bahrain: Events of 2021*, <https://www.hrw.org/world-report/2022/country-chapters/bahrain> (last visited Dec. 29, 2022).

<sup>8</sup> Lucy Harry et al., *How the Bahrain judicial system fails its migrant workers*, 360info, Sept. 5, 2022, <https://360info.org/how-the-bahrain-judicial-system-fails-its-migrant-workers/> (last visited Oct. 19, 2022).

<sup>9</sup> Bahraini death row prisoner pleads with pope to aid his release, *The Guardian*, November 3, 2022, <https://www.theguardian.com/world/2022/nov/03/bahraini-death-row-prisoner-pleads-with-pope-to-aid-his-release> (last visited Dec. 28, 2022)

<sup>10</sup> *Bahraini death row prisoner pleads with pope to aid his release*, *The Guardian*, November 3, 2022, <https://www.theguardian.com/world/2022/nov/03/bahraini-death-row-prisoner-pleads-with-pope-to-aid-his-release> (last visited Dec. 28, 2022)

<sup>11</sup> *Bahraini death row prisoner pleads with pope to aid his release*, *The Guardian*, November 3, 2022, <https://www.theguardian.com/world/2022/nov/03/bahraini-death-row-prisoner-pleads-with-pope-to-aid-his-release> (last visited Dec. 28, 2022)

<sup>12</sup> Andrew McIntosh, Salam for Democracy and Human Rights, *The Death Penalty in Bahrain: A system built on torture*, Oct. 2021, at 7, available at <https://salam-dhr.org/wp-content/uploads/2021/10/EN-DP-Report.pdf> (last visited Dec. 29, 2022).

<sup>13</sup> Human Rights Watch, “*The Court is Satisfied with the Confession*”: *Bahrain Death Sentences Follow Torture, Sham Trials*, Oct. 10, 2022, <https://www.hrw.org/report/2022/10/10/court-satisfied-confession/bahrain-death-sentences-follow-torture-sham-trials> (last visited Dec. 29, 2022).

<sup>14</sup> Andrew McIntosh, Salam for Democracy and Human Rights, *The Death Penalty in Bahrain: A system built on torture*, Oct. 2021, at 7, available at <https://salam-dhr.org/wp-content/uploads/2021/10/EN-DP-Report.pdf> (last visited Dec. 29, 2022).

<sup>15</sup> Andrew McIntosh, Salam for Democracy and Human Rights, *The Death Penalty in Bahrain: A system built on torture*, Oct. 2021, at 7-8, available at <https://salam-dhr.org/wp-content/uploads/2021/10/EN-DP-Report.pdf> (last visited Dec. 29).

6. In prosecutions resulting in death sentences, Bahraini courts manifestly fail to protect fundamental fair trial rights as provided for in international and Bahraini law. In other cases, the courts meted out death sentences for charges not involving the gravest offenses, namely non-violent drug crimes, in violation of international human rights standards.<sup>16</sup>
7. Because Bahrain has not formally abolished the death penalty, women are at risk of being sentenced to death.

**I. Women in conflict with the law are deprived of their right to a fair trial. (List of issues para. 4)**

8. The Committee noted that “the Supreme Council for Women grants free legal assistance for cases involving maintenance, divorce and custody, as well as in civil cases that may arise concerning other family-related matters.”<sup>17</sup> The Committee requested data regarding the cases reported to the Supreme Council for Women, including, among others, sexual harassment, health, and participation in political and public life.<sup>18</sup> In response, the State party noted that in 2017, the Legal Advice Department of the Women’s Support Centre of the Supreme Council for Women received 418 assistance requests, but did not provide data regarding how many of these requests related to claims for sexual harassment, health, and participation in political and public life.<sup>19</sup>
9. Civil society organizations report that the application of the death penalty in Bahrain often violates the accused’s due process rights. People at risk of being sentenced to death are often not provided access to counsel during interrogations or appropriate access to counsel during trial.<sup>20</sup>
10. Global trends show that women sentenced to death face intersectional discrimination. According to a groundbreaking 2018 study by the Cornell Center on the Death Penalty Worldwide, most women on death row come from backgrounds of severe socio-economic deprivation and many are illiterate, which can reinforce unequal access to effective legal representation.<sup>21</sup> This intersectional discrimination exacerbates the risk that a woman charged with a capital crime will be subjected to an unfair trial.

---

<sup>16</sup> Human Rights Watch, “*The Court is Satisfied with the Confession*”: Bahrain Death Sentences Follow Torture, Sham Trials, Oct. 10, 2022, <https://www.hrw.org/report/2022/10/10/court-satisfied-confession/bahrain-death-sentences-follow-torture-sham-trials> (last visited Dec. 29, 2022).

<sup>17</sup> Convention on the Elimination of All Forms of Discrimination Against Women. *List of Issues and questions in relation to the fourth periodic report of Bahrain*, (19 July 2019), U.N. Doc. CEDAW/C/BHR/Q/4, ¶ 4.

<sup>18</sup> Convention on the Elimination of All Forms of Discrimination Against Women. *List of Issues and questions in relation to the fourth periodic report of Bahrain*, (19 July 2019), U.N. Doc. CEDAW/C/BHR/Q/4, ¶ 4.

<sup>19</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4.

<sup>20</sup> Andrew McIntosh, Salam for Democracy and Human Rights, *The Death Penalty in Bahrain: A system build on torture*, Oct. 2021, at 3-5, available at <https://salam-dhr.org/wp-content/uploads/2021/10/EN-DP-Report.pdf> (last visited Dec. 29, 2022); Human Rights Watch, “*The Court is Satisfied with the Confession*”: Bahrain Death Sentences Follow Torture, Sham Trials, Oct. 10, 2022, <https://www.hrw.org/report/2022/10/10/court-satisfied-confession/bahrain-death-sentences-follow-torture-sham-trials> (last visited Dec. 29, 2022); Amnesty International, *Death Sentences and Executions 2020* (2021), at 14, available at <https://www.amnesty.org/en/documents/act50/3760/2021/en/> (last visited Dec. 29, 2022).

<sup>21</sup> *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the

11. The Cornell study found that many women in criminal legal systems throughout the world, and the vast majority of women on death row, are from poor and marginalized communities.<sup>22</sup> Most women who are detained are unable to afford a lawyer, and are more likely to be illiterate and unaware of their legal rights.<sup>23</sup> Illiteracy and lack of education among poor women leave them more vulnerable to discrimination, coercion, and exploitation.”<sup>24</sup>
12. Women may be particularly at risk of discrimination in Bahrain’s criminal legal system, which has consistently violated fundamental due process and fair trial rights, including cases in which people currently on death row did not have any access to counsel during interrogations or appropriate access to counsel during trial.<sup>25</sup> Bahraini courts have relied on coerced confessions despite defendants’ credible claims of torture and ill-treatment in capital cases.<sup>26</sup>
13. A 2019 report from the Bahrain Institute for Rights and Democracy found that women in Bahrain were routinely arrested without warrants<sup>27</sup>; subjected to physical, psychological and sexual assault during interrogations with Bahraini authorities and National Security Agency officers<sup>28</sup>; convicted on the basis of coerced confessions<sup>29</sup>; denied alternative sentences<sup>30</sup>; and not given adequate medical care and standards of hygiene in prison<sup>31</sup>, all in contravention of Bahraini and international law.

---

Death Penalty Worldwide, Sept. 2018, at 3, <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf> (last visited Dec. 29, 2022).

<sup>22</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Sept. 2018, at 18, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf> (last visited Dec. 29, 2022).

<sup>23</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Sept. 2018, at 18, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf> (last visited Dec. 29, 2022).

<sup>24</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Sept. 2018, at 18, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf> (last visited Dec. 29, 2022).

<sup>25</sup> Human Rights Watch, “*The Court is Satisfied with the Confession*”: *Bahrain Death Sentences Follow Torture, Sham Trials*, Oct. 10, 2022, <https://www.hrw.org/report/2022/10/10/court-satisfied-confession/bahrain-death-sentences-follow-torture-sham-trials> (last visited Dec. 29, 2022).

<sup>26</sup> Human Rights Watch, “*The Court is Satisfied with the Confession*”: *Bahrain Death Sentences Follow Torture, Sham Trials*, Oct. 10, 2022, <https://www.hrw.org/report/2022/10/10/court-satisfied-confession/bahrain-death-sentences-follow-torture-sham-trials> (last visited Dec. 29, 2022).

<sup>27</sup> Bahrain Institute for Rights & Democracy, *Breaking the Silence: Bahraini Women Political Prisoners Expose Systemic Abuses*, 2019, at 24–40, available at [https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB\\_BreakingTheSilence.pdf](https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB_BreakingTheSilence.pdf) (last visited Dec. 28, 2022).

<sup>28</sup> Bahrain Institute for Rights & Democracy, *Breaking the Silence: Bahraini Women Political Prisoners Expose Systemic Abuses*, 2019, at 24–28, available at [https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB\\_BreakingTheSilence.pdf](https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB_BreakingTheSilence.pdf) (last visited Dec. 28, 2022).

<sup>29</sup> Bahrain Institute for Rights & Democracy, *Breaking the Silence: Bahraini Women Political Prisoners Expose Systemic Abuses*, 2019, at 43–44, 51–53, available at [https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB\\_BreakingTheSilence.pdf](https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB_BreakingTheSilence.pdf) (last visited Dec. 28, 2022).

<sup>30</sup> Bahrain Institute for Rights & Democracy, *Breaking the Silence: Bahraini Women Political Prisoners Expose Systemic Abuses*, 2019, at 59–60, available at [https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB\\_BreakingTheSilence.pdf](https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB_BreakingTheSilence.pdf) (last visited Dec. 28, 2022).

<sup>31</sup> Bahrain Institute for Rights & Democracy, *Breaking the Silence: Bahraini Women Political Prisoners Expose Systemic Abuses*, 2019, at 68–70, available at [https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB\\_BreakingTheSilence.pdf](https://birdbh.org/wp-content/uploads/2019/09/BIRD-ADHRB_BreakingTheSilence.pdf) (last visited Dec. 28, 2022).

## **II. Activists, journalists, and members of civil society organizations are at risk of being sentenced to death. (List of Issues para. 6)**

14. In paragraph 6 of the List of Issues, the Committee requested, among other things, “information on measures taken to guarantee the freedom of speech, movement and association of all women in [Bahrain], including women activists, journalists and members of civil society organizations.”<sup>32</sup>
15. The Government of Bahrain’s reply simply asserts that the country “allows freedom [of] expression.”<sup>33</sup>
16. Bahrain has a track record of prosecuting activists. In 2011, eleven political and civil society leaders of peaceful protests were detained, tried, and sentenced to between 15 years and life in prison. In 2021, M.H.J., one of 11 political and civil society leaders of peaceful protests in 2011, was tried and sentenced to between 15 years and life in prison.<sup>34</sup>
17. Research has not uncovered any instances of women activists being sentenced to death. As mentioned above, however, Bahrain’s last three reported executions were in 2019, including two Shia activists. The two Shia activists were sentenced to death in a mass trial. In June 2020, the Court of Cassation upheld the death sentences of two Shia men who had been convicted and sentenced to death for their alleged involvement in targeting security forces and killing two police officers in bombings.<sup>35</sup> NGOs have reported that authorities obtained their confessions “through torture and that the trial proceedings were unfair.”<sup>36</sup> The convicted persons had previously expressed their opposition to the government.<sup>37</sup>

## **III. The death penalty and gender-based violence against women (List of Issues paras. 10-11)**

18. The Committee requested “data on stoning and death penalties imposed on women in [Bahrain].”<sup>38</sup> The Government of Bahrain’s reply to the List of Issues provides no such data, but simply asserts that “[u]nder articles 348 and 349 of the Penal Code, the death penalty is applied only for serious crimes in which there are aggravating circumstances.”<sup>39</sup> The reply further asserts that “the penalty of stoning is not part of its national laws.”<sup>40</sup>

---

<sup>32</sup> Convention on the Elimination of All Forms of Discrimination Against Women. *List of Issues and questions in relation to the fourth periodic report of Bahrain*, (19 July 2019), U.N. Doc. CEDAW/C/BHR/Q/4, ¶ 6.

<sup>33</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 5.

<sup>34</sup> BAHRAIN 2021, <https://www.amnesty.org/en/location/middle-east-and-north-africa/bahrain/report-bahrain/> (last visited Dec. 28, 2022)

<sup>35</sup> U.S. Department of State, *2021 Report on International Religious Freedom: Bahrain*, June 2, 2022, <https://www.state.gov/reports/2021-report-on-international-religious-freedom/bahrain/> (last visited Dec. 29, 2022).

<sup>36</sup> U.S. Department of State, *2021 Report on International Religious Freedom: Bahrain*, June 2, 2022, <https://www.state.gov/reports/2021-report-on-international-religious-freedom/bahrain/> (last visited Dec. 29, 2022).

<sup>37</sup> U.S. Department of State, *2021 Report on International Religious Freedom: Bahrain*, June 2, 2022, <https://www.state.gov/reports/2021-report-on-international-religious-freedom/bahrain/> (last visited Dec. 29, 2022).

<sup>38</sup> Convention on the Elimination of All Forms of Discrimination Against Women. *List of Issues and questions in relation to the fourth periodic report of Bahrain*, (19 July 2019), U.N. Doc. CEDAW/C/BHR/Q/4, ¶ 10.

<sup>39</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 10.

<sup>40</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 10.

19. The Committee also requested “information on the achievements of the national strategy to protect women from domestic violence.”<sup>41</sup> The Government of Bahrain’s reply states that the Supreme Council for Women launched the strategy in November 2015, and that “[p]rogress has been made in implementing the strategy.”<sup>42</sup> The reply asserts that “[t]he incidence of domestic violence against Bahraini women has declined following the launch of the strategy.”<sup>43</sup>
20. Civil society does not have access to information about the number of women under sentence of death in Bahrain. Amnesty International’s most recent data shows that there are “at least” 26 people under sentence of death,<sup>44</sup> but the Government of Bahrain does not publish comprehensive data, much less data disaggregated by sex or gender.
21. There are a few particular issues that women face with respect to the death penalty. The above-referenced study by the Cornell Center on the Death Penalty Worldwide found that in the global context, women are most likely to be sentenced to death for murdering a family member, often in the context of gender-based violence.<sup>45</sup> Many women under sentence of death are victims of gender-based violence and come from disadvantaged socio-economic backgrounds.<sup>46</sup> In many countries that retain the death penalty, however, courts fail to take into account a defendant’s experience as a survivor of gender-based violence when making sentencing decisions.<sup>47</sup>
22. Research by the Cornell Center shows that women are more likely to receive a death sentence when the adjudicating authority perceives that they are violating entrenched gender norms, being cast as the “female fatale” or the “witch.” Women are often put on trial not only for acts they performed but also for allegedly being “a bad wife, a bad mother, and a bad woman.”<sup>48</sup>

#### **IV. Women migrant domestic workers are at risk of being sentenced to death. (List of Issues para. 17)**

23. The Committee requested information on the legal protections available to women migrant domestic workers and measures taken to raise their awareness of applicable legal protections.<sup>49</sup> The Government of Bahrain’s reply to the List of Issues clarifies that the country does not have “migrant” workers but instead refers to them as “expatriate workers.”<sup>50</sup> The reply asserts that

---

<sup>41</sup> Convention on the Elimination of All Forms of Discrimination Against Women. *List of Issues and questions in relation to the fourth periodic report of Bahrain*, (19 July 2019), U.N. Doc. CEDAW/C/BHR/Q/4, ¶ 11.

<sup>42</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 10.

<sup>43</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 10.

<sup>44</sup> Amnesty International, *Death Sentences and Executions 2021* (2022), at 40, available at <https://www.amnesty.org/en/documents/act50/5418/2022/en/> (last visited Jan. 1, 2023).

<sup>45</sup> Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 4,

<https://www.deathpenaltyworldwide.org/wpcontent/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> Convention on the Elimination of All Forms of Discrimination Against Women. *List of Issues and questions in relation to the fourth periodic report of Bahrain*, (19 July 2019), U.N. Doc. CEDAW/C/BHR/Q/4, ¶ 17.

<sup>50</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 14.



women migrant domestic workers “whose work permits were cancelled or have expired and not been renewed by their employers can be issued” a “flexible work permit,” that would not tie them to an employer and that would allow them to “work as individuals on a contractual basis with anyone they like.”<sup>51</sup> The reply concedes, however, that “[t]he Labour Code for the Private Sector does not apply to foreigners who hold flexible work permits, because they are considered to be foreign persons. . . . Such persons are not covered by the definition of a worker in respect of the manner in which their work is supervised and managed.”<sup>52</sup> The reply asserts without explanation that “[t]his puts them in a better legal position than an ordinary worker,” and then contends that if such a worker enters into an employment contract, “then the definition of worker applies to them and they will enjoy all guarantees provided by the law.”<sup>53</sup>

24. Regarding compensation, the Government of Bahrain explains that if a worker doesn’t have an individual or collective labor contract, “the worker is entitled to the standard wage, if one has been stipulated; otherwise, the wage is calculated according to the custom of the profession in which the worker is engaged.”<sup>54</sup>
25. Migrant workers face human rights violations under the *kafala* guest-worker system, which fails to protect them against exploitation, including confiscation of passports, wage theft, and exorbitant recruiting fees.<sup>55</sup> Migrant domestic workers are particularly vulnerable, and it is unclear whether courts would take into account their precarious circumstances when assessing culpability in capital cases. In Bahrain, migrant women are 65% of the total female workforce, and of the 91,852 officially registered domestic workers, 75% are women.<sup>56</sup> Bahrain does not have a domestic worker law.<sup>57</sup> Bahrain’s legal protections for domestic workers “remain among the weakest in the Gulf; there are no regulations on maximum working hours, mandatory rest hours, or a weekly day off—regulations which almost all other Gulf countries provide.”<sup>58</sup> Relatedly, Bahrain has not ratified or acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
26. While there is no specific information available regarding Bahrain, the 2018 Cornell study referenced above observed that in other countries in the region, many women on death row

---

<sup>51</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 14.

<sup>52</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 14.

<sup>53</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 14.

<sup>54</sup> Committee on the Elimination of Discrimination Against Women, *Replies of Bahrain to the list of issues and questions in relation to its fourth periodic report*, (18 Apr. 2019), U.N. Doc. CEDAW/C/BHR/RQ/4, at 14.

<sup>55</sup> Lucy Harry et al., *How the Bahrain judicial system fails its migrant workers*, 360info, Sept. 5, 2022, <https://360info.org/how-the-bahrain-judicial-system-fails-its-migrant-workers/> (last visited Oct. 19, 2022).

<sup>56</sup> Migrant-Rights.org, *Lived Experience of Migrant Women: Qatar, Bahrain, and Kuwait*, 2019, at 10, available at <https://www.migrant-rights.org/wp-content/uploads/2019/11/Lived-Experiences-of-Migrant-Women.pdf> (last visited Dec. 29, 2022).

<sup>57</sup> Migrant-Rights.org, *Lived Experience of Migrant Women: Qatar, Bahrain, and Kuwait*, 2019, at 17, available at <https://www.migrant-rights.org/wp-content/uploads/2019/11/Lived-Experiences-of-Migrant-Women.pdf> (last visited Dec. 29, 2022).

<sup>58</sup> Migrant-Rights.org, *Lived Experience of Migrant Women: Qatar, Bahrain, and Kuwait*, 2019, at 17, available at <https://www.migrant-rights.org/wp-content/uploads/2019/11/Lived-Experiences-of-Migrant-Women.pdf> (last visited Dec. 29, 2022).

are migrant domestic workers.<sup>59</sup> In many cases, the female domestic worker was accused of killing her employer, suggesting a “pattern of female migrant domestic workers sentenced to death in . . . Middle Eastern countries, who suffer from intersecting forms of oppression based on class, foreign nationality, precarious immigration status, and gender.”<sup>60</sup>

27. There is no information to suggest that courts in Bahrain take these multifaceted forms of oppression, including sexual harassment and gender-based violence, into account in capital cases against foreign domestic workers. Although research did not uncover any capital cases against migrant women in Bahrain, country conditions expose migrant women to a disproportionate risk of violation of their due process rights in capital cases.

#### **V. Suggested recommendations relating to women and death penalty:**

28. The coauthors suggest the following recommendations for the Government of Bahrain:

- Abolish the death penalty in all circumstances and replace it with a penalty that is fair, proportionate, and consistent with international human rights standards, and in the meantime adopt a *de jure* moratorium on judicial executions.
- In the meantime, revise the Penal Code to eliminate the death penalty for any crime that does not include an intentional killing committed by the person to be sentenced to death.
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.
- Withdraw all reservations to the Convention.
- Take steps to provide heightened fair trial and due process safeguards in capital cases involving women defendants, including by providing them with access to effective legal representation with experience in capital cases and with training on gender-sensitive defense strategies.
- In capital proceedings, enact heightened safeguards prohibiting admissibility of evidence obtained through torture or ill-treatment.
- Increase the number of women working in the criminal legal system, including judges, prosecutors, and court administrators.
- Codify gender-specific defenses and mitigation in capital cases, encompassing women’s experiences of trauma, poverty, and gender-based violence.
- Adopt provisions to ensure the independence and impartiality of the judiciary.
- Ensure that all judicial officers responsible for sentencing in capital cases receive comprehensive training on gender-based discrimination, gender-based violence, and tactics of coercive control that may lead to women committing death-eligible offenses.
- Provide training to all defense counsel who take on capital cases regarding gender-specific mitigation and how to raise discrimination against clients on the basis of their gender, when appropriate.

---

<sup>59</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Sept. 2018, at 17-18, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf> (last visited Dec. 29, 2022).

<sup>60</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Sept. 2018, at 28, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf> (last visited Dec. 29, 2022).

- Provide safeguards to ensure that no person is executed while pregnant or caring for a young child.
- Ensure that no woman or girl is sentenced to death for any crime committed when under the age of 18 years old.
- Ensure that all prison authorities adopt gender-sensitive policies in relation to women's detention, based on the Bangkok Rules and the Nelson Mandela Rules, ensuring women's safety and security pre-trial, during admission to any detention facility, and while incarcerated.
- Design prison infrastructure that accommodates women's specific needs, including their privacy.
- On at least an annual basis, provide and publish transparent information on the number of women charged with capital offenses, the number of women sentenced to death, and the number of women currently under sentence of death, and disaggregate those data by age, age of dependent children (if any), nationality, ethnic group, crimes of conviction, date of conviction, relationship to the victim, and date of execution (if applicable), to facilitate analysis of the demographics of women on death row.
- Collaborate with civil society organizations with expertise on women in conflict with the law to conduct and publish research on root causes and structural, systemic discrimination against women that may lead to women's increased likelihood of coming into conflict with the law, particularly in capital cases.