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**BAHRAIN**

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## Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name 'Alliance Defending Freedom'), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report focuses on the right to life and the right to freedom of thought, conscience, and religion, and Bahrain's efforts in promoting and defending these rights.

### (a) Right to Life

#### *Background*

3. The right to life is not expressly protected in the Constitution of the Kingdom of Bahrain of 14 February 2002 (the Constitution). The law on abortion is very liberal in Bahrain with abortion available upon request. The abortion law in Bahrain is limited only in a few scenarios. Under the Penal Code of 20 March 1976, abortion is prohibited only when the pregnant woman 'commits an abortion without the advice and assistance of a medical practitioner'<sup>1</sup>, and when abortion is procured without the pregnant women's consent.<sup>2</sup>

#### *Right to Life in International Law*

4. Bahrain acceded to the International Covenant to Civil and Political Rights (ICCPR) on 20 September 2006 and acceded to the Convention on the Rights of the Child (CRC) on 13 February 1992.
5. Article 6(1) of the ICCPR states, 'Every human being has the inherent right to life.' Furthermore, Article 6(5) of the ICCPR states, 'Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and *shall not be carried out on pregnant women.*' The ICCPR's prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn. As the *travaux préparatoires*<sup>3</sup> of the ICCPR explicitly state, 'The principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to *save the life of an innocent unborn child.*'<sup>4</sup> Similarly, the Secretary General report of 1955 notes that the intention of the paragraph 'was inspired by humanitarian considerations and by *consideration for the interests of the unborn child*[.]'<sup>5</sup>
6. The protection of unborn life is also found through an ordinary reading of the language in the preamble of the Convention on the Rights of the Child (CRC). The

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<sup>1</sup> Article 321.

<sup>2</sup> Article 322.

<sup>3</sup> In accordance with the Article 32 of the Vienna Convention, the *travaux préparatoires* are considered to be a "supplementary means of interpretation."

<sup>4</sup> Report of the Third Committee to the 12th Session of the General Assembly, 5 December 1957. A/3764 § 18.

<sup>5</sup> Report of the Secretary-General to the 10<sup>th</sup> Session of the General Assembly, 1 July 1955. A/2929, Chapter VI, §10.

preamble states, '[T]he child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth*.' Article 1 of the CRC defines a child as 'every human being below the age of eighteen years.' This provides an upper limit as to who is a child, but does not provide a lower limit on when the status of 'child' attaches.

7. Providing access to abortion means that more women suffer from abortion-related complications. There are numerous maternal risks associated with abortion. A major study published in the *British Medical Journal* in 2015 concluded that States with 'less permissive' abortion laws 'exhibited consistently lower maternal mortality rates.'<sup>6</sup> Although the study explains these differences in terms of other independent factors rather than in terms of abortion legislation itself, it nevertheless concludes, 'No statistically independent effect was observed for abortion legislation, constitutional amendment or other covariates.'<sup>7</sup> Because abortion legislation has no effect on maternal mortality, abortion need not be legalized to protect women's health. Abortion is further associated with a high risk of haemorrhaging, developing sepsis, and developing injuries to internal organs, including intrauterine perforations.<sup>8</sup> Moreover, abortion can never be safe because it takes the life of the unborn child and harms the mother through the loss of her child. It has also been reported that women who have had abortions are more vulnerable to self-destructive tendencies, depression, and other unhealthy behaviour aggravated by the abortion experience.<sup>9</sup>
8. Therefore, Bahrain must focus on protecting the right to life of the unborn and on helping women get through pregnancy and childbirth safely, rather than on ending pregnancies. Bahrain must protect women, girls, and children and therefore take steps to repeal its liberal abortion law. Bahrain should redirect resources to improve maternal health and medical infrastructure to solve the problem of high maternal mortality rates.

## **(b) The Right to Freedom of Conscience, Thought, and Religion**

### *Background*

9. The Constitution does not explicitly guarantee the right to freedom of thought, conscience, and religion.
10. Article 22's guarantee of the right to freedom of thought, conscience, and religion is very narrow and conditional in that it must be in accordance with the customs observed in the country:

Freedom of conscience is absolute. The State guarantees the inviolability of worship, and the freedom to perform religious rites

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<sup>6</sup> Elard Koch, Monique Chireau, and Fernando Pliego et. al., *Abortion Legislation, Maternal Healthcare, Fertility, Female Literacy, Sanitation, Violence Against Women and Maternal Deaths: A Natural Experiment in 32 Mexican States*, *BMJ OPEN* 2015:5 e006013, doi:10.1136/bmjopen-2014-006013, p. 1.

<sup>7</sup> *Ibid.*

<sup>8</sup> Gunnel Lindell and Folke Flam, *Management of Uterine Perforations in Connection with Legal Abortions*, *ACTA OBSTET GYNECOL SCAND.* (1995) May 74(5):373-5, available at <http://onlinelibrary.wiley.com/doi/10.3109/00016349509024431>.

<sup>9</sup> David C. Reardon, Philip G. Ney, Fritz Scheuren, Jesse R Cogle, Priscilla K Coleman, Thomas W. Strahan, *Deaths Associated with Pregnancy Outcome: A Record Linkage Study of Low Income Women*, *SOUTHERN MEDICAL JOURNAL*, (2002) August, 95(8):834-841.

and hold religious parades and meetings in accordance with the customs observed in the country.

11. Article 2 of the Constitution states that Islam is the religion of the State, and that Islamic sharia law is the main source of legislation.
12. However, while the Constitution does not ensure the right to freedom of thought, conscience, and religion, Article 18 of the Constitution guarantees equality and protects from discrimination based on religion:

People are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the basis of sex, origin, language, religion or creed.

13. In July 2014, the population of Bahrain was estimated at 1.3 million. 51% of the population were foreigners. 99% of the citizens were Muslims, with the remaining 1% Christians, Hindus, Baha'is, and Jews.<sup>10</sup> 75.3% of the total population was Muslim. The Christian population was 8.1% of the total population.<sup>11</sup>
14. Despite the fact that the Constitution does not explicitly guarantee the right to freedom of thought, conscience, and religion, freedom of religion in Bahrain is exceptional in comparison with the situation in other predominantly Muslim countries. However, in certain areas religious minorities continue to be discriminated against or persecuted.
15. Christians and other religious minorities continue to suffer from discrimination and persecution. Because of the ongoing persecution of Christians, Bahrain was ranked 48<sup>th</sup> on the 2016 World Watch List, which ranks the top 50 countries where Christians are most persecuted.<sup>12</sup>

#### *Islamic extremism in Bahrain*

16. The main source of persecution of Christians in Bahrain is Islamic extremism. Reports suggest that ISIS/Daesh is establishing Islamic cells in Bahrain.<sup>13</sup> ISIS/Daesh is an extremely violent group imposing violent religious ideology and not allowing any religious diversity. ISIS/Daesh targets anyone who opposes their ideology. However, religious and ethnic minorities have particularly suffered at the hands of ISIS/Daesh and on a mass scale. The atrocities committed by ISIS/Daesh in the Middle East have been denounced as genocide by the European Parliament, the Parliamentary Assembly of the Council of Europe, the UK House of Commons, the US Congress, US Secretary of State John Kerry, and the Australian Congress. This recognition was based on irrefutable evidence of ISIS/Daesh targeting Christians and other religious minorities for destruction of the groups, in whole or in part.

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<sup>10</sup> International Religious Freedom Report for 2014 United States Department of State, Bureau of Democracy, Human Rights, and Labor, Bahrain 2014, available at: [www.state.gov/documents/organization/238662.pdf](http://www.state.gov/documents/organization/238662.pdf).

<sup>11</sup> Ibid.

<sup>12</sup> Open Doors, The World Watch List 2016, available at: <https://www.opendoorsusa.org/christian-persecution/world-watch-list/bahrain/>.

<sup>13</sup> Reuters, Bahrain charges 24 with trying to set up Islamic State branch in kingdom, available at: <http://www.reuters.com/article/us-mideast-crisis-bahrain-idUSKCN0SF2PM20151021>.

### *Government Practice*

17. Christians and other religious groups (including the Shia Muslim community) are subject to government-imposed limitations on the right to freedom of thought, conscience, and religion.
18. Proselytizing Muslims is illegal. Since the number of compounds is limited, dozens of congregations must use the same buildings. They are not allowed to advertise their services in Arabic, but can do so in English.
19. In February 2014, four people were arrested and charged with defaming Islam.<sup>14</sup> The charges were based on information and images published on social media.
20. Muslim religious groups are required to obtain a licence from the Ministry of Justice and Islamic Affairs, while non-Muslim religious groups are required to register with the Ministry of Social Development.<sup>15</sup> Further registrations may be needed with the Ministry of Education, the Ministry of Culture, the Information Authority, or the Ministry of Interior. Many Christian churches are already registered. However, various Christian groups were refused registration. Similarly, any religious meeting must be authorised. It is illegal to hold a religious meeting without a prior official permit.<sup>16</sup>
21. Religious minorities are allowed to publish and distribute religious materials, so long as such material is not anti-Islam and does not criticize Islam. The media law prohibits anti-Islamic publications and broadcasts. Any such media content is subject to criminal prosecution with a possible sanction of imprisonment for 'exposing the state's official religion for offense and criticism.'
22. Islamic teaching is mandatory for Muslim students. However, non-Muslim students have a right to opt out.

### *Right to freedom of thought, conscience, and religion in international law*

23. The right to freedom of thought, conscience, and religion is affirmed in Article 18 of the ICCPR, and the Human Rights Committee confirmed in its General Comment No.22:

The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief.<sup>17</sup>

24. The Constitution does not guarantee or protect the right to thought, conscience, and religion. Furthermore, some of the government's practices prevent people from professing and practising their faith freely, as guaranteed under international law, in

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<sup>14</sup> (n 10)

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> UN Human Rights Committee, CCPR General Comment No. 22. 1, available at: <http://www.refworld.org/docid/453883fb22.html>.

Article 18 of the ICCPR. This further violates Articles 2 and 26 of the ICCPR, namely, the guarantee of equal rights and freedom from discrimination on the basis of religion, and Article 27, guaranteeing the rights of religious minorities to profess and practise their faith.

25. Bahrain must ensure that government practice does not limit the scope of the right to thought, conscience, and religion, and is in accordance with international standards. Bahrain must ensure that Christians and other religious minorities can freely exercise their right to freedom of thought, conscience, and religion, in their worship, observance, practice, and teaching.
26. Bahrain should continue its exceptional work in trying to guarantee freedom of thought, conscience, and religion for all. In order to do so, Bahrain must ensure that all allegations of violations of domestic criminal law are duly investigated and prosecuted in accordance with due process. Bahrain must protect Christians and other religious minorities from persecution. Bahrain must take steps to combat Islamic extremism on its soil.

### **(c) Recommendations**

27. In view of the above, ADF International recommends the following:
  - Take steps to recognize and follow national and international obligations to protect the right to life from conception to natural death;
  - Work to end abortion in accordance with international obligations to protect the life of the unborn;
  - Introduce additional safeguards on abortion services, e.g., mandatory counselling and waiting periods prior to undergoing abortion;
  - At a minimum, maintain the requirements for obtaining an abortion;
  - Introduce measures to combat the high maternal mortality rates, such as increased prenatal care and availability of trained midwives;
  - Take steps to recognize and follow international obligations to protect the right to freedom of thought, conscience, and religion;
  - Ensure that domestic protections of the right to freedom of thought, conscience, and religion meet international law standards in Article 18 of the ICCPR;
  - Take steps to combat Islamic extremism;
  - Protect religious minorities from persecution and discrimination.