



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

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COMMITTEE AGAINST TORTURE

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

**Initial reports of States parties due in 1999**

**Addendum**

**BAHRAIN**

[Original: Arabic]  
[18 May 2004]

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## **Introduction**

1. Bahrain is an independent constitutional monarchy. It joined the United Nations in 1971 and is a member of the League of Arab States, the Gulf Cooperation Council and the Organization of the Islamic Conference.

2. The Kingdom of Bahrain acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under the terms of Legislative Decree No. 4 of 1998, which was issued on 18 February 1998. By Legislative Decree No. 34 of 1999, issued on 17 August 1999, the Kingdom withdrew its reservation to article 20 of the Convention, concerning the competence of the Committee established under the Convention for examining reliable information that appears to contain well-founded indications that torture is being systematically practised in the territory of a State party.

3. Article 19 of the Convention stipulates, inter alia, that States parties shall submit reports on the measures they have taken to give effect to its provisions, within one year after the entry into force of the Convention for the State party concerned. Thereafter the States parties are to submit supplementary reports every four years on any new measures taken.

4. In view of the constitutional and political changes that have taken place in the Kingdom of Bahrain, it was thought appropriate to prepare a single document containing the initial report and the second periodic report and to submit them at a time that would allow them to reflect the aforementioned changes. The Kingdom of Bahrain has the honour to submit to the Committee against Torture the present document containing its initial report and its second periodic report, which were jointly prepared by the relevant ministries and authorities.

## **I. BASIC INFORMATION ABOUT THE KINGDOM OF BAHRAIN**

### **A. The political system**

5. The Kingdom of Bahrain has taken rapid steps to boost its development in many areas of national action to keep pace with numerous innovations at the domestic and international levels. In order to strengthen national action and democracy and move the process of political change forward so as to secure growth and prosperity for Bahraini society, His Royal Highness King Hamad Bin Isa Al Khalifa, the beloved King of Bahrain, issued Amiral Orders Nos. 36 and 43 of 2000, establishing a higher national committee to prepare a draft national action charter defining the general framework for the State's future objectives in various areas of national action, as well as the roles of the State institutions and constitutional powers in that regard.

#### **1. The National Action Charter**

6. The National Action Charter was drafted following a series of open and purposeful discussions with various sectors of society. The citizens were invited to vote in a referendum on the Charter which was held on 14 and 15 February 2001. The referendum result was announced on 15 February; the Charter had won the approval of 98.4 per cent of the electorate. In view of

the popular acceptance and support that the Charter had received, as confirmed by the referendum result, His Royal Highness the beloved King ratified the National Action Charter. (The text of the National Action Charter is found in annex 1.)

7. The preamble to the National Action Charter refers, inter alia, to the adoption of well-established national, political and constitutional principles concerning the identity of the State and affirms that Bahrain is a democratic and constitutional hereditary monarchy in which the ruler serves his people and symbolizes their independent identity and desire for progress. The preamble also refers to the updating of the country's Constitution in order to benefit from the democratic experiences that many nations have gained from widening the scope of popular participation in the burdens of government and administration. The Charter also refers, inter alia, to the fundamental components of Bahraini society, including guarantees of individual liberties and equality.

## **2. Constitution of the Kingdom of Bahrain**

8. In implementation of the wishes of the people and their unanimous endorsement of the principles embodied in the National Action Charter, and with a view to creating a better future in which the country and the people will enjoy greater prosperity, progress, growth, stability and leisure, the Constitution promulgated on 6 December 1973 was amended to take account of the National Action Charter. The amended Constitution was promulgated on 14 February 2002. (The text of the Constitution of the Kingdom of Bahrain is found in annex 2.)

9. These amendments reflect the advanced state of thinking in Bahrain. They provide for the establishment of a political system based on a constitutional monarchy that relies on consultation, Islam's highest ideal of government, and on popular participation in the exercise of power, a modern political idea. The King uses his judgement to select knowledgeable persons from among the citizens to form the Consultative Council, just as the people use their free and true conscience to select persons, by election, to sit in the Chamber of Deputies. Together these two chambers work through the National Assembly to implement the will of the people.

10. The Constitution includes the following provisions:

- (a) The Kingdom of Bahrain is a fully sovereign, independent, Islamic, Arab State;
- (b) The Government of the Kingdom of Bahrain is a hereditary constitutional monarchy;
- (c) The system of government in the Kingdom of Bahrain is democratic. Sovereignty resides in the people, the source of all powers. Sovereignty shall be exercised in the manner specified in this Constitution;
- (d) Citizens, both men and women, are entitled to participate in public affairs and to enjoy political rights, including the right to vote and to stand for election, in accordance with this Constitution;
- (e) The religion of the State is Islam. The Islamic Shariah is a principal source of legislation. The official language of the State is Arabic;

- (f) The basic pillars of society are public rights and freedoms;
  - (g) The system of government is based on separation of the legislative, executive and judicial authorities, which shall cooperate with one another in accordance with this Constitution;
  - (h) Legislative authority is vested in the King and the National Assembly in accordance with the Constitution. Executive authority is vested in the King, together with the Cabinet and the ministers, and judicial rulings are issued in the King's name, all in accordance with the provisions of the Constitution;
  - (i) The King is the Head of State and its nominal representative. His person is inviolable. He is the loyal custodian of the religion and the nation and is the symbol of national unity;
  - (j) The Cabinet consists of the Prime Minister and a number of ministers. The Cabinet protects the interests of the State, formulates general government policy, monitors the implementation thereof, and oversees the running of government;
  - (k) The National Assembly consists of two chambers: the Consultative Council and the Chamber of Deputies. The Consultative Council consists of 40 members appointed by royal order. The Chamber of Deputies consists of 40 members elected by direct, secret and universal suffrage. No law may be enacted unless it has been approved by both the Consultative Council and the Chamber of Deputies, or the National Assembly, as the case may be, and has been ratified by His Royal Highness the King;
  - (l) The law guarantees the independence of the judiciary;
  - (m) A constitutional court shall be established. The Constitutional Court shall have competence for verifying the constitutionality of laws and regulations.
11. An election for the Chamber of Deputies was held on 24 October 2002. Royal Decree No. 41 of 2002, establishing the Consultative Council, was issued on 16 November 2002. On 14 December 2002, the Consultative Council and the Chamber of Deputies were invited to the opening of the National Assembly's first legislative session.
12. The Constitutional Court was established pursuant to Legislative Decree No. 27 of 14 September 2002 and the members of the Court were duly appointed. The Constitutional Court is an independent body which operates autonomously.
13. In accordance with the Constitution, the law supports the activities of civil society. The results of the work done during the first part of the National Assembly's first legislative session underscored the vitality of political and civil life and the positive general climate in which freedom of opinion is exercised in accordance with the guarantees provided for in the Constitution and the law.
14. Article 5 (b) of the Constitution makes it incumbent on the State to enable women to reconcile their family obligations with their work outside the home and to recognize their equality with men in political, social, cultural and economic life, without prejudice to the Islamic Shariah.

15. Women play a central role in the political and social developments taking place in the Kingdom of Bahrain. The Constitution of the Kingdom of Bahrain and the National Action Charter guarantee women their full constitutional rights, including the right to vote, the right to stand for election, the right to assume public office, the right to education, the right to own property, the right to manage one's own affairs, and the freedom to organize, including the freedom to establish cultural and community-based associations that deal with family and children's issues. The Supreme Council for Women was established in November 2001. It is chaired by Her Royal Highness Sheikha Sabika Bint Ibrahim Al Khalifa, the wife of His Royal Highness King Hamad Bin Isa Al Khalifa, the country's beloved King, and plays a key role in this area. It has competence, inter alia, for the following:

(a) Recommending general policy on development and on the promotion of women's issues in social, constitutional and civil institutions;

(b) Empowering women to play their role in public life, including their efforts in comprehensive development programmes, and combating discrimination against women;

(c) Preparing a draft national plan for the advancement of women and resolving the difficulties women face in many different domains;

(d) Giving effect to the principles relating to women enshrined in the National Action Charter, and establishing appropriate mechanisms towards that end;

(e) Monitoring and assessing the implementation of public policy on women and submitting any recommendations and observations that the Council may wish to make to the relevant authorities;

(f) Submitting recommendations on amendments to current legislation pertaining to women, giving opinions on draft laws and decisions relating to women prior to submission to the competent authorities, and suggesting and recommending draft laws and decisions. The Council also has responsibility, inter alia, for assisting in the preparation of reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

16. Several laws have been enacted in accordance with the Constitution. They include:

(a) Legislative Decree No. 10 of 2001, declaring a general amnesty for offences against national security:

(i) One of the most significant steps that paved the way for constitutional and democratic reform in Bahrain was the initiative taken by His Highness the Amir, prior to the proclamation of the Charter, by which he declared a general amnesty for all persons convicted, arrested or charged in connection with offences against national security. This was the first step taken in the early part of the twenty-first century along the road to political reconciliation and it won wide praise and support locally, regionally and internationally;

- (ii) Initially, the amnesty applied to all offences against national security, apart from those that had resulted in death, and it covered Bahrainis both in the country and abroad. It was not long before amnesty decrees were issued pardoning all convicted, detained or accused persons, whether Bahrainis or foreigners, in respect of all offences against national security, regardless of whether they had resulted in a person's death. In this way, full equality was guaranteed to those covered by the amnesty, without any form of discrimination among them on grounds of nationality or place of residence;
- (iii) In order to make this equality truly meaningful and to turn a new page on the situation that had obtained prior to the amnesty, so that it would not affect the future of the reform movement, the general amnesty erased all the criminal and civil effects arising from the commission of these and related offences and discontinued prosecutions brought in relation thereto prior to the entry into force of the Amnesty Decree. This was spelt out in Legislative Decree No. 56 of 2002, which interprets certain provisions of Legislative Decree No. 10 of 2001, by which the general amnesty for offences against national security was declared (see annexes 3 and 4). It is worth noting, in this connection, that Legislative Decree No. 56 of 2002 provides a legislative interpretation that is based on the Constitution and the law and reflects the actual state of affairs where security and stability have been provided in order to look towards a brighter future in which society will be organized in accordance with the National Action Charter and the implementation of the Kingdom's programme of reform;

(b) Decree No. 4 of 2001 abolishing the State Security Court. In confirmation of the gains made in the legal arena and of the equal right of every person to seek a legal remedy before the judicial authorities, His Royal Highness the King issued Legislative Decree No. 4 of 2001, abolishing the jurisdiction of the Security Court over offences against the internal and external security of the State. Article 1 of the Decree abrogated Decree No. 7 of 1976, concerning the composition and procedures of the Security Court established under article 185 of the Penal Code. Offences that once came under the purview of the Security Court are now heard by the ordinary criminal courts in accordance with the procedures established in the Code of Criminal Procedures. The Security Court's judgements were final and could not be appealed through any appeal procedure. As a matter of legal principle, the judgements of ordinary criminal courts are not final and can be appealed by any method of appeal (see annex 5);

(c) Legislative Decree No. 11 of 2001, repealing the State Security Measures Decree. This Legislative Decree repealed the State Security Measures Decree of 1974, under the terms of which persons against whom there was evidence suggesting their involvement in activities that violated public security and public order could be arrested and imprisoned on that charge alone, without an impartial trial, and for renewable terms of up to three years to be determined by the competent court. The new decree guarantees equality among all accused persons with respect to

the criminal procedures applied during the stages of arrest, detention or trial. These procedures are only implemented in respect of an actual crime and not simply because a person is suspected of having committed an offence (see annex 6).

## **B. The land and the people**

### **1. The land**

17. The Kingdom of Bahrain is situated in the Arabian Gulf approximately halfway between the Straits of Hormuz and the Shatt al-Arab estuary. This strategic geographical location has endowed it with considerable importance throughout history since, as one of the principal links between the East and the West, it has always been a major hub of international trade and communications.

18. The Kingdom of Bahrain consists of an archipelago of islands in the shallow waters of the central Arabian Gulf. This archipelago comprises 36 islands covering a total area of 717.50 km<sup>2</sup>. The largest island is the island of Bahrain, covering an area of 592.63 km<sup>2</sup>, which contains the capital Manama and is linked by causeways to neighbouring islands such as Muharraq, Sitra, Umm Na'san and Nabih Salih. A causeway also links the main island to the Kingdom of Saudi Arabia.

19. The other large islands of the Bahrain archipelago include Hawar, situated at a distance of 25 km to the south of the main island and covering an area of about 52.09 km<sup>2</sup>.

### **2. The population**

20. By virtue of this strategic location, the Bahraini people exhibit distinct and deep-rooted characteristics in keeping with the nature of the commendable qualities that the population of such areas must possess in order to ensure tranquillity and stability for visitors and persons in transit while, at the same time, facilitating the commercial activity in which the population is primarily engaged. One of the principal distinct characteristics of the Bahraini people is their tolerance, family cohesion, spirit of fraternity, trustworthiness and honesty in their dealings and the absence of any form of bigotry, segregation or discrimination. As a result, visitors from neighbouring States have always enjoyed stability and a calm and peaceful atmosphere and these characteristics were further strengthened and perpetuated when Bahrain embraced Islam and adopted its lofty principles of tolerance and peace.

21. According to the 2001 census, Bahrain's population amounted to 650,600 persons, while the Bahraini population amounted to 405,700 persons of whom 204,600 were male and 201,000 were female. The number of non-Bahrainis in 2001 amounted to 244,900 of whom 169,000 were male and 75,900 female. Population density in 2001 amounted to 909 persons per square kilometre.

22. The following table shows the total non-Bahraini population by sex, nationality group and duration of residence in years, as at 2001:

Sex/nationality groups	2001 census							
	Less than 2 years	2 years	4 years	6 years	8 years	10 years and over	Unknown	Total
<b>Male:</b>								
Arabs	3 126	2 543	2 610	1 634	920	4 501	0	15 334
Gulf Cooperation Council	877	551	383	267	196	1 362	0	3 636
Other Arabs	2 249	1 992	2 227	1 367	724	3 139	0	11 698
Non-Arabs	30 837	34 030	18 319	14 054	12 493	43 959	0	153 692
Asian	29 014	32 612	17 780	13 697	12 207	43 033	0	148 343
African	118	88	44	23	10	59	0	342
European	779	557	330	256	194	717	0	2 833
North American	854	711	134	60	55	109	0	1 924
South American	7	8	2	2	3	13	0	35
Oceanian	65	54	29	16	23	28	0	215
<b>Total</b>	<b>33 963</b>	<b>36 573</b>	<b>20 929</b>	<b>15 688</b>	<b>13 413</b>	<b>48 460</b>	<b>0</b>	<b>169 026</b>
<b>Female:</b>								
Arabs	2 733	2 167	1 603	965	725	3 346	0	11 539
Gulf Cooperation Council	642	450	311	240	192	1 352	0	3 187
Other Arabs	2 091	1 717	1 292	725	533	1 994	0	8 352
Non-Arabs	19 892	14 409	7 155	4 524	3 883	14 509	0	64 372
Asian	17 644	12 283	6 157	4 080	3 541	13 578	0	57 283
African	791	1 064	477	114	42	94	0	2 582
European	830	578	362	256	213	716	0	2 955
North American	529	405	126	56	65	90	0	1 271
South American	12	6	4	3	1	9	0	35
Oceanian	86	73	29	15	21	22	0	246
<b>Total</b>	<b>22 625</b>	<b>16 576</b>	<b>8 758</b>	<b>5 489</b>	<b>4 608</b>	<b>17 855</b>	<b>0</b>	<b>75 911</b>
<b>Total:</b>								
Arabs	5 859	4 710	4 213	2 599	1 645	7 847	0	26 873
Gulf Cooperation Council	1 519	1 001	694	507	388	2 714	0	6 823
Other Arabs	4 340	3 709	3 519	2 092	1 257	5 133	0	20 050
Non-Arabs	50 729	48 439	25 474	18 578	16 376	58 468	0	218 064
Asian	46 658	44 895	23 937	17 777	15 748	56 611	0	205 626
African	909	1 152	521	137	52	153	0	2 924
European	1 609	1 135	692	512	407	1 433	0	5 788
North American	1 383	1 116	260	116	121	199	0	3 195
South American	19	14	6	5	4	22	0	70
Oceanian	151	127	58	31	44	50	0	461
<b>Total</b>	<b>56 588</b>	<b>53 149</b>	<b>29 687</b>	<b>21 177</b>	<b>18 021</b>	<b>66 315</b>	<b>0</b>	<b>244 937</b>

23. The Kingdom of Bahrain is not organized according to the principle of administrative centralization, but has adopted a reduced form of centralization. In 1996, Legislative Decree No. 16 of 1996, concerning the governorate system, was promulgated and later repealed and replaced by Legislative Decree No. 17 of 2002. The Kingdom is divided administratively into five governorates. Legislative Decree No. 35 of 2001, concerning municipalities, defines the functions of municipal councils, while Legislative Decree No. 3 of 2002 specifies the system for electing members to these councils.

### **C. The economic situation and human development**

#### **1. The economic situation**

24. According to the 2003 Human Development Report published by the United Nations Development Programme (UNDP), the Kingdom of Bahrain ranked first among the Arab States and thirty-seventh among 175 countries on the basis of the criterion of human development. International reports draw attention to the growth achieved by the Bahraini economy and the positive indicators resulting from the Kingdom's policies. It is noteworthy that the Kingdom of Bahrain was ranked sixteenth in the American Heritage Foundation's 2003 Economic Freedom Index, which measures economic freedom on the basis of a number of criteria including, in particular, financial, monetary and trade policies, government consumption of production, capital flows, foreign investments and intellectual property rights. The next few paragraphs present some economic and human development indicators.

25. Bahrain has adopted financial and economic policies based on the principle of the free economy and market mechanisms. The Kingdom is endeavouring to diversify its sources of income, to create an appropriate investment environment that will attract further local, Arab and foreign investments, and to develop the legislation and procedures relating to those activities. In April 2000, the Economic Development Council was set up to design a future strategy for the State's economic development, to oversee its implementation in collaboration with the relevant ministries and State institutions, to integrate different areas of economic activity and to develop a liberal economic climate. The economic strategy is notionally based on existing activities, namely the financial services sector, the construction services sector, the technology-based services sector, the health services sector, educational and training services and tourism services, and on maximization of the profits derived from the country's main sectors, namely oil, gas and aluminium.

26. These policies have been successful insofar as GDP (at current prices) rose from 2,998.1 million Bahraini dinars (BD) in 2001 to BD 3,165 million in 2002. Hence, the economic growth rate rose to 6.2 per cent at current prices and 5.1 per cent at fixed prices in 2002, and the per capita share of GNP rose to 4,462 dinars in 2002. Bahrain has also succeeded in ensuring a decent life for its citizens by improving their overall living conditions through the provision of all the principal utilities and social services. The per capita share of government expenditure rose to BD 1,534 in 2002. Expenditure on educational services per student rose to BD 906 in 2002 and the per capita share of government expenditure on health services rose to BD 159.3 in the same year. The policy of diversifying the sources of income likewise succeeded in reducing the petroleum sector's contribution to GDP at fixed prices

to 16.6 per cent in 2002. The economic growth that Bahrain has achieved as a result of its economic policies undoubtedly heralds a promising future for the Bahraini economy, as attested by the international economic institutions concerned.

27. International reports indicate that the Kingdom of Bahrain has maintained a public budgetary deficit of less than 3 per cent of GDP and that the deficit fell to 2.5 per cent of GDP in 1999. Bahrain actually achieved a budgetary surplus in 2000 and 2001. In addition, the Kingdom of Bahrain achieved the lowest rate of inflation, amounting to 0.7 per cent in 2000, 1.2 per cent in 2001 and 0.5 per cent in 2002, thanks to reductions in the prices of electricity, water, domestic services and university fees.

28. The following table shows the changes in net and per capita GDP and GNP (at current prices):

Item	2001	2002
GDP (in millions of dinars)	2 981	3 165
Per capita GDP (in dinars)	4 554	4 708
GNP (in millions of dinars)	2 860	2 999
Per capita GNP (in dinars)	4 370	4 462
Net GNP (in millions of dinars)	2 358	2 503
Net per capita GNP (in dinars)	3 643	3 724

29. The Kingdom's programmes and policies designed to expand and diversify the sources of GDP have been highly successful and socio-economic development has benefited from the endeavours made in fields of human development. The Kingdom is trying to increase the savings rates for investment and for economic and commercial activity in general in order to enable the Bahraini economy to achieve satisfactory growth rates. The Kingdom is also endeavouring to develop its national human resources, to create more employment opportunities and to maintain the high indicators that Bahrain has achieved in the domain of human development.

## 2. Education

30. The Constitution emphasizes the importance of developing feelings of national pride in all citizens without any social or racial discrimination. Article 7 (b) of the Constitution attributes the responsibility for providing national instruction to the State in the different stages and types of education. In accordance with the encouragement that the Charter gives to private sector participation in education, paragraph (c) of the same article grants individuals and organizations the right to establish private schools and universities.

31. Pursuant to article 7 of the Constitution, education in Bahrain is compulsory and free of charge in the first stages. The State sponsors the sciences, literature and the arts, encourages scientific research and has assumed responsibility for the provision of educational and cultural services for citizens.

32. Bahrain's education policies include specific strategies and plans of action designed to develop the education system and overcome the problems and challenges that it faces. The education policies are based on the two following principles:

- (a) Provision of education for all children of school age in all parts of the country;
- (b) Ongoing development of the quality of education in order to meet the needs of students and the country's socio-economic development requirements.

33. A large proportion of the State budget was earmarked for education; the recurrent budget for education amounted to 14.5 per cent of recurrent expenditure in 2002. This accounted for more than half of the budgetary appropriations for social services. This proportion rises to 17.2 per cent, if we add the financial transfers to the University of Bahrain.

34. As a result of the intensive endeavours that the Kingdom of Bahrain has made, the illiteracy rate fell to around 10.36 per cent of the total Bahraini population (10 years and over), amounting to 6.35 per cent for males and 14.41 per cent for females in 2001.

35. With regard to university education, Bahrain now has two universities: the University of Bahrain and the Arabian Gulf University. Each of these two universities admits Bahraini and non-Bahraini students wishing to complete their university education. Recently, licences were issued authorizing the establishment of a number of private universities and branches of some foreign universities.

### 3. Religion

36. Article 2 of the Constitution stipulates that the religion of the State is Islam. Article 7 stipulates that the law regulates different forms of religious and national instruction at various stages. Article 22 further stipulates that freedom of conscience is absolute and that the State guarantees the inviolability of places of worship as well as freedom to engage in religious observances and to participate in religious processions and meetings in accordance with the customs observed in the country.

37. According to the data collected during the 2001 census, the population distribution by religion was as follows:

Population by religion	Percentage
Muslims	81.22
Christians	8.96
Other religions	9.82

## D. Legal framework for the protection of human rights

### 1. Respect for human rights

38. The Constitution of the Kingdom of Bahrain guarantees respect for human rights in keeping with the lofty values and sublime humanitarian principles embodied in the National Action Charter. Hence, the Constitution places special emphasis on respect for the public rights and obligations that guarantee the welfare, progress, stability and prosperity of the nation and the people. According to article 4: "Government shall be based on justice, and cooperation and mutual respect shall constitute firm links between citizens. Liberty, equality, security, tranquillity, education, social solidarity and equal opportunities for citizens shall form the pillars of society and shall be guaranteed by the State."

39. Chapters II and III of the Constitution refer to the fundamental components of society and to public rights and duties, including personal liberty (art. 19), freedom of conscience (art. 22), freedom of opinion (art. 23), freedom of the press (art. 24), respect for the family and for women's rights (art. 5) and the right to health care (art. 8).

40. The Constitution has laid a solid foundation for the protection of rights and freedoms. Article 31 provides as follows:

“The public rights and freedoms provided for in this Constitution shall be regulated or defined only by, or in accordance with, a legislative enactment. Such regulation or definition shall not detract from the essence of the right or freedom concerned.”

41. Attention should be drawn to the address delivered by His Royal Highness King Hamad Bin Isa Al Khalifa, the country's beloved King, on the occasion of the fifty-fourth anniversary of the adoption of the Universal Declaration of Human Rights. His Royal Highness affirmed that the Declaration, which has won the agreement of all peoples throughout the world, embodies the main principles concerning the protection and promotion of human rights everywhere and in all domains and represents a common path that all peoples and nations can follow in order to promote the recognition and defence of these rights, free from any discrimination or injustice.

42. His Royal Highness also affirmed, in the context of the political and social reforms taking place in the Kingdom of Bahrain, that the Bahraini people exercise their fundamental rights in complete freedom and dignity. They are all equal before the law and enjoy a healthy climate of constructive dialogue and continuous giving where the reward of the hard worker is appreciation and a better life. Anyone seeking a legal remedy is entitled to redress on the basis of justice and the law and accused persons are considered innocent until their guilt is proved in accordance with the law.

43. His Royal Highness said that the fact that all of this was spelled out very clearly in the Constitution of the Kingdom of Bahrain and the National Action Charter was confirmation of the country's full and sincere commitment to safeguarding and defending these rights by offering everyone the opportunity to contribute to the building of the nation, the shaping of its future and the creation of the legal instruments required for the fulfilment of our aspirations.

## **2. Prohibition of torture**

44. The Constitution guarantees, inter alia, that torture is prohibited by law. According to the principles set out in article 19 of the Constitution, no one may be subjected to physical or mental torture and the law prescribes the penalties for the commission of such acts. Article 31 of the Constitution stipulates that rights and freedoms may not be regulated in any manner that is likely to detract from the essence of the right or freedom concerned. In that context, the prohibition of torture is one of the constitutional principles which all State authorities have a duty to enforce. These principles enjoy the guarantees and privileges prescribed for constitutional rules, which are assured greater protection than that enjoyed by rules with a lower legal standing than the Constitution.

45. The relevant laws have been enacted to prohibit and punish torture, as explained hereunder.

### **3. International human rights instruments**

46. The Kingdom of Bahrain complies with the Charter of the United Nations, Article 1 of which describes the purposes of the United Nations as being to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction.

47. The Kingdom of Bahrain has acceded to numerous international human rights instruments, including:

(a) The Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, to which Bahrain acceded under the terms of Decree No. 4 of 1990;

(b) The Slavery Convention of 25 September 1926, as amended by the Protocol of 1953, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, to which Bahrain acceded under the terms of Decree No. 7 of 1990;

(c) The International Convention on the Elimination of All Forms of Racial Discrimination of 1965, to which Bahrain acceded under the terms of Decree No. 8 of 1990;

(d) The International Convention on the Suppression and Punishment of the Crime of Apartheid of 1973, to which Bahrain acceded under the terms of Decree No. 8 of 1990;

(e) The Convention on the Rights of the Child, adopted by the General Assembly of the United Nations in November 1989, to which Bahrain acceded under the terms of Decree No. 16 of 1991;

(f) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 10 December 1984, to which Bahrain acceded under the terms of Decree No. 4 of 1998;

(g) The Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly of the United Nations on 18 December 1979, to which Bahrain acceded under the terms of Decree No. 5 of 2002.

The question of the Kingdom of Bahrain's accession to a number of other human rights instruments is currently under examination.

### **4. Remedies and measures to strengthen and protect the rights recognized in the Convention**

48. Legal redress is one of the public rights that the Constitution guarantees to all. The judicial authority, which is one of the State's three authorities, is dealt with in articles 104-106 of

the Bahraini Constitution, which stipulate that the honour of the judiciary and the integrity and impartiality of judges are the basis of government and a guarantee of rights and freedoms, and that, in their judgements, judges may be subject to no interference from any quarter. The law guarantees the independence of judges and provides safeguards for the administration of justice, in which no interference is permitted.

49. Legislative Decree No. 13 of 1971, concerning the statutes of the judiciary, as amended and superseded by the Judicial Authority Act promulgated by Legislative Decree No. 42 of 2002, stipulates that judges are independent and in the discharge of their functions are subject to no authority other than the law. The decree defines the manner of appointment and immunities of judges. It makes provision for different levels of courts, regulates their functions and divides them into two categories. The civil courts, consisting of the Court of Cassation, the Higher Civil Court of Appeal, the Supreme Civil Court and the Lower Court, are competent to hear all civil, commercial and administrative cases referred to them, as well as personal status disputes of non-Muslims and criminal cases other than those regulated by special laws. The administrative division of the Supreme Civil Court has competence for hearing administrative cases between individuals on the one hand and the Government or public entities or institutions on the other. The Shariah courts consist of the Shariah Higher Court of Appeal, the Shariah Supreme Court and the Shariah Lower Court. Each court is comprised of two divisions: the Sunni division and the Jaafari division. The Shariah courts are competent to hear all personal status disputes between Muslims relating to marriage, divorce, child maintenance and custody, etc. Within the framework of respect for religious freedom, which is guaranteed in the Constitution, the Shariah courts adjudicate on matters of personal status in accordance with the rules of the Islamic school of law to which the plaintiff belongs (see annex 7).

50. The Convention against Torture has acquired the force of law, since, according to article 37 of the Constitution, a convention acquires the force of law after its conclusion, ratification and publication in the *Official Gazette*. Thus, any failure to comply therewith constitutes a breach of the law and entails criminal responsibility if a criminal offence has been committed. It also entails legal liability for any damage caused.

51. Article 29 of the Constitution provides that: "Any individual may address the public authorities in writing and under his signature. Only duly constituted organizations and bodies corporate may address the authorities collectively."

52. Any citizen can also lodge a complaint against administrative authorities and departmental heads, including the relevant ministers, and, in accordance with the time-honoured customs and traditions, any Bahraini citizen can submit his complaint in person to His Highness the Prime Minister during the weekly audiences at which he receives citizens and others, or to the Ombudsman's Office attached to the Royal Court of Complaints.

53. Provision is made for legal aid, which is granted by a commission comprised of lawyers. In cases where one of the parties in the proceedings is unable to pay for the services of a lawyer or where the law compels representation by counsel (criminal and juvenile cases), legal aid is granted by order of the Minister of Justice and the appointed counsel's fees are set by the court and defrayed by the Treasury. All of this is in conformity with the Lawyers' Act issued pursuant

to Legislative Decree No. 26 of 1980, as amended, and with Order No. 5 of 1981, issued by the Minister of Justice and Islamic Affairs, concerning the implementation of the Lawyers' Act (see annexes 8 and 9).

#### **5. The legal status of human rights conventions, including the Convention against Torture, under the legal system of the Kingdom of Bahrain**

54. According to article 37 of the Constitution, a convention or treaty acquires the force of law after its conclusion, ratification and publication in the *Official Gazette*, which endows it with the same legal status as any of the country's other laws. Since the Convention against Torture relates to one of the constitutional principles governing public rights and obligations, it enjoys the protection accorded to constitutional rules, which excludes any possibility of the promulgation of a conflicting provision in view of the stipulation contained in article 31 of the Constitution to the effect that any regulation or definition of the public rights and freedoms provided for in the Constitution must not detract from the essence of the right or freedom concerned.

55. The Convention has been published, in Arabic, in the country's *Official Gazette* and has been distributed among all government agencies. It can be obtained by citizens and residents at a nominal price.

#### **E. Endeavours to disseminate, propagate and make known the provisions of the Convention**

56. The Convention was published in Arabic, in the country's *Official Gazette*, in accordance with the provisions of articles 37 and 122 of the Constitution and pursuant to Decree No. 4 of 1998. It thereby acquired the same legal status as any of the country's other laws. As mentioned above, any person working in the legal field or a government body and any citizen or other person can obtain the *Official Gazette* at a nominal price. All the laws of the Kingdom of Bahrain are available on the web site of the Department of Legal Affairs of the Ministry of State for Cabinet Affairs and on other of the Kingdom's Internet sites.

57. In the private sector, the non-governmental associations operating in various fields in Bahrain play an important role, within their respective fields of activity, in promoting greater public awareness of the provisions of international human rights instruments, including the Convention forming the subject of the present report, by disseminating them among their members in such a way as to make it easy for their members and the public to familiarize themselves with the provisions and principles set out in those instruments, thereby making them more aware of their rights and obligations arising therefrom. Numerous seminars have also been organized for this purpose.

58. The various branches of the audio-visual and electronic information media are committed to the dissemination and consolidation of the humanitarian values on which the Kingdom of Bahrain was founded, particularly respect for human dignity and the spread of a human rights culture in order to achieve the prosperous society to which the Kingdom of Bahrain aspires.

## **II. COMMENTS ON THE SUBSTANTIVE PROVISIONS OF THE CONVENTION**

### **A. Article 1**

59. The National Action Charter of 2001 states, in section I entitled: “The fundamental pillars of society” and in paragraph 3 of section II entitled: “Guaranteeing individual liberties and equality”, that no one shall be subjected to any form of physical or mental torture or to any inhuman, degrading or humiliating treatment. Any confession or statement obtained under torture, threats, or enticement is null and void. It is prohibited by law to subject an accused person to physical or mental harm. The law guarantees punishment of those who commit torture or acts that cause physical or mental harm.

60. Article 19 of the Constitution stipulates, inter alia, that no one shall be subjected to physical or mental torture, enticement or degrading treatment, and the law shall prescribe penalties for these acts. Article 20, paragraph (d), of the Constitution further stipulates that no accused person may be subjected to physical or mental harm.

61. Article 208 of the Penal Code prescribes a penalty of imprisonment for any public official who, directly or indirectly, uses torture, force or threats against an accused person, a witness or an expert in order to induce that person to confess to an offence or to proffer statements or information relating thereto. The penalty is life imprisonment, if the use of torture or force results in death.

62. Article 232 of the Penal Code prescribes a penalty of deprivation of liberty for anyone who, directly or indirectly, uses torture, force or threats against an accused person, a witness or an expert in order to induce him to confess to an offence or to proffer statements or information relating thereto. The penalty shall be not less than six months in prison, if the victim’s physical integrity is damaged as a result of the use of torture or force (see annex 10 for the text of the Penal Code).

63. As mentioned above, the definition of torture given in the Constitution and the Penal Code is consistent with the definition provided in article 1 of the Convention. It has a broad meaning insofar as it defines anyone who commits this offence as a criminal, whether that person is the primary perpetrator of the offence or an accomplice who incites, conspires or assists in its commission. The general rules set out in articles 43-48 of the Penal Code on the subject of accomplices and accessories to criminal offences equally apply to this offence.

### **B. Article 2**

64. According to article 19, paragraph (d), of the Constitution: “No one shall be subjected to physical or mental torture, enticement or degrading treatment, and the law shall prescribe penalties for these acts. Any statement or confession found to have been obtained through torture, enticement or such treatment, or threat thereof, shall be deemed null and void.”

65. Article 19 (b) of the Constitution stipulates that no one may be arrested, detained, imprisoned, searched, compelled to reside in a specified place or restricted in his liberty of residence or movement except as provided by law and under the supervision of the judiciary.

66. Article 208 of the Penal Code prescribes a penalty of imprisonment for any public official who, directly or indirectly, uses torture, force or threats against an accused person, a witness or an expert in order to induce him to confess to an offence or to proffer statements or information relating thereto. The penalty is life imprisonment, if the use of torture or force results in the person's death. Article 232 of the Penal Code prescribes a penalty of deprivation of liberty for anyone who, directly or indirectly, uses torture, force or threats against an accused person, a witness or an expert in order to induce him to confess to an offence or to proffer statements or information relating thereto. This is a reflection of the Bahraini legislature's determination to criminalize the act of torture under the Code by devoting two separate provisions to the same offence, in order to emphasize its gravity, and by prescribing more severe penalties when the act is committed by a public official.

67. There are no provisions in domestic legislation that justify torture under any circumstances. The rules established in articles 15-21 of the Penal Code, concerning mitigating factors, contain no provisions that authorize the use of torture on any grounds, even if the perpetrator was acting under orders from a superior officer or public authority. Indeed, these articles make quite contrary stipulations, insofar as they recognize the victim's legitimate right to a self-defence in cases where an officer deliberately commits an abuse of office which the victim fears will cause him grave harm. This stipulation is contained in article 19 of the Penal Code.

68. Similarly, the Kingdom's laws do not grant the investigating authorities any immunity from judicial scrutiny, nor do they grant them any special powers to determine the method for dealing with complaints about torture.

69. The domestic authorities cooperate fully with human rights organizations wishing to visit places of detention and prisoners and to interview prisoners.

70. In addition to the legislative, administrative or judicial measures that have been established to deal with torture offences, several other effective measures have been introduced to put a stop to torture. The following are some examples of the most important of these measures:

(a) Human rights commissions, which have official status, have been established to deal with human rights issues in general and the prohibition of torture in particular. Their programmes, which are run in conjunction with international organizations and domestic agencies, are designed to provide the kind of expertise required for awareness-raising and other activities relating to the prevention of acts of torture. These commissions are represented in the Human Rights Committee set up by the Ministry of Foreign Affairs and the Ministry of the Interior.

(b) Authorization is given for the creation of non-official human rights committees and associations, such as the Bahraini Human Rights Association and the Bahrain Centre for Human Rights. These associations carry out important activities and programmes which focus on human rights issues, including the prevention of torture, and disseminate information about the rights and duties of individuals or public servants. The associations have direct contact with ordinary members of the public and pass on their complaints or reports about human rights to the

relevant authorities. The associations are fully independent, as recognized in Legislative Decree No. 21 of 1989, by which the Act concerning private youth and sports associations and organizations and private institutions was promulgated.

(c) Courses are run and books and other publications are produced on human rights topics. The Ministry of the Interior has incorporated the human rights subjects of concern to its staff, particularly the prevention of torture and treatment of accused persons, into the training courses that it runs for officers and members of the rank and file. It has also produced and distributed among Ministry staff publications and books that explain the rights and obligations established by, and the human rights principles enshrined in, the law. One of the most important of these publications is the book entitled "The Ten Standards". Produced by the Ministry's Department of Legal Affairs, it outlines the procedures for gathering evidence and the powers and functions of the police as established in the Code of Criminal Procedures.

### **C. Article 3**

71. In accordance with the constitutional principles enunciated in article 37 of the Constitution, which specifies the procedures for the conclusion of treaties and their entry into force, the Constitution takes account of treaties that include provisions on the extradition of accused and convicted persons. These treaties include:

(a) The Agreement on Security Cooperation and Extradition of Criminals concluded with the Kingdom of Saudi Arabia pursuant to Legislative Decree No. 15 of 1982;

(b) The Agreement on Legal and Judicial Cooperation concluded with the Arab Republic of Egypt pursuant to Legislative Decree No. 10 of 1989;

(c) The Arab Counter-Terrorism Convention concluded pursuant to Legislative Decree No. 15 of 1998.

### **D. Article 4**

72. Article 20 (d) of the Constitution stipulates that an accused person shall not be subjected to physical or mental harm. Reference has already been made to article 19 (d) of the Constitution, which states that the law criminalizes acts of torture and prescribes the penalties therefor. Mention has also been made of the broad definition given to torture in articles 208 and 232 of the Penal Code.

73. We should like to explain that the penalty prescribed in article 208 of the Penal Code is a term of imprisonment for any public official who commits an act of torture. It is a penalty of deprivation of liberty imposed for criminal offences, the duration of which, according to article 49 of the Penal Code, must be a minimum of 3 and a maximum of 15 years. The penalty increases to life imprisonment, if the victim dies as a result of the use of torture or force.

74. We should also like to explain that the penalty prescribed in article 232 of the Penal Code is deprivation of liberty for an act of torture carried out by a person other than a public official. Article 50 of the Penal Code defines the penalty of imprisonment as one of the basic penalties of deprivation of liberty, the duration of which ranges from 3 to 15 years. Article 232 of the

Penal Code adds that, if the physical integrity of the victim is damaged as a result of the torture or use of force, the penalty must be not less than six months' imprisonment. In this way, the Code prescribes a minimum prison term for the commission of such offences.

75. The final paragraph of article 232 of the Penal Code prescribes a penalty of imprisonment, if the victim dies as a result of the use of torture or force. Article 49 of the Penal Code defines the penalty of imprisonment as one of the basic penalties of deprivation of liberty. It is imposed for criminal offences and for a minimum of 3 and a maximum of 15 years.

76. We should like to refer here to article 45 of the Penal Code, which states that anyone who participates in an offence, whether as the main perpetrator or an accessory thereto, is liable to the penalty prescribed for that offence, unless the law makes a contrary provision. Thus, anyone who participates in an offence by inciting, conspiring in or aiding and abetting its commission is liable to the same penalty as the main perpetrator of the offence.

77. Reference should also be made to article 75 of the Penal Code, which prescribes the penalties for all offences, including torture, when committed with particular aggravating circumstances. These circumstances are:

- (a) When the offence is committed for base reasons;
- (b) When the offence is committed by taking advantage of the victim's inability to resist and the absence of any other person who could defend the victim;
- (c) When the offence is committed by a public official in or in connection with the conduct of his duties, unless the law prescribes a special penalty that takes account of his official status.

78. These aggravating circumstances are undoubtedly important considerations in torture cases. Article 75 of the Penal Code states that whenever an offence is committed with aggravating circumstances the maximum prison sentence may be doubled and the penalty of deprivation of liberty may be raised to the maximum.

#### **E. Article 5**

79. Articles 5-12 of part 2, chapter I, of the general section of the Penal Code recognize the territorial applicability of the Bahraini Penal Code to all offences, including torture, and the jurisdiction of the State over these offences. This is in conformity with the terms of the Convention. The aforementioned articles read as follows:

#### **“Article 5**

“The provisions of the present Code apply to all offences committed in the State of Bahrain. An offence shall be deemed to have been committed in the territory of Bahrain if one of the acts constituting the offence is committed therein or if the profits therefrom are accrued or were intended to be accrued in the said territory. The Code shall apply in all circumstances to all those who took part in the offence, whether as the main perpetrator or as accomplices thereto, even if their participation occurred abroad.

**“Article 6**

“The provisions of the present Code apply to all nationals or foreigners who commit outside the State of Bahrain an act that makes them the main perpetrator of, or an accomplice to, an offence against the external or internal security of the State, under parts 1 and 2 of chapter I of the special section of the Code, or the offence of forging official seals or public symbols or counterfeiting currency or banknotes, under articles 257, 262 and 263 of the Code.

**“Article 7**

“The present Code applies to offences committed abroad by State officials or public servants in or in connection with the conduct of their duties.

**“Article 8**

“Any national who commits while abroad an act that makes him the main perpetrator of, or an accomplice to, an offence under the present Code shall be punished in accordance with the provisions hereof, if he is present in the State of Bahrain and the act which he committed is punishable under the laws of the country in which it was committed. This provision shall apply regardless of whether the national acquired or forfeited his nationality after the offence was committed.

**“Article 9**

“The provisions of the present Code apply to all foreigners present in the State of Bahrain who commit while abroad an offence other than those specified in articles 6, 7 and 8 of the present Code and whose extradition has not already been requested.

**“Article 10**

“Except for the offences mentioned in article 6, no prosecution may be brought against a foreigner who has already been acquitted of the charges against him or who has been convicted in accordance with a final judgement and has served his sentence or has been exempted from punishment owing to a lapse of time.

**“Article 11**

“When a prosecution is brought in respect of an offence committed abroad, the judge shall subtract from the sentence imposed the sentence that the convicted person has already served abroad or the time the accused has spent in pre-trial detention.

**“Article 12**

“Final criminal verdicts rendered by ordinary foreign courts may be relied upon in the adjudication of offences under the present Code which were committed abroad in order to:

- “1. Impose related penalties, if consistent with the terms of the present Code, to order reparation and compensation and deal with other civil effects;
- “2. Impose the related penalties specified in the present Code or order reparation or compensation;
- “3. Implement the provisions of the present Code with regard to recidivism, multiple offences and conditional release.”

80. In relying on a foreign court judgement, steps must be taken to verify the validity of the judgement and ensure that it was rendered by the court with jurisdiction over the offence concerned. However, if an action is brought in which reliance is placed on a foreign court judgement, the court hearing the case shall have competence for deciding whether or not to adopt the judgement.

81. This is all evidence of the National Assembly’s determination to give effect to the principle of universality of jurisdiction.

#### **F. Article 6**

82. With regard to the possibility of taking a person accused of the offence of torture into custody if the circumstances so warrant, article 142 of the Code of Criminal Procedures states that if sufficient evidence is found upon interrogation of the accused person and if the offence concerned is punishable by more than three months in prison, which is the case of torture offences, a member of the Department of Public Prosecutions may order the placement of the accused person in preventive detention. An accused person can always be placed in preventive detention if he has no fixed or known address in Bahrain and the offence he committed is punishable by a term of imprisonment.

83. With regard to the duration of custody or temporary preventive detention, where jurisdiction has been established and proceedings are pending, article 57 of the Code of Criminal Procedures stipulates that the duration of preventive detention may be extended by a judicial officer for up to 48 hours from the time of the arrest. Article 147 of the Code of Criminal Procedures stipulates that temporary detention may be extended for a period of one week by the Department of Public Prosecutions and for 45 days by a minor court judge. Article 148 of the Code further stipulates that a higher court may extend preventive detention for other periods if the circumstances so warrant. In no case may preventive detention exceed six months, unless notice has been given of the accused person’s referral to the competent court.

84. With regard to the extension of custody and preventive detention of a person who is to be extradited to another State upon that State’s request, article 421 of the Code of Criminal Procedures and the above-mentioned agreements concluded by the Kingdom of Bahrain on the subject, inter alia, of the extradition of criminals stipulate that, in urgent cases, a court may decide, upon the request of the judicial authorities of the requesting State, to remand the person whose extradition is sought in provisional custody pending receipt of the written request and the annexes thereto. A person whose extradition is requested may not be detained for more than 30 days, which may be extended to 60 days if the court decides that there is a compelling reason for doing so. In no case may the detention be extended beyond this time limit.

85. With regard to the launching of an immediate inquiry into torture offences, article 57 of the Code of Provisional Procedures stipulates that investigating officers must immediately question a person arrested for any offence and refer him, within 48 hours, to the Department of Public Prosecutions, which has 24 hours to conduct the interrogation. Article 52 of the Code states that, as soon as the Department of Public Prosecutions is notified of a flagrante delicto offence, it must send one of its members to the scene of the crime.

86. With regard to assisting the detained person in communicating with others and with a representative of his State, article 61 of the Code of Criminal Procedures provides that no one may be arrested or detained other than by order of the legally competent authorities. He must furthermore be treated in a manner that preserves his human dignity and may not be subjected to physical or mental harm. He must be informed of the reasons for his arrest and is entitled to communicate with his family members to inform them of what has happened and ask for the services of a lawyer. Article 62 provides that no one may be detained in a location other than a designated place of confinement. Article 64 provides that anyone who is aware that a person is being detained unlawfully or in an illegal place of confinement must inform a sentencing judge or a member of the Department of Public Prosecutions who must go immediately to the place of confinement, conduct a search and release the person who is being unlawfully detained. He must also write a report to be submitted to the Attorney-General for the purpose of prosecuting the party responsible for the detention. In accordance with the Ministry of Interior circular on the rights of arrested persons and with its prison manual, if the arrested person is a foreigner, he has the right to communicate with his country's embassy or embassy representative at the time of his arrest or upon being transferred from one place of detention to another.

#### **G. Article 7**

87. All the above-mentioned agreements concluded by the Kingdom of Bahrain on the subject, inter alia, of extradition of criminals stipulate, with regard to all extraditable offences, including torture offences, that if extradition does not take place for any of the reasons mentioned in those agreements, the relevant authorities in the Kingdom must refer the case and the accused person to the competent authorities for prosecution.

88. All the domestic rules established in the aforementioned Code of Criminal Procedures, concerning the arrest, interrogation and preventive detention of persons, equally apply to torture offences, for which the prescribed penalty is a term of up to life imprisonment if the above-mentioned aggravating circumstances obtain. The standards applied are no less strict than those established for other offences for which the penalties are similar to those prescribed for torture, except in regard to the statute of limitations on prosecutions. The legislature is examining a proposal to add the offence of torture to those specified in article 18 of the Code of Criminal Procedures, which provides that the statute of limitations on certain offences committed by public officials or public servants shall not begin to take effect until the date on which the person's official functions are terminated or his period of service ends, unless an investigation has been launched prior to that date.

89. Domestic laws guarantee fair treatment at all stages of legal proceedings. The above-mentioned standards relating to other offences also apply to the offence of torture; they consist in the following:

(a) The right to be informed of the reasons for the arrest and of the place of detention; the right not to talk about the charge without a lawyer being present; and the right to communicate with one's family members, a lawyer or the embassy or embassy representative of one's country. These rights are spelt out in the arrest form that was produced by the Ministry of the Interior, is prominently displayed in all security offices and places of detention, and is included in the Ministry of the Interior's prison manual;

(b) The rule that no one can be arrested other than by order of the legally competent authorities; that the arrested person must be treated in a manner that preserves his human dignity; that he may not be subjected to physical or mental harm; that he must be informed of the reasons for his arrest; that he has the right to communicate with his family members and seek the assistance of a lawyer; and that he cannot be detained other than in a designated place of confinement that is subject to judicial supervision, as provided in articles 61 to 64 of the Code of Criminal Procedures.

#### **H. Article 8**

90. None of the provisions of the Code of Criminal Procedures and the agreements concluded by the Kingdom of Bahrain on the subject, inter alia, of extradition of criminals, refers to extradition requests pertaining to torture offences.

91. Under domestic law, if an extradition request is made by a State that is not a party to the Convention or if no treaty exists between that State and the Kingdom, the provisions of the Convention apply insofar as the Convention is part of domestic law, in accordance with the principles enshrined in the Constitution. The provisions of articles 412-425 of the Code of Civil Procedures also apply and they do not conflict with the agreements that the Kingdom has concluded on this subject.

#### **I. Article 9**

92. The Bahraini Code of Criminal Procedures contains provisions on international cooperation on all criminal matters, including cases of torture. These provisions are found in articles 426-428 of part 2, chapter 2, title VI, of the Code, under the heading: "Requests for legal assistance".

#### **J. Article 10**

##### **Training**

93. The Ministry of the Interior has introduced annual training plans for its staff. The decision has been taken to include human rights subjects as core subjects in these courses.

94. The following are some of the main refresher courses offered to officers:

(a) The refresher course for officers from the rank of second lieutenant to the rank of captain. This is an eight-week full-time course for 20-30 participants. Consisting of field training, theoretical lectures and field visits, the course is designed to improve the participants' knowledge of the topics covered, including the subject of human rights;

(b) The public relations course for officers from the rank of second lieutenant to the rank of major. The course, which is a one-week, full-time course for 15-20 participants, caters for officers from the National Defence Force and the National Guard. It is designed to develop the trainees' skills in public relations programme planning and to teach them about modern methods of conducting public opinion polls and studies and analysing and assessing public trends in a number of important subject areas, including human rights;

(c) The criminal investigation techniques course is for officers from the rank of second lieutenant to the rank of captain. It is a one-week, full-time course for five to eight participants and its aim is to provide training on the development of investigation techniques according to the latest procedural and legal regulations, and to make participants aware of human rights principles as they apply to criminal investigations;

(d) The course on arrest and search procedures is for officers from the rank of second lieutenant to the rank of captain. It is a one-week, full-time course for five to eight students. It is designed to offer training on the legal rules regulating the conduct of arrests and searches, focusing on compliance with international human rights principles.

95. The most important courses for non-commissioned officers include:

(a) The security patrols course, a full-time course for 15-25 participants. The course is designed to improve the practical skills of non-commissioned officers and privates and to make them aware of the legal dimensions and general principles of human rights, since the work of security patrols is one of the channels of direct communication between the police and the public;

(b) The treatment of prisoners course, which is for 15-25 participants. It is a one-week, full-time course that takes the form of theoretical and practical lectures focusing on the legal rules and human rights principles regulating the conduct of arrests and searches;

(c) The human rights training course for law enforcement officials of the Ministry of the Interior, which was held from 17 to 21 April 2004. Jointly run by the Ministry of the Interior, the Bahraini Association for Human Rights and the Arab Institute for Human Rights, the participants included law enforcement officers from the Ministry of the Interior and other competent authorities. The course is designed to explain the theoretical and practical aspects of human rights and human rights protection, by teaching participants about conventions focusing on human rights protection, including the Convention against Torture. The lecturers also discussed the implications of domestic laws for the treatment of prisoners, the legal guarantees governing the rights of the accused person and the principles behind a fair trial.

## **Publications**

96. The Ministry of the Interior accords importance to the human rights publications prepared by the relevant ministerial departments. In this regard, the Ministry's Department of Legal Affairs has issued publications on the 10 basic human rights standards for law enforcement officers, the general procedures for gathering evidence, and the duties of investigating officers during the evidence-gathering stage.

97. The publication on the 10 standards contains a general commentary on the basic information set out in the Universal Declaration of Human Rights, and defines the 10 standards as follows:

- (a) Everyone has the equal right to enjoy the protection of the law without discrimination on any grounds, including, in particular, protection against violence or threats. Protection must be accorded to particularly vulnerable groups, such as children, older persons, women, refugees, migrants and minorities;
- (b) All victims of crime must be treated with compassion and kindness and in a manner that protects their welfare and privacy;
- (c) Force should not be used except in extreme cases of necessity and to the minimum extent that the circumstances allow;
- (d) Force should not be used during police monitoring of unlawful gatherings in which the participants resort to violence. If violence occurs, the police must use the least possible force to disperse the crowd;
- (e) Deadly force should not be used unless absolutely necessary either for the purposes of self-defence or the protection of other lives;
- (f) No one should be arrested without legal justification. Arrests must be carried out according to the relevant legal procedures;
- (g) All persons who are taken into custody must be guaranteed the opportunity, immediately after arrest, to communicate with members of their family and their legal representatives. They must be given any medical assistance they require;
- (h) It is prohibited by law to carry out summary executions or enforced disappearances or to order or conceal the commission of either of these acts. There shall be no compliance with any order to commit either of these acts;
- (i) Every subordinate must inform his superior officer and the Department of Public Prosecutions of any violation of these basic principles and must do his utmost to ensure that the necessary steps are taken to investigate such violations.

98. The publication on general evidence-gathering procedures covers some basic subjects dealt with under the Code of Criminal Procedures. It includes a separate explanation of international legal principles and court judgements pertaining to the following:

- (a) Procedures to be followed by the police during the gathering of evidence; the importance of those procedures; and the general rules relating thereto;
- (b) The rules for distinguishing between evidence-gathering and investigation procedures and the legality of, and rationale behind, evidence-gathering procedures;
- (c) The powers of criminal investigation officers with regard to the gathering of evidence; the difference between the criminal investigation police and the administrative police;

the composition of the criminal investigation department and its subordination to the Department of Public Prosecutions. The regular functions of the criminal investigation police, which include receiving complaints, collecting information, conducting inquiries, taking preventive measures, questioning witnesses, consulting experts, and performing other evidence-gathering activities;

(d) The rules governing the special powers of criminal investigation officers; the conduct of searches in cases of arrest and de flagrante offences; the duties of officers during and after arrest and when the Department of Public Prosecutions orders any of the aforementioned procedures.

99. Here, it might also be appropriate to refer to the seminars organized by some private associations on the occasion of the United Nations International Day in Support of the Victims of Torture and the ideas about the rehabilitation of victims of torture that were discussed on that occasion.

### **K. Article 11**

100. Article 19, paragraphs (b) and (c), of the Constitution stipulate that no one may be arrested, detained, imprisoned, searched, compelled to reside in a specified place or restricted in his liberty of residence or movement except as provided by law and under the supervision of the judiciary. Likewise, no one may be detained or imprisoned in locations other than those designated in prison laws covering health and social protection and under the supervision of the judiciary.

101. The rules relating to arrests, interrogations and pre-trial detention are set out in chapters 1 and 2 of title II of the Code of Criminal Procedures, which deal with evidence gathering and the investigation of offences. They prohibit any act of torture, as explained hereunder:

(a) Article 61 of the Code of Criminal Procedures stipulates that no one may be arrested or imprisoned other than by order of the legally competent authorities. Arrested persons must be treated in a manner that preserves their human dignity and may not be subjected to physical or mental harm. They must be informed of the reasons for their arrest and are entitled to communicate with the family members of their choosing in order to inform them of what has happened and ask for the services of a lawyer;

(b) Article 62 furthermore provides that no one may be imprisoned in a place other than a designated place of confinement. No prison warden may admit a person without a signed order from the competent authorities, nor may he detain a person beyond the term specified in such an order;

(c) Articles 133, 134 and 135 establish the rules governing the conduct of interrogations. They stipulate that interrogations must be conducted by the Department of Public Prosecutions, in the presence of the accused person's lawyer, who must be allowed to read the case file at least one day prior to the interrogation or interview. In no circumstances may the accused person be separated from his lawyers during the interview.

## **L. Article 12**

102. Article 19 (d) of the Constitution stipulates, inter alia, that no one may be subjected to physical or mental torture, enticement or degrading treatment, and that the law shall prescribe penalties for these acts.

103. Articles 63 and 64 of the Code of Criminal Procedures establish the rules governing the conduct of prison inspections aimed at verifying whether prisoners are being unlawfully detained and hearing prisoners' complaints. If any prisoner is found to be detained unlawfully or in a non-designated place of confinement, the matter shall be investigated by a sentencing judge or a member of the Department of Public Prosecutions, who must order the release of the person in question and write a report to be transmitted to the Attorney-General so that legal proceedings can be taken against the person responsible for the unlawful detention.

104. Under article 48 of the Code of Criminal Procedures, any public official or public servant who learns, in or in connection with the conduct of his duties, of the commission of any offence, including torture, must report the matter to the Department of Public Prosecutions or the nearest criminal investigation officer.

105. Article 230 of the Penal Code prescribes a penalty of imprisonment for any public official responsible for the investigation or prosecution of offences who ignores or delays in reporting information he receives about an offence. If the official in question is not responsible for the investigation or prosecution of offences, the penalty shall be a fine.

## **M. Article 13**

106. Article 20, paragraph (f), of the Constitution stipulates that the right to a legal remedy is guaranteed by law.

107. Article 120 of the Code of Criminal Procedures stipulates that no explicit or implicit statement and no gesture may be made towards a witness with a view to confusing or intimidating him. Witnesses cannot be denied the right to be heard for any reason whatever.

108. It is worth pointing out that the authorities have an obligation to act on any complaint or report about an offence, including the offence of torture. This is stipulated in article 46 of the Code of Criminal Procedures, which states that criminal investigation officers must accept the reports and complaints they receive about offences and they and their superiors must obtain all the necessary clarifications in order to help investigate the facts reported to them or those of which they learn by any means. Article 47 of the Code furthermore stipulates that anyone who knows anything about the commission of an offence that could be prosecuted by the Department of Public Prosecutions must report it to the Department of Public Prosecutions or any criminal investigation officer.

109. It follows that everyone has the recognized right to report torture offences and that the competent bodies must accept such reports and take the necessary action thereon. Failure to do so is punishable by law. The law also establishes the means by which individuals alleged to have suffered torture can obtain redress. The necessary steps are taken to guarantee protection of complainants and witnesses in accordance with the laws in force.

#### **N. Article 14**

110. Articles 177-181 of the Bahraini Civil Code establish the rules for awarding compensation for damage suffered as a result of an unlawful act, which comply with article 14 of the Convention. Article 180 of the Code devotes to cases involving criminal liability a special provision favouring the victim of such offences. It provides that:

(a) No case involving liability for an unlawful act shall be heard after three years have elapsed from the day on which the victim becomes aware of the damage and the party responsible therefor or after 15 years from the commission of the unlawful act, whichever of the two time limits expires first;

(b) However, if the case involving liability for an unlawful act is connected with a criminal offence, it shall not be barred from adjudication so long as the criminal action is pending, even if the time limits specified in the preceding paragraph have expired (annex 12 contains the text of the Civil Code).

111. Article 22 of the Code of Criminal Procedures also grants victims the right to take criminal action to claim civil compensation for damage arising from an offence. It stipulates that anyone who has suffered direct personal damage as the result of an offence is entitled to claim his civil rights from the accused person during the evidence-gathering or investigation stages or before the court hearing the criminal case. The civil action shall be included in the criminal case referred to the court. Article 32 of the same Code stipulates that any judgement rendered in respect of the criminal case must decide on the compensation claimed by the victim, unless the criminal court decides to refer the matter to the civil courts.

112. Article 23 of the Code of Criminal Procedures provides that, if the person who has suffered damage as the result of an offence does not have the means to bring an action and has no legal representative, the court may appoint a representative, at the request of the Department of Public Prosecutions, to claim that person's civil rights free of charge.

#### **O. Article 15**

113. According to article 19, paragraph (d), of the Constitution, any statement or confession found to have been obtained through torture, enticement or such treatment, or threat thereof, shall be deemed null and void.

114. According to article 253 of the Code of Criminal Procedures, judges adjudicate cases in complete freedom, based on the convictions that they form. However, it is not permissible for them to base their judgements on any evidence that was not presented during the hearing or any statement which is established to have been made by an accused person or witness under coercion or threats. Such statements shall be deemed null and void and unreliable.

#### **P. Article 16**

115. Article 207 of the Penal Code prescribes a penalty of imprisonment for any public official or public servant who knowingly searches a person, his home or his premises without his consent, in circumstances other than those provided for by law or without observing the conditions stipulated therein.

116. Article 209 of the Penal Code prescribes a penalty of imprisonment for any public official who inflicts or orders the infliction on a convicted person of a penalty that is more severe than that imposed by law or a different penalty from that which was imposed.

117. Article 210 of the Penal Code prescribes a penalty of one to five years' imprisonment for any public official responsible for running or guarding a prison who admits a person to the prison without an order from the competent authority, keeps a prisoner there beyond the time limit specified in the order, or fails to comply with a release order.

118. Article 238 of the Penal Code prescribes a penalty of up to one year in prison and a fine of up to 100 dinars for anyone who, without revealing his purpose, uses coercion or threats, offers any form of gift or privilege, or promises something in order to induce another not to testify or to give false testimony.

119. Article 339 of the Penal Code prescribes a penalty of imprisonment or a fine for anyone who violates the physical integrity of another person, causing the victim to become ill or incapacitated for a period of more than 20 days. If the outcome of the assault is of a lesser gravity, the penalty shall be a term of up to one year in prison or a fine of up to 100 dinars. If a pregnant woman miscarries as the result of such an assault or the offence was committed by a public official in or in connection with the conduct of his duties, this will be regarded as an aggravating circumstance in accordance with article 75 of the Code.

120. Article 357 of the Code prescribes a penalty of deprivation of liberty to be imposed on anyone who unlawfully arrests, detains or in any other way deprives a person of his liberty. The penalty shall be a term of imprisonment, if the act was committed by a public official in or in connection with the conduct of his duties.

121. Article 366 of the Code prescribes a fine of 500 dinars for the act of defamation, even if the act is not committed in public or in the presence of others. According to article 75 of the Code, if the act is committed by a public official in or in connection with the conduct of his duties, this shall be regarded as an aggravating circumstance.

122. According to article 74, paragraph 5, of Legislative Decree No. 3 of 1982, concerning the organization of the public security forces, as amended by Legislative Decree No. 3 of 2002, members of the public security forces have a duty to treat the public properly. Article 80 of the same Decree states that any member of the public security forces who fails to carry out his duties shall be subject to disciplinary action or shall be tried before a military court, as the circumstances dictate. Disciplinary measures may include termination of service, as stipulated in article 89 of the Decree.

### **III. CONCLUSION**

123. The Constitution and relevant laws of the Kingdom of Bahrain provide legal guarantees of the prohibition of torture or degrading treatment and punish those who commit such acts. It may be appropriate at this juncture to refer to the words spoken by His Royal Highness Sheikh Hamad Bin Khalifa Isa Al Khalifa, the King of Bahrain, in an address that he gave

on 26 June 2001 to mark the United Nations International Day in Support of Victims of Torture. He said that torture is a deplorable offence that is prohibited by Bahraini law and rejected by the teachings of our noble Islamic religion. It is repellent to our traditions and cultural heritage.

124. Part I of the National Action Charter, entitled: The Fundamental Components of Society, and part II entitled: Guarantees of Individual Liberties and Equality, stipulate that under no circumstances may any person be subjected to any form of physical or mental torture or to any inhuman or degrading treatment. Any confession or statement obtained under torture, threat or coercion shall be deemed null and void. In particular, an accused person may not be subjected to physical or mental harm. The law guarantees punishment of anyone who commits the offence of torture or of causing physical or mental harm.

125. The constitutional and political developments that have taken place in the Kingdom of Bahrain are confirmation that the country respects human rights, including the principle of prohibition of torture. Moreover, the actions of the legislative, executive and judicial authorities demonstrate that full effect is given to the constitutional provisions guaranteeing the primacy of the law. This is supported by the growing involvement of civil society in all domains, the climate of freedom of expression and opinion, and the enlightened debate on social issues.

126. The Kingdom of Bahrain confirms that it complies with its commitments under the Convention against Torture and is committed to cooperating with the Committee against Torture by submitting and discussing the reports required of it under article 19 of the Convention.

127. Annexes 1 to 12 contain the main documents referred to in the present report.

**List of annexes\***

1. The National Action Charter
2. The Constitution of the Kingdom of Bahrain
3. Legislative Decree No. 10 of 2001, declaring a general amnesty for offences against national security
4. Legislative Decree No. 56 of 2002, interpreting some provisions of Legislative Decree No. 10 of 2001
5. Legislative Decree No. 4 of 2001, annulling the jurisdiction of the court responsible for adjudicating offences against the external and internal security of the State
6. Legislative Decree No. 11 of 2001, abrogating the legislative decree concerned with State security measures
7. Legislative Decree No. 42 of 2002, promulgating the Judicial Authority Act
8. Legislative Decree No. 26 of 1980, promulgating the Lawyers' Act
9. Minister of Justice Order No. 5 of 1981, concerning the implementation of the Lawyers' Act
10. The Penal Code
11. The Code of Criminal Procedures
12. The Civil Code

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\* Available with the Secretariat.