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**Legislative Decree No. (44) of 2018 promulgating the International Crimes Law**

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain.

Having reviewed the Constitution, and in particular Article (38) thereof;

Legislative Decree No. (7) of 1971 approving Bahrain’s accession to the Geneva Conventions signed on August 12, 1949;

Penal Code promulgated by Legislative Decree No. (15) of 1976, as amended;

Legislative Decree No. (16) of 1986 approving Bahrain’s accession to the two additional protocols to the Geneva Conventions of 1949;

Bahrain Defence Force Law promulgated by Legislative Decree No. (32) of 2002;

Military Justice Law promulgated by Legislative Decree No. (34) of 2002, as amended;

Criminal Procedures Law promulgated by Legislative Decree No. (46) of 2002, as amended;

Law No. (19) of 2004 approving the accession of the Kingdom of Bahrain to the two Optional Protocols regarding the involvement of children in armed conflict, the sale of children, child prostitution and child pornography included in the United Nations Convention on the Rights of the Child;

Law No. (58) of 2006 regarding Protection of the Community from the Acts of Terrorism, as amended;

And the Law No. (18) of 2008 approving accession to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, signed in The Hague in 1954, and its two Protocols, signed in The Hague in the years 1954 and 1999;

Upon the proposal of the Prime Minister;

And after the approval of the Council of Ministers;

**Hereby Decree the following Law:**

**Article One**

The attached International Crimes Law shall apply.

**Article Two**

No text in this Law shall be construed or interpreted as ratification or accession to any convention or treaty to which the Kingdom of Bahrain has not yet ratified or acceded in accordance with its own constitutional procedures.

**Article Three**

In interpreting and applying the provisions of this Law, the competent court shall use the relevant treaties and principles of international law, as the case may be.

**Article Four**

The Prime Minister, the Commander-in-chief of the Bahrain Defence Force, and the ministers – each within his jurisdiction – shall implement this Law, and it shall come into force from the day following the date of its publication in the Official Gazette.

**King of the Kingdom of Bahrain**

**Hamad bin Isa Al Khalifa**

**Prime Minister**

**Khalifa bin Salman Al Khalifa**

Issued at Riffa Palace:

On: 15 Muharram 1440 A.H.

Corresponding to: 25 September 2018

**International Crimes Law**

**Chapter One**

**General Provisions**

**Article (1)**

Subject to the rules of jurisdiction stipulated in the Military Justice Law promulgated by Legislative Decree No. (34) of 2002 and the Criminal Procedure Law promulgated by Legislative Decree No. (46) of 2002, the courts of the Kingdom of Bahrain shall be competent to consider the following crimes in accordance with the provisions of this Law:

A) The crime of genocide.

B) Crimes against humanity.

C) War crimes.

D) The crime of aggression.

**Article (2)**

The provisions of this Law shall be applicable in the following cases:

A) If the crime or any of its constituent acts took place in the territory of the Kingdom of Bahrain, its consequences have been realised in it or were intended to be realised therein.

B) If the crime occurs within the areas subject to the authority of the Bahrain Defence Force, wherever found, including ships, aircraft, vehicles, buildings, camps, facilities, deployment areas, manoeuvring zones, forward positions for forces and operation sites.

C) If the accused or the victim is of Bahraini nationality, or is stateless and permanently domiciled in the Kingdom of Bahrain.

D) If the accused or the victim is a member of the Bahrain Defence Force and the crime occurred during, as a result of or in connection with the performance of his duties.

E) If the accused is found on the territory of the Kingdom of Bahrain after the commission of the crime.

**Article (3)**

The provisions regarding the expiration of the criminal lawsuit and the dropping of penalty upon the lapse of the period stipulated in the Criminal Procedure Law or any other law shall not apply to crimes specified in this Law.

**Article (4)**

Attempted crimes set forth in this Law shall be punishable by the penalties prescribed for the complete crime.

**Article (5)**

Anyone who publicly incites the commission of any of the felonies stipulated in this Law and such incitement has no effect, shall be punished by imprisonment for a period not exceeding five years.

**Article (6)**

Every conviction issued against a foreigner for any of the crimes stipulated in this Law shall, by the force of law, entail his permanent deportation from the Kingdom of Bahrain after the execution of the penalty imposed.

**Article (7)**

In all cases, the confiscation shall be ruled of funds and tools that were used or prepared for use in committing any of the crimes stipulated in this Law, without prejudice to in rem rights of bona fide third parties.

**Article (8)**

The provisions of the Penal Code promulgated by Legislative Decree No. (15) of 1976, the Military Justice Law promulgated by Legislative Decree No. (34) of 2002, and the Criminal Procedures Law promulgated by Legislative Decree No. (46) of 2002, shall apply to any matter for which no particular text has been provided in this Law.

**Chapter Two**

**Criminal Liability**

**Article (9)**

The military commander or the person actually acting as the military commander shall be criminally liable for any of the crimes stipulated in this Law committed by forces under his effective command and control or under his effective authority and control, in the following cases:

A) If the military commander or person knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes.

B) If the military commander or person did not take all necessary and reasonable measures within his authority to prevent or suppress the commission of such crimes, or to present the matter before the competent authorities for investigation or prosecution.

**Article (10)**

Regarding the relationship between the superior and subordinates not described in Article (9), the superior shall be questioned about the crimes specified in this Law committed by subordinates under his effective authority and control, if the following conditions are met:

A) If he knew or consciously disregarded any information that clearly indicated that his subordinates were committing or about to commit such crimes.

B) If the crimes are related to activities falling within the scope of the superior’s effective liability or control.

C) If the superior did not take all necessary and reasonable measures within his authority to prevent or suppress the commission of such crimes, or to present the matter to the competent authorities for investigation or prosecution.

**Article (11)**

It shall not be considered a justification for committing one of the crimes specified in this Law, in compliance with an order from a government leader, or chief, whether military or civilian, unless the following conditions are met:

A) The person was under a legal obligation to obey the orders of the concerned government, leader or superior.

B) The person was not aware that the order was unlawful.

C) The unlawfulness of the order was not manifest.

For the purposes of this Article, unlawfulness shall be manifest in the case of an order to commit genocide or crimes against humanity.

**Article (12)**

The reasonable action taken by the defender to defend oneself, another person, or in case of war crimes to defend essential properties necessary for his or another person’s survival, or for defending properties that are indispensable to carry out a military mission against an imminent and unlawful use of force, in a manner that is proportionate to the level of danger threatening the defender, the other person or the properties intended to be protected, all shall be considered a use of the right of legitimate defence.

Similarly, a person’s participation in a defensive operation carried out by forces – in itself – shall not constitute a reason to exempt him from criminal liability under this Article.

**Chapter Three**

**Genocide and Crimes Against Humanity**

**Article (13)**

Anyone who commits any of the following acts with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such shall be liable to the penalty of death or life imprisonment if the act was committed in the context of a pattern of similar and obvious acts directed against that group, or if the act itself would cause such destruction:

A) Killing members of the group.

B) Causing serious bodily or mental harm to members of the group.

C) Deliberately inflicting on the group living conditions meant to bring about its physical destruction in whole or in part.

D) Imposing measures intended to prevent births within the group.

E) Forcibly transferring children of the group to another group.

**Article (14)**

Anyone who commits any of the following acts, when committed as part of a widespread or systematic attack directed against any civilian population pursuant to a State or organisational policy of promoting or actively encouraging such attack, or promoting such policy, with knowledge of the attack, shall be punished by death or life imprisonment:

A) Murder.

B) Extermination, which shall include the intentional infliction of living conditions, inter alia the deprivation of access to food and medicine, meant to bring about the destruction of a part of the population.

C) Rape, indecent assault, sexual slavery, enforced prostitution, enforced sterilisation, forced pregnancy or any other form of sexual violence of comparable gravity.

Enforced sterilisation means depriving the victim of the biological capacity to reproduce, without medical justification or treatment that the person concerned receives and with his genuine consent. Forced pregnancy means the unlawful confinement of a woman forcibly made pregnant and giving birth, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.

**Article (15)**

Every person who commits any of the following acts under a widespread or systematic attack directed against any civilian population pursuant to a State or organisational policy of promoting or actively encouraging such attack, or promoting such policy, and knowingly of such attack, shall be punished by life or temporary imprisonment:

a) Enslavement, which involves exercising any form of the right of ownership over a person, imposing deprivation of liberty or an equivalent of it, or exercising such authority for the purpose of trafficking in persons, in particular women and children.

B) The deportation or forcible displacement of population from the area in which they are lawfully present, whether by expulsion or any other coercive act, to another State or territory in violation of the provisions of the laws in force.

C) Imprisonment or severe deprivation of physical liberty in any other manner, unlawfully and in violation of the provisions of the laws in force.

D) Torture, the intentional infliction of severe pain or suffering, whether physical or mental, upon a person held or under the control of the accused., which does not include pain or suffering arising from, inherent in, or incidental to, lawful sanctions.

E) Persecution, by intentionally and severely depriving any identifiable group or population of fundamental rights because belonging to a particular community or group, or to target such a community or group in that capacity, for political, racial, national, ethnic, cultural, religious, gender-based reasons or any other reasons, and in violation of the laws in force, when such deprivation is associated with any other crime specified in this Law.

F) Enforced disappearance by arrest, abduction, or detention of one or more persons on by, or with the authorisation, support, or acquiescence of a State or a political organisation, with knowing that such action shall be followed, in the ordinary course of events, a refusal by the State to acknowledge the deprivation of liberty or to give information on his fate or whereabouts of such person or persons, or by a refusal by the State or political organisation – after or during – to acknowledge such arrest, detention or abduction, with the knowledge thereof, whenever it is for the purpose of depriving this person or persons for a prolonged period of time of the protection guaranteed by the Law.

G) Apartheid, by committing any inhumane acts of a character similar to those referred to in this Chapter, committed in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.

H) Other inhumane acts of a similar character to the acts stipulated in this Chapter, intentionally causing great suffering or serious harm to the body or mental health.

**Chapter Four**

**War Crimes**

**Section One**

**General Provisions**

**Article (16)**

In applying the provisions of this Chapter, the persons protected mean:

A) **In International Armed Conflicts**: The persons protected by the Geneva Conventions of 1949, and the First Additional Protocol of 1977.

B) **In Non-International Armed Conflicts**: The persons included in the Common Article Three protection of the Geneva Conventions of 1949, and the Second Additional Protocol of 1977.

**Article (17)**

In applying the provisions of this Chapter, situations of internal disturbances and tensions, such as riots, isolated or sporadic acts of violence, and other acts of a similar nature, shall not be considered to be non-international armed conflicts.

**Section Two**

**War Crimes Involving the Use of Prohibited Methods and Means of Warfare**

**Article (18)**

Anyone who intentionally commits any of the following acts, in the context of and in connection with an international or non-international armed conflict, shall be punished by death or life imprisonment:

A) Killing or treacherously wounding members of an enemy State, army, or combatant by one of the unlawful means of deception and in violation of the international law.

B) Launching an attack which would cause incidental loss of life or injury to civilians, cause damage to civilian property or widespread, long-term, and severe damage to the environment, and which would be disproportionate to the specific military advantages to be achieved by such attack.

C) Using poison or poisoned weapons.

D) Using asphyxiating, toxic , or other gases and all similar liquids, materials or devices.

E) Using bullets that expand or flatten easily in the human body, especially solid-jacketed bullets that do not cover the entire bullet body or hollow-point bullets.

F) Using weapons, missiles, materials or methods of warfare of a nature to cause superfluous damage, unnecessary suffering or to be inherently indiscriminate, in violation of the provisions of the international law applicable in armed conflicts, provided that such weapons, missiles, materials and methods of warfare shall be prohibited.

**Article (19)**

Anyone who intentionally commits any of the following acts, in the context of or in connection with an international or non-international armed conflict, shall be punished by temporary or life imprisonment:

A) Intentionally directing attacks against civilian populations as such, or against civilian individuals not taking direct part in war actions.

B) Directing attacks against civilian sites or protected property that are not military targets, in particular buildings intended for religious, educational, scientific or charitable purposes, historic monuments, works of art, hospitals and places where the sick and wounded are collected.

C) Attacking or bombarding unprotected cities, villages, dwellings or buildings that are not military targets.

D) Exploiting the presence of a civilian or other protected person to extend immunity from military operations to certain points, areas, or military forces.

E) Starving civilians as a warfare method by depriving them of subsistence items indispensable to their survival, or by obstructing relief supplies in violation of international humanitarian law.

F) Declaring or ordering that no one shall remain alive while in command or effective control of his forces with a view to threatening the enemy or conducting hostilities on that basis.

G) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians concerned or imperative military necessity so requires. Death penalty or life imprisonment shall be the penalty inflicted if the act results in the death of one or more persons.

**Section Three**

**War Crimes Against Persons**

**Article (20)**

Anyone who intentionally commits any of the following acts, in the context of and in connection with an international or non-international armed conflict, shall be punished by death or life imprisonment:

A) Knowingly killing a protected person.

B) Subjecting a person under the authority of a hostile party to physical mutilation or to any kind of medical or scientific experiment which does not justify medical treatment, is not carried out for the benefit of that person and which has caused his death or seriously endangered his health.

C) Rape, indecent assault, sexual slavery, enforced prostitution, enforced sterilisation, forced pregnancy, or any other form of sexual violence of comparable gravity and in violation of international law.

D) Killing or wounding a combatant who has laid down his arms and no longer has a means of defence, having surrendered at discretion or being outside the scope of the combat operations.

E) Issuing a death sentence or carrying out a death sentence against one or more protected persons with knowledge thereof, without prior trial by a competent court, before which all judicial and procedural guarantees guaranteed by law shall be observed.

**Article (21)**

Anyone who knowingly commits any of the following acts, in the context an international or non-international armed conflict and connected to it, shall be punished by life imprisonment or imprisonment for a period of not less than ten years:

A) Torture or inhumane treatment of a protected person by inflicting severe physical or psychological pain.

B) Intentionally cause great suffering or serious injury to the body or health of a protected person.

Death penalty or life imprisonment shall be the penalty inflicted if the act results in the death of one or more persons.

**Article (22)**

Anyone who knowingly takes a protected person hostage, in the context of and in connection with an international or non-international armed conflict, shall be punished by life or temporary imprisonment.

Death penalty or life imprisonment shall be the penalty inflicted if the act results in the death of one or more persons.

**Article (23)**

Anyone who knowingly conscripts children under the age of eighteen into the armed forces, mandatory or voluntary, or uses them to participate actively in hostilities, in the context of and in connection with an international or non-international armed conflict, shall be punished by life imprisonment or imprisonment for a period of not less than ten years.

Death penalty or life imprisonment shall be the penalty inflicted if the act results in the death of a conscripted child.

**Article (24)**

Anyone who intentionally and knowingly commits any of the following acts, in the context of an international or non-international armed conflict and connected to it:

A) The deportation, transfer, or forcible removal of a person from his habitual residence to another State or place in violation of the provisions of the law.

B) Compelling any protected person who is a national of the enemy State to participate in military operations directed against that person’s State or armed forces.

C) Depriving any protected person of a fair trial before which all judicial guarantees are observed.

D) Transferring certain civilian populations from the occupying power to the occupied territory.

E) Detaining one or more protected persons without lawful cause, or unduly disrupting their repatriation.

**Article (25)**

Anyone who knowingly attacks the dignity of a protected person, in particular humiliating and degrading treatment, in the context of and in connection with an international or non-international armed conflict, shall be punished by imprisonment.

**Section Four**

**War Crimes Against Properties and Other Rights**

**Article (26)**

Any person who intentionally commits any of the following acts, in the context of and in connection with an international or non-international armed conflict, shall be punished by life or temporary imprisonment:

A) Seizing the public or private properties of the adverse party, unless necessary for military action.

B) Causing extensive destruction to the properties of the adverse party, unless necessary for military action.

C) Declaring that the rights and actions of the nationals of the adverse party shall be extinguished, suspended, or inadmissible before any court.

**Section Five**

**War Crimes Against Humanitarian Operations and Protection Emblems**

**Article (27)**

Anyone who intentionally commits any of the following acts, in the context of and in connection with an international or non-international armed conflict, shall be punished by life or temporary imprisonment:

A) Intentionally directing attacks against persons, facilities, materials, units or vehicles involved in a humanitarian assistance or peacekeeping mission, in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian sites under the international law.

B) Launching attacks against buildings, materials, medical units, means of transport and persons using the emblems and distinctive signs of protection provided for in the Geneva Conventions of 1949.

Death penalty or life imprisonment shall be the penalty inflicted if the act results in the death of one or more persons.

**Article (28)**

Anyone who misuses the flag of truce, the enemy’s flag, military emblem, uniform or the United Nations’ flag, emblems or military uniform, as well as the emblems and distinctive signals of protection provided for in the Geneva Conventions of 1949, in a manner that results in serious injuries to individuals or to the public or private properties, in the context and with knowledge of an international or non-international armed conflict and connected to it, shall be punished by imprisonment.

Death penalty or life imprisonment shall be the penalty inflicted if the act results in the death of one or more persons.

**Article (29)**

In cases other than those provided for in Article (28) of this Law, and without prejudice to any harsher penalty provided for in any other law, whoever knowingly uses, in cases not allowed by law, any of the distinctive emblems or signals of protection provided for in the Geneva Conventions of 1949, for any purpose for such use, shall be punished by imprisonment.

The Council of Ministers, upon the proposal of the Minister of Defence, shall issue a decision regulating the use of the protective emblems and signals provided for in the Geneva Conventions of 1949.

**Chapter Five**

**The Crime of Aggression**

**Article (30)**

In applying the provisions of this Chapter, “act of aggression” shall mean the use of armed force by one State against the sovereignty, territorial integrity, or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Additionally, any of the following acts shall be considered an act of aggression, whether by declaration of war or not:

A) The armed forces of one State invading or attacking the territory of another State, any military occupation – even if temporary – resulting from such invasion or attack, or any annexation of the territory of another State or part of it by the use of force.

B) The armed forces of one State bombarding the territory of another State, or one State using any weapons against the territory of another.

C) The armed forces of another State imposing a blockade on the ports or coasts of one State.

D) The armed forces of one State attacking the land, sea or air forces of another State.

E) The act of one State using its armed forces located within the territory of another State, and with the latter’s consent, in a manner that contradicts with the conditions specified in the Convention, or any extension of their presence in the mentioned territory beyond the end of the Convention.

F) Permission by a State which has placed its territory at the disposal of another State, to be used by the latter for the commission of an act of aggression against a third State.

G) Sending of bands, armed groups, irregular forces, or mercenaries by one State under its own name to engage in acts of armed force against another State, which are of such gravity as to amount to the acts mentioned in this Article, or the State’s tangible involvement in such actions.

**Article (31)**

Any person who, in a position to effectively control or direct the political or military action of the State, plans, prepares, launches or carries out an act of aggression which – by its characteristics, gravity, and scope – is in clear violation of the Charter of the United Nations, shall be punished by death or life imprisonment.