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TORTURE AND OTHER CRUEL, INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT

Questionnaire on the Declaration on the Protection of All
Persons from Being Subjected to Torture and other Cruel,
Inhuman or Degrading Treatment or Punishment

Report by the Secretary-General

Addendum

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BAHRAIN

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Question 1

Under the terms of the Constitution and other legislative acts, torture and other cruel, inhuman or degrading treatment or punishment is absolutely forbidden whether in peace or war-time or in exceptional circumstances. While prohibiting all forms of torture and acts likely to prejudice or endanger the integrity of the human person for any reason and on any grounds whatsoever, the law only punishes offenders when they have knowingly and wilfully committed a crime and offenders are accorded many rights through which they are able to defend themselves. The law also makes allowance for reduced responsibility, valid motives, excuses, mitigating circumstances, suspended sentences and pardons in the same way as it takes account of aggravating circumstances so that the judge is able, through these controls, to investigate all aspects of the situation of the offender and to impose the appropriate penalty in all cases.

In confirmation of the above, we submit the following texts from the Constitution and other codes of law:

The Constitution promulgated on 6 December 1973

Article 4:

Justice shall be the foundation of government; co-operation and mutual kindness shall be firm bonds among citizens. Liberty, equality, security, tranquillity, education, social solidarity and equal opportunities for citizens shall be pillars of society assured by the State.

Article 16:

Public appointments shall be a national service entrusted to those who hold them. Public officials, in the exercise of their duties, shall seek to serve the public interest.

Article 18:

All persons shall be equal in human dignity, and citizens shall be equal in public rights and duties before the law, without discrimination on grounds of race, origin, language, religion or belief.

Article 19:

(a) Personal freedom shall be guaranteed in accordance with the law.

(b) No person shall be arrested, detained, imprisoned, searched or compelled to reside in a specified place, nor shall the residence of any person or his liberty

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to choose his place or residence or his liberty of movement be restricted, except in accordance with the provisions of the law and under the supervision of the judicial authorities.

(c) No detention or imprisonment shall be imposed in places other than those specified in the prison laws. In these places health and social welfare shall be observed, and they shall be subject to the supervision of the judicial authorities.

(d) No person shall be subjected to physical or mental third degree or to enticement or to degrading treatment, and the law shall define the penalty for committing the above.

Any statement or confession shall be null and void if it is proved to have been made under duress or enticement or degrading treatment or threat thereof.

Article 20:

(a) No crime and no penalty may be established except by virtue of the law, and no penalty may be imposed except for offences committed after the relevant law has come into effect.

(b) Penalties can only be borne by persons on whom the penalties have been imposed.

(c) An accused person shall be presumed innocent until he has been proved guilty in a legal trial in which the necessary guarantees for him to exercise his right of defence at all stages of investigation and trial have been ensured for him in accordance with the law.

(d) No physical or mental third degree shall be inflicted on an accused person.

(e) A counsel for the defence of any person accused of a crime shall be appointed with the approval of the accused.

(f) The right of litigation shall be guaranteed in accordance with the law.

Article 23:

Freedom of opinion and freedom to carry out scientific research shall be guaranteed. Every person shall have the right to express his opinion.

Article 25:

Places of residence shall be inviolable. They may not be entered or searched without the permission of their occupants except in cases of dire necessity as specified by the law and in the manner prescribed therein.

Article 26:

Freedom of postal, telegraphic and telephonic communications and the secrecy thereof shall be guaranteed. No communications shall be censored nor the secrecy thereof revealed except in cases of necessity prescribed by the law and in accordance with the procedures and guarantees stated therein.

Article 31:

The rights and freedoms laid down in this Constitution shall neither be regulated or defined except by law, or in accordance therewith. Such regulating or defining shall not bear upon the intrinsic nature of the right or freedom.

Article 41:

The Amir may, by decree, grant a pardon or commute a sentence. However, amnesty shall not be granted except by law and then only in respect of offences committee prior to the proposal of the amnesty.

Article 101:

(a) The honour of the judiciary and the integrity and impartiality of judges are the bases of rule and a guarantee of rights and liberties.

(b) In the administration of justice judges shall not be subject to any authority. No interference whatsoever shall be allowed in the conduct of justice.

The Code of Criminal Procedure promulgated on 24 April 1966

Article 21:

An arrested person shall not be subjected to greater constraints than are necessary to prevent his escape.

Article 25:

No person arrested without an arrest warrant may be detained for more than a reasonable period based on the circumstances of the case. In the absence of an order from the court or from the President, this period shall not exceed 48 hours.

Article 51:

If, in the opinion of the court or the President ... a search or a general investigation would be in the interests of the inquiry or the judicial proceedings ... a search warrant may be issued authorizing the person in whose name it is issued to order a search or a general investigation at the place or places specified in the order.

Article 52:

If the judge or the officer in charge of a police station ... require a search warrant, they may apply to the court or to the President for the issue of such a warrant under the terms of that article.

Article 54:

(1) If either the court or the President (President of the Bahraini Courts of Justice) ... believes that a person is being detained in conditions which make such detention a crime, they may issue a search warrant ... ordering the detained person to be sought and brought before them ... and the appropriate order must be issued.

(2) If a verbal complaint is made under oath to the effect that a person has been seized for an illegal purpose or detained in an illegal manner, the court may, after conducting an investigation, take whatever measures it deems necessary for the immediate restoration of his freedom or for his return to his parents, his guardian or the person in charge of his welfare if he is under the age of 14 years.

Article 55:

The search shall be conducted ... in the presence of the local mayor or of two respectable persons from the neighbourhood who shall be summoned by the person to whom the search warrant is issued ... a list must be drawn up giving details of all items impounded together with the locations at which they were found ... and this list must be signed or stamped by the local mayor or the two witnesses.

Article 56:

The occupant of the premises ... or his representative shall be allowed to be present during the search and shall be provided with a copy of the list of items impounded ...

Article 75:

(1) No police officer (any member of the police force of the Government of Bahrain, irrespective of his rank) and no person in a position of authority may use force, threats or inducements with a view to influencing the testimony to be given by any person during an inquiry into the commission of a crime.

(2) No police officer or other person may caution or otherwise deter any person from making any statements of his own free will during an inquiry into the commission of a crime.

Article 76:

(3) The judge shall not record such confessions (confessions by the accused) unless, having questioned the accused, he is satisfied that the latter's confession was made voluntarily and of his own free will.

Article 77:

(1) If a person is arrested on reasonable suspicion of having committed a crime punishable by imprisonment, the court or the judge or the police official may order him to undergo a medical examination.

(2) Such medical examination shall not be ordered unless it is desirable in the interests of justice on the grounds that it will indicate whether or not the arrested person committed the crime of which he is suspected.

(3) The person who is ordered to undergo a medical examination shall have the right to summon any physician of his choice to attend the examination.

Article 79:

(1) If it is clearly impossible to complete the inquiry ... within 48 hours after a person is detained without an arrest warrant or if his continued detention is considered to be in the interests of justice or security, the officer in charge of the police station ... must have him brought before a court or before the President with a report on the progress so far achieved in the inquiry.

(2) The court or the President ... may authorize the detention of a person ... for a period not exceeding seven days or may order his release on bail.

Article 84:

The accused shall attend or shall be brought before the court unfettered ... the indictment shall then be read and explained to him and he shall be asked whether or not he confesses to the crime or crimes of which he is accused.

Article 90:

If the accused confesses, the court must record his confession as being the decision of the court ... provided that, if the crime is punishable by execution, the court must record a plea of innocence on his behalf.

Article 91:

If the accused refuses to answer the accusation or is unable to answer directly by virtue of a physical impediment, the court must record a plea of innocence to the accusation and shall not commence the proceedings unless it is satisfied that the accused is of sound mind.

Article 93:

When the plaintiff has presented his case, the court may, of its own accord or at the request of the accused or his attorney, rule that there is no case to be answered by the accused, in which case it shall pronounce him innocent of the charge brought against him.

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Article 94:

If the court finds that there is a case against the accused, it is obliged to inform him that he is not required to make any statement but that he has the right to make statements. The court must then ask him whether he has any witnesses or other evidence upon which to base his defence.

Article 96:

The accused or his attorney may begin his defence with a specification of the circumstances or of the legal issues upon which he desires to base his case, and he may make whatever comments he finds necessary on the evidence of the prosecution.

Article 101:

If a verdict of guilty is returned, the accused is asked if he wishes to summon witnesses to his good conduct. ... after these witnesses, if any, have been heard he is asked if he desires to make any statements with a view to the mitigation of the penalty.

Article 112:

If a person is accused of committing numerous crimes of the same type or of a similar type, one and the same court may indict him and try him for any number of these crimes, on condition that if the court should find, either before the trial or at any stage before the pronouncement of the verdict, that the defence of the accused may be impaired or confused by reason of the above-mentioned procedure, it may decide to conduct a separate trial on any single indictment or number of indictments, just as it may do so if it finds it preferable for any other reason.

Article 122:

Any attorney may be present to act as defence counsel in any proceedings.

Article 123:

(c) In criminal cases the prosecution will be entrusted to ... the complainant or his attorney, by declaration of the President or of the Director-General of the police and public security.

Article 124:

Every person arraigned before any criminal court has the right to appoint an attorney to conduct his defence.

Article 125:

... and the provisions governing evidence are as follows: - ...

(3) A witness may not give testimony on matters other than on those of which he has first-hand knowledge. Consequently, he is not permitted to transmit the oral or written observations of others.

(4) The court shall not return a verdict of guilty on the basis of the testimony of children, or of minors, or of an accomplice in the commission of the crime unless such testimony is supported by independent evidence touching some essential aspect of the case and is not simply to the effect that the crime was committed but also to the effect that the accused committed it.

Article 128:

(1) In the presentation of evidence, no confession made by the accused will be admitted if it appears to the court to have been obtained as a result of inducements, threats or promises made by a person in authority in connexion with the charge against the accused.

(3) In the presentation of evidence, no confession made to a police officer will be admitted.

(4) In the presentation of evidence, no confession made by a person while in the custody of a police officer will be accepted unless it is made in the presence and in the proximity of a judge.

Article 132:

It is incumbent upon the court to prevent the addressing to witnesses of any expressions, observations or gestures which may intimidate them, and to prevent the posing of any inappropriate or disturbing questions.

Article 133:

In every investigation or trial, evidence must be heard in the presence of the accused or of his attorney.

Article 150:

No attempt shall be made, by way of promise, threat or otherwise, to influence the accused in order to induce him to reveal or to refrain from revealing something that he knows.

Article 155:

(2) If the accused is in detention he must be brought to hear the verdict, and if he is not in detention he must be requested to attend.

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Article 156:

If the decision or the verdict or the order is of such a nature as to allow an appeal, the court must inform the person against whom it was issued that he has the right of appeal and must also inform him of the time-limit within which the appeal should be lodged.

Article 158:

Any person who is not satisfied with a preliminary or final decision, verdict or order issued by a court may submit a petition of appeal against that decision, verdict or order.

Article 159:

The appeal of an accused person who has confessed to the commission of a crime and who has been found guilty on the basis of his confession will be accepted only in respect of the extent or the legality of the penalty.

Article 160:

(2) If a person expresses his desire to appeal and has no attorney the clerk of the court must take steps to have the petition drawn up within the period prescribed in this article.

Article 161:

If the appellant is in prison, he may ... or request assistance from the prison warden in drafting it.

Article 169:

(1) If the accused has been sentenced to imprisonment, the court which issued the verdict must ... issue an immediate commitment order and dispatch the commitment order and the convicted person to the police cells.

(2) Every such order must be addressed to and lodged with the person in charge of the police cells.

Article 177

His Highness the Ruler may at any time grant an absolute or conditional pardon to any convicted person.

Article 178

If a person is sentenced on account of a crime, His Highness the Ruler may at any time, unconditionally or on the basis of conditions accepted by the convicted person, suspend the sentence or commute in whole or in part the penalty passed in sentence upon that person.

Article 179

His Highness the Ruler may, without the approval of the person upon whom sentence has been passed, commute the death penalty to any other penalty allowed by law, or may commute imprisonment to a fine.

Article 184

1. If, in the course of any investigation or trial, it is found that there is any reason to believe that the accused is mentally deficient and consequently unable to defend himself, the investigation or trial must be postponed. It is also incumbent upon the court to order that the accused be examined by one or more Government physicians who should submit their report concerning his mental condition to the court.

2. If the mental deficiency of the accused is established, the investigation or trial must be postponed once again until such time as the accused shall have recovered to an extent sufficient to allow him to defend himself. The State has prepared a new draft of the Code of Criminal Procedure which contains the following provisions:

Art. ___ The Office of the Public Prosecutor shall be solely responsible for instituting criminal proceedings in respect of felonies and misdemeanours, and such proceedings shall not be instituted by other bodies except in circumstances prescribed by law. Criminal proceedings may not be abandoned, interrupted or deferred except in circumstances prescribed by law.

Art. ___ The Public Prosecutor, in person or through a member of his staff, shall initiate criminal proceedings, as prescribed by law, and others may undertake the task of public prosecution in accordance with the law.

Art. ___ Criminal proceedings shall be terminated by the death of the accused, the lapse of the specified period, the issuing of a final verdict, general amnesty, waiver of rights by persons entitled to make such waiver and on other grounds prescribed by law.

Art. __ Any person who suffers direct loss as the result of a criminal act shall have the right to claim civil damages from the accused while evidence is being gathered, during the course of the investigation or from the court before which the criminal proceedings are being conducted, at whatever stage of development they may be, until the decision is taken to terminate the pleading. Such claims shall not be entertained by the court of appeal.

Art. __ Civil proceedings for compensation for damages shall be brought against the person accused of the crime ... civil proceedings may also be brought against the person answerable for civil matters arising out of the act of the accused.

Art. __ Civil proceedings for compensation for damages resulting from a criminal act may be brought by the insurer before the court which is hearing the criminal proceedings.

Art. __ If the plaintiff in a civil suit abandons an action before the civil courts he may plead his case before the civil courts.

Art. __ The plaintiff in a civil suit may be sued by the accused in a criminal court for compensation for damages suffered by him by reason of the civil proceedings brought against him if there is just cause therefor.

Art. __ Law enforcement officials shall undertake the investigation of crimes, the search for their perpetrators and the collection of such evidence as is necessary to advance the investigation and the conduct of the proceedings.

Art. __ Law enforcement officials in their various spheres of competence are:

(a) Members of the Public Prosecutor's Office.

(b) Officers, non-commissioned officers and members of the public security forces.

Art. 1. Law enforcement officials must take cognizance of notifications and complaints lodged with them in connexion with crimes and they must inform the public prosecutor's office at once of those felonies and misdemeanours which carry a penalty of more than three months' imprisonment.

2. It is incumbent upon them and upon their subordinates to obtain all the clarifications needed to facilitate the investigation of incidents which are brought to their attention or of which they have knowledge by whatever means, and they must take all the precautionary measures needed to preserve criminal evidence.

3. All measures taken by law enforcement officials must be recorded in official reports signed by them and specifying the time and place at which such measures were taken. Such reports must also include the signatures of those witnesses and experts who have been heard. The reports should be sent to the public prosecutor's office together with the documents and other impounded items.

Art. __ All those having knowledge of the occurrence of a crime ... must inform the office of the public prosecutor or a law enforcement official.

Art. __ All civil servants and all persons employed in the public service who, in the course of or as a result of the discharge of their functions come to know of the commission of a crime ... are obliged to immediately inform the office of the public prosecutor or the nearest law enforcement official.

Anyone who, by virtue of his occupation, renders assistance in circumstances which appear to indicate the occurrence of a crime must submit a report thereon to the office of the public prosecutor or to a law enforcement official within 24 hours of rendering such assistance.

Art. __ The law enforcement official must listen to the statements of the accused immediately after the latter is arrested and brought before him and if the accused person does not establish his innocence he must sent him within a period of 24 hours to the office of the public prosecutor.

The public prosecutor must interrogate him within a period of 24 hours and then either order him to be detained pending trial or release him with or without bail.

Art. __ No person may be arrested or detained except by order of the competent authorities designated by law. Every person arrested shall be informed of the charge made against him, shall be entitled to communicate with whatever relatives he sees fit in order to inform them of what has happened, and shall have the right to avail himself of the services of a lawyer.

Art. __ No person may be detained other than in the prisons specifically designated for that purpose. The prison warden shall not admit any person into the prison except in accordance with an order signed by the competent authorities and he shall not prolong his stay after the period specified in that order.

Art. __ The President of the Supreme Civil Court of Appeal and of the Supreme Civil Court, the supervising judges and the members of the Public Prosecutor's Office shall have the right, at any time, to visit the prisons in order to ascertain that no detainee is being held in an illegal manner. They shall have the right to examine the registers of the prison, together with the arrest and detention warrants, to make photocopies of them, to enter into contact with any detainee and to listen to any complaint that he wishes to make to them. The prison warden must render them every assistance in obtaining the information which they require.

Art. __ Every detainee shall have the right, at any time, to submit to the prison warden an oral or a written complaint and to request him to transmit it to the President of the Supreme Civil Court of Appeal, to the President of the Supreme Civil Court or to a supervising judge or to the public prosecutor, and the warden must receive such complaints and transmit them immediately to the person or persons to whom they are addressed after recording them in the register maintained in the prison for that purpose.

Any person who knows of a prisoner being held in an illegal manner or in a place not designated for detention must inform a supervising judge or a member of the Public Prosecutor's Office, each of whom must go immediately following such notification to the place in which the prisoner is to be found, must carry out an investigation, must order the release of the illegally detained person and must draw up a report to that effect to be sent to the public prosecutor so that legal steps can be taken against the person responsible for the prisoner's detention.

If an order is issued to file the complaint, this must be communicated to the complainant.

Art. __ The public security forces shall not be permitted to enter any inhabited premises except in circumstances prescribed by law ...

Art. __ Searches shall be conducted in the presence of the accused or his representative wherever possible, otherwise they shall take place in the presence of two witnesses ... and this shall be entered in the report.

Art. __ Every accused person may plead that a search is invalid on the grounds of its not having taken place in the manner prescribed by law, even if such a search does not involve his person or his residence, whenever it is in his interest to do so.

Art. __ Impounded items shall be described and shown to the accused who shall be asked to comment on them, which comments shall be entered in a report signed by the accused or recording his refusal to sign.

Art. __ The Public Prosecutor's Office shall be obligated to conduct an investigation in the case of felonies and may do so in the case of misdemeanours if appropriate.

Art. __ Investigation procedures and the results which they disclose shall be considered confidential and the members of the Office of the Public Prosecutor and their assistants, clerks, experts and others connected with or present at the investigation, in an official or professional capacity must not breach this confidentiality.

Art. __ The accused ... may be present at all stages of the investigation. Litigants shall always have the right to be accompanied by their attorneys at the investigation.

Art. __ Residences shall not be searched except when a person living in the residence to be searched is accused of committing or participating in the commission of a crime.

Art. __ The search shall take place in the presence of the accused or of his representative wherever possible. If the search takes place in a residence other than that of the accused, the householder shall be invited to be present, in person or through the intermediary of a representative, wherever possible.

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Art. ___ Public prosecutors may seize any letters, correspondence, newspapers, printed matter and packages at post offices and may impound any telegrams at telegraph offices. They may tap wireless and telephone conversations and record conversations which take place in private ...

Before taking any of the above-mentioned steps and before searching a person other than the accused or a residence other than the residence of the accused, permission must be obtained from a judge of a lower court.

Art. ___ The ascendants and descendants of the accused, his relatives by blood and marriage to the second degree and his wife, even after the dissolution of the bonds of matrimony, may refuse to testify against him.

Art. ___ An expert witness must take an oath before a member of the Office of the Public Prosecutor to the effect that he will carry out his task truthfully and honestly.

Art. ___ Litigants may avail themselves of the services of an expert consultant ...

Art. ___ Litigants may refuse the services of an expert witness ...

Art. ___ When the accused appears before him for the first time in an investigation, a member of the Public Prosecutor's Office must record all of his personal particulars, inform him fully of the charge made against him and enter in the report whatever statements he may make with reference thereto.

Art. ___ Except in cases of flagrante delicto or where speed is of the essence to avoid loss of evidence, a member of the Public Prosecutor's Office must not, in the case of felonies, interrogate the suspect or confront him with other suspects or witnesses before inviting his lawyer, if any, to be present ...

Art. ___ The suspect's lawyer must be given the opportunity to study his brief at least one day before the interrogation or confrontation ...

The suspect and his attending lawyer must not, under any circumstances, be separated during the investigation.

Art. ___ A member of the Public Prosecutor's Office must interrogate an apprehended suspect immediately ...

Art. ___ If it becomes clear from the interrogation of the suspect, or from the fact of the suspect having fled, that there is sufficient evidence and that the incident constitutes a felony or a misdemeanour punishable by imprisonment for a period of more than three months, a member of the Public Prosecutor's Office may order the suspect to be remanded in custody.

Art. ___ Arrest warrants, summonses and commitment orders, cannot be executed after a lapse of six months from the date of their issue unless they are revalidated by a member of the Public Prosecutor's Office.

Art. ___ The prison warden must not permit any official who is not authorized to conduct a search of the prison to enter into contact with a detainee in the prison except with the written permission of the Office of the Public Prosecutor ...

Art. ___ The commitment order shall be valid only for a period of seven days following the arrest of the accused ... and if the prosecution wishes to prolong the period of detention ... the documents must be submitted to a judge of a lower court so that he can issue the appropriate order after hearing the statements of the Public Prosecutor's Office and of the accused ...

Art. ___ The plaintiff in a civil suit who has suffered direct personal injury as the result of a misdemeanour may bring a criminal suit requiring the accused to present himself immediately before the competent court ...

Art. ___ A lawyer must attend with every person accused of a felony and the lawyer appointed must ... then, if the court ascertains ... it must appoint a lawyer for him.

Art. ___ Litigants shall be entitled to examine the documents in a case simply by announcing their presence before the court.

Art. ___ The accused shall attend the session without handcuffs or fetters ...

And he may not be removed from the hearing while the case is being heard ...

Art. ___ At the hearing, the examination shall begin with the calling of the litigants and the witnesses. The accused shall be asked his name ... and the charge against him shall be read out ...

The accused shall then be asked whether he confesses to having committed the act with which he is charged; if he acknowledges it ... and if not, the testimony of the witnesses for the prosecution shall be heard. Questions shall be asked by ... then by the accused, then by the person responsible for the civil rights of the accused.

Art. ___ After the testimony of the witnesses for the prosecution has been heard, the witnesses for the defence shall be called and they shall be asked first of all concerning their knowledge of the accused ...

Art. ___ The accused shall not be cross-examined without his consent.

If, during the course of the pleading and counter-argument, points arise which seem to demand clarification on the part of the accused in order to bring the truth to light, the judge shall draw the attention of the accused thereto and shall allow the latter to provide such clarifications.

Art. ___ After testimony has been heard ... members of the Public Prosecutor's Office, the accused and the other litigants in the case shall be allowed to speak provided that the accused is the last to do so.

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Art. __ If circumstances call for an examination of the mental or psychological state of the accused, the judge of a lower court may ... if the accused has been remanded in custody, order him to be placed under observation in an appropriate therapeutic institution ... after hearing the statements of the Public Prosecutor's Office and of the attorney for the accused.

If the accused has not been remanded in custody, he may be ordered to be placed under observation in any other place.

Art. __ If it is ascertained that the accused is not capable of defending himself, by reason of insanity or mental deficiency or because of serious mental or psychological debilitation setting in after the occurrence of the crime, his arraignment or trial shall be suspended until he recovers his mental faculties.

Art. __ The court shall not be bound by what is entered in the record of evidence gathered in the case or in the record of the preliminary inquiry except where the law stipulates to the contrary.

Art. __ The judge shall reach a verdict in the case in accordance with conviction freely arrived at and he shall not, moreover, base his verdict on any evidence which has not been laid before him at the hearing, nor upon any evidence obtained as a result of threats or compulsion.

Art. __ A procedure shall be null and void if the law explicitly stipulates its invalidity, or if it is vitiated in such a manner that the objectives envisaged in the procedure cannot be realized.

Art. __ If the issue of invalidity pertains to the general rules of procedure it may be used as a basis for arguments at whatever stage the case has reached and the court shall rule accordingly even without being requested to do so.

Art. __ In circumstances other than those in which the question of invalidity pertains to the rules of general procedure, only the litigant in whose interest the enactment was made may adduce it as an argument, unless he himself brought it about. The question of invalidity lapses if he in whose interest the enactment was made waives consideration of it either explicitly or implicitly.

A judgement of invalidity shall not be pronounced, even if stipulated, if it is established that the objective has been achieved in the form and the manner required.

Art. __ The objection of the accused shall be entertained with respect to judgements in absentia.

Art. __ In no circumstances shall harm befall a person by reason of an objection raised by him.

Art. __ Both the accused and the Office of the Public Prosecutor may appeal judgements rendered in a case by courts of the first instance.

Art. ___ If the appeal is lodged by other than the Office of the Public Prosecutor, then the court must either confirm the verdict or amend it to the advantage of the appellant.

Art. ___ Final verdicts promulgating penalties shall be subject to review upon request ...

Art. ___ The implementation of penalties and precautionary measures shall take place under the supervision of a judge responsible for the enforcement of penalties ...

Art. ___ If the convicted person is a woman in the sixth month of pregnancy, implementation of the sentence may be postponed until 40 days after she gives birth.

Art. ___ If the convicted person is afflicted by an illness which, either in itself or by reason of the implementation of the sentence, threatens his life, execution of the penalty may be postponed.

Art. ___ If a man and his wife are both convicted ... the implementation of the penalty imposed on one of them may be postponed until after the other is released if they have in their care a child under the age of 15 ...

Art. ___ Every person convicted of a felony or a misdemeanour may have access to rehabilitation.

Art. ___ Rehabilitation shall result in the expunction of the conviction with regard to the future and the nullification of all that it entails by way of disqualification, loss of rights and all other penal consequences.

The Penal Code promulgated on 20 March 1976

Article 1. - The law in force at the time of the commission of a crime shall be applied ... on the understanding that if one or more laws are promulgated after the occurrence of the crime and before a final judgement is rendered with respect to it, that law shall be applied which is to the best advantage of the accused, just as those of their provisions which are most in his interest shall be applied to him, if such distinction is possible.

If, after a final judgement is rendered, a law is promulgated under which the act for which the accused was convicted becomes non-punishable, the execution of the judgement shall be suspended and the penal consequences shall cease to have effect.

If the new law has the effect of mitigating the penalty, the court which rendered the final judgement may apply the provisions of the new law at the request of the convicted person or of the Office of the Public Prosecutor.

Article 11. - If an action is brought in connexion with a crime which occurred outside the country, the judge shall deduct from the penalty which he imposes whatever penalty or period of remand in custody the convicted person has sustained abroad.

Article 15. - An act occurring in the fulfilment of an obligation enjoined by law shall not constitute a crime.

Article 16. - An act occurring in the exercise of a right established by law or custom shall not constitute a crime.

Article 17. - A situation of legitimate self-defence shall be deemed to exist if the following conditions are met:

1. If the person defending himself was faced with danger as a result of a crime against life or property, or believed on rational grounds that such a danger existed.

2. If it was not possible for him to have recourse to the public authorities to protect himself against this danger at the time in question. Such a situation shall be deemed to exist irrespective of whether the danger was directed against the life or property of the person defending himself, or against the life or property of a third party.

Article 18. - A person exercising the right of legitimate self-defence may fend off the danger in whatever way and with whatever means necessary to repulse it.

Article 19. - If a law enforcement official exceeds the limits of his authority in the course of the exercise of his functions, thereby giving rise to a danger justifying legitimate self-defence, that danger may not be repulsed except where the public official acts with malicious intent, or where it is feared that his act might give rise to a grave danger to life.

Article 20. - Murder in defence of life or property shall not be permitted except in the following circumstances:

1. An act giving rise to fear of death or grievous bodily harm.
2. Rape, sexual assault or infringement of liberty.
3. Arson, malicious destruction or theft.
4. Illegal entry by night into an inhabited dwelling or its appurtenances.

Article 21. - Exceeding the bounds of legality with the best of intentions shall be considered a mitigating circumstance.

A verdict of exoneration may be returned if the judge finds this appropriate.

Article 28. - If the criminal is unaware of the existence of a circumstance aggravating the punishment, he shall not be answerable for such unless the law stipulates to the contrary, but he shall be allowed to profit from factors which preclude the imposition of the penalty and likewise from mitigating circumstances, even if he is unaware of them.

Article 31. - A person who unknowingly or involuntarily commits an act constituting a crime shall not be held responsible.

Article 33. - If, at the time of the commission of a crime, the person was in a state of diminished consciousness or diminished responsibility by reason of illness, he shall be sentenced to a reduced penalty or committed to a therapeutic institution.

Article 34. - A person who, at the time an act was committed, was unconscious due to intoxication or narcotization as a result of intoxicating or narcotic substances administered to him forcibly or which he himself took unknowingly, shall not be held responsible.

Article 35. - A person who commits an act to which he is constrained by the need to protect his life or the life of a third party, or his property or the property of a third party, from grave imminent danger not intentionally caused by him and which he is unable to avert by any other means, shall not be held responsible provided that the act is commensurate with the danger which it is intended to avert.

A person who is obliged by law to confront such danger shall not be considered to be in a state of constraint.

Article 55. - Every person sentenced to a penalty depriving him of his freedom shall be required, while in prison, to perform work prescribed by law, with due regard for his circumstances and with a view to his reform and social rehabilitation.

Article 60. - If the condemned person is a civil servant or is employed in the public service, his loss of the right to hold public office shall entail his dismissal therefrom.

Article 70. - Subject to the conditions prescribed by law, the young age of an accused person between 15 and 18 years of age and the commission of a crime for honourable motives or objectives, or as a result of extreme and unjustified provocation on the part of the victim, shall also be considered as extenuating circumstances.

Article 71. - If an extenuating circumstance is present in the case of a felony punishable by death, the penalty shall be commuted into imprisonment for a limited period, or into detention for a period of at least one year. If the penalty for a felony is imprisonment for life or for a limited period, it shall be commuted into the penalty for a misdemeanour.

Article 72. - If a felony involves a circumstance which, in the opinion of the judge, warrants leniency towards the accused, the penalty must be commuted.

Articles 73, 74 stipulate the commutation of penalties in respect of misdemeanours involving mitigating or extenuating circumstances.

Article 75. - The following shall be considered aggravating circumstances:

1. The commission of a crime by taking advantage of the inability of the victim to offer resistance and in circumstances where there is no possibility for others to come to his defence.

2. The use of brutal methods in the commission of a crime, or the mutilation of the victim.

3. The commission of a crime by a civil servant in the course of, by reason of or on the occasion of the exercise of his functions, unless the law stipulates a special penalty by virtue of his official capacity.

Article 207. - Any civil servant or person employed in the public service who knowingly searches a person, his dwelling or his place of business without his consent or in circumstances other than those prescribed by law and without regard for the conditions stipulated by law shall be punished by detention.

Article 208. - Any civil servant who, in person or through the intermediary of others, uses torture, force or intimidation against a suspect, a witness or an expert in order to induce him to confess to a crime, to make statements or to give information in connexion therewith, shall be punished by imprisonment.

If the use of torture or force results in death, the penalty shall be life imprisonment.

Article 209. - Any civil servant who inflicts or orders to be inflicted upon a convicted person a penalty more severe than that prescribed by law, or a penalty which has not been imposed upon him, shall be punished by detention.

Article 210. - Any civil servant involved in the administration or supervision of a prison who accepts the commitment of a person into the prison without an order from the competent authority, or who prolongs his incarceration after the period stipulated in that order or fails to implement the order for his release, shall be punished by detention for a period of not less than one and not more than five years.

Article 232. - Anyone who, in person or through the intermediary of others, uses torture, force or intimidation against a suspect, a witness or an expert in order to induce him to confess to a crime, to make statements or to give information in connexion therewith shall be punished by detention.

The penalty shall be detention for a term of not less than six months if the torture or force results in actual bodily harm.

The penalty shall be imprisonment if the use of torture or force results in death.

Article 357. - Whoever seizes a person, or places him under restraint or deprives him of his freedom by whatever means without legal sanction shall be punished by detention.

The penalty shall be imprisonment in the following circumstances:

2. If the act is accompanied by the use of force, by the threat of death or grievous bodily harm or by acts of physical or mental torture.
3. If the act is committed by two or more persons or by one person armed with a weapon.
5. If the aim of the act is personal gain, revenge, rape or sexual assault upon the victim.
6. If the act is committed against a civil servant in the course of, or by reason of, or on the occasion of the exercise of his functions.

Article 358. - Whoever, whether in person or through the intermediary of another, abducts a person shall be punished by imprisonment for a period not exceeding 10 years. The penalty shall be imprisonment if the victim is a female.

If the abduction takes place by ruse or is accompanied by one of the circumstances set out in the preceding article, this shall be considered an aggravating circumstance.

Article 359. - If the crime specified in the two preceding articles results in the death of the victim, the penalty shall be death or life imprisonment.

In addition to the foregoing, there are also articles which proscribe and punish:

The setting of a fire likely to endanger life or property (art. 277).

The intentional use or attempted use of explosives in a manner likely to endanger life and property (arts. 280, 281).

Sabotage of a ship or an aircraft or any other means of public transportation (art. 282).

Exposing the lives or well-being of the public to danger by placing substances, bacteria or other materials causing death or grave damage to public health in a well or reservoir or in any other facility destined for the use of the public (art. 283).

Refusal or reluctance to offer assistance at the site of a drowning or a fire or of any other catastrophe (art. 304), and refusal or negligence in going to the aid of the victim of an accident or of a crime (art. 305).

Murder (art. 333), physical violence leading to death (art. 336), the causing of permanent disablement (arts. 337, 338), and assault (arts. 339, 340).

The Prisons Act promulgated on 22 October 1964.

Article 3. - A prisoner shall not be admitted into a prison except on the basis of a writ issued by a court or some other competent authority. If the authority issuing the sentence or the writ has laid down or attached special conditions having reference to any matter concerning the term of the sentence, treatment, food, clothing, medical care, medication, the use of tobacco or narcotics or the hours and nature of work, these conditions must be strictly adhered to.

Article 10. - Within the shortest possible time after the admission of the prisoner into the prison he shall be medically examined by a police surgeon ... and if the police surgeon prescribes medication or orders the adoption and following of a particular course of treatment the prison guard must ensure that the orders of the police surgeon are implemented ... and if the prisoner is found to be suffering from a mental illness the police surgeon must make the necessary arrangements for the transfer of the prisoner to the mental hospital for further examination.

If a prisoner complains of the state of his health, or if a prison official knows that a prisoner is ill and in need of medical attention, the prison warden must make arrangements for a police surgeon to be called to examine the prisoner within the shortest possible time. If it is decided to transfer the prisoner to a hospital for treatment he must be taken there without delay.

The police surgeon must conduct a health inspection of the prisons and of the prisoners twice a month.

Article 11. - If it appears that the death of a prisoner was brought about by violence, accident or suicide, the President of the Courts of Justice must be informed so that he can appoint a judge to carry out an immediate inquiry ... the next of kin of the deceased shall be informed of the inquiry and may attend it in person or through the intermediary of a legal representative.

Article 14. - Sleeping accommodation intended for prisoners must meet public health standards with respect to size, lighting and ventilation.

In warm weather the prison warden may permit all or certain categories of prisoners to sleep outside their cells.

Article 17. - Prisoners must bathe at least once a day during the period from the beginning of October to the end of April and twice a day during the period from the beginning of May to the end of September. The orders of the prison warden must be followed with regard to the shaving of the prisoners and the cutting of their hair, and he must take into consideration religious convictions, customs and special needs.

Article 18. - Food served to prisoners must be nutritious, sustaining, varied, well-cooked and prepared and sufficient for the maintenance of perfect health and strength.

The State has prepared a new draft prisons act which contains the following provisions:

Article 8. - The prison warden shall be responsible for the execution of the orders of investigators or of the court ... and the prison warden must ... enable those upon whom the law confers the right to inspect the prison to carry out their task.

Article 9. - The prison warden must take steps to ensure that the prisoner may examine a copy of any judgement or document of which he is notified in the prison, and if the prisoner expresses a desire to send a copy of the notification to a designated person it must be sent to that person by registered mail.

Any legal petition or appeal which the prisoner wishes to present through the intermediary of the prison warden must be sent immediately to the competent authority at the appointed time.

Article 13. - The prison warden must take cognizance of any serious written or oral complaints from prisoners, and must communicate them to the competent authority after entering them in the register provided for complaints.

Article 14. - No person may be committed to prison except on the basis of a written order signed by the legally competent authorities, and his stay there must not be prolonged beyond the period specified in that order.

The child of a female prisoner may be allowed to enter the prison together with its mother if it is under five years of age and has no guardian.

Article 21. - Prisoners of both categories shall be divided into groups according to age, previous convictions, types of crime, length of sentence, similarity of social and educational background and capacity for reform.

Article 22. - Prisoners of the first category shall be entitled to wear their own clothing and to have whatever food they may need brought to them from outside the prison.

Article 23. - Prisoners of the first category may receive visitors and correspond with whomever they please ... The lawyer of a person remanded in custody may meet with him alone provided that he receives the written permission of the court or of the investigating official, each in his own sphere of competence.

Article 24. - Prisoners of the first category shall not be put to work unless they so desire ... and the regulations shall specify the type of work which this category may undertake and the remuneration which shall accrue to them in respect of their work.

Article 25. - From the beginning of her sixth month of pregnancy, a female prisoner shall receive special medical attention with regard to food, employment and sleep until 40 days after she has given birth. All necessary medical care must be provided for the mother and her child.

A reduction in the amount of food allotted to a pregnant woman or to a mother shall not be permissible for any reason until after her child is weaned.

Article 27. - The child of a female prisoner shall remain with her until it reaches the age of two, but if she does not wish it to remain with her or when it reaches that age, it shall be handed over to the father or to whatever relative the mother may choose. If the child has no father or relatives to care for it, it shall be sent to a child care institution and the mother shall be allowed to see it.

Article 28. - A prisoner of the second category shall be given material remuneration for his work in the prison ... and at least one half of his total remuneration must be set aside to be handed over to him at the time of his release.

Article 29. - A prisoner of the second category shall be entitled to correspond with his relatives and friends and to receive visitors ...

Article 30. - The Director of Prisons may permit the relatives of the prisoner to visit him at times other than those stipulated in the regulations.

Article 32. - Every convicted person sentenced to a penalty restricting his freedom may be released on parole if three quarters of the term of imprisonment has elapsed and if his conduct during his sojourn in the prison has aroused confidence in his reform ...

Article 38. - Upon his release every prisoner shall be given a document specifying his name, the penalty to which he was sentenced, its duration, the date established for its expiry, the date of release on parole, the conditions stipulated for his release and the obligations imposed upon him. It shall also be stated therein that any infraction of the conditions or obligations mentioned, or the occurrence of any act suggestive of misconduct shall entail the revocation of his release and his return to prison to serve the remaining portion of the penalty to which he was sentenced.

Article 43. - The Director of Prisons must inform the Ministry of Social Affairs and Labour of the names of convicted persons at least two months before their release so that, during this period, they can be socially rehabilitated and prepared for the outside environment through the provision of all the care and guidance necessary to them.

Article 54. - If a prisoner behaves in a reprehensible manner, the guard in question shall bring him before the prison warden for an investigation of the infringement, and the notification and the results of the investigation shall be entered in the register designated for that purpose.

Article 55. - The prisoner shall be informed of the infringement with which he is charged before the imposition of the penalty upon him, and he shall be entitled to defend himself and to request that witnesses be called. His defence shall be thoroughly investigated.

Article 58. - Labour shall not be used as a form of disciplinary action.

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Article 61. - Disciplinary action shall not delay the release of the prisoner beyond the time fixed for his release.

Article 62. - Food which is served to prisoners must be generally nourishing, varied, well-prepared and sufficient to maintain health and strength.

Article 64. - 1. The doctor shall care for the health of the prisoners and shall submit a monthly report to the Director of Prisons on their health and treatment, containing whatever suggestions he sees fit to make.

2. The doctor shall visit the prison at least once a week and at those times when he is summoned to the prison to attend a patient or for any other reason.

3. The doctor shall examine every prisoner on admission to the prison and immediately before his release and shall record any observations and suggestions concerning his state of health in the register maintained for that purpose.

Article 65. - If a prisoner dies, the doctor shall examine the body and submit a report to the prison warden containing ...

Article 66. - If the doctor considers it necessary to conduct an autopsy on the prisoner in order to determine the cause of death, he shall submit a report to that effect to the Director of Prisons ...

The autopsy shall take place in the presence of another doctor appointed by the Ministry of Health.

Article 68. - A. If the doctor determines that the health of a prisoner has deteriorated to a dangerous extent, he shall submit a report ...

B. The report shall be sent to the Minister of Health so that a committee may be formed to examine the prisoner. If the committee endorses the report of the doctor, it shall decree his release for reasons of health and the decision shall be implemented after it is approved by the Minister of the Interior.

Article 69. - The administration of the prison shall educate the prisoners with due regard for their age, aptitude and the term of the penalty, and the Minister of the Interior, in agreement with the Minister of Education, shall draw up the programme of academic and vocational study for the prisoners.

Article 70. - In every prison a library shall be set up containing books of a religious, scientific and ethical nature, and the prison administration shall encourage the prisoners to take advantage of them in their free time. Prisoners may have books, newspapers and periodicals brought in at their own expense ...

Article 71 - If a prisoner is enrolled in an educational institution, he must be supplied with the text books which he needs to pursue his studies.

He may take examinations at the institution in which he is enrolled ...

Article 72. - The prison must have at its disposal one or more ministers of religion to exhort the prisoners to virtue and to urge them to observe religious duties, as it must also have one or more specialists in the social and psychological sciences ...

Article 75. - The Director of Prisons shall be entitled to inspect prisons at any time and any prisoner shall be entitled to meet with him during the inspection and to submit to him any complaints. The Director shall investigate any serious complaints submitted to him and shall take measures to remedy their underlying causes.

Article 76. - The Director of Prisons shall appoint male and female inspectors to inspect the prisons, to verify the implementation of the law and the regulations and to ensure that standards of security, cleanliness and health are complied with ...

Article 77. - The Public Prosecutor and the Director and members of Criminal Investigation Department shall be entitled to enter the prisons at any time in order to ascertain that:

1. The orders of the investigating officials and the decisions and judgements of the court are being implemented in the manner laid down therein.
2. No person is imprisoned without legal cause.

They must take cognizance of, and investigate the complaints of prisoners, they must also investigate whatever seems to them to constitute an infringement.

Article 78. - Presidents and agents of the appeal courts and of the courts of first instance and investigating judges shall be entitled to enter the prisons at any time.

It should be evident from the foregoing provisions that Bahrain is fervently dedicated to the dignity of the individual, to the betterment of his position in society and to respect for his rights in all their forms. The State condemns all types of compulsion, torture, intimidation, coercion, molestation, abduction and infringement of liberties and imposes appropriate penalties for these combining deterrence with the desire for rehabilitation and reform. In addition to this, the State grants malefactors unimpeded rights to defend themselves and enables them to exercise these rights in a spirit of absolute commitment to human dignity and in such a way as to achieve absolute equity.

In these provisions, Bahrain adheres strictly to the magnanimous teachings and precepts of Islam which are conducive to equality and fair treatment in the interests of justice.

Question 2 and Question 3

Jurists and public security officers responsible for investigations and the pronouncements of verdicts study at law colleges and police colleges. They are

taught and are fully aware of the basic legislative acts prohibiting torture and other cruel, inhuman or degrading treatment or punishment. These legislative acts are published and their details are known to everyone without exception. Training courses are organized for other members of the public security forces who also receive instruction in these fundamental principles. Furthermore, the standing regulations orders and instructions which are issued and communicated to everyone stipulate that every person must be treated in a humane and dignified manner, forbid the use of violence, compulsion, threats and all forms of harsh, inhumane or degrading treatment and draw attention to the legislative acts under which such actions are punishable. The same procedure is followed when new legislation is promulgated.

The State Civil Service Commission also issues standing instructions regarding the manner in which civil servants must treat citizens and other persons and the best way to discharge their functions and to carry out the duties required of them by virtue of the nature of their positions in direct contact with the public.

Question 4

The constitutional and legal provisions governing this matter have already been explained in our answer to the first question in which it was categorically stated that the accused is innocent until proved guilty, that he has the option as to whether or not he wishes to make statements, that he is not compelled to make any statement against his will and that he is not obliged to confess to a crime. An attorney appointed by him or assigned by the court must be present in cases involving felonies. He also has the right to appoint an attorney in cases involving a misdemeanor. His confession to, or in the presence of, a police officer is not admitted as evidence. He attends the trial proceedings unfettered, the charge is read and explained to him and he is asked whether he confesses to the crime or crimes of which he is accused. If, after the investigation, the court believes that there is a case against the accused, the court must inform him that he has the right to make statements but he is not obliged to do so. He is then asked whether he has any witnesses or other evidence on which to base his defence. He is completely free to defend himself and, if he is found guilty, he is asked whether he wishes to summon witnesses to his good character and whether he wishes to make any statements to mitigate the penalty. His confession is not admissible as evidence against him if it was made under duress, torture, threats or inducement and not of his own free will. When passing sentence, the court must take account of extenuating and mitigating circumstances and may decide to suspend the sentence. If the convicted person is of good conduct, he is released before completing his sentence and he may also be released on medical grounds if he is sick. During his imprisonment, he is treated in a humane manner conducive to the preservation of his dignity and he enjoys general rights. He is allowed to receive visitors and to correspond with his family and is well treated from the medical, social and cultural points of view. He is able to continue his studies and is remunerated if he works in prison. He is prepared for reintegration in public life after his release since the objective is not only deterrence but also correction, reform and rehabilitation so that he can lead an upright life based on religion and ethics.

These regulations are known to everyone and they are re-emphasized from time to time. In the discharge of their functions, public officials are subject to strict supervision.

Question 5

In the reply to Question 1, we referred to the provisions of the Penal Code under which acts of torture are punishable:

Article 208: Any public official who, in person or through an intermediary, uses torture, force or threats against an accused person, a witness or an expert in order to induce him to confess to a crime, to make statements or to provide information concerning such crime shall be punished by imprisonment.

If the use of torture or force results in death, the penalty shall be imprisonment for life.

Article 232: Any person who, in person or through an intermediary, uses torture, force or threats against an accused person, a witness or an expert in order to induce him to confess to a crime, to make statements or to provide information concerning such crime shall be punished by imprisonment. If such torture or force affects the physical well-being of the person against whom it is used, the penalty shall be imprisonment for a period of not less than six months.

If the use of torture or force leads to death, the penalty shall be imprisonment.

Reference has already been made to the articles which provide for penalties if any person is imprisoned without an order from the responsible authority, arrested, detained or deprived of his liberty in an illegal manner or kidnapped.

With regard to the question concerning participation in, complicity in, incitement to or the attempt to commit torture, we refer to the provisions of the Penal Code regarding these matters.

Criminal participation

Article 43. The perpetrator shall be considered to be the person who, through his behaviour, brings into being the elements of a crime.

An instrumental perpetrator shall be a person who incites another person to commit a crime for which the latter person is not held responsible.

Perpetrators shall be considered to be persons who, with joint intent, carry out acts which constitute a crime or which directly result in its commission.

Article 44. An accomplice in a crime shall be considered to be:

1. Any person who incites another person to commit a crime which takes place as a result of such incitement.

2. Any person who agrees with another person to commit a crime which takes place as a result of such agreement.

3. Any person who, in any way, knowingly assists the perpetrator to commit a crime which takes place by virtue of such assistance.

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Article 45. Any person who participates in a crime in the capacity of perpetrator or accomplice shall be liable to the penalties laid down for such crime, unless otherwise stipulated by law.

Attempted crime

Article 36. An attempted crime shall be a crime which does not take place although the perpetrator, with the intention of committing it, carries out an act which is likely to lead directly to its commission.

The mere intention to commit a crime, acts in preparation therefor or an endeavour to commit the crime shall not constitute an attempted crime.

Article 37. Attempted crimes shall be punishable by the following penalties unless otherwise stipulated by law:

Imprisonment for life if the crime carries the death penalty.

Imprisonment for a limited period if the crime is punishable by imprisonment for life.

If the crime is punishable by imprisonment for a limited period, the attempt to commit such a crime shall be punishable by imprisonment for a period not exceeding half the maximum period stipulated therefor or by detention for a period of not less than three months.

Article 38. An attempt to commit a misdemeanour shall not be punishable except in cases stipulated by law.

Article 39. A person who voluntarily refrains from completing a crime the commission of which he has already begun shall not be punished unless his behaviour constitutes another punishable crime.

Article 40. If all the acts aimed at the commission of the crime have taken place without achieving the intended result, the perpetrator shall be liable to the penalty for the crime which he intended to commit.

Nevertheless, in such cases the judge may impose the penalties for attempted crime. The latter penalties must be imposed if the criminal, wilfully or through his own intervention, prevents the achievement of the result which he had intended.

Article 41. If the realization of the crime which the perpetrator intended to commit is rendered impossible by virtue of the inadequacy of the means or the absence of the object, the penalties for attempted crime must be imposed.

Question 6 and Question 7

The Criminal Investigation Department, the Department of Public Prosecution, the Minister of the Interior and the Minister of Justice are the authorities competent to receive and examine complaints from alleged victims that torture or other cruel, inhuman or degrading treatment or punishment have been inflicted upon them by or at the instigation of public officials.

The Minister of the Interior refers the complaint to the bodies concerned. The Minister of Justice refers the complaint to the competent examining judge.

The purpose of the investigation conducted by the competent authorities is to ascertain the nature of the crime committed, the identity of its perpetrators and the extent of the evidence in connexion therewith.

If, in the opinion of those authorities, the crime may be rightfully attributed to a particular person, the Department of Public Prosecution initiates criminal proceedings.

As has already been explained in the replies to other questions, the competent court conducts a full investigation into the incident and bases its verdict on the investigations which it has conducted in its capacity as the competent investigating and sentencing authority. The function of the authorities previously mentioned is to conduct inquiries, to establish the occurrence of the crime and to collect evidence in connexion therewith.

The same procedures may be adopted, even without the submission of a complaint, provided that the responsible persons, irrespective of the body to which they belong, are satisfied that a crime has taken place since the investigation and judgement of this type of crime does not require the submission of a complaint by the victim.

In prison, the convicted person has the right to submit a complaint concerning any matter. The complaint must be investigated, appropriate action must be taken in connexion therewith and the convicted person must be informed of the result.

Prisons are liable to be inspected at any time and without prior notice. Any prisoner has the right to submit a complaint to the persons carrying out the inspection.

Question 8

The general rule in all crimes is that the Department of Public Prosecution is responsible for bringing criminal actions before the various courts if it is satisfied that the occurrence of the act may be imputed to a particular person and that there is ample evidence against that person. When considering the case, the court conducts a full investigation into the matter on the basis of the evidence submitted by the Department of Public Prosecution. If the court finds against the accused, the latter is pronounced guilty and sentenced in accordance with the legal provisions applicable to the case in the manner already indicated in the reply to Question 1. The court has the right to commute or suspend the sentence in accordance with the following provisions of the Penal Code.

Extenuating and mitigating circumstances

Article 68. Extenuating circumstances may either mitigate or exempt from the penalty. Extenuating circumstances shall be admissible only under conditions prescribed by law.

Article 69. Extenuating circumstances which provide grounds for exemption preclude the imposition of any primary or secondary penalty except confiscation.

Article 70. Subject to the conditions prescribed by law, mitigating circumstances include the fact that the accused person is a minor over the age of 15 but under the age of 18 years and that the crime was committed for honourable motives or purposes or as a result of serious and unwarranted provocation on the part of the victim.

Article 71. If there are mitigating circumstances in a felony which carries the death penalty, the penalty shall be commuted to imprisonment for a limited period or to detention for a period of at least one year. If the penalty is imprisonment for life or for a limited period, it shall be commuted into the penalty for a misdemeanour unless otherwise specified by law.

Article 72. If the felony involves circumstances which, in the opinion of the judge, call for leniency in favour of the accused, the penalty must be commuted. If the felony carries the death penalty, this penalty may be commuted into imprisonment for life or for a limited period and, if the penalty is imprisonment for life, it may be commuted into imprisonment for a limited period or to detention for a period of not less than six months. If the penalty is imprisonment for a limited period, the judge shall not impose the maximum penalty and may commute it into detention for a period of not less than three months.

Article 73. If there are mitigating circumstances in a misdemeanor, the penalty shall be commuted as follows:

If there is a minimum penalty, the judge shall not be bound by it when passing sentence.

If the penalty is detention together with a fine, the judge shall impose only one of these penalties.

If the penalty is detention for a period of time for which a minimum is not specified, the judge may impose a fine instead of detention.

Article 74. If there are mitigating circumstances in a case involving a misdemeanor, the judge may apply the provisions of the previous article.

Suspended sentences

Article 81. In criminal cases, when imposing a fine or sentencing the accused to detention for a period not exceeding one year, the judge may order the sentence to be suspended if he is satisfied that the moral character of the convicted person, his past record, the circumstances of his crime or his age give cause to believe that he will not commit another crime. The reasons for the suspension of sentence must be recorded in the judgement.

The judge may order the suspension of sentence to include any secondary penalty except confiscation.

Article 82. When suspending the sentence, the judge may order the convicted person to pay all or part of the stipulated compensation, within the period specified in the judgement, to the person who suffered injury as a result of the crime.

Article 83. Penalties shall be suspended for a period of three years from the date on which the judgement becomes final.

Article 84. The suspension may be revoked in any of the following cases:

1. If the convicted person does not fulfil his obligation as stipulated in article 82.

2. If, during the period of probation specified in the previous article, the convicted person commits an intentional crime for which he is sentenced to deprivation of liberty for more than two months, irrespective of whether he is convicted during the said period or after its expiry, provided that the proceedings are initiated during the said period.

3. If, during the period of probation, a sentence is passed in accordance with the provisions of the previous paragraph without the knowledge of the court.

The decision to revoke the suspension is taken, at the request of the Public Prosecutor, by the court which ordered the suspension or by the court before which the grounds for revocation are established, without prejudice to spheres of judicial competence.

In addition to the above, there is also the system of pardon the provisions of which are laid down in the Constitution and in the Penal Code.

Pardon in the Constitution

Article 41. The Amir may, by decree, grant a pardon or commute a sentence. However, amnesty shall not be granted except by law and then only in respect of offences committed prior to the proposal of the amnesty.

In the Penal Code the provisions concerning pardon are as follows:

Article 89. Amnesty shall be granted under the terms of a legislative act and shall have the effect of terminating proceedings or abolishing convictions pronounced in such proceedings. It shall not affect penalties which have already been executed.

Amnesties shall not affect the rights of third parties.

Article 90. Pardons shall be granted by decree of the Amir of the country and shall have the effect of cancelling all or part of the penalty or commuting it into a legally less severe penalty.

Unless otherwise stipulated in the decree, such pardons shall not result in the cancellation of secondary penalties or legal effects.

Article 91. Cancellation of a penalty by a pardon shall be regarded as equivalent to the execution of such penalties.

These rules apply to all crimes without exception.

Furthermore, reference has already been made to the provisions of the Prisons Act concerning release of the convicted person before completion of his sentence. Under article 24 of this Act:

A prisoner who is serving a single sentence or several consecutive sentences of imprisonment for a period exceeding six months may, by virtue of his good conduct and diligence while in prison, be entitled to release after serving all but one sixth of the total period or periods to which he was sentenced.

If he believes that there are special reasons which justify such action, the Chief of Police may recommend that His Highness the Ruler grant the prisoner a further reduction not exceeding 30 days of his sentence.

Under the new draft legislation, the prisoner is released after serving three quarters of his sentence and may also be released on medical grounds if his continued detention would endanger his life.

Although the Department of Public Prosecution is the authority responsible for bringing criminal actions before the various courts, article 123 of the Code of Criminal Procedure allows the following other persons to bring actions before the courts:

1. The complainant or his attorney with the approval of the President of the Bahraini Courts of Justice (the Minister of Justice) or of the over-all head of the police and public security (the Minister of the Interior).
2. Any person employed by the Government or by a local authority, in connexion with any case or type of cases in which such person is authorized to bring actions by the President of the Bahrainian Courts of Justice (the Minister of Justice) or under the terms of any legislative act in force at the time.

Under the new draft legislation, any person who has suffered direct injury as a result of a misdemeanor may bring an action directly before the competent court.

Question 9

Articles 49 and 50 of the Penal Code stipulate the penalty of loss of civil rights for a period of from 3 to 15 years in the case of felonies and from one to three years in the case of misdemeanors.

Article 53 of the Penal Code defines loss of civil rights as depriving the convicted person of all or some of the following rights and privileges:

1. The right to hold public office and be employed in the public service.
2. The right to elect or be elected to public councils.

3. The right to elect or be elected to professional and trade union associations.

4. The ability to be a director or a member of the board of directors of a joint-stock company.

5. The ability to be an expert witness.

6. The ability to be a director or a publisher of a newspaper.

7. The ability to be the principal of a school or scientific institute.

8. The right to wear national or foreign medals.

Article 59 stipulates that:

A sentence of imprisonment shall result in loss of all rights and privileges specified in article 53 from the date of sentencing until the sentence is completed or otherwise terminated.

Article 60 stipulates that:

If the convicted person is a public official or a civil servant, his loss of the right to hold public office shall entail his dismissal therefrom.

Under article 61, if the accused is found guilty of a felony, the judge must order the convicted person to be stripped of one or more rights or privileges specified in article 53 for a period of not less than one year and not more than 10 years with effect from the date on which the penalty is executed or otherwise terminated.

If the penalty imposed is detention, the loss of civil rights shall apply during the entire period which the convicted person spends in prison.

Under the terms of article 62, if a public official is sentenced to detention for a crime in which it is stipulated that the perpetrator must be a public official, an order must be issued for his dismissal for a period of not less than one year and not more than three years.

Under the terms of article 63, if the accused is found guilty of a misdemeanor for which the law stipulates the penalty of loss of civil rights, the judge must deprive the convicted person of a right or privilege specified in article 53 with effect from the date of sentencing and for a period of not less than one year and not more than three years after the penalty is executed or otherwise terminated, unless otherwise stipulated.

The limits laid down in the previous paragraph apply to cases in which the law stipulates the penalty of dismissal for misdemeanors.

These provisions cover all the points included in Question 9.

Question 10

The reply to Questions 8 and 9 also answers Question 10.

Question 11

Since the adoption of the Declaration, no investigations have been carried out in the State of Bahrain and no proceedings have been instituted in connexion with allegations of torture or other forms of cruel, inhuman or degrading treatment or punishment.

Question 12

Yes. The law does ensure redress and compensation to the victim of acts of torture or other cruel, inhuman or degrading treatment or punishment.

Article 3 of the Civil Code promulgated on 1 March 1970 stipulates that any person who suffers injury or loss as a result of a civil offence committed in Bahrain shall be entitled to redress in accordance with the Code from the perpetrator or the person responsible for the offence.

Article 2 defines injury as "illegal infringement of a legal right". It defines damage as "death, deprivation or loss affecting property, peace of mind, health or reputation or other similar deprivation or loss". It defines material damage as "any loss or actual expense the value of which can be estimated in cash and the details of which can be explained".

Article 10 stipulates that, if two or more persons are jointly responsible for an act under the provisions of this Code and if that act constitutes a civil offence, those persons shall be held jointly liable for that act and proceedings may be instituted against them either jointly or separately.

In this connexion, the Code specifies the following civil offences:

Article 24. Aggression is the intentional use of any kind of force against another person, irrespective of whether this is done by means of striking, touching, movement or in any other way whatsoever, directly or indirectly, without the consent of the victim of the aggression or with his consent if such consent was obtained through deception and trickery, or the attempted use of such force or threats against another person by act or gesture if the person making such attempt or threats has led the other person to believe, with just cause, that the intention was earnest and that he possessed the ability to carry out the threat.

Article 27. Unjust detention is to entirely deprive any person of his liberty in an illegal manner for a period of time by any material means or by demonstrating authority.

Article 60. All the regular courts of law in Bahrain have the right, within the scope of their competence, to order redress in cases involving civil offences.

In addition to the above-mentioned Code, in the reply to Question 1 we explained the provisions of the new draft Code of Criminal Procedure relating to this matter. These provisions stipulate that:

- A civil action for compensation for damage arising from a criminal act, irrespective of the value of such damage, may be brought before the criminal courts to be heard together with the criminal action.

- Any person who has suffered direct personal damage as a result of a criminal act shall be entitled to claim his civil rights from the accused during the collection of evidence, during the investigation or at any stage of the criminal proceedings before the court until such time as it is decided to terminate the pleading.

- A civil action may also be brought against the person responsible for the civil rights of the accused.

- A civil action for compensation for damage arising out of a criminal act may also be brought by the insurer before the court which is hearing the criminal action.

- If the person claiming civil rights abandons his action before the criminal courts, he may initiate proceedings in the civil courts.

- If a person who has suffered damage as a result of a criminal act brings a suit for compensation before the civil court and if criminal proceedings are subsequently initiated, he may, after abandoning his suit in the civil court, bring a civil action during the investigation or before the court which is hearing the proceedings in accordance with the circumstances.

- If a civil action is brought before a civil court, the decision must be postponed until the final verdict is given in a criminal suit which has been brought before the court prior to or during the course of the civil proceedings.

Question 13

This question has already been answered in our reply to Question 1. Paragraph (d) of article 19 of the Constitution stipulates that "Any statement or confession shall be null and void if it is proved to have been made under duress or enticement or degrading treatment or threat thereof". The first paragraph of article 128 of the Code of Criminal Procedure stipulates that no confession by the accused shall be admissible as evidence if, in the opinion of the court, such confession has been made as a result of enticement, threat or promise on the part of a person in authority in connexion with the indictment.

Questions 14 and 15

As indicated in our reply to Question 1, the provisions laid down in the Declaration are perfectly consistent with the Constitution and with the laws in force in the country. All of these laws are published and known to everyone from the time of their publication in the Official Gazette.

Furthermore, the legislation relating to employment stipulates that citizens must be treated in an extremely honourable and proper manner. In the case of the public security forces, in addition to the above-mentioned legislative acts, regulations promulgated from time to time emphasize the desire of the responsible authorities to ensure the total prevention of torture and other cruel, inhuman or degrading treatment or punishment.

The State of Bahrain has encountered no difficulties in implementing the Declaration since the State applies the laws in force in the country which are in conformity with the Declaration.

MADAGASCAR

/Original: French/
/22 August 1980/

1. With regard to legislative measures, Malagasy legislation has always generally proscribed all forms of torture, and cruel, inhuman or degrading treatment or punishment, whether these concepts, deemed to be contrary to the dignity of the individual and the country's traditional rules, apply to the detention or the imprisonment of the offender.
2. Such concepts would be tantamount to disregarding respect for human dignity and human rights and would constitute a retrograde and abhorrent attitude towards civilization.
3. As regards the present status of legislation, it may be noted that article 42 of the Constitution of 11 December 1975 lays down that:

"No one may be prosecuted, arrested or detained save in the cases determined by the law and in accordance with the procedures which it prescribes.

"No one may be punished save by virtue of a law promulgated and published before the commission of the offence."
4. It is on these two complementary principles that all criminal legislation is founded: no court, no police force, no enforcement agency can transgress them without becoming liable to the penalties prescribed, particularly in the event of psychological pressure or physical brutality, by articles 309, 310 and 311 of the Criminal Code, covering correctional and criminal penalties for wounding, mutilation and battery, and articles 316, on castration, and 341, on illegal arrest and detention and kidnapping, which lay down penalties of forced labour for a stated period or for life, which can be increased to the death penalty if bodily torture occurred, for those guilty of the offences.
5. Provision is made, as in all legislation, for certain extenuating circumstances in articles 321, 325, 327 and 328 of the Criminal Code, but these provisions relate to special situations arising out of provocation, self-defence or the need to maintain public order and can be invoked only in the form of a reasoned ruling by the judge. In all cases they exclude torture proper and cruel, inhuman or degrading treatment.
6. At the penitentiary level, if the régime applicable to detained persons differs from that applied to untried prisoners, especially with regard to the organization of work, both may be visited by the counsel, relatives and members of their families on days and at times laid down by the statutory regulations of the penitentiary services.
7. Moreover, the inspection of prisons and houses of detention by specialized personnel and by judges has been so organized that any failure to observe the rules in force, any negligence and any abuse can be stopped and punished.

THAILAND

/Original: English/

/26 August 1980/

1. 1.1 Legally, they are provided under section 18 of the Criminal Code of 1956.
1.2 There are not any measures in such circumstances.
1.3 There are none since the adoption of the Declaration.
2. To some extent, they are included in the training programme for the would-be police officers and correctional officers.
3. They are incorporated in the sense that the principles of Thai Penitentiary Act of 1936 which governs the Thai Correctional System is in many ways consistent with those of the United Nations Standard Minimum Rules for the Treatment of Prisoners.
4. By availing the victim of the right of filing complaints to the higher authority for immediate and fair action. In addition, the victim or prosecutor can bring the matter to the court.
5. Yes, they are.
6. The higher officer in that particular case after receiving complaints from the victim.
7. Yes, they do.
8. 8.1 Yes, they are.
8.2 The main aspects of the procedure is similar to the procedure for general officers.
8.3 Generally speaking, whether convicted persons may benefit from pardon, commutation of sentences or amnesties or not depend mainly on their behaviour in the prison.
9. 9.1 Usually by removal from the office and subject to be prosecuted.
9.2 Practically yes, if the person guilty of torture is sentenced to imprisonment, he will be banned from serving in civil services.
9.3 Apparently not.
10. They are applied basically the same.
11. Data on this matter are not available.
12. In Thailand, a system of compensation provided by Government for victims of crime has not yet been enacted. However, a victim has a right to sue an offender and claim for damages in civil court.
13. That can not be provided.

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14. The principles of the Declaration has been stated in every Thai Government's Policy which is publicized to the public.
15. Since the adoption of the Declaration, it is too short a time to evaluate the results.

Explanation to the above replies

1. The Thai Penal Code, states that whoever causes injury to the other person in body or mind is said to commit crime against bodily harm and shall be punished with different degree of punishment depending upon the seriousness of the offence. There are five degrees of punishment, Capital Punishment, Imprisonment, Confinement, Fine and Forfeiture of property.
2. The Thai Law Enforcement Officers have been intensively trained and educated on the treatment of the offenders.
3. The person who has suffered from bad treatment by the policeman or law enforcement officer, has the right to appeal for the review of interrogation on such incident.
4. The acts of torture, as well as participation in, complicity in, incitement to or the attempt to commit torture are punishable under criminal law.
5. Any police station can receive and examine complaints from alleged victims that torture or other cruel, inhuman or degrading treatment or punishment has been inflicted upon them by or at the instigation of public officials. The competent officer will gather and collect evidence if he finds enough evidence against the offender, he shall send the case to the public attorney for further action.
6. If there is a reasonable ground to believe that an act of torture has been committed, the competent authorities can make an investigation, even if there is no formal complaint. The officer in charge will gather information on evidence of the case after that he shall send the offender to court, if there is enough evidence to believe that such crime has been committed by the offender.
7. The offender will be detained for interrogation. The officer in charge needs permission from the court to detain the offender in case the investigation is not completed. When the police officer has enough evidence, he shall indict the offender.
8. The police officer who is found guilty of torture shall be barred or suspended from public service.
9. There are many policemen who have been punished by court or barred from work, when he was found guilty of police brutality.
10. The Thai Civil Code ensures redress and compensation to the victim of acts of torture.

11. The Thai law "Criminal Procedure", Article 133, states that the police officer cannot say, warn, promise or do anything in anyway to lure the offender to speak or give a statement against himself or herself.

"Criminal Procedure Article 226"

Evidence of documents or eye-witness is acceptable in court but excludes from evidence in any proceedings a statement extracted under torture, promise, lure or any other unlawful acts. Any statements given under torture or as above-mentioned is not acceptable in court.

UNION OF SOVIET SOCIALIST REPUBLICS

Original: Russian

30 June 1980

1. Soviet legislation totally excludes the possibility of the subjection of any person whatsoever to torture and other forms of cruel, inhuman or degrading treatment or punishment, and contains all the necessary legal guarantees for this purpose.
2. The Constitution of the USSR provides, in article 4, that the Soviet State and all its bodies function on the basis of socialist law, ensure the maintenance of law and order, and safeguard the interests of society and the rights and freedoms of citizens. Article 54 of the USSR Constitution states that citizens of the USSR are guaranteed inviolability of the person. Article 57 of the USSR Constitution affirms the right of citizens to protection by the courts against encroachments on their honour and reputation, life and health, and personal freedom and property. Article 58 of the USSR Constitution further stipulates that actions by officials that contravene the law or exceed their powers and infringe the rights of citizens may be appealed against in a court in the manner prescribed by law. Citizens of the USSR have the right to compensation for damage resulting from unlawful actions by State and public organizations, or by officials in the performance of their duties.
3. Elaborating upon the provisions of the Constitution, the criminal legislation of the USSR provides for liability in the case of knowingly unlawful arrest or knowingly unlawful punishment (art. 178 of the Criminal Code of the RSFSR and the corresponding articles of the Criminal Codes of the Union Republics). It is also a criminal offence to extract evidence by threats, by the use of force or by mockery of a person under interrogation, and likewise to compel a witness, victim or expert to offer false testimony or false conclusions to organs of judicial investigation, by threatening such persons or persons close to them with murder, violence or the destruction of property (arts. 179 and 183 of the Criminal Code of the RSFSR). There are in addition provisions concerning the liability of officials of organs of judicial investigation, as well as other officials, who exceed their authority or official powers by the use of violence or the use of weapons or by acts which inflict pain or are an affront to the personal dignity of a victim.
4. Under article 160 of the USSR Constitution, no one may be adjudged guilty of a crime and subjected to punishment as a criminal except by the sentence of a court and in conformity with the law. In accordance with article 20 of the Principles of Criminal Legislation of the USSR and the Union Republics and article 1 of the Corrective Labour Legislation of the USSR and the Union Republics, the imposition of sentences by a court of law, and their execution, not only constitute a penalty for the crime committed but also have the aim of correcting and re-educating convicted persons in the spirit of an honest attitude to labour, strict observance of the laws and respect for the rules of socialist society, and of preventing the commission of fresh crimes by the convicted person or by other persons. Punishment and its execution do not have the purpose of inflicting physical suffering or degrading human dignity.

5. Consequently, Soviet legislation and practice are in complete conformity with the principles of the Declaration, the adoption of which by the General Assembly has not necessitated any amendments or additions to existing laws and regulations in the Soviet Union.

VENEZUELA

/Original: Spanish/
/31 July 1980/

Question 1

One of the purposes of our National Constitution, set forth in its Preamble, is to uphold "human dignity".

Article 60 later provides as follows: "Personal liberty and safety are inviolable, and consequently ... 3. It shall not be lawful to hold any person incommunicado nor subject him to torture or other treatment which causes physical or moral suffering. If any person inflicts physical or moral hurt on a person subjected to restriction of his liberty he shall be liable to punishment."

Article 220 provides as follows: "The State Legal Department shall have the following functions: 1. To ensure that constitutional rights and guarantees are respected ... To supervise the correct enforcement of the laws and the guarantee of human rights in jails and other prison establishments."

Act adopting the American Convention on Human Rights (Gaceta Oficial No. 31.256 of 14 June 1977).

Act adopting the International Covenant on Civil and Political Rights (Gaceta Oficial No. 2146 of 28 January 1978).

Administrative measures

Regulations concerning persons in custody (2 September 1975), article 3 of which provides as follows:

"No disciplinary punishment shall be applied which consists of ill-treatment in word or deed or of any other measures or acts which are detrimental to personal dignity."

Internal regulations of the State police.

With regard to the last part of question 1 of the questionnaire, we must point out that no measures have been contemplated to prohibit torture in exceptional circumstances such as a state of war, etc. Nevertheless, article 60 ensures that, even in such circumstances, the general criteria protecting human rights shall remain in force.

Question 2

Trainees attending the training schools of the State security authorities and schools for prison personnel are given instruction on the respect of fundamental rights. They are also apprised of the existing juridical system.

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Question 3

This prohibition is included in our Penal Code as an offence against individual liberty (art. 182, already submitted).

Question 4

The method used is that of visits to jails. In that connexion, article 6 of the Organic Law of the State Legal Department provides as follows:

"The following are the functions of the State Legal Department ... 13. To ensure that the human and constitutional rights of persons in custody and minors are respected in police premises, prison premises, detention premises of military commands, labour camps, jails and penitentiaries, correction institutes for minors and other establishments of detention or internment ...

"In carrying out this constitutional function the officers of the State Legal Department shall have access to all the aforesaid establishments ..."

Chapter IX of the Code of Criminal Procedure refers to "visits to prisons and special penal establishments", article 404 of which provides as follows:

"The visits referred to in the previous article shall be made by each judge or tribunal in respect of persons in custody with whose cases they are dealing ..."

Article 405 provides as follows:

"Visits to penal establishments shall have as their purpose to investigate ...
2. Any complaints which they may have against their warders, guards, counsel for the defence, court-appointed officers for the defence or prosecuting counsel."

Visits by members of the judiciary and counsel appointed by the court or by the State Legal Department are governed by articles 61 to 65 of the Regulations concerning persons in custody.

There is an Inspectorate-General of Prisons, attached to the Directorate of Prisons of the Ministry of Justice.

Question 5

Acts of torture are punishable in accordance with our criminal legislation (art. 182 of the Penal Code).

Question 6

The following authorities are competent to receive and examine complaints: the State Legal Department, the Inspectorate-General of Prisons and the Inspectorate-General of Police.

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Question 7

The competent authorities are entitled to proceed to an investigation ex officio. In the case of an Inspectorate, the appropriate administrative procedure will be followed; in the case of a judge, the judge will issue an order to proceed and will initiate the investigation.

Question 8

Criminal proceedings are instituted, following an investigation of the bare facts (preliminary proceedings on the merits of the case), if the alleged offender is a public official. The penalties incurred are of a disciplinary and penal nature (imprisonment).

The sentence may be suspended by virtue of the Act on Indictment and the Conditional Suspension of Sentences (Gaceta Oficial No. 2529 extraordinary, of 31 December 1979), provided that the requirements set forth in this Act are fulfilled.

Under article 190 of the National Constitution, "The President of the Republic shall have the following functions and duties ... 21. To grant pardons."

In this connexion, article 104 of the Penal Code, sole paragraph, provides as follows:

"A pardon or act of clemency in respect of a sentence shall render it ineffective together with all its accessory penalties. When a pardon commuting the sentence into a lesser sentence is granted, the latter shall be served together with the accessory penalties pertaining thereto."

Article 312 of the Code of Criminal Procedure provides as follows:

"Suspension is permissible during the investigation, after the order of detention or indictment has been issued, and in any court sitting in plenary session ... 2. With regard to amnesty or pardon, in accordance with the terms thereof ..."

Article 34 of the Organic Law of the Central Administration (Gaceta Oficial No. 1932 extraordinary, of 28 December 1976) provides as follows:

"The Ministry of Justice shall ... 5. Take the necessary action in respect of pardons and the serving, conversion and commutation of sentences."

Question 9

Disciplinary sanctions: a physician or lawyer may be suspended from practising his profession and, in every case, during the serving of a sentence.

Guilty persons may be barred from occupational associations.

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Question 10

We have no information on other forms of cruel, inhuman or degrading treatment or punishment.

Question 11

Investigations have been carried out and proceedings have been instituted in connexion with police and prison officials.

Question 12

Article 113 of the Penal Code provides as follows:

"Any person who is responsible under the criminal law for an offence or misdemeanor shall be held responsible also under the civil law.

"Civil responsibility arising out of penal responsibility shall not cease because the latter or the sentence has lapsed; it shall continue as a civil obligation subject to the provisions of civil law.

"Nevertheless, in the absence of any express reservation, a pardon by the aggrieved party in respect of the criminal proceedings shall have the effect of a waiver of the civil proceedings.

"The period of prescription for civil proceedings to be instituted against public officials for acts committed in the performance of their duties shall be ten years."

Article 120 of the Penal Code provides as follows:

"The civil responsibility referred to in the preceding articles shall include:

- "1. Restitution
- "2. Repairing the damage caused
- "3. Compensation for damages."

Article 13 of the Act on Indictment and the Conditional Suspension of Sentences provides as follows:

"The order granting conditional suspension of a sentence may require the offender ... to repair the damage, to make restitution or to pay compensation to the victim of the offence; this may be carried out gradually or in instalments during the probationary period depending on the economic situation of the offender."

The State or other public entities may be held liable to pay for such compensation. We have no information as to whether such redress has been afforded or compensation given since the adoption of the Declaration.

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Question 13

According to article 247 of the Code of Criminal Procedure:

"Statements made by a defendant to the court during the proceedings, either before or after the detention order or in plenary sessions, shall constitute evidence against him, provided that the following conditions are fulfilled:

1. That they were freely made and not under oath. ... and, if the conditions in paragraphs 1 and 2 are not fulfilled, they shall have no value as evidence or even as circumstantial evidence."

Question 14

Officials of the State bodies responsible for the protection of human rights and police officials have been apprised of the contents of the Declaration.

Question 15

The progress made is apparent from the reduction in the number of cases of torture, and the difficulties encountered are due to the persistence of a repressive mentality which has to be reformed.
