



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

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## Committee against Torture

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Item 7 of the provisional agenda

Consideration of reports submitted by States parties  
under article 19 of the Convention

## List of issues in relation to the second periodic report of Saudi Arabia

Addendum

## Replies of Saudi Arabia to the list of issues\*

[Date received: 2 February 2016]

## Replies of the Kingdom of Saudi Arabia to the list of issues (CAT/C/SAU/Q/2/Add.1) in consideration of its second periodic report (CAT/C/SAU/2)

### Preamble

1. This document contains the Kingdom of Saudi Arabia's replies to the list of issues raised by the Committee against Torture at its 56th session (9 November-9 December 2015) in document no. CAT/C/SAU/Q/2/Add.1. It should be noted that numerous legislative and procedural measures designed to promote human rights principles and safeguards, including the rights guaranteed by the Convention, have been adopted, while others have been updated. These measures will be reviewed in the course of replying to the list of issues. The most significant measure is the promulgation of the new Code of Criminal Procedure pursuant to Royal Decree no. M/2 (26 November 2013). A list of the articles in the Kingdom's second report which have been amended or re-numbered in the new code is annexed, alongside the paragraphs relating thereto in the report. Furthermore, the implementing regulations for the Code of Criminal Procedure were promulgated pursuant to Decree of the Council of Ministers no. 142 (12 January 2015). For the purposes of consideration of the Kingdom's second report (CAT/C/SAU/2) by the 57th session of the

\* The present document is being issued without formal editing.



Committee against Torture in April 2015, the Kingdom is submitting a document containing the amended provisions of the code which are referred to in the report. The Kingdom requests the esteemed Committee to adopt and publish these as an annex to the report and this memorandum. There follow the Kingdom's replies to the list of issues, in the same order as in the document.

#### **Reply to paragraph 1 of the list of issues**

2. To underline the point made by the Kingdom in the report, torture is a criminal offence, punishable under the provisions of the Islamic Shariah, and the laws of the Kingdom forbid all forms of torture. For example, article 2 of the Code of Criminal Procedure forbids causing bodily or moral harm to a person under arrest or subjecting him to torture or degrading treatment. Royal Decree no. 43 (16 June 1958) provides for a sentence of up to ten years imprisonment for an official who is proven to have engaged in abuse or coercion, such as torture or cruel treatment, while in office; this includes imposition of exemplary punishment. It further stipulates that anyone who has suffered harm shall have the right to appropriate compensation.

3. The legal framework embraces the definition of torture provided in article 1 of the Convention to promote and protect human rights in the Kingdom given that — with the Kingdom's accession thereto — the Convention has become an integral part of the country's domestic law that may be advanced in argument before the courts. The Kingdom's accession to conventions proceeds by means of the same statutory device as that by which national legislation is promulgated (i.e. royal decree), in accordance with article 70 of the Basic Law of Governance. This principle is affirmed by the procedures for contracting international conventions adopted by Decree of the Council of Ministers no. 287 (26 June 2010), particularly article 11, paragraph 1 thereof, which stipulates that the competent authorities must, on its entry into force, take the necessary measures to implement the Convention so as to guarantee fulfilment of the Kingdom's ensuing obligations. Moreover, instructions issued by the head of the Bureau of Investigation and Public Prosecution (the public prosecution service) are grounded in the concepts and definitions enshrined in the conventions and protocols to which the Kingdom is a party. Furthermore, article 5 of the statute of the Human Rights Commission provides for the ongoing review of laws to determine the extent of their compliance with the Kingdom's commitment to international human rights standards. A draft penal law to address crimes of abuse of power, including torture, is currently under study; the bill complies with the definition of torture in article 1 of the Convention.

#### **Reply to paragraph 2**

4. No authority in the State has the power to modify or suspend the physical punishments prescribed for crimes of *qisas* (murder and assault) and crimes of *hudud* (those for which there are specified penalties in the Quran and Sunna), as these are categorically provided for in the Islamic Shariah, with no leeway for interpretation. These punishments are confined to certain defined crimes, with particular methods of proof. However, judicial opinion tends toward waiving *hadd* punishment on the basis of the legal principle of "seek doubts to avoid punishment" and pardon may be issued by one or more of the next of kin in *qisas* cases, as their incontestable personal right. In *tazir* cases, the Shariah leaves the appropriate punishment out of a number of possible punishments to the discretion of the judge, taking into consideration the objective and personal circumstances of the crime. Furthermore, a parent or guardian is accorded the right to grant pardon. A number of specific penal laws contain a provision covering certain *tazir* offences; these include the laws combating narcotics and psychotropic substances, information technology crimes, money laundering, arms and ammunition, counterfeiting, human trafficking bribery and other penal laws.

5. Royal Decree no. A/20 (29 November 2014) was promulgated, providing for the formation of a committee responsible for preparing a compendium of judicial provisions on legal topics relevant to the judiciary, classified in accordance with the categories of Islamic jurisprudence. The draft compendium is to cover the recording and codification of crimes and punishments.

6. The punishments provided for under the Islamic Shariah do not fall under the definition of torture as understood by article 1 of the Convention. Note that the administrative authorities in the Kingdom are not empowered to impose corporal punishment.

### **Reply to paragraph 3**

7. The reference in the Kingdom's report covers crimes classified as torture of which military and civilian law enforcement personnel have been accused in consequence of the nature of the duties and responsibilities assigned to them within the framework of the Kingdom's laws, particularly Royal Decree no. 43 (1958).

### **Reply to paragraph 4**

8. As made clear in the report, all prisons and detention facilities are subject to inspection by executive and judicial bodies. Under article 38 of the Code of Criminal Procedure and article 25 of its implementing regulation, promulgated pursuant to Decree of the Council of Ministers no. 142 (12 January 2015), the Bureau of Investigation and Public Prosecution can visit and inspect prisons and detention facilities at any time, communicate directly with inmates and detainees and hear their complaints. In implementation of article 40 of the Code of Criminal Procedure, the Bureau has facilitated the receipt of complaints by anybody by all means of communication, including via its own website and social media accounts, as well as by telephone, post and in person. Under article 39 of the Code, all prisoners and detainees have the right to file a written or verbal complaint at any time with the warden of the prison or detention facility and request that he communicate it to a member of the Bureau of Investigation and Public Prosecution. The warden shall accept the complaint, promptly communicate it after recording it in the designated logbook, and provide the person making the complaint with an acknowledgement of receipt. Under article 119 of the Code, a lawyer may visit his client at any time. Article 25 of the above-mentioned implementing regulation for the Code of Criminal Procedure states the following:

- All places of detention, imprisonment and the like shall be subject to supervision and inspection by the Bureau of Investigation and Public Prosecution;
- The administration of the place of detention shall submit a daily report to the Bureau giving the names of detainees, times of detention, reasons for detention and the period each has spent in detention;
- The administration of the prison or place of detention shall ensure that the register of the prison or detention facility mentioned in article 38 of the Code of Criminal Procedure contains the name of the prisoner or detainee — as appropriate — date and term of imprisonment or detention, number and date of the judgement convicting him, number and date of the detention order or prison sentence and the body which ordered it;
- The records referred to in article 38 may be paper or digital; communication with prisoners and detainees shall be conducted and their complaints heard by any appropriate means as determined by the Bureau.

Article 37<sup>1</sup> of the Code of Criminal Procedure forbids the administration of a prison or detention facility from admitting any person without a warrant showing cause and valid for a limited time, signed by a competent body. No person shall be held in detention after expiry of the period specified in the warrant. Anyone knowing of a person being imprisoned or detained unlawfully or in a place not intended for imprisonment or detention shall report this orally or in writing, even if the informant has no interest in the matter. In accordance with article 27 of the implementing regulation for the Code of Criminal Procedure, a procès-verbal shall be prepared, containing the personal details of the informant and substance of the report made.

9. As regards disciplinary sanctions and further to paragraphs 57, 58, 59, 60 and 61 of the report, military personnel are held accountable under the Internal Security Forces Code. Regarding civilian officials, article 32 of the Personnel Disciplinary Code sets out the penalties to which offending officials are subject, up to and including dismissal, without prejudice to the filing of a criminal or civil suit under article 31 of the Code. In this context, it should be stressed that no law enforcement personnel are beyond accountability if they commit abuse or violate the safeguards provided by the law to detainees and inmates. The supervision exercised by the Bureau of Investigation and Public Prosecution, the Human Rights Commission and the National Society for Human Rights of prisons and detention facilities by the means mentioned in the report and this memorandum, constitutes a guarantee that there is no escape from punishment.

10. The updated Code of Criminal Procedure was promulgated pursuant to Royal Decree no. M/2 (26 November 2013) and contains a number of additional guarantees to strengthen the rights of detainees and inmates. Article 4 stipulates:

- An accused person shall have the right to seek the assistance of a lawyer or a representative to defend him during the investigation and trial stages;
- The regulations of this Code shall set out the rights of the accused, of which he must be informed.

Article 22 of the implementing regulations for the Code of Criminal Procedure stipulate that, upon arrest or detention, the accused must be informed of the following:

- The reasons for his arrest or detention;
- His right to seek the assistance of a lawyer or a representative to defend him during the investigation and trial stages;
- His right to contact a person of his choice to inform him of his detention.

The signature of the accused is taken as indicating his awareness of the above rights. If he refuses to sign, a note is made. In 2015, instructions were issued by the head of the Bureau of Investigation and Public Prosecution requiring case papers to contain notice that the accused has been informed of his rights. Furthermore, article 23 of the implementing regulation stipulates that a detainee shall be allowed to contact a person of his choice to inform him of his detention.

11. Article 115 of the Code stipulates that, upon the detention of the accused, the original text of the detention warrant shall be delivered to the director of the detention facility, who shall sign a copy of the warrant as an acknowledgement of receipt. As a precaution, the accused may lodge a complaint against an order to detain him or an order to extend his detention. The complaint is to be submitted to the head of the investigation department or branch to which the investigator is attached or the head of the Bureau, as appropriate, and will be adjudged with five days from date of submission. Article 139 of the

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<sup>1</sup> Article 39 (?) — see referenced version.

Code stipulates that, in major crimes, the accused shall appear personally before the court, without prejudice to his right to seek legal assistance. If he lacks the financial means to seek the assistance of a lawyer, he may ask the court to appoint one to defend him at the State's expense, as stated in the regulations. As to other crimes, he may be represented by a representative or a defence attorney. In all cases, the court may issue an order for the personal appearance of the accused.

12. As regards monitoring the provision by officials of safeguards for persons deprived of their liberty, information on inmates and detainees is recorded in special registers. Article 21 of the implementing regulation for the Code of Criminal Procedure stipulates that the arrest warrant referred to in articles 33 and 35 of the Code must contain the date of the warrant, the name and position of the person issuing it, the full name of the accused (to avoid him being mistaken for another), the charge against him and any information available on his occupation, together with his place of resident and nationality.

13. Accordingly, each prison and detention facility holds records containing information on each person held there, including: name of prisoner or detainee, date and time of admission, case, period of imprisonment or detention, the body which issued the warrant for his detention (if a detainee) and the legal grounds for his detention. Furthermore, prisons and detention facilities have health centres where a full examination of the health of detainees or inmate is conducted. It is worth noting that these records are subject to constant review by the Bureau of Investigation and Public Prosecution. The Bureau employs an advanced electronic system in which all investigation procedures, full details on the accused and accusation and detention documents and measures are entered. The automatic monitoring of procedures helps to enhance control and ensure the soundness of the procedures, including the legitimacy of periods of detention. The investigator, head of department and head of the Bureau are notified automatically of any accused person whose statutory period of detention is on the point of ending so that the necessary measures can be taken to extend his detention or release him.

14. Interrogation is an aspect of investigation that is hedged with numerous safeguards. According to articles 13, 34 and 66 of the Code of Criminal Procedure, only staff of the Bureau of Investigation and Public Prosecution may conduct interrogations; they are not allowed to delegate the job to police officers. According to article 102, interrogation is only to be conducted at Bureau headquarters. The Bureau has completed the first stage of installing closed circuit television cameras to record in sound and pictures what transpires in investigation offices during interrogations. This equipment is used to provide documentary evidence, if the Bureau monitors or receives complaints of abuse or torture.

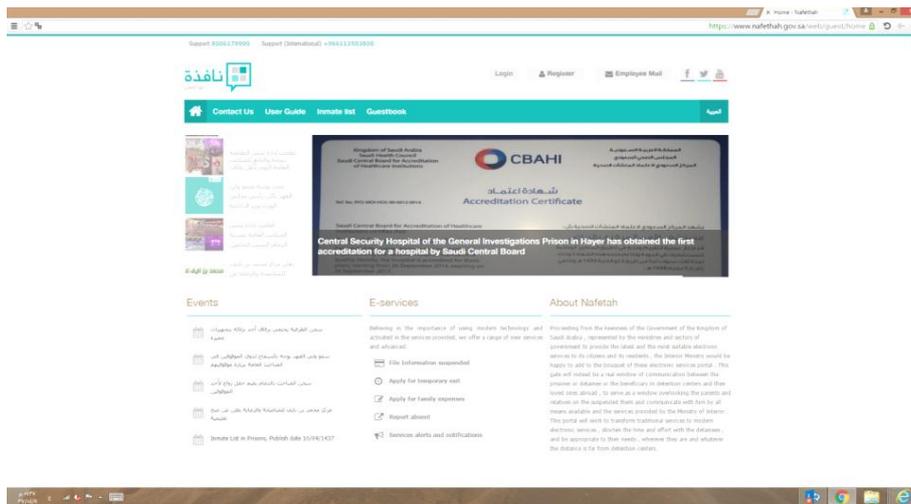
15. The accused's right to appoint a lawyer is guaranteed under the Code of Criminal Procedure, as mentioned in the report and this memorandum. An accused person who claims to have been deprived of this right may resort to means of redress — principally the judiciary and competent bodies, such as the Bureau of Investigation and Public Prosecution, the Human Rights Commission and the National Society for Human Rights — by submitting a complaint in writing, visiting these bodies or submitting it to their permanent offices located in prison. To facilitate this, article 71 of the implementing regulation for the Code of Criminal Procedure requires the investigator to note in a special record the accused's appointment of a lawyer at the investigation stage. Bureau instructions oblige investigators to enforce this article, if the accused is in detention. As was made clear in the report and this memorandum, there is no crime and no punishment in the absence of legal provision, and only acts committed subsequent to statutory provision can be punished, as stated in article 38 of the Basic Law of Governance.

16. The General Directorate of Prisons has established departments of human rights inside prisons, reporting directly to the general director of prisons, as an administrative

measure to foster awareness among directorate staff of the rights and safeguards relating to their jobs and to confront and address abuses in accordance with the law.

**Reply to paragraph 5**

17. The information requested on the numbers of detainees in al-Mabahith prisons and the measures taken regarding them is available for all to see on the website established for this purpose at [www.nafethah.gov.sa](http://www.nafethah.gov.sa), where information is updated daily. Services offered by this site include: presentation of data and information on all detainees or a particular detainee, digital communication between detainees and their relatives, visitation requests, application for furlough, submission of requests for family expenses, notifications and announcements, complaints and suggestions, news and relevant events.



18. It is worth noting that article 5 of the Penal Law for Crimes of Terrorism and its Financing specifies a period of detention of not more than six months, which may be extended by the investigating body for a further six months, if required by the investigation procedures. In cases where a longer period of detention is required, the warrant is sent to the competent court to decide as it sees fit regarding extension. In common with other prisons and detention facilities, al-Mabahith prisons and detention facilities are subject to monitoring by the judicial and executive authorities, as explained in this memorandum.

19. Information on the whereabouts of detainees and prisoners in al-Mabahith prisons and detention facilities are available to all via the website ([www.nafethah.gov.sa](http://www.nafethah.gov.sa)) mentioned in paragraph 17 and other media. Like other prisoners and detainees, those held by al-Mabahith enjoy all the safeguards guaranteed by the Code of Criminal Procedure, as made clear in the report and this memorandum. Visits are allowed by the relatives of detainees and prisoners and their representatives and a number of measures designed to facilitate visits have been taken, such as submitting requests via the website ([www.nafethah.gov.sa](http://www.nafethah.gov.sa)). In addition to the safeguards mentioned in the report and this memorandum, no prisoner or detainee is denied the right to receive visitors and to appoint a lawyer and communicate with him.

**Reply to paragraph 6**

20. The Specialized Criminal Court was set up by decree of the Supreme Council of the Judiciary in accordance with judicial regulations on establishing, determining territorial and subject jurisdiction, amalgamating and abolishing courts. The establishment of this court was one measure taken to promote complete justice within the

Kingdom's general judicial system. The Penal Law for Crimes of Terrorism and its Financing, promulgated by Royal Decree no. M/16 (27 December 2013) adopts the principle of fighting crimes of terrorism while protecting human rights. It defines terrorist crime as any act committed by an offender in furtherance of a criminal enterprise, whether individually or collectively, directly or indirectly, intended to disturb public order or undermine the security of society and stability of the State or endanger national unity, jeopardize the Basic Law of Governance or any part thereof, defame the reputation or position of the State, cause damage to a State facility or its natural resources, or which attempts to compel State authorities to take or refrain from taking certain action or which threatens to take action resulting in the said aims or incites to such action. Article 40 of the Penal Law for Crimes of Terrorism and its Financing states that the provisions of the Code of Criminal Procedure shall apply in cases where there is no specific provision in the terrorism law. Accordingly, the latter does not affect the fundamental safeguards contained in the Code of Criminal Procedure. The number of persons convicted in terrorism cases is shown on the aforementioned website.

21. The periods which detainees spend in pre-trial detention and the conditions of their detention are governed by the relevant laws of the Kingdom, including the Penal Law for Crimes of Terrorism and its Financing. As noted in article 18 of this memorandum, article 5 of the terrorism law specifies the periods of detention which the investigating body is competent to impose and the extensions granted by the Specialized Criminal Court. Facilities in prisons and detention facilities meet the standards stipulated in the conventions, including this Convention, to which the Kingdom is a party. Inmates enjoy the safeguards guaranteed by law and a number of legislative and procedural measures designed to give effect to these safeguards have been taken. These include receipt of complaints by the Bureau of Investigation and Public Prosecution, the Human Rights Commission and the National Society for Human Rights, as well as other measures mentioned in the report and this memorandum.

22. The measures and procedures adopted by the Specialized Criminal Court to ensure that suspects enjoy legal safeguards and a fair trial are the same as those adopted by the other criminal courts and are set out under the regulations to uphold the rights of the accused. The most significant of these are: confronting the accused with the charge and the evidence; examination of all the details of the case; the right of the accused to seek the assistance of a lawyer; the right of the accused to contact a person of his choice; a public trial; the presumption of innocence; safeguards relating to periods of detention; and other safeguards guaranteed by the judicial system, including the Code of Criminal Procedure, such as the provision of a lawyer at State expense, if the accused lacks the financial means.

23. There is no contradiction between the measures relating to fighting terrorism and its financing, and the Kingdom's efforts to prevent torture and abuse. These measures are consistent with the standards of fair trial — as noted — and, should any such practice occur, the regulations and procedures ensure that it will be challenged and the victim given redress and compensation, as explained in the report and this memorandum.

#### **Reply to paragraph 7**

24. To underline what was stated in paragraphs 173-174 of the report with regard to the Commission for the Promotion of Virtue and Prevention of Vice, the Commission is a government agency which reports to the prime minister and performs specific tasks in accordance with the provisions of its statute. Members of the Commission are public officials, not voluntary workers. Those who enjoy the capacity of enforcement officers (station heads) are subject in their work to the provisions of the Code of Criminal Procedure, in accordance with article 25 thereof, as previously explained in the report. To ensure that members of the Commission work in accordance with the provisions of the Convention

against Torture and prevent violations thereof, the Commission has established special departments to monitor field activity. Furthermore, the Commission has departments charged with hearing complaints relating to these violations. Under the said article, members of the Commission are subject to supervision by the Bureau of Investigation and Public Prosecution in matters relating to their enforcement functions. The Commission has its own human rights department. It should be noted that, in common with other law enforcement officers, members of the Commission are not above being held criminally accountable and subject to disciplinary action.

25. The number of arrests made by the Commission during the reporting period are included in the report and this memorandum. All persons arrested by the Commission are handed over immediately to the competent authority.

#### **Reply to paragraph 8**

26. Further to paragraph 15 of the report and in order to reinforce the independence of the Human Rights Commission, a number of measures have been taken to guarantee fully independent performance by the Commission of the duties with which it is charged under its statute. These include promulgation of Royal Order no. MB/3507 (30 May 2006), requiring government bodies to cooperate with the Commission by providing the information it requests on the complaints and grievances received by it within two or, at most, three weeks from the date of receiving the request. It should be noted that a restructuring of the Human Rights Commission to enhance its role is currently being studied.

#### **Reply to paragraph 9**

27. Promulgated in 2007, the new Judiciary Act sets out the powers of the Supreme Council of the Judiciary, granting it authority over courts and judges (article 6) and assigning it its own budget (article 8). Any judicial authority the minister of justice had was abolished under the Code of Criminal Procedure (2013).

28. The Judiciary Act opens by stipulating the independence of the judiciary (article 1). Article 2 affirms that judges may only be dismissed in those cases stated in the Act. Article 3 stipulates that judges may only be transferred to other jobs with their consent or by reason of promotion in accordance with the provisions of this law; according to article 49, a decree to this effect has to be issued by the Supreme Council of the Judiciary. Article 6 limits scrutiny of the official affairs of judges in terms of appointment, promotion, assignment, secondment, training, transfer, leave, termination of service etc. to the Supreme Council of the Judiciary. Appointment and promotion at the various levels of the judiciary shall be by royal order, pursuant to a decision of the Supreme Council of the Judiciary. Article 69 determines the cases in which the service of members of the judiciary may be terminated, while article 66 covers the disciplinary sanctions which may be imposed on a judge, including termination of service which, according to article 67, shall be implemented by royal order, on the grounds that the King, in accordance with article 44 of the Basic Law of Governance, is the source of all authority in the State. This does not represent a violation of the independence of judges as article 46 of the Basic Law states that judges shall be independent and subject to no authority save that of the Islamic Shariah. There are no women working as judges in the Kingdom.

29. Further to paragraph 33 of the report, the Human Rights Commission — through its monitoring of trial proceedings — ensures that trials are conducted in accordance with the tenets of Shariah and civil law and the principles and rules of fair trial and that convicts receive the proper legal safeguards. In the course of this monitoring, no violation or abuse relating to the independence of the judiciary was observed. However, a number of negative points were noted, such as the entry of several accused persons into the courtroom in chains

and the failure of a number of accused to receive a charge sheet, as well as other practices, which were immediately addressed. On the other hand, the Commission confirmed adherence to the stipulation regarding safeguards of fair trial, including the principle of public sessions with trials attended by relatives of the accused, victims, representatives of the National Society for Human Rights, the media and rights activists.

### Reply to paragraph 10

30. Rape is a crime under the Islamic Shariah and demands the maximum penalty as it represents an assault on honour, which is one of the five essentials the Shariah seeks to protect. As such, it is classified as a major crime under the Code of Criminal Procedure. In affirmation of the substance of paragraphs 11 and 156 of the report, domestic violence, including sexual violence, is a crime punishable under the Protection from Abuse Act. This Act is intended to ensure that the necessary statutory measures are taken to hold to account and punish criminally persons convicted of committing abuse; ensure protection is provided from all forms of abuse; offer treatment and assistance to victims, providing them with shelter and social, psychological and health care; spread awareness among members of society of the effects of abuse; address the behavioural phenomena in society which portend an environment conducive to abuse; and create scientific and practical mechanisms for dealing with abuse. Article 1 of the Act defines abuse as all forms of exploitation or physical, psychological or sexual abuse or the threat thereof committed by one person against another and overstepping the bounds of the former's guardianship, authority or responsibility over the latter or the bonds of family relationship or relationship of support, sponsorship, tutelage or dependency. The law also classifies as abuse the failure or refusal of a person to meet his obligations and commitments to provide for the basic needs of the members of his family or those whose needs he is legally or statutorily obliged to provide for.

31. The Child Protection Act, promulgated by Royal Decree no. M/14 (25 November 2015), is intended to reaffirm the stipulations of the Islamic Shariah, statutory law and the international conventions to which the Kingdom is a party with respect to safeguarding the rights of children, protecting them from all forms of abuse and neglect, providing them with the requisite care, and spreading awareness of and defining the rights of the child, particularly those linked to protecting children from abuse and neglect. The Act covers all forms of the abuse or exploitation of children or the threat thereof, including physical, psychological and sexual abuse.

32. The Ministry of Social Affairs has allocated a toll-free number for receiving abuse-related complaints. Between 2009 and 2013, a total of 8,068 reports of abuse were received, representing an average of 1,614 per annum; 469 victims were given shelter (an average of 99 cases per annum). In 2014, there were 5,180 reports, with 210 victims given shelter. In 2015 there were 7,234 reports, with 368 victims given shelter.

33. The Bureau of Investigation and Public Prosecution investigated a number of cases of rape and domestic violence and the following table contains statistics on these cases:

<i>Charge</i>	<i>Number</i>	<i>Time period</i>
Rape	631	April 2008-October 2005
Trafficking in children	15	May 2008-October 2005
Adult abuse	40	June 2008-October 2005
Trafficking in women	72	May 2009-October 2005
Child abuse	766	Jan. 2008-October 2005

34. As regards the number of shelters available to women, there are 12 social protection units and three child protection homes. Contracts have been entered into with charities to open social protection homes.

**Reply to paragraph 11**

35. In addition to the responsibility it has assumed to protect and promote human rights, the Government of the Kingdom supports associations and institutions concerned with protecting human rights or specific areas thereof, as well as persons interested in rights, making them essential partners in the field of human rights by enabling them to participate in drafting relevant laws, programmes and policies.

36. One aspect of cooperation involves empowering non-governmental organizations and civil society institutions to take part in preparing the country's treaty reports and universal periodic review reports. Furthermore, civil society institutions and persons interested in human rights have a major role to play in promoting and protecting human rights on the ground by means of reports, press releases, articles and newsletters on social media. As explained in the report, the National Society for Human Rights publishes reports on the state of human rights in the Kingdom, highlighting shortcomings and the causes thereof on the basis of complaints received and violations detected. It assesses the human rights progress achieved and presents appropriate conclusions and recommendations. The Society also prepares studies and publishes information and details on specific cases. Several human rights associations and institutions likewise prepare studies and hold introductory seminars and activities designed to promote and protect the rights with which they are concerned, without hindrance. They are an established feature at rights-related conferences, seminars and events. The law ensures that their members receive the same redress as others in the event of violation of their rights.

37. One of the legislative measures adopted to boost the role of civil society institutions is the Civil Associations and Institutions Act, promulgated pursuant to Royal Decree no. M/8 (1 December 2015) and designed to promote, regulate and protect civil activity, contribute to national development, promote participation by citizens in community management and development, encourage voluntary work among the members of society and achieve social solidarity. The Act makes it possible for ten persons to set up an association and obtain the licences within 60 days from the date of completing the application forms, thereby simplifying procedures.

38. In 2015 there were 880 charitable organizations and associations in the Kingdom concerned with human rights or specific areas thereof, receiving approximately SAR 2.5 billion in financial support from the Ministry of Social Affairs.

39. According to article 3 of the Code of Criminal Procedure punishment is only imposed on a person once he is convicted by a court of law of having committed a criminal and punishable act. Article 8 of the Press and Publications Act guarantees the right to express one's opinion, which is held to be the fundamental means of defending human rights, as long as it is exercised within the framework of the law, in accordance with article 39 of the Basic Law of Governance. Civil associations and institutions must be established in accordance with the aforementioned Civil Associations and Institutions Act, given that the licencing of these associations accords them rights and gives rise to obligations. Any entity established outside this framework has no legal existence.

**Reply to paragraph 12**

40. The Kingdom has no intention at the present time of acceding to the Optional Protocol to the Convention against Torture.

41. Article 3 of the Residence Act regulates the procedures and conditions for the entry of foreigners into the territory of the Kingdom under normal circumstances and in the event of force majeure.

42. Although it has not acceded to the 1951 Refugee Convention and its 1967 Protocol, the Kingdom nevertheless plays an important humanitarian role in mitigating the refugee problem from which many regions of the world suffer due to ethnic conflict, war, disasters and strife. It cooperates with a number of organizations and bodies, including the United Nations High Commissioner for Refugees (UNHCR), with which it signed a memorandum of understanding on 22 June 1993 for joint consultation and collaboration on all issues relating to the welfare of refugees in the host country, support for the Government of the Kingdom in its efforts to organize and provide humanitarian assistance to refugees in the Kingdom and close collaboration with the Government of the Kingdom and joint consultation with other governments and relevant international organizations on putting a stop to the problems of refugees and seeking to create permanent solutions for them.

43. The status of the Myanmar (Burmese) community has been regularized by granting them normal residence permits free of charge and full access to social, health and education services, in addition to job opportunities. Through the Ministry of Labour, institutions and companies have been given incentives to encourage recruitment of Burmese workers. In 2015 the UNHCR commended this experiment of the Kingdom of Saudi Arabia, affirming that it is a pioneering experiment the benefits of which could be extended to other countries.

44. Since the outbreak of the Syrian crisis, the Kingdom has taken in around 2.5 million Syrian nationals to its territory. It has been anxious not to deal with them as refugees and place them in refugee camps but to preserve their dignity and safety and grant them complete freedom of movement. It has granted those who wish to remain in the Kingdom — numbering in the hundreds of thousands — normal residence just like other residents, with all the consequent rights to receive free health care, enter the job market and gain access to education. There are now more than 100,000 Syrian students enjoying education free of charge in the Kingdom and the Kingdom is providing material and moral support and care to millions of Syrian refugees in the countries adjacent to their homeland — Jordan, Lebanon and other countries — in coordination with host country governments and international humanitarian relief organizations.

45. The Custodian of the Two Holy Mosques, King Salman bin Abdulaziz, issued a directive for the requisite measures to be taken to regularize the status of Yemenis living unlawfully in the Kingdom by granting them six-month visit visas, extendable once they obtain travel documents from the legitimate Government of their country, and allowing them to work in accordance with the rules of the competent bodies. A start has been made on regularizing their status and affording them the necessary facilities. The status of more than 200,000 persons from the Republic of Yemen has now been regularized.

#### **Reply to paragraph 14**

46. Further to what was stated in annexes 8 and 10 to the report, 432 verdicts have been handed down under the Anti-Trafficking in Persons Act since 2012. As regards the request for clarification of the legal framework to combat trafficking in persons and the measures taken in this regard, paragraphs 8, 13, 34, 62 and 65, annexes 8 and 10 and this memorandum provide the reply.

#### **Reply to paragraph 15**

47. The reply has already been given in paragraph 2 of this memorandum.

**Reply to paragraph 16**

48. No request from another State for extradition of an individual suspected of having committed an offence of torture has been rejected.

**Reply to paragraph 17**

49. Further to paragraphs 66 and 67 of the report, the law does not grant the Kingdom's diplomatic personnel any immunity inside the country that prevents or restricts their prosecution or the legal measures that can be taken against them by the judiciary. A crime committed outside the Kingdom is dealt with in such a manner as to ensure that punishment cannot be escaped.

**Reply to paragraph 18**

50. In collaboration with human rights organizations, the Ministry of Health trains health practitioners, including doctors, nurses and technicians to acquire the capacity to identify the physical signs of torture and other forms of violence. Furthermore, the Human Rights Commission, as a body dedicated to promoting awareness of human rights, conducts training activities that cover all the human rights conventions to which the Kingdom is a party, including this Convention. These activities target judges, members of the Bureau of Investigation and Public Prosecution, law enforcement officers, health practitioners and others required by law to report, in particular, any suspicious injury that may be the result of criminal assault, as indicated in paragraph 50 of the report. The Human Rights Commission has held a number of seminars and training workshops designed to provide information on human rights conventions and the optimum ways of implementing them. Within the framework of the aforementioned memorandum of understanding concluded between the Kingdom and UNHCR, a number of seminars and training courses have been held with the aim of developing national capacities to promote and protect human rights. The most recent of these was a seminar on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, held on 6-7 January 2016 in Riyadh and attended by a number of representatives of government bodies concerned with the Convention, including the Ministry of Health.

51. The Ministry of Health has circulated guides to policies and working procedures and clinical guidelines for workers in emergency departments and elsewhere to enable health practitioners to identify the physical signs of harm caused by torture or abuse. It is worth mentioning that, if cases of torture or violent behaviour are identified, hospital emergency departments immediately notify the police or the Protection from Domestic Violence Committee, which exists at all health facilities. Furthermore, in cases where torture is suspected, the Kingdom-wide General Department of Forensic Medicine Centres conducts a number of procedures to establish whether or not torture has occurred. These procedures may be summarised as follows:

- Study the police or Bureau report, which raises suspicion of torture;
- Conduct a forensic examination of survivors and, if they are in a condition to speak, question them about the date and manner of the incident; conduct a forensic examination of the deceased to identify cause of death and, if possible, link it to any external or internal marks on the body that indicate the possibility of rape;
- Take samples for toxicology analysis and, if required, swabs to establish sexual assault;
- Record injuries: forensic medical examiners are required to adhere to certain policies and procedures, including the documentation and detailed description of injuries on

specific forms (an autopsy report in the case of the dead and medical report in the case of the living), to be documented with photographs;

- If torture is suspected, a forensic medical committee is formed, consisting of at least two medical examiners, to prepare a report for submission to the competent body.

It should be noted that the work of the Human Rights Commission and other relevant governmental bodies in raising awareness of human rights is based on international standards, including the Istanbul Protocol.

#### **Reply to paragraph 19**

52. Further to paragraph 50, above, the Ministry of Justice has taken a number of measures to give judges human rights training in line with international standards; this includes addressing violence against women. Decree of the Council of Ministers no. 162 (24 February 2014) was promulgated, approving the establishment of a centre for judicial training attached to the Ministry of Justice and designed to train and raise the competence of judges, notaries public, clerks and other officials.

53. As regards training judges to address violence against women from the human rights perspective, 134 judges received training in dealing with cases of domestic violence. Furthermore, since 2009, the Bureau of Investigation and Public Prosecution has conducted 13 training programmes dealing with violence against women.

#### **Reply to paragraph 20**

54. Before taking up employment, members of the Bureau of Investigation and Public Prosecution are required to complete a one-year diploma programme in criminal science. The programme covers the legal foundations and rules for conducting investigations, including interrogation and the safeguards relating thereto, which forbid torture and uphold the dignity of the accused. Furthermore, members of the Bureau take on-the-job training courses. In the period 2012-2015, 140 programmes on interrogation and the relevant safeguards were held. Moreover, General Security holds numerous specialized training courses for its personnel as part of the annual training programme; between 2012 and 2015, some 1,815 personnel received training. A legal day has been adopted on which training courses are held to spread the culture of human rights; more than 1,100 trainees benefitted from this programme in 2015. General Security held a seminar entitled, "Security and human rights" in each of 13 regions and governorates as part of the effort to raise awareness of human rights; more than 1,000 participants from all General Security sectors took part in these seminars. General Security courses cover a number of topics, including informing the accused of their rights, the principles of human rights, combating crimes of trafficking in persons and procedures for dealing with cases of domestic violence.

#### **Reply to paragraph 21**

55. As noted in this memorandum, pre-trial preventive detention is subject to certain procedures set out by the Code of Criminal Procedure. Article 109 of the Code stipulates that the accused shall either be interrogated prior to detention or released. Article 113 stipulates that, following interrogation of the accused the investigator, if there is sufficient evidence that the accused committed a major crime, shall issue a warrant for the detention of the accused for a period of not more than five days from the date of arrest. Under article 114, if the investigator believes that the period of detention needs to be extended then he must, prior to expiry, put the papers before the head of the branch of the Bureau of Investigation and Public Prosecution (or whichever head of the competent department deputizes for him), who will either order the release of the accused or the period of detention to be extended for one or more consecutive periods, with the proviso that the total

period of detention shall not exceed 40 days from the date of arrest. In cases where a longer period of detention is required, the matter shall be put before the head of the Bureau of Investigation and Public Prosecution or his deputy for an extension order for one or more consecutive periods of not more than 30 days to be issued. The total period of detention shall not exceed 180 days from the date of arrest of the accused; thereafter, he must be brought directly before the competent court or released. Under article 114 of the Code of Criminal Procedure, in exceptional circumstances requiring a longer period of detention, the court may approve an application to extend detention for one or more consecutive periods, as it sees fit, and issue a judicial order giving its reasons.

56. Further to paragraphs 168 and 169 of the report and as regards measures taken to avoid prolonged detention, offices of the Bureau of Investigation and Public Prosecution, the Human Rights Commission and the National Society for Human Rights have been set up inside prisons to monitor at first hand the conditions of inmates and to receive complaints. It should be pointed out that prisons and detention facilities are subject to judicial supervision, under article 5 of the Prison and Detention Act. The electronic system adopted by the Bureau and explained in paragraph 13 of this memorandum is an effective mechanism for strengthening a number of safeguards, including monitoring the legality of periods of detention. Information on the numbers of persons detained by the courts can be found on the website — [www.nafethah.gov.sa](http://www.nafethah.gov.sa) — mentioned in paragraph 17 of this memorandum.

#### **Reply to paragraph 22**

57. There are 91 correctional facilities in the Kingdom, distributed across 13 administrative regions covering 145 governorates (cities). As at 30 January 2016, some 59,351 inmates (convicts and detainees) were held in these facilities, of whom Saudis made up 51 per cent. Women do not exceed 4 per cent of the total number of inmates.

#### **Reply to paragraph 23**

58. The Bureau of Investigation and Public Prosecution undertakes the monitoring and supervision of prisons and detention facilities through some 101 special departments, employing 246 staff. Staff make supervisory tours of prisons and detention facilities during and outside official working hours and at weekends.

59. The table below shows the number of visits made by the Bureau of Investigation and Public Prosecution to prisons and detention facilities between 2013 and 2015 and the number of cases examined:

#### **(Detention facilities)**

<i>Year</i>	<i>No. of tours</i>	<i>No. of cases examined</i>
2013	29 866	208 140
2014	25 302	205 955
2015	24 822	183 426

**(Prisons)**

<i>Year</i>	<i>No. of tours</i>	<i>No. of cases examined</i>
2013	12 422	109 949
2014	11 849	107 394
2015	12 690	89 188

**Reply to paragraph 24**

60. The Bureau of Investigation and Public Prosecution is an independent body with an independent budget and its members enjoy full independence. Article 5 of the Bureau of Investigation and Public Prosecution Act accords a judicial capacity to the work of Bureau members. Its independence was enhanced by the last amendment to the Act (1436 AH), of which article 5 stipulates that Bureau members shall work in a judicial capacity and enjoy full independence. In their work, they shall be subject only to the provisions of the Islamic Shariah and the laws in force. No-one may interfere with their work. Duties of the Bureau include the monitoring and inspection of prisons, detention facilities and any places in which penal rulings are enforced. Article 3 (f) of the Act (2015, amended), stipulates that the duties of the Bureau shall include the monitoring and inspection of prisons, detention facilities and any places where penal rulings are executed, hearing the complaints of prisoners and detainees, ascertaining the legality of their imprisonment or detention and the legality of their remaining in prison or detention after expiry of the period, taking the necessary steps to release those imprisoned or detained without legitimate cause and applying the law against those responsible. The supervisor shall be notified of any observations made in this regard and a report on the conditions of prisoners and detainees shall be submitted to him every six months.

**Reply to paragraph 25**

61. The Human Rights Commission has made a number of visits to prisons and detention facilities, as follows:

**Total visits (2012-2015)**

<i>Body</i>	<i>No. of visits</i>	<i>No. of prisoners or detainees interviewed</i>
Al-Mabahith prisons	545	1 937
General prisons, detention facilities and shelters	464	959
<b>Total</b>	<b>1 009</b>	<b>2 896</b>

62. Article 5, paragraph 6 of the statute of the Human Rights Commission stipulates that the Commission may visit prisons and detention facilities at any time without the permission of the competent body and submit reports thereon to the prime minister. As such, the Commission is able to visit all prisons and detention facilities in the Kingdom, as explained in the report. Furthermore, in a number of prisons it has offices monitoring prisoners' conditions, as explained in this memorandum.

63. In 2015, the Human Rights Commission received 19 complaints relating to abuse, which it followed up and investigated. It upheld the seriousness of the accusation in one case, which it referred to the responsible body for criminal investigation (the Bureau of Investigation and Public Prosecution) for the appropriate measures to be taken in accordance with the law.

64. The Commission made 75 recommendations designed to promote and protect various aspects of human rights. As regards protection from violence and arbitrary treatment, the report contains four recommendations to reinforce the statutory framework to protect against violence and strengthen measures aimed at eliminating violence and treating and rehabilitating the victims of violence. Note the promulgation of the Protection from Abuse Act, which the Commission recommended be expedited.

#### **Reply to paragraph 26**

65. The National Society for Human Rights has made a number of visits to prisons, detention facilities and holding facilities, as the following table shows:

<i>Year</i>	<i>No. of visits</i>
2008	5
2009	12
2010	14
2011	19
2012	12
2013	18
2014	31
2015	17

66. The following accusations relating to torture have been received by the Society since 2004:

<i>Complaint</i>	<i>Number</i>
Moral pressure on prisoner	126
Abuse or unlawful treatment	368
Denial of visitation	170
Poor health care	321

#### **Reply to paragraph 67**

67. Between 2012 and January 2016, the diplomatic corps and international delegations made 91 prison visits; the General Directorate of Prisons received no complaints from them. Official and international delegations made 527 visits to al-Mabahith prisons; there were 760 visits by unofficial delegations. Consulates which made visits include those of Egypt, Philippines, Niger, India, Pakistan, Lebanon, Morocco, Indonesia, Italy, Great Britain, Sri Lanka, USA, Mauritania, Mali, Nigeria, Cameroon, Ethiopia, Ghana, Bangladesh, Guinea, Turkey, Sudan, Yemen, Bahrain, Nepal, Iraq, Australia, Algeria, Netherlands, Tunisia and Thailand.

#### **Reply to paragraph 28**

68. To reaffirm what has been stated in the report and this memorandum, the visits made by the Bureau of Investigation and Public Prosecution, the Human Rights Commission and the National Society for Human Rights and the establishment of offices of these bodies in prisons, as well as other measures, have successfully helped to bring about an improvement in conditions in prisons and detention facilities, including separation of prisoners and

detainees. In addition, the awareness-raising programmes and activities conducted by the Ministry of Interior, in collaboration with the Human Rights Commission, targeting prison officers, staff and, in particular, wardens, and advising prisoners and detainees of their rights, have also helped to improve conditions in prisons and detention facilities. Moreover, prisons are subject to a process of continuous improvement and contracts have been entered into with specialized companies to provide the services required so as to promote implementation of prison reform programmes.

### Reply to paragraph 29

69. The reply has already been given in paragraph 36.

### Reply to paragraph 30

70. There have been 519 cases investigated pursuant to Royal Decree no. 43 (1958) and relevant laws; the following table shows the number of such cases by year (2009-2015):

<i>Year</i>	<i>No. of cases</i>
2009	519
2010	538
2011	600
2012	377
2013	354
2014	469
2015	232

### Reply to paragraph 31

71. The reply has already been given in paragraph 60.

### Reply to paragraph 32

72. The reply has already been given in paragraph 8.

### Reply to paragraph 33

73. A new draft juveniles act is currently being studied by the Shura Council. The bill contains full provisions regulating the treatment of juveniles to ensure that their rights are upheld and that they are provided with the maximum safeguards during the arrest, investigation, trial and sentence execution stages.

74. The following table shows the number of juvenile cases looked into by the branches of the Bureau of Investigation and Public Prosecution in all regions of the Kingdom:

<i>Region</i>	<i>No. of cases</i>	<i>Time period</i>	
		<i>From</i>	<i>To</i>
Makkah	1 786	February 2011	October 2015
Riyadh	1 944	April 2012	October 2015
Madinah	1 447	December 2011	October 2015
Dammam	2 120	May 2008	October 2015

<i>Region</i>	<i>No. of cases</i>	<i>Time period</i>	
		<i>From</i>	<i>To</i>
Asir	728	December 2008	October 2015
Najran	334	June 2011	October 2015
Jizan	936	December 2010	October 2015
Baha	135	November 2012	October 2015
Jawf	606	April 2010	October 2015
Tabuk	848	December 2009	October 2015
Hail	843	April 2010	October 2015
Northern Borders	825	February 2009	October 2015
Qassim	575	October 2010	October 2015
Jeddah	30	March 2015	October 2015
Taif	46	July 2012	October 2015

75. In juvenile cases, investigation departments set up inside juvenile care homes are equipped with material and human resources, including qualified investigators trained in conducting investigations with juveniles.

#### **Reply to paragraph 34**

76. Data is being collected on the number of cases where compensation has been paid and the amount received.

#### **Reply to paragraph 35**

77. Further to paragraph 139 of the report, the rehabilitation of victims of torture or abuse is an aspect of redress guaranteed by the health laws in the Kingdom to all without discrimination.

#### **Reply to paragraph 36**

78. Under the provisions of the Code of Criminal Procedure and Royal Decree no. 43, reviewed in the report and this memorandum, a victim of torture or abuse has the right to receive compensation for harm suffered and may seek and obtain redress. In affirmation of the above, article 16 of the Code of Criminal Procedure guarantees the right to bring legal proceedings, stipulating that the victim, his representative or his heirs shall have the right to institute criminal proceedings in all cases involving a private claim and to pursue such proceedings before the competent court. In such a case, the court shall summon the public prosecutor to appear. Pursuant to this provision, a victim of torture may bring proceedings in a criminal court against the person accused of the torture. This provides a guarantee that the victim can demand imposition of a criminal penalty against the accused, as well as claim financial compensation. The right of the victim to institute criminal proceedings stems from the nature of the violated right under Islamic criminal legislation, given that torture constitutes a physical and moral assault of the first degree on the victim, thus giving rise to private claim, without prejudice to any public criminal proceedings against the accused that may be initiated and pursued by the Bureau of Investigation and Public Prosecution.

79. As regards health care, article 2 of the Health Act stipulates that the Act is designed to ensure and regulate the delivery of comprehensive, integrated health care for the entire population in a fair and affordable manner. Article 3 of the Act stipulates that the State shall

deliver health care and maintain public health to ensure that people live in a healthy, safe environment. Article 4 of the Act emphasizes the provision of health services for all groups in society, including the disabled, the elderly and students, as well as in the event of emergencies, natural disasters and epidemics, and for incurable diseases and psychological health. Furthermore, paragraph (first), clause 1 of the implementing regulation for the Private Health Institutions Act requires private health institutions to admit any emergency cases to their emergency departments. These provisions indicate the commitment to provide health care in all situations.

#### **Reply to paragraph 37**

80. In reaffirmation of paragraph 104 of the report, confessions made under torture constitute a violation of the Islamic Shariah and relevant laws of the Kingdom and evidence obtained thereby is rejected, deemed null and void under article 187 of the Code of Criminal Procedure. This invalidity shall be sustained at any stage of the proceedings, which will then be dismissed by the court even without a motion being brought, in accordance with article 188 of the Act.

#### **Reply to paragraph 38**

81. The competent courts shall consider the claims presented by the parties to a criminal case in accordance with the Code of Criminal Procedure and ascertain the veracity of claims in accordance with the recognized means of establishing proof. The validity of the claims referred to in the request for clarification have not been established by the competent court.

#### **Reply to paragraph 39**

82. Execution of the death sentence is announced as soon as it is carried out in the form of a detailed statement containing the names of the condemned (executed) and the grave crimes committed. Executions are carried out either by beheading with the sword or shooting. The Kingdom's laws guarantee the right to a fair trial for those facing this penalty.

83. In accordance with the Islamic Shariah, the death penalty is only imposed in the Kingdom for the most serious crimes, and the application of this penalty is hedged with numerous safeguards and conditions. As explained in paragraph 4, these cases are heard by three judges in the Court of First Instance, five in the Court of Appeal and five in the Supreme Court, as provided for in the Code of Criminal Procedure.

84. Reference has already been made in this memorandum to the draft compendium of judicial provisions on legal topics relating to the judiciary, which is to include a description of crimes and determination of the resulting penalties.

85. As regards measures taken to ensure that persons facing the death penalty benefit from legal assistance and due process and to ensure that foreigners facing the death penalty receive assistance with language translation and interpretation, article 3 of the Code of Criminal Procedure stipulates that a penal punishment shall be imposed on a person only once he has been found guilty of an act forbidden under Shariah or statutory law following a lawfully conducted trial. To ensure a fair trial, article 4(a) of the Code stipulates that an accused person shall have the right to seek the assistance of a lawyer or representative to defend him during the investigation and trial stages, while article 139 stipulates that, in major crimes, the accused shall appear personally before the court, without prejudice to his right to seek legal assistance. If he lacks the financial means to seek the assistance of a lawyer, the accused may ask the court to appoint one to defend him at State expense, as stated in the regulation. The provision of legal assistance and advice is a duty of the Saudi Bar Association, under article 2, paragraph 7 of its statutes. Pursuant to article 171 of the

Code of Criminal Procedure and article 72 of the implementing regulation, seeking the assistance of an interpreter is essential at the investigation and trial stages of all cases, if the accused does not speak good Arabic.

**Reply to paragraph 40**

86. Further to paragraphs 1, 156 and 158 of the report, the Protection from Abuse Act, the Employment Act and the regulations for workers in domestic service and the like contain legal provisions prohibiting and criminalizing the violation of workers' rights and prohibiting all forms of violence, including sexual assault. Note that all allegations involving the torture or abuse of a person are dealt with without discrimination, as explained in the report and this memorandum, and all victims receive legal and psychological help on an equal basis.

**Reply to paragraph 41**

87. To underline what has been said in the report and this memorandum on legislation prohibiting violence against children, the promulgation of the Child Protection Act and its implementing regulation represents an additional safeguard to protect children from all forms of violence. The Act admits new forms of violence, such as child neglect which, according to article 1, includes failing or neglecting to provide for a child's basic needs or deliberate and repeated neglect, resulting in physical harm to the child. Article 2 of the Act is designed to protect the child from all manifestations of abuse and neglect to which he may be exposed in his environment (home, school, neighbourhood, public places, care home, educational centre, alternative family, government, private institution or the like), whether at the hands of a person who has guardianship of, authority over or responsibility for the child or who has some other form of relationship with him. The same article guarantees the rights of the child who has suffered abuse or neglect by providing the proper care for him. As regards the disciplinary regime for juveniles, a draft juvenile act is currently being studied. The bill contains reduced punishments and measures that take into account the nature of the juvenile and seek to reform and integrate him into society, as noted in paragraph 73.

**Reply to paragraph 42**

88. The Kingdom does intend to withdraw its reservations to the Convention.

**Conclusion**

89. The Kingdom trusts that the answers it has submitted will pave the way for a constructive dialogue with the esteemed Committee against Torture and hopes that genuine dialogue with the Committee will contribute to a fuller understanding of the substance of the Kingdom's second report and the contents of this memorandum.

## Annex

This annex contains a schedule showing the articles of the old Code of Criminal Procedure referred to in the Kingdom's second report (CAT/C/SAU/2), their subject matter and the amendments made thereto, as renumbered in the new Code of Criminal Procedure promulgated pursuant to Royal Decree no. M/2 (26 November 2013)

<i>Paragraph no. in report</i>	<i>Article in old Code</i>	<i>Article in new Code</i>
27	Article 35 of the Code of Criminal Procedure provides that: "In cases other than flagrante delicto, no person may be arrested or detained except by order of the competent authority. An arrested person shall be treated in a manner that preserves his dignity. He may not be subjected to physical or moral harm, must be informed of the grounds for his detention and has the right to communicate with a person of his choice in order to inform such person of his detention."	<p><b>Article 35</b></p> <p>"In cases other than flagrante delicto, no person may be arrested or detained except by order of the competent authority."</p> <p><b>Article 36</b></p> <p>1. "The detainee must be treated so as to preserve his dignity. He may not be subjected to physical or moral harm and must be informed of the reasons for his detention. He shall have the right to communicate with a person of his choice in order to inform such person of his detention."</p>
28	... as provided in article 34 of the Code of Criminal Procedure, which states that: "The criminal investigation officer must immediately hear the statement of an arrested suspect. Where the innocence of the suspect is not established, the officer shall within 24 hours hand him over, together with his report, to the investigator, who must question him within 24 hours and thereafter order his detention or release."	<p><b>Article 34</b></p> <p>"The criminal investigation officer must immediately hear the statement of an arrested suspect. If it appears that there is sufficient evidence to charge him, the officer shall hand him over within 24 hours, together with the report, to the investigator, who must question him within 24 hours and thereafter order that he be detained or set free."</p>
29	Among other safeguards, it is prohibited for criminal investigation officers to carry out interrogations, article 65 of the Code of Criminal Procedure providing as it does that: "The investigator may designate in writing a criminal investigation officer to undertake one or more specific investigation procedures, excluding the interrogation of suspects."	The article has been renumbered, becoming article 66 in the new Code.

<i>Paragraph no. in report</i>	<i>Article in old Code</i>	<i>Article in new Code</i>
31	Article 36 of the Code of Criminal Procedure provides that: “No person may be detained or imprisoned except in prisons or detention centres designated for that purpose by law. No administration of any prison or detention centre may consent to take in any person except pursuant to a reasoned order, duly specifying the duration of the detention, signed by the competent authority. No persons may be kept in detention after the period specified in the order.”	The article has been renumbered, becoming article 37 in the new Code and reading as follows:  <b>Article 37</b> “No person may be detained or imprisoned except in prisons or places of detention designated for that purpose by law. No administration of any prison or place of detention may admit any person save pursuant to an order giving due cause, duly specifying the duration of the detention and signed by the competent authority. No persons may be kept in detention after the period specified in the order.”
39	Under article 35, arrested persons must be treated in a manner that preserves their dignity, may not be subjected to physical or moral harm, must be informed of the grounds for their detention, and are guaranteed the right to communicate with a person of their choice in order to inform such person of their detention.	The article has been renumbered, becoming article 36 in the new Code.
41	<ul style="list-style-type: none"> <li>• Article 37 of the Code of Criminal Procedure states that: “Competent members of the Bureau of Investigation and Public Prosecution shall, at any time and without regard to official hours, visit prisons and detention centres within their jurisdictional areas to ascertain that no one is being unlawfully imprisoned or detained. They shall examine the records of such prisons and detention centres, have access to prisoners and detainees, hear their complaints and accept from them any submissions of complaint. The wardens of prisons and detention centres shall provide the members of the Bureau of Investigation and Public Prosecution with everything needed for them to perform their duties”;</li> <li>• Article 38 of the Code of Criminal Procedure, which states that: “All prisoners and detainees shall have the right to make a written or verbal complaint at any time to the warden of the prison or detention centre and request that he communicate it to a member of the Bureau of Investigation and Public Prosecution. The official shall accept the complaint, promptly communicate it after recording it in the designated logbook, and provide the person making the complaint with an acknowledgement of receipt. The administration of the prison or detention centre shall set aside an office for the competent member of the Bureau so that he can</li> </ul>	<p>The article has been renumbered, becoming article 38 in the new Code and reading as follows:</p> <p><b>Article 38</b></p> <p>“Competent members of the Bureau of Investigation and Public Prosecution shall, at any time and without regard to official hours, visit prisons and places of detention within their jurisdictional areas to ascertain that no one is being unlawfully imprisoned or detained. They shall examine the records of prisons and places of detention, have access to prisoners and detainees, hear their complaints and accept from them any submissions of complaint. The wardens of prisons and places of detention shall provide the members of the Bureau of Investigation and Public Prosecution with everything needed for them to perform their duties.”</p> <ul style="list-style-type: none"> <li>• The article has been renumbered, becoming article 39 in the new Code and reading as follows:</li> </ul> <p><b>Article 39</b></p> <p>“All prisoners and detainees shall have the right to make a written or verbal complaint at any time to the warden of the prison or place of detention and request that he convey it to a member of the Bureau of Investigation and Public Prosecution. The warden shall</p>

<i>Paragraph no. in report</i>	<i>Article in old Code</i>	<i>Article in new Code</i>
	<p>follow up cases of prisoners or detainees”;</p> <ul style="list-style-type: none"> <li>Article 39 of the Code of Criminal Procedure, states that: “Anyone knowing of a person being imprisoned or detained unlawfully or in a place not intended for imprisonment or detention must notify the Bureau of Investigation and Public Prosecution. The competent member of the Bureau must thereupon proceed forthwith to the place where the prisoner or detainee is located, conduct an investigation and order the person’s release if he is being unlawfully imprisoned or detained. He shall write a report to that effect for submission to the competent authority so that it may take the action required by law with respect to those responsible for the situation”.</li> </ul>	<p>accept the complaint, promptly convey it after recording it in the designated logbook, and provide the person making the complaint with an acknowledgement of receipt. The administration of the prison or place of detention shall set aside a separate office for the competent member of the Bureau to follow up cases of prisoners or detainees.”</p> <ul style="list-style-type: none"> <li>The article has been renumbered, becoming article 40 in the new Code.</li> </ul>
43	<p>Article 118 of the Code of Criminal Procedure prohibits public officials from meeting or communicating with a detainee without the written permission of the investigator, providing as it does that: “The warden of the prison or detention centre may not allow a public official to communicate with a detainee except with the written permission of the investigator. He shall enter in the prison register details of the name of the person with such permission, the time of the meeting, the date of the permission and its content.”</p>	<p>In the new Code, this is now article 118, reading as follows:</p> <p><b>Article 118</b></p> <p>“The director of the prison or place of detention shall not allow a public official to communicate with a detainee except with the written permission of the investigator. He shall enter in a special register details of the name of the person granted permission, together with the time of the meeting, the date of the permission and its content.”</p>
51	<p>Article 17 of the Code of Criminal Procedure guarantees the right of any person subjected to torture to bring proceedings against the person responsible, providing as it does that: “The victim, or his representative, and his heirs shall have the right to initiate criminal proceedings in all cases involving a private claim and to pursue such proceedings before the competent court. In this event, the court shall summon the Public Prosecutor.”</p>	<p>In the new Code, this is now article 17, reading as follows:</p> <p><b>Article 17</b></p> <p>“No criminal action shall be initiated or investigation proceedings conducted in respect of crimes involving a private right of action, except pursuant to a complaint by the victim or his representative or heirs, filed with the competent authority, unless the Bureau of Investigation and Prosecution considers that the filing of such an action and investigation of those crimes will serve the public interest.”</p>
57	<p>Articles 2, 35 and 102 of the Code of Criminal Procedure, moreover, prohibit all forms of torture, as mentioned in the comment on article 2 of the Convention.</p>	<p>The article has been renumbered, becoming article 36 in the new Code.</p>
66(a)	<p>When the offence is committed in, or its outcome or consequences extend into, the territory of the Kingdom, the jurisdiction of the courts, pursuant to article 131 of the Code of Criminal Procedure, is</p>	<p>The article has been renumbered, becoming article 130 in the new Code.</p>

<i>Paragraph no. in report</i>	<i>Article in old Code</i>	<i>Article in new Code</i>
	determined by the locality of the offence, or the locality where the accused resides or, if he has no known residence, the locality in which he was arrested.	
98	Article 35 of the Code of Criminal Procedure further states that, in cases other than flagrante delicto, no person may be arrested or detained except by order of the competent authority and that arrested persons shall be treated in a manner that preserves their dignity, may not be subjected to physical or moral harm, must be informed of the grounds for their detention and have the right to communicate with a person of their choice in order to inform such person of their detention.	In the new Code, the article is now as follows: <b>Article 35</b> “In cases other than flagrante delicto, no person may be arrested or detained except by order of the competent authority.” <b>Article 36</b> 1. “The detainee must be treated so as to preserve his dignity. He may not be subjected to physical or moral harm and must be informed of the reasons for his detention. He shall have the right to communicate with a person of his choice in order to inform such person of his detention.”
103	In order to ensure that interrogation remains solely in the hands of the investigating authority, the Code provides in article 65 that it is prohibited for criminal investigation officers to carry out interrogations, stating that: “The investigator may designate in writing a criminal investigation officer to undertake one or more specific investigation procedures, excluding the interrogation of an accused person ...”.	The article has been renumbered, becoming article 66 in the new Code.
104	On the basis of the Shariah doctrine of the fruit of the poisonous tree, all evidence obtained by unlawful means is inadmissible and ineffective in proceedings. Evidence obtained through a forced confession, torture or an unauthorized search of dwellings is considered unlawful and without merit in legal proceedings in that the means used to arrive at such evidence are invalid. This principle is affirmed in article 188 of the Code, which provides that: “Any action inconsistent with the provisions of Islamic Shariah or laws derived therefrom shall be invalid.”	The article has been renumbered, becoming article 187 in the new Code.

<i>Paragraph no. in report</i>	<i>Article in old Code</i>	<i>Article in new Code</i>
105	Article 34 of the Code enshrines all of these principles by providing that: “The criminal investigation officer must immediately hear the statement of an arrested suspect. Where the innocence of the suspect is not established, the officer shall within 24 hours hand him over, together with his report, to the investigator, who must question him within 24 hours and thereafter order his detention or release.”	In the new Code, the article is now: <b>Article 34</b> “The criminal investigation officer must immediately hear the statement of an arrested suspect. If it appears that there is sufficient evidence to charge him, the officer shall hand him over within 24 hours, together with the report, to the investigator, who must question him within 24 hours and thereafter order that he be detained or set free.”
106	All prisons and detention centres are subject to supervision by the Bureau of Investigation and Public Prosecution. Bureau members tasked with supervising prisons and detention centres may visit such locations at any time, without being restricted to official working hours, in order to ascertain that all prisoners and detainees are being legally held. Their role also extends beyond visits to examining the official records, meeting prisoners and detainees face-to-face and taking note of any complaints they may have, in conformity with article 37 of the Code.	The article has been renumbered, becoming article 38 in the new Code.
107	The right of prisoners and detainees to submit written or verbal complaints to the warden of the prison or detention centre is protected. Such complaints must be entered in a special register and notified to a member of the Bureau of Investigation and Public Prosecution. Bureau members also have offices in prisons so that they can follow up the cases of prisoners and detainees, pursuant to article 38 of the Code.	The article has been renumbered, becoming article 39 in the new Code.
108	Article 39 of the Code sets out these principles by providing that: “Anyone knowing of a person being imprisoned or detained unlawfully or in a place not intended for imprisonment or detention must so notify the Bureau of Investigation and Public Prosecution. The competent member of the Bureau must thereupon proceed forthwith to the place where the prisoner or detainee is located, conduct an investigation and order the person’s release if he is being unlawfully imprisoned or detained. He shall write a report to that effect for submission to the competent authority so that it may take the action required by law with respect to those responsible for the situation.”	The article has been renumbered, becoming article 40 in the new Code and reading as follows: <b>Article 40</b> “Anyone knowing of a person being imprisoned or detained unlawfully or in a place not intended for imprisonment or detention must so notify the Bureau of Investigation and Public Prosecution. As soon as he becomes cognisant thereof, the competent member of the Bureau must proceed forthwith to the place where the prisoner or detainee is located, conduct an investigation and order the person’s release if he is being unlawfully imprisoned or detained. He shall write a report to that effect for submission to the competent authority so that it may take the action required by law with respect to those responsible for the situation.”

<i>Paragraph no. in report</i>	<i>Article in old Code</i>	<i>Article in new Code</i>
122	Article 39 of the Code of Criminal Procedure provides that: “Anyone knowing of a person being imprisoned or detained unlawfully or in a place not intended for imprisonment or detention must so notify the Bureau of Investigation and Public Prosecution. The competent member of the Bureau must thereupon proceed forthwith to the place where the prisoner or detainee is located, conduct an investigation and order the person’s release if he is being unlawfully imprisoned or detained. He shall write a report to that effect for submission to the competent authority so that it may take the action required by law with respect to those responsible for the situation.”	The article has been renumbered, becoming article 40 in the new Code (see previous field).
132	... providing in article 17 that: “The victim, or his representative ...”	The article has been renumbered, becoming article 16 in the new Code.
133	[A]rticle 68 of the Code of Criminal Procedure provides that: “Anyone suffering harm as the result of an offence may file a private claim during the investigation stage of the proceedings. The investigator shall decide as to the admissibility of the claim within three days of the date when it was submitted to him. Anyone whose application is rejected may lodge an appeal against the decision with the head of the department to which the investigator is attached within one week of the date when he received notification of the decision. The decision of the head of department shall be final in the investigation stage.”	In the new Code, the article has become article 135, as follows: <b>Article 135</b> “If an action is initiated before a court, the accused shall be summoned to appear before that court. No such summons shall be necessary where the accused appears for the hearing and a charge has been issued against him.”
134	... article 148 [stipulates] that: “Anyone suffering harm as the result of an offence may bring before the criminal trial court a private claim for any amount at any stage of the proceedings, as may his heirs, even if his application was rejected during the investigation.”	The article has been renumbered, becoming article 147 in the new Code and reading as follows: <b>Article 147</b> “Anyone suffering harm as the result of an offence may bring before the criminal trial court a private claim at any stage of the proceedings, as may his heirs, even if his application was rejected during the investigation.”

<i>Paragraph no. in report</i>	<i>Article in old Code</i>	<i>Article in new Code</i>
137	Article 217 of the Code of Criminal Procedure provides that: "... Anyone suffering harm as the result of a malicious accusation or prolongation of his imprisonment or detention beyond the prescribed term shall have the right to claim compensation." Article 210 of the same Act stipulates that: "Any acquittal judgement delivered on the basis of a petition for review must include moral and material compensation where so requested by the convicted person for the harm he has suffered."	The article has been renumbered, becoming article 215 in the new Code;  The article has been renumbered, becoming article 207 in the new Code.
141	Article 162 <sup>1</sup> of the Code states that, if an accused person at any time confesses to the charge against him, the court must hear his detailed statement and examine him in order to be satisfied that the confession is genuine and complete the investigation where there are grounds for doing so. On the strength of this provision, therefore, the court determines the truthfulness of the confession. If it finds that the confession was obtained under coercion or torture, it must exclude that evidence from the proceedings because it was not a product of free will and breaches the provisions of the Code of Criminal Procedure. Such evidence must consequently be invalidated, in conformity with article 188 <sup>2</sup> of the Code, which stipulates that any action inconsistent with the provisions of Islamic Shariah or laws derived therefrom is invalid.	1. The article has been renumbered, becoming article 161 in the new Code;  2. The article has been renumbered, becoming article 187 in the new Code.
143	Article 35 of the Code provides that an arrested person shall be treated in a manner that preserves his dignity, may not be subjected to physical or moral harm, and must be informed of the grounds for his detention and assured of his right to communicate with a person of his choice in order to inform such person of his detention.	The article has been renumbered, becoming article 36 in the new Code.