



Saudi Arabia's contributions in the duty to investigate crimes of torture in national law and practice¹

Legislative Framework to Prohibit all Forms of Torture in the Kingdom:

The Kingdom, aiming to protect and promote human rights, issued several laws and amended the existing laws, in line with its international obligations regarding its accession to some international human rights treaties . In this regard, the following laws should be mentioned:

1. Law of the Judiciary:

This Law was issued on 2007, which represents a development of the judicial system, as it is the basis for the right of justice. The Law includes guarantees prescribed for litigation; and an update of the courts' jurisdictional and hierarchy of courts. The Law states the establishment of a Supreme Court.

2. Law of Civil Procedures:

This Law was issued on 2000, and it promoted the most important principles related to justice and achieving it for all litigants. It regulated the judges' authorities in dealing with litigants during the trial. The Law also determined the court's jurisdiction to consider the cases, method filing and registering the cases, and provisions related to the attendance and absence of litigants, hearings procedures and regulation. The Law explicitly stated that the trial shall be in public, specify when the judge shall recuse himself; to ensure his neutrality before all litigants on equal basis.

3. Law of Criminal Procedure:

This Law was issued in 2001, as it is considered one of the most important legislations related to achieving justice. It directly addresses one of the most important issues related to human rights and its procedures, starting from the arrest to trial. It determines the comprehensive guarantees that protect the right of the accused, and prohibits all forms of torture or physical and moral abuse or suffer from degrading treatment. The Law provides for the invalidation of every procedure contrary to its provisions. Further, it provides for the right of the accused to material and moral compensation for the harm he suffers in case of acquittal.

4. The Code of Law Practice:

This Law was issued in 2001 and it defines the legal profession and its objectives in demonstrating justice, the conditions for practicing it, and the rights and duties of lawyers towards achieving justice.

5. Anti-Trafficking Law:

¹ <https://www.ohchr.org/en/calls-for-input/2022/call-input-report-duty-investigate-crimes-torture-national-law-and-practice>



This Law was issued in 2009, and it is considered one of the most prominent legislations as it represents the legal framework for addressing cases related to the crime of trafficking in persons. A national committee has been established to combat crimes of human trafficking, which includes representatives from the relevant government entities. This Committee aims at following executing this Law and to raise national capacities in the field of combating trafficking in persons. These measures have contributed to building a legal and institutional framework that guarantees the protection of all persons without discrimination from crimes of trafficking in persons, providing them with health, psychological and legal assistance, and compensating them for the harm they have suffered and other requirements of remedy.

6. Law of Protection from Abuse:

This Law was issued in 2013 , and amended 2022. The Law provides the protection from abuse of all kinds, and the provision of assistance treatment, shelter, social, psychological and health care for its victims, holding the perpetrator accountable and penalizing him, emphasizing spreading awareness about the concept of abuse and its consequences, addressing behavioral phenomena in society. The Law orders everyone who witnesses a case of abuse to report it immediately. The Law provides a special provision obligating every public employee or police and every worker in the private sector who witnesses a case of abuse, due to the course of his work, to inform his employer of the case when he became aware of it. The employee's entity shall report the case to the competent authority or the police regarding the case of abuse as soon as they become aware of that. Further, the Law confirms that the identity of the person reporting a case of abuse may not be disclosed except with his consent or in cases specified by the Executive Regulations of the Law. It should be noted that the penalty becomes more severe if it is associated with any of the following: If the one who was abused was a person with disabilities, or one of the parents, or someone over (sixty) years old, or a pregnant woman if that resulted in the miscarriage of her fetus, if the abuse occurred in the place of work, education, or worship, if the abuse occurred from those assigned to them to the application of the provisions of this Law, if the abuse occurred associated with the use of a weapon if there were multiple acts of abuse in the incident.

International human rights instruments to which the Kingdom is a party in the context of prohibiting forms of torture:

1. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Kingdom acceded to in 1997.



2. The United Nations Convention against Transnational Organized Crime, which the Kingdom acceded to in 2004.
3. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, to which the Kingdom acceded in 2007.

Institutional Framework to Prohibit all Forms of Torture in the Kingdom:

1. Human Rights Commission:

The Human Rights Commission (HRC), a fully independent supervisory entity, promotes and protects human rights for all without discrimination, receives complaints about human rights and takes legal action in their regard. HRC undertakes supervising and awareness measures related to this matter and others. HRC ensures that the concerned government entities implement laws and regulations related to human rights, disclosing abuses and taking the necessary legal measures in this regard. Further, HRC follows up with government entities to implement their respective international human rights instruments to which the Kingdom is a party, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and ensuring that such entities take the necessary measures to implement them. Moreover, HRC assumes the task of monitoring the implementation of the Convention, through the complaints it receives and the related violations it monitors.

2. National Society for Human Rights (NSHR):

A civil society institution concerned with the field of human rights, and has the financial and administrative independence. It is not subject to the supervision or control of any government entity. NSHR statute includes a stipulation that it aims to protect human rights in accordance with the Basic Law of Governance, applicable regulations, and human rights covenants, and to cooperate with international organizations working in this field.

3. National Anti-corruption Commission (Nazaha):

It aims to protect integrity, promote the principle of transparency, and combat financial and administrative corruption in all its forms, manifestations, and methods. In this regard, Nazaha has several mandates, including following up on the implementation of orders and instructions related to public affairs and the interests of citizens in a manner that ensures compliance with such laws. Nazaha is concerned with referring violations and abuses related to financial and administrative corruption when discovered to the supervising or investigation authorities, as the case may be. Nazaha is follow-up the extent



to which the concerned entities have performed their duties regarding to the application of regulations criminalizing financial and administrative corruption. Nazaha aims to strengthen the principle of accountability for every person, regardless of his/her position, receiving reports related to behavior involving corruption, verifying their validity, and taking the necessary actions in this regard.

Remedy Mechanism to Prohibit all Forms of Torture in the Kingdom:

First: Guarantees of the Accused upon his/her Arrest and Detention

- No person may be arrested, searched, detained or imprisoned except in cases provided by law and under a reasoned order by the Public Prosecution in accordance with Articles Nos. (2 and 35) of the Law of Criminal Procedures after the evidence for committing the crime is provided.
- A detainee shall be treated with dignity and may not be subjected to any bodily or moral harm. He shall also be informed of the reasons of his detention, and he may contact any person of his choice to inform him of his arrest. This is in accordance with Articles (2 and 36) of the Law.
- The administration of any prison or detention center may not receive any person except pursuant to an order specifying the grounds and period for such imprisonment or detention and duly signed by the competent authority. Said person may not remain in custody following the expiry of the period specified in the order. The detention or imprisonment shall be conducted in places legally designated for such purpose, in accordance with Article (37).
- The Implementing Regulations of the Criminal Procedures Law included in Article (22) that when arrested or detained, the accused shall be informed of the following:
 - Reasons for detention or arrest.
 - His right to seek the assistance of an attorney or attorney-in-fact during investigation and trial.
 - His right to contact any person he may choose to inform him of his arrest or detention.
- The accused has the right to appeal his provisional detention, as Article (115) of the Law stipulates that "Upon detention of the accused, the original detention warrant shall be delivered to the warden of detention center who shall sign a copy of such warrant as an acknowledgment of receipt." "A provisional detainee may appeal his detention order or extension thereof".

Second: Right to a Lawyer



- In the investigation and trial stages, the accused shall have the right to a lawyer in accordance with Article (4) of the Law of Criminal Procedures. The accused shall be notified of this right immediately upon his arrest according to Article (22) of the Implementing Regulations of the Law of Criminal Procedure. To facilitate the procedures and ensure the provision of this guarantee, Article (71) stipulates Provided that "the investigator may, when necessary, record in a special minute that the accused has appointed his lawyer for the investigation stage."
- Paragraph (2) of Article (69) of the Law stipulates: "The accused, victim, claimant of private right, and their respective agents or attorneys may attend the investigation proceedings."
- Article (70) of the Law stipulates that "the investigator may not, during the investigation, separate the accused from his agent or attorney. The agent or attorney may not intervene in the investigation except with the permission of the investigator. In all cases, the agent or attorney may deliver to the investigator a written memorandum of his comments and the investigator shall attach such memorandum to the case file."
- Article (19) of the Code of Law Practice stipulates that "the courts of law, the Board of Grievances, the committees referred to in Article 1 hereof, government entities, and the investigation shall facilitate the lawyer's discharge of his assignment, and shall enable him to attend any interrogation and peruse any relevant documents."
- It's not premissible for any partys to seize correspondence between the accused and a lawyer, or oblige the lawyer to hand it over in accordance with the provisions of Article (84) of the Law: "The investigator may not seize any papers or documents delivered by the accused to his agent or attorney in connection with performing the duty entrusted to him, nor correspondences exchanged between them in relation to the case."

Third: Interrogation Guarantees

- Interrogation is a judicial act and is exclusively the responsibility of the Public Prosecution. It is not carried out by the police or any criminal investigation entity in accordance with Article (66) of the Law of Criminal Procedures.
- The interrogation shall be conducted in a manner not affecting the will of the accused in making his statements. The accused may not be asked to take an oath nor subjected to any duress measures. He may not be interrogated outside the premises of the entity conducting the investigation unless deemed necessary by the investigator in accordance with Article (102) of the Law of Criminal Procedures. This exception allows for investigation outside the premises of entity conducting the investigation such as the accused is receiving medical care in the hospital due to sustaining an injury that doesn't prohibit investigation.
- Paragraph (1) of Article (73) of the Implementing Regulations of the Law of Criminal Procedure requires that the investigator shall make a note in the investigation report that



led him to the interrogation of the accused outside the premises of entity conducting the investigation in accordance with paragraph (1) of Article (72) of the Regulation.

Fourth: Trial

- The Law of Criminal Procedures specified in Article (114) the period after which the accused shall be immediately referred to the competent court or released, which is originally six months from the date of arrest.
- The Law of Criminal Procedures stipulates that the trial hearings shall be originally public, according to Article (154) thereof.
- If the accused is unable to pay the costs of the lawyer's fees and desires to appoint a lawyer to defend him, the court shall assign him a lawyer, and the State shall bear the costs of that according to what is included in Article (139) of the Law of Criminal Procedures.
- Article (186) of the same Law stipulates that "If an accused is convicted or acquitted, pursuant to a judgment on the subject matter of the criminal action, no additional criminal action may be filed against the accused for the same acts and facts upon which the judgment was rendered."

Fifth: Guarantees of the Prisoner and the Detained

- Article (28) of the Law of Imprisonment and Detention that "No prisoners or detainees may be assaulted by any kind. Disciplinary measures shall be taken against civil or military employees who commit any aggression against a prisoner or detainee, without prejudice to the imposition of penal penalties on them in cases involving criminal assaults".
- Article (5) of the same Law stipulates that "prisons and detention centers shall be subject to judicial, administrative, health and social inspection...".
- Article (38) of the Criminal Procedures Law stipulates that "designated members of the Public Prosecution shall, at any time and without regard to official hours, visit prisons and places of detention within their jurisdiction to ensure that no person is unlawfully imprisoned or detained. They shall have access to files of the prisons and detention centers, communicate with prisoners and detainees, hear their complaints, and receive whatever they submit in this regard. Wardens of prisons and detention centers shall provide members of the Bureau of Investigation and Public Prosecution with any assistance they may need for the discharge of their duties."
- Article (39) of the Law of Criminal Procedures stipulates that "Any prisoner or detainee may submit, at any time, a written or oral complaint to the warden of prison or detention center and request that he refer it to a member of the Public Prosecution. The director shall accept the complaint and promptly report it, upon entering such complaint in a special register, and provide the prisoner or detainee with proof of receipt. The administration of the prison or detention center shall allocate an office for the designated member of the Public Prosecution to monitor the conditions of prisoners or detainees."



- Article (40) of the Law of Criminal Procedures stipulates that: “Any person with knowledge that a person is unlawfully imprisoned or detained, or held in a place not designated for imprisonment or detention, shall notify the Public Prosecution. Upon notification, the competent member of the Public Prosecution shall immediately proceed to the place where the prisoner or detainee is held and conduct the necessary investigation. If such imprisonment or detention is found to be unlawful, he shall order the release of such person. A report to that effect shall be drafted and submitted to the competent authority to take necessary legal action against those responsible.”
