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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on her visit to Saudi Arabia

Comments by the State*

* The present document is being issued without formal editing.

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I. Introduction

1. The Kingdom of Saudi Arabia expresses its gratitude and appreciation to Mr. Ben Emmerson, the former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. The Kingdom also congratulates Ms. Fionnuala Ni Aoláin on her appointment as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and wishes her every success in her mandate.
2. The Kingdom is submitting these comments and clarifications in response to the Special Rapporteur's invitation to present any observations that the Kingdom might have on the text of the draft report so that any of the information, statements or views contained in the report can be rectified prior to its circulation. The Kingdom requests that the draft report be amended in the light of this document.
3. The Kingdom wishes to emphasize that, in the application of all its laws and procedures, it shows due regard for all the national and international human rights standards and, far from being based solely on procedures of a purely security-related nature, its counter-terrorism endeavours constitute an integrated system of legal procedures to ensure the care, protection and assistance not only of victims but also of the families of accused and convicted persons, to confront deviant ideology and to block potential sources of financing for terrorism while respecting and according the utmost importance to human rights.
4. The invitation extended to the Special Rapporteur to visit the Kingdom was a reflection of its desire to cooperate with international human rights mechanisms and benefit from the experience of the experts working therein.
5. The Kingdom highly appreciated his visit, undertaken during the period from 4 to 8 Sha'ban A.H. 1438, corresponding to 30 April to 4 May 2017. It will give close attention to the recommendations resulting therefrom and will take the requisite measures, wherever appropriate, in regard to those recommendations in the light of the Kingdom's laws and its obligations under the international instruments to which it is a party.
6. The Kingdom wishes to make it clear that the repeated allegations of torture and inhuman treatment referred to in the draft report are not substantiated by factual or other evidence and are totally false. They are refuted by the care and rehabilitation services that the Kingdom provides for all persons arrested on terrorism-related charges, as indicated by the Special Rapporteur in some paragraphs of his draft report. Any allegations concerning torture or inhuman treatment are investigated, as stated by the Kingdom in its national report on the Convention against Torture and in its reply to the list of issues received from the Committee against Torture, to which reference can be made in order to avoid the need for repetition. The Special Rapporteur acquainted himself with all these procedures, which he examined in a fully transparent manner, during his visit to the Kingdom.

II. Comments on some paragraphs in the draft report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on his mission to the Kingdom during the period from 4 to 8 Sha'ban A.H. 1438, corresponding to 30 April to 4 May 2017

Legal framework		
B. National framework: paragraphs 9, 10 and 13		
Para.	Text of the draft report	Comment
9	<ul style="list-style-type: none"> • “Saudi Arabia is an Islamic State. It is a theocracy, whereby all source of authority derives from God ...” • “The court system consists of three main parts. The largest is the Shari’ah Courts, which hear most cases in the legal system. They are organized into several categories: Courts of First Instance (Summary and General Courts), Courts of Cassation and the Supreme Judicial Council ...” 	<ul style="list-style-type: none"> • Article 1 of the Basic Law of Governance states that: “The Kingdom of Saudi Arabia is a fully sovereign Arab Islamic State. Its religion shall be Islam and its constitution shall be the Book of God and the <i>Sunnah</i> (Traditions) of His Messenger, may God’s blessings and peace be upon him. Its language shall be Arabic and its capital shall be the city of Riyadh.” Paragraph 5 (a) of the same Law states that: “The system of governance in the Kingdom of Saudi Arabia shall be monarchical.” • Article 44 thereof further stipulates that: “The authorities in the State shall consist of: the Judicial Authority, the Executive Authority and the Regulatory Authority. These authorities shall cooperate in the discharge of their functions in accordance with this Law and other laws. The King shall be their final authority.” • Royal Decree No. M/78 of 19/09/A.H. 1428, corresponding to 01/10/2007, approved the Statutes of the Judiciary and the Board of Grievances, as well as their implementing mechanisms. The new Statute of the Judiciary contained a number of important additions, including the establishment of courts of first instance consisting of general courts, criminal courts, a specialized criminal court, personal status courts, commercial courts and labour courts. Provision was also made for the establishment of appellate courts, including a Specialized Criminal Court of Appeal, and a Supreme Court to monitor the correct delivery and enforcement of judgments, as well as the formation of a Supreme Judicial Council. The Statute specified the functions and jurisdiction of the courts and the rights and duties of the judges and defined the responsibilities of the Judicial Inspectorate. • We hope that, in his description of the judicial system and the designation of its courts, the Special Rapporteur will respect what is legally stipulated and actually applied.
10	<ul style="list-style-type: none"> • “The Human Rights Department within the Ministry of Islamic Affairs often puts forward the Shari’ah, or divine law, its culture and the Islamic character of the State as impediments to full implementation of international human rights standards.” 	<ul style="list-style-type: none"> • Article 26 of the Basic Law of Governance stipulates that: “The State shall protect human rights in accordance with the Islamic Shari’ah”. The Kingdom emphasizes that there is no inconsistency between the provisions of the Islamic Shari’ah and the manner in which they

		<p>are applied in the Kingdom and the international human rights standards to which the Kingdom is committed, subject to certain reservations, by virtue of its accession to international human rights instruments.</p> <ul style="list-style-type: none"> • There are human rights departments in the Ministry of the Interior, the Presidency of State Security, the Ministry of Foreign Affairs, the Ministry of Justice and other official bodies in view of the importance that the Kingdom attaches to human rights.
13	<ul style="list-style-type: none"> • “Initially, the Specialized Criminal Court (SCC) fell under the jurisdiction of the Supreme Judicial Council, with judges appointed by the Minister of the Interior. An appellate division of the Court hears appeals ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 9. • The Kingdom of Saudi Arabia draws attention to the inaccuracy of the Special Rapporteur’s statement in this paragraph to the effect that the Specialized Criminal Court judges were appointed by the Minister of the Interior and the Court had an appellate division. This statement in the draft report is totally erroneous since the Specialized Criminal Court was established by order of the Supreme Judicial Council which, under the terms of article 6 of the Statute of the Judiciary, was empowered to establish courts, determine their territorial and thematic jurisdiction, and also merge or abolish them. • All the judges serving on the bench are appointed by decision of the Supreme Judicial Council endorsed by Royal Orders in accordance with article 47 of the Statute of the Judiciary. They are appointed only if they hold academic degrees in law from approved colleges and meet certain requirements. They are graded in the judicial hierarchy in accordance with articles 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42 of the said Statute. • The establishment of this Court was one of the measures taken to promote the effective administration of justice in the Kingdom’s overall judicial system.

Key human rights concerns		
A. Definition of terrorism under the counter-terrorism legislation: paragraphs 14, 15, 16, 17, 18, 19 and 20		
Para.	Text of the draft report	Comment
14	<ul style="list-style-type: none"> • “The 2014 Law had a very broad definition of terrorist crimes ... “ “In other words, under such a broad definition anyone challenging the authority or policies of the State could qualify as a terrorist and be prosecuted in trials that fall short of any due process guarantee for fairness.” 	<ul style="list-style-type: none"> • The Kingdom of Saudi Arabia wishes to point out that the definition of terrorist crimes was revised in the new Law on Combating Crimes of Terrorism and Its Financing which was promulgated by Royal Decree No. M/21 of 12/2/A.H. 1439, corresponding to 1/11/2017, bearing in mind that there is no internationally recognized definition of terrorism. The purpose of the definition was to establish a legal framework to determine the categorization and behavioural elements of terrorist crimes in order to counter all forms of terrorism. • The provisions of the Law on Combating Crimes of Terrorism and Its Financing are consistent with the international and regional instruments and treaties to which the Kingdom is a party. They are also consistent with Human Rights Council

		<p>resolution 28/17 of 26 March 2015 which reaffirmed the primary responsibility of the State to protect its citizens against terrorism (para. 4) and urged States to take appropriate measures to duly investigate the incitement, preparation, instigation or commission of acts of terrorism and, where appropriate, to prosecute, convict and punish those engaged in such acts in accordance with national criminal laws and procedure (para. 7).</p>
15	<ul style="list-style-type: none"> • “The Interior Ministry Regulations, issued on 7 March 2014, extended the counter-terrorism law’s already overly broad definition of terrorism to include such acts as ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 14. It should also be noted that the law to which the Special Rapporteur referred in paragraph 15 has been amended. In fact, article 95 of Law on Combating Crimes of Terrorism and Its Financing, as amended, stipulates that the Public Prosecution, in association with the Ministry of the Interior, the Ministry of Justice, the Ministry of Finance and the Presidency of State Security, shall draw up implementing regulations for the said Law which shall be issued by decision of the Council of Ministers within 180 days from the date of promulgation of the Law.
16	<ul style="list-style-type: none"> • “The United Nations Committee against Torture (CAT) expressed concern that this law contained an extremely broad definition of terrorism that would criminalize any peaceful expression of opinion or belief deemed to endanger national unity or undermine the reputation or position of the State ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 14.
17	<ul style="list-style-type: none"> • “The Special Rapporteur concurs with this assessment and considers that the definition of terrorism in the 2014 Law to Counter Terrorism and Its Financing, as expanded by the Interior Ministry regulations, is overly broad and failed to comply with international human rights standards ...” 	<ul style="list-style-type: none"> • See the comments on paragraphs 14 and 15.
18	<ul style="list-style-type: none"> • “At the same time its new article 30 criminalizes ‘directly or indirectly describing the King or Crown Prince in any way offensive to religion or justice’. Furthermore, article 34 criminalizes a wide range of activities considered as ‘promoting terrorism’ ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 14.
19	<ul style="list-style-type: none"> • As the definition of terrorism can include peaceful advocacy for political or policy reform or criticism of the King, any support given to a peaceful political dissident or human rights activist tried under this law can therefore be prosecuted under this provision ...” • “Article 44 extends the criminalization of acts which may fall under the right to freedom of expression ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 14. • The Kingdom’s legislation guarantees the right to expression of opinion, which is regarded as the basic means to defend human rights, provided that it is exercised within a statutory and legal framework in accordance with article 39 of the Basic Law of Governance. • The Kingdom of Saudi Arabia wishes to make it clear that the provisions of article 44 of the Law to Counter Terrorism and Its Financing are intended to safeguard information relating to national security the disclosure or publication of which might lead to, or facilitate, the commission of a terrorist act. It is noteworthy that criticism of governmental bodies or their practices does not fall within the scope of that article. The freedom of information that is enjoyed by all the Kingdom’s communication media belies that statement by the Special Rapporteur.
20	<ul style="list-style-type: none"> • “In adopting this new Law on Combating Crimes of Terrorism and Its Financing, Saudi Arabia has ignored 	<ul style="list-style-type: none"> • See the comment on paragraph 14.

	<p>the Special Rapporteur’s recommendation made at the end of his country visit to urgently review the definition of terrorism in the 2014 Law and bring it into line with international human rights norms, and to refrain from using anti-terrorism and other forms of national security legislation to stifle peaceful political dissidence, criticism or non-violent protest ...”</p>	
21	<ul style="list-style-type: none"> • “The Special Rapporteur notes with grave concern that the first individual convicted under the 2014 Law before the Specialized Criminal Court was Waleed bin Sami Abu al-Khair ...” 	<ul style="list-style-type: none"> • The Kingdom emphasizes that all the official bodies concerned cooperated with the Special Rapporteur in a fully transparent manner and he met with numerous detainees and convicted persons in the prisons. If there were some persons with whom he was unable to meet, this is attributable to the fact that the Kingdom did not receive a request from the Special Rapporteur containing the names of the individuals whom he wished to meet so that the authorities concerned could make arrangements therefor in accordance with the statutory procedures. Moreover, the names mentioned in the Special Rapporteur’s draft report do not fall within the scope of his mandate since their cases are unrelated to terrorism and a number of them have since been released.
22	<ul style="list-style-type: none"> • “Many prominent human rights defenders, religious figures, writers, journalists, academics and other civic activists ...” 	<ul style="list-style-type: none"> • The Kingdom’s relevant laws guarantee the right to expression of opinion, which is regarded as the basic means to defend human rights, provided that it is exercised within a statutory and legal framework in accordance with article 39 of the Basic Law of Governance. • Article 38 of the Basic Law of Governance states that: “No one shall be punished for another’s acts. There shall be no crime or punishment except as provided by the Shari’ah or a statute, and no penalty shall be imposed ex post facto.” • The Kingdom emphasizes that, as stipulated in article 3 of the Code of Criminal Procedure, no one may be sentenced to a penalty except in respect of his commission of a punishable criminal act and after being legally convicted thereof. • Private associations and foundations may be established only in accordance with the Private Associations and Foundations Act since the licences issued to them entitle them to certain rights and place them under certain obligations and any entity established outside this framework has no legal existence. • The Kingdom emphasizes that the courts impose penalties in respect of terrorist acts regardless of whether their perpetrators belong to the Sunni or the Shi’a communities. There is no sectarian-based discrimination in regard to such penalties.
24	<ul style="list-style-type: none"> • “During the visit, despite repeated requests and efforts from the Special Rapporteur, the Government did not give access to any of the individuals currently in detention ...” 	<ul style="list-style-type: none"> • The Kingdom emphasizes that the persons who were arrested or convicted had committed criminal acts, including murder, assault and possession of military and personal weapons and explosives. It is absolutely untrue that they were arrested for making legitimate demands, since every citizen is entitled to do so.

25	<ul style="list-style-type: none"> • “The Special Rapporteur is further concerned that what appears to be a pattern of systematic repression also includes since 2000 hundreds of protesters, principally from the country’s Eastern Province where the majority of the Shi’a population resides ...” 	<ul style="list-style-type: none"> • The Kingdom emphasizes that the various Shi’a communities have the same rights and obligations as other citizens and form an integral part of the single harmonious national fabric. • The true circumstances in which the Shi’a are living belies the allegations of discrimination against them. They hold senior posts in the governmental and private sectors and are entitled to uphold their legal rights before all the general and administrative judicial bodies in all types of cases without any discrimination, as guaranteed by article 47 of the Basic Law of Governance.
26	<ul style="list-style-type: none"> • “In one case, a man of Sunni obedience was convicted by the Specialized Criminal Court for having published an article criticizing prejudices by Sunni religious scholars towards members of the Shi’a branch of Islam and their beliefs ...” 	<ul style="list-style-type: none"> • The Kingdom emphasizes that the various Shi’a communities have the same rights and obligations as other citizens and form an integral part of the single harmonious national fabric.
27	<ul style="list-style-type: none"> • “The Special Rapporteur notes that these arrests, detentions and convictions not only reveal the serious flaws inherent in the Saudi counter-terrorism and State security legislation, but also send a very clear message to citizens and human rights defenders, as well as to peaceful opponents of the Government, that they would be prosecuted if they engage in these broadly defined activities. In turn, this had a chilling effect on all those concerned.” 	<ul style="list-style-type: none"> • The Kingdom’s relevant laws guarantee the right to expression of opinion, which is regarded as the basic means to defend human rights, provided that it is exercised within a statutory and legal framework in accordance with article 39 of the Basic Law of Governance. • Article 38 of the Basic Law of Governance states that: “No one shall be punished for another’s acts. There shall be no crime or punishment except as provided by the Shari’ah or a statute, and no penalty shall be imposed ex post facto.” • The Kingdom emphasizes that, as stipulated in article 3 of the Code of Criminal Procedure, no one may be sentenced to a penalty except in respect of his commission of a punishable criminal act and after being legally convicted thereof.
28	<ul style="list-style-type: none"> • “The Special Rapporteur strongly condemns use of counter-terrorism legislation with penal sanctions against individuals peacefully exercising their rights to freedom of expression, as well as freedom of religion or belief and freedom of peaceful association and assembly ...” 	<ul style="list-style-type: none"> • See the comment on paragraphs 21, 22, 24 and 27.
29	<ul style="list-style-type: none"> • “The Special Rapporteur calls upon the Government to establish an Independent National Security and Due Process Review Mechanism to re-examine all cases in which individuals are currently serving sentences of imprisonment in respect of acts which constitute exercise of free speech, freedom of thought, conscience, religion or opinion, or the right to freedom of peaceful assembly and association and to commute or pardon all such prisoners with immediate effect ...” 	<ul style="list-style-type: none"> • See the comment on paragraphs 21, 22, 24 and 27.

C. Unfair trials before the Specialized Criminal Court

1. Use of torture, coerced confessions and lack of accountability: paragraphs 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 and 41

Para.	Text of the draft report	Comment
30	<ul style="list-style-type: none"> • “As was confirmed to the Special Rapporteur during his mission and during his meetings with civil society, public information about cases before the Specialized Criminal Court is scarce ...” 	<ul style="list-style-type: none"> • Article 38 of the Basic Law of Governance states that: “No one shall be punished for another’s acts. There shall be no crime or punishment except as provided by the Shari’ah or a statute, and no penalty shall be imposed ex post facto.”

		<ul style="list-style-type: none"> • The Special Rapporteur visited the Court and acquainted himself in person with its procedures. All of the Court's proceedings are held in public and have been attended by observers from human rights bodies, including the Human Rights Commission, and by diplomats, journalists and relatives of victims and defendants. It is surprising that this was disregarded in the report. • The Kingdom emphasizes that, as stipulated in article 3 of the Code of Criminal Procedure, no one may be sentenced to a penalty except in respect of his commission of a punishable criminal act and after being legally convicted thereof.
31	<ul style="list-style-type: none"> • “The secrecy of these trials raises serious concerns about the fairness of their proceedings. These concerns were reinforced by reports received by the Special Rapporteur about certain due process violations involving the lack of habeas corpus guarantees, trial proceedings in secret, or in the absence of lawyers or in the absence of the accused....” 	<ul style="list-style-type: none"> • See the comment on paragraph 30. • Under the provisions of article 64 of the Code of Shari'ah [Civil] Procedure, proceedings must be conducted in public unless the judge, at his own discretion or at the request of any of the parties, decides to hold them in camera in order to maintain order or protect public morals or family privacy. A similar provision is found in article 154 of the Code of Criminal Procedure. Article 164 of the Code of Shari'ah Procedure stipulates that the judgment must be delivered at a public hearing and article 181, paragraph 1, of the Code of Criminal Procedure adopts the same principle by requiring the judgment, signed by the bench, to be read out at a public hearing, even if the proceedings were conducted in camera, and the said hearing must be attended by the parties to the proceedings and by all the judges who rendered the judgment unless an impediment prevents any of them from attending. • All detainees and prisoners in the Kingdom undergo a medical examination at the time of their admission to prison and are subjected to medical examinations on a periodic basis pursuant to paragraph 5 of the Medical Services Regulations. All prisons and detention facilities in the Kingdom are subject to judicial, administrative, health and social inspection in accordance with article 5 of the Prison and Detention Regulations and their inmates are provided with medical and health care. • Legal proceedings are taken against any detainee or other person accused of committing acts which constitute criminal offences under the Kingdom's regulations. They are given a fair trial before an independent court in which they have the right to defend themselves, benefit from legal counsel and appeal the judgment handed down against them, which is subject to judicial review before higher courts. This is in conformity with international human rights norms. • The Kingdom's regulations guarantee the right of all accused persons to a fair trial by providing numerous statutory safeguards based on the provisions of the Islamic Shari'ah under which a Muslim judge has an obligation to adjudicate fairly in accordance with the words of Almighty

		<p>God: “When you judge between people, adjudicate with justice.” Many of these principles are enshrined in the Basic Law of Governance under which the State has an obligation to protect human rights in accordance with the Islamic Shari’ah (art. 26) and to ensure the security of its citizens and of all persons residing in its territory, in which no one may be arrested, detained or restricted in his freedom of action except as provided by law (art. 36). Article 38 thereof affirms the principle of the personal nature of punishment and the illegality of criminalizing acts with retroactive effect (“No one shall be punished for another’s acts. There shall be no crime or punishment except as provided by the Shari’ah or a statute, and no penalty shall be imposed ex post facto.”)</p> <ul style="list-style-type: none"> • Under article 3 of the Code of Criminal Procedure, no one may be sentenced to a criminal penalty except in respect of an act which is prohibited and punishable under the law or regulations and after being convicted in a trial conducted in accordance with due process of law. The Code makes provision for numerous procedural safeguards which regulate criminal proceedings, guarantee the rights of defendants and ensure that the latter are presumed innocent until found guilty under the terms of a final court judgment handed down in conformity with the legal and statutory requirements set forth in the provisions of the Code and the regulations relevant to the nature of the proceedings. • During the arraignment, the court must inform the accused of the charges against him, read out and explain the indictment and provide him with a copy thereof (art. 160 of the Code of Criminal Procedure). All judicial bodies and investigating authorities are required to provide defence counsel with the facilities needed to perform its functions and must grant it access to the case file and enable it to attend the investigation; none of its requests may be rejected without legitimate justification (art. 19 of the Code of Practice for the Legal Profession). The defendant must be present, without restraints or shackles but kept under the requisite surveillance, during the court hearings. He may not be removed from the courtroom during a hearing unless his behaviour so requires, in which case the proceedings continue in his absence until they can once again be conducted in his presence, at which time the court must acquaint him with the proceedings that took place in his absence (art. 157 of the Code of Criminal Procedure). Any of the parties has the right to request the court to consider any evidence that it submits and to conduct a specific investigation procedure (art. 163 of the Code of Criminal Procedure). Every accused person has the right to seek the assistance of an attorney or legal counsel to defend him during the
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		<p>investigation and trial (art. 4 of the Code of Criminal Procedure).</p> <ul style="list-style-type: none"> • If the accused person cannot afford to seek the assistance of an attorney, he has the right to request the court to appoint a defence counsel for him at the State's expense (art. 139 of the Code of Criminal Procedure). The proceedings must be conducted in public unless the judge decides, at his own discretion or at the request of any of the parties, to conduct them in camera in order to preserve public order or protect public morals or family privacy (art. 64 of the Code of Shari'ah Procedure and art. 154 of the Code of Criminal Procedure). The judgment must be delivered at a public hearing (art. 164 of the Code of Shari'ah Procedure). Article 181, paragraph 1, of the Code of Criminal Procedure applies the same principle by requiring the judgment, signed by the bench, to be read out at a public hearing, even if the proceedings were conducted in camera, and the said hearing must be attended by the parties to the proceedings and by all the judges who rendered the judgment unless an impediment prevents any of them from attending. Under article 32 of the Code of Shari'ah Procedure, the court must hear the statements of non-Arabic-speaking parties, witnesses and other persons involved through an interpreter and, under article 171 of the Code of Criminal Procedure, if the court calls upon an expert to give an opinion on a technical matter concerning the case, the parties are entitled to receive copies of the expert's report and the court must avail itself of the services of one or more interpreters if any of the parties or the witnesses do not understand the Arabic language. • Any of the parties has the right to request the court to hear any witnesses whom it calls, to consider any evidence that it submits and to conduct a specific investigation procedure (art. 163 of the Code of Criminal Procedure). • Article 9 of the Code of Criminal Procedure stipulates that criminal judgments are subject to objection in the manner prescribed therein. Under article 192 of the Code, the convicted person has the right to file an appeal, within the statutory time limit, against a judgment rendered by a court of first instance and the court must inform him of this right when pronouncing the judgment. Article 193 of the Code stipulates that a copy of the judgment must be delivered to the prisoner or detainee in the prison or detention facility within the prescribed time limit and the authority holding the prisoner or detainee must bring him to the court to lodge his objection to the judgment within the time limit prescribed for the filing of objections or of the convicted person's signed waiver thereof, which must be entered in the case file. Under article 198, the convicted person has the right to file an objection in cassation before the Supreme Court against a judgment or decision rendered or upheld by an appellate court if the
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		<p>objection is substantiated on any of the following grounds:</p> <ol style="list-style-type: none"> 1. Violation of the provisions of the Islamic Shari'ah or of regulations consistent therewith which have been issued by the Ruler; 2. Delivery of the judgment by an improperly constituted court; 3. Delivery of the judgment by a court or division lacking jurisdiction; 4. Erroneous categorization or improper description of the facts of the case. <p>In addition, the Code recognizes the right of any of the parties to request a review of final judgments imposing penalties in the circumstances specified in article 204 of the Code.</p> <p>As a further guarantee of a fair trial, some court hearings are attended by competent representatives of the Human Rights Commission, the media and diplomatic missions.</p>
35	<ul style="list-style-type: none"> • “However, the Special Rapporteur is concerned about the persistence of well-documented reports of the use of torture and ill-treatment by law enforcement officials against individuals accused of having committed acts of terrorism, including for the peaceful exercise of their rights, to extract confessions that were then used as sole evidence in their conviction ...” 	<ul style="list-style-type: none"> • Under the Kingdom’s legislation, all forms of torture and other cruel, inhuman or degrading treatment are designated as criminal offences. The Code of Criminal Procedure stipulates that “it is prohibited to subject an arrested person to physical or mental harm, torture or degrading treatment” (art. 2), “persons who are arrested or remanded in custody shall be treated in a manner conducive to the preservation of their dignity and shall not be harmed physically or mentally; they shall be informed of the reasons for their arrest and shall have the right to contact anyone whom they wish to notify” (art. 36) and “the interrogation must be conducted in a manner that does not affect the voluntary nature of statements made by the suspect, who shall neither be required to take an oath nor subjected to any means of coercion; the suspect shall not be interrogated outside the offices of the investigating authority unless the investigator deems such to be necessary.” (art. 102). • In their investigative functions, criminal investigation officers are subject to supervision by members of the Public Prosecution in accordance with the provisions of article 25 of the Code of Criminal Procedure. • In conformity with article 5 of the Prison and Detention Regulations, all prisons and detention facilities in the Kingdom are inspected to ensure that they meet judicial, administrative, health and social requirements and, under the terms of article 3 of its Statute, the Public Prosecution has a duty to supervise and inspect prisons, detention facilities and any other places in which criminal judgments are enforced; hear complaints of prisoners and detainees and verify the lawfulness of their imprisonment or detention or the legality of their retention in the prison or detention facility after the expiration of its prescribed duration; take the necessary measures to secure the release of anyone who is imprisoned or detained without a valid reason; and bring the full force of the law to

		<p>bear on the persons responsible for those violations.</p> <ul style="list-style-type: none"> In addition to these control mechanisms for the protection of the rights of prisoners and detainees, pursuant to article 5, paragraphs 6 and 7, of its Statute, the Human Rights Commission pays unannounced visits to prisons and detention facilities, without the need to request permission from the bodies responsible therefor, and submits reports on those visits to the King. It also receives and verifies the validity of human rights complaints and takes the statutory measures in regard thereto. The National Society for Human Rights, which is a civil society organization, is also empowered to pay visits to prisons and detention facilities and receive complaints. The Ministry of the Interior has opened offices within the prisons for the Public Prosecution, the Human Rights Commission and the National Society for Human Rights so that they can monitor the situation of prisoners and receive their complaints on site.
36	<ul style="list-style-type: none"> “The Special Rapporteur was also informed that the Specialized Criminal Court has often relied solely on confessions to convict individuals. The Committee against Torture noted its concern that in Saudi Arabia ‘coerced confessions are admissible evidence in the courts’ ...” 	<ul style="list-style-type: none"> With regard to the allegations concerning torture, secret trials and fair trial guarantees, see the comment on paragraphs 31 and 35. These statements in the report do not reflect the true situation and the procedures observed in the Kingdom’s courts, including the Specialized Criminal Court. The Court considers all the evidence, and not solely the confession, and no value is attached to a confession that is found to have been made under coercion or ill-treatment. Any confession made by an accused person as a result of torture is invalid and the grounds and appellate procedures for such invalidation are specified in articles 187-191 of the Code of Criminal Procedure. Convictions must be based on incontrovertible evidence.
37	<ul style="list-style-type: none"> “The Special Rapporteur is further concerned over the fact that allegations of torture or other forms of ill-treatment made by persons suspected of ‘terrorism’ acts, lawyers and human rights defenders do not appear to be taken seriously by trial judges and to systematically result in rapid and thorough independent investigations ...” 	<ul style="list-style-type: none"> With regard to allegations of torture, coerced confessions, secret trials and fair trial guarantees, see the comment on paragraphs 31 and 35.
38	<ul style="list-style-type: none"> “The Special Rapporteur recalls that victims of torture and other ill-treatment must have a right to complain so that their ordeal ends, that those who are responsible can be held accountable and that adequate reparation can be provided ...” 	<ul style="list-style-type: none"> See the full comment on paragraph 35: In addition to these control mechanisms for the protection of the rights of prisoners and detainees, pursuant to article 5, paragraphs 6 and 7, of its Statute, the Human Rights Commission pays unannounced visits to prisons and detention facilities, without the need to request permission from the bodies responsible therefor, and submits reports on those visits to the King. It also receives and verifies the validity of human rights complaints and takes the statutory measures in regard thereto. The National Society for Human Rights, which is a civil society organization, is also empowered to pay visits to prisons and detention facilities and receive complaints. The Ministry of the Interior has opened offices within the prisons for the Public

		Prosecution, the Human Rights Commission and the National Society for Human Rights so that they can monitor the situation of prisoners and receive their complaints on site.
39	• “Where allegations of torture are made by individuals in detention, they can be difficult to prove, particularly where individuals are held incommunicado or in secret ...”	• See the full comment on paragraphs 31 and 35.
40	• “The Special Rapporteur has received testimonies of individuals who have never seen a defence lawyer during the entire duration of their investigation, or who could meet one very late in the process, even if these persons have not reported duress during their investigation ...”	• See the full comment on paragraphs 31 and 35: During the arraignment, the court must inform the accused of the charges against him, read out and explain the indictment and provide him with a copy thereof (art. 160 of the Code of Criminal Procedure). All judicial bodies and investigating authorities are required to provide defence counsel with the facilities needed to perform its functions and must grant it access to the case file and enable it to attend the investigation; none of its requests may be rejected without legitimate justification (art. 19 of the Code of Practice for the Legal Profession). The defendant must be present, without restraints or shackles but kept under the requisite surveillance, during the court hearings. He may not be removed from the courtroom during a hearing unless his behaviour so requires, in which case the proceedings continue in his absence until they can once again be conducted in his presence, at which time the court must acquaint him with the proceedings that took place in his absence (art. 157 of the Code of Criminal Procedure). Any of the parties has the right to request the court to consider any evidence that it submits and to conduct a specific investigation procedure (art. 163 of the Code of Criminal Procedure). Every accused person has the right to seek the assistance of an attorney or legal counsel to defend him during the investigation and trial (art. 4 of the Code of Criminal Procedure). If the accused person cannot afford to seek the assistance of an attorney, he has the right to request the court to appoint a defence counsel for him at the State’s expense (art. 139 of the Code of Criminal Procedure).
41	• “It is clear that a failure by the State to provide minimum procedural safeguards during detention and interrogation, or a failure by the courts to address concerns raised relating to the use of torture and ill-treatment, or reliance, partly or solely, on signed confessions to convict the individual ... “	• See the full comment on paragraphs 31 and 35.

2. Lengthy pretrial detentions and flawed investigations:
Paragraphs 42, 43, 44 and 45

Para.	Text of the draft report	Comment
42	• “Under the 2017 Law, the Public Prosecution must issue an arrest warrant within seven days from the day of the arrest, a period which exceeds widely accepted human rights standards that limit the period of time between arrest and indictment to 48 hours. Moreover, this article does not explicitly require that the arrest warrant enounce the charges or detailed information on the reasons for taking the suspect into custody ...”	• The Kingdom emphasizes that the periods of time that detainees spend in detention facilities prior to their trial, as well as their conditions of detention, are governed by the Kingdom’s relevant enactments, including the Law on Combating Crimes of Terrorism and Its Financing which specifies the periods of detention that the investigating authority is empowered to order and

		the extensions thereto that can be approved by the Specialized Criminal Court.
43	<ul style="list-style-type: none"> • “The new counter-terrorism legislation confers on the Presidency of State Security the authority to conduct ‘search, investigation, seizure, criminal and administrative prosecution’ without any independent judicial oversight ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 35: In their investigative functions, criminal investigation officers are subject to supervision by members of the Public Prosecution in accordance with the provisions of article 25 of the Code of Criminal Procedure. • In conformity with article 5 of the Prison and Detention Regulations, all prisons and detention facilities in the Kingdom are inspected to ensure that they meet judicial, administrative, health and social requirements and, under the terms of article 3 of its Statute, the Public Prosecution has a duty to supervise and inspect prisons, detention facilities and any other places in which criminal judgments are enforced; hear complaints of prisoners and detainees and verify the lawfulness of their imprisonment or detention or the legality of their retention in the prison or detention facility after the expiration of its prescribed duration; take the necessary measures to secure the release of anyone who is imprisoned or detained without a valid reason; and bring the full force of the law to bear on the persons responsible for those violations. • See also the comment on paragraph 38.
44	<ul style="list-style-type: none"> • “Investigations are undertaken under the direction of the Presidency of State Security. Prohibition orders may be issued by the head of State Security ...” 	<ul style="list-style-type: none"> • All investigation procedures, including interrogation, remand in custody and travel bans, are governed by the provisions of the Code of Criminal Procedure and the Law on Combating Crimes of Terrorism and Its Financing. • With regard to fair trial guarantees, see the comment on paragraphs 31 and 35.
45	<ul style="list-style-type: none"> • “Article 15 gives police officers or military personnel authorization to use force in the implementation of counter-terrorism strategies ‘according to regulations specified in the Law’ ...” 	<ul style="list-style-type: none"> • See the comment on article 35: In their investigative functions, criminal investigation officers are subject to supervision by members of the Public Prosecution in accordance with the provisions of article 25 of the Code of Criminal Procedure.

3. Lack of independence: paragraph 46

Para.	Text of the draft report	Comment
46	<ul style="list-style-type: none"> • “The Specialized Criminal Court was insufficiently independent of the Ministry of the Interior ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 14

4. Use of the death penalty following manifestly unfair trials:
Paragraphs 47, 48, 49, 50, 51, 52, 53, 54 and 55

Para.	Text of the draft report	Comment
47	<ul style="list-style-type: none"> • “... after judicial proceedings that did not meet due process and fair trial standards. Among them were persons with psychosocial disabilities, non-violent protesters and individuals who were under the age of 18 at the time the crime was committed. They included the prominent Shi’a cleric, Sheikh Nimr al-Nimr, who had been convicted on a number of charges related to his political activities.” 	<ul style="list-style-type: none"> • With regard to the allegations of torture, secret trials and fair trial guarantees, see the comment on paragraphs 31 and 35. • The Kingdom emphasizes that none of the detainees were suffering from any disability. All detainees and prisoners in the Kingdom undergo a medical examination at the time of their admission to prison and are subjected to medical examinations on a periodic basis pursuant to paragraph 5 of the Medical Services Regulations. All prisons and detention facilities in the

		<p>Kingdom are subject to judicial, administrative, health and social inspection in accordance with article 5 of the Prison and Detention Regulations and their inmates are provided with medical and health care.</p> <ul style="list-style-type: none"> • The convicted persons were accused of committing criminal acts of terrorism in which innocent citizens and foreign residents were killed.
48	<ul style="list-style-type: none"> • “On 1 June 2016, in a case against 24 individuals tried in relation to the 2011 pro-democracy protests (the Awamiyah cell of 24), the Specialized Criminal Court convicted and sentenced 14 of them to death. Reportedly, the trial of the 24 individuals did not meet due process and fair trial standards and the defendants were tortured and denied access to lawyers from the early moments of arrest and deprived of communication with the outside world.” 	<ul style="list-style-type: none"> • The occurrences at Qatif constituted riots and acts of terrorism and the individuals in question were sentenced to death after being convicted of very serious crimes, including the formation within the Kingdom of a terrorist cell which engaged in armed raids, undermined public security, used weapons to intimidate and assault peaceful citizens, damaged public and private property and killed a member of the security forces and injured others after tracking their movements and firing shots and throwing Molotov cocktails at the location in which they were on duty. The cell also possessed automatic weapons, pistols, ammunition and Molotov cocktails, committed acts of armed robbery in which they seized large amounts of money from a number of commercial premises and an armoured cash-in-transit truck and, using vehicles stolen or taken from their owners at gunpoint, opened fire on a number of citizens, some of whom were killed and others wounded. After being convicted, each of the said individuals was sentenced in the light of the criminal role that he played within the cell. It should be borne in mind that judicial sentences are delivered only after deliberation and consideration of the factual and presumptive evidence, the submissions and pleadings of the public prosecutor, the defendant and his legal representative and the confirmed statements and confessions of the defendant, in addition to the content of the arrest and search records, the testimonies of witnesses and the reports of experts. The sentences imposed on those individuals ranged from capital punishment to terms of imprisonment, confiscation and other penalties commensurate with the offences that they had committed. • With regard to the allegations of torture, secret trials and fair trial guarantees, see the comment on paragraphs 31 and 35.
49	<ul style="list-style-type: none"> • “Despite the official assurances received by the Special Rapporteur, there are well documented reports that detainees, including minors, have been executed following trials which lacked basic due process guarantees ... “ 	<ul style="list-style-type: none"> • Anyone who is charged with a criminal offence is given a fair trial in public before an independent and impartial court the judgments of which respect all the human rights principles and rules that are consistent with the Islamic Shari’ah. No offender lacking full legal capacity at the time of his commission of the offence can be sentenced to death. This is in conformity with the Kingdom’s obligations as a party to the Convention on the Rights of the Child insofar as its court judgments determining a person’s attainment of the age of legal majority are based

		<p>on the presence of signs of sensory and perceptible maturity which endow such person with the capacity to fulfil religious obligations, engage in financial transactions and be held criminally accountable.</p> <ul style="list-style-type: none"> • With regard to fair trial guarantees, see the comment on paragraphs 31 and 35.
50	<ul style="list-style-type: none"> • “Since the Special Rapporteur’s visit, several more individuals from the Shi’a minority are at risk of imminent execution following the Supreme Court’s upholding of their death sentences initially issued by the Specialized Criminal Court for their involvement in demonstrations in the east of the country in 2011 and 2012 ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 25.
51	<ul style="list-style-type: none"> • “... the new 2017 counter-terrorism legislation provides the death penalty for crimes that do not entail the loss of life ...” 	<ul style="list-style-type: none"> • The Kingdom of Saudi Arabia emphasizes that the death penalty is imposed only for the most serious crimes, after their perpetrators have been convicted in the light of conclusive evidence and after a fair trial and judicial review at several levels insofar as the case is heard by a panel of three judges in the criminal court of first instance and subsequently by a panel of five judges in the appellate court and a panel of five judges in the Supreme Court.. Moreover, in accordance with article 217, paragraph 1, of the Code of Criminal Procedure, death sentences are enforceable only after they have been approved by an order issued by the King or his authorized representative.
54	<ul style="list-style-type: none"> • “Saudi Arabia furthermore applies the death penalty to offences that do not meet the threshold of the ‘most serious crimes’ under international human rights law ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 51.
55	<ul style="list-style-type: none"> • “The Independent National Security and Due Process Review Mechanism, which the Special Rapporteur has called upon the Government to establish, should urgently review all current cases in which prisoners accused and sentenced for terrorism are facing the death penalty ...” 	<ul style="list-style-type: none"> • See the comment on paragraph 49. • See the comment on paragraph 51.

D. Rehabilitation: paragraphs 57 and 58

Para.	Text of the draft report	Comment
57	<ul style="list-style-type: none"> • “... the Mohammed bin Naif Counselling and Care Centre claims an 86% non-recidivism rate - an estimate that the Special Rapporteur was not in a position to verify ...” 	<ul style="list-style-type: none"> • This is a realistic estimate based on the monitoring of the Centre’s graduates after completion of their rehabilitation programmes. The Centre remains in contact with them after their graduation in order to ensure their social integration and help them to overcome any difficulties that they might face. The Centre has documented and maintained such statistics since its establishment around 12 years ago.
58	<ul style="list-style-type: none"> • “... the absence of judicial involvement in placing individuals in these centres, which are aimed at ‘looking after suspected and convicted persons’ under the counter-terrorism legislation to facilitate their integration into society, deepen their national affiliation and correct their misconceptions ...” 	<ul style="list-style-type: none"> • The beneficiaries’ stay in the Centre forms part of the sentence imposed on them by decision of the court, as stipulated in articles 88 and 89 of the Law on Combating Crimes of Terrorism and Its Financing which made provision for the establishment of specialized centres to raise the educational awareness of detainees and convicted persons, as well as reform and rehabilitation facilities to cater for the welfare of persons detained or convicted for the offences specified in the Law by promoting their rehabilitation,

		<p>facilitating their social integration, deepening their sense of national identity and correcting their misconceptions..</p> <ul style="list-style-type: none"> • Only persons convicted in cases involving extremism and terrorism are referred to the Centre and such referral requires a court order. • The environment at the Centre has little in common with the prison environment. Its inmates enjoy numerous privileges and services that enable them to integrate gradually in society by allowing them family visits, holidays and opportunities to participate in various social events. They also receive psychosocial support during their stay at the Centre. It is therefore evident that, far from being arbitrary or constituting a deprivation of liberty, their referral involves enrolment in a programme designed to restore them to the status of upright citizens in accordance with court orders as provided for in the Law.
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E. Counter-terrorism operations in Yemen and Syria:
paragraphs 59, 60, 61, 62, 63, 64 and 65

Para.	Text of the draft report	Comment
59	<ul style="list-style-type: none"> • According to OHCHR, coalition airstrikes continued to be the leading cause of civilian casualties in the conflict and of child casualties. Some 3,233 of the civilians killed were reportedly killed by Saudi Arabia-led coalition forces. In addition to markets, residential areas and public and private infrastructure, the year 2017 witnessed notable airstrikes against funeral gatherings and small civilian boats ...” 	<ul style="list-style-type: none"> • In view of the events that occurred in the Republic of Yemen where a coup d’état against the legitimate Government was staged by lawless militias belonging to the Houthi group, and in response to a request by the legitimate Yemeni Government, a coalition was formed to restore the latter’s legitimate authority. This was in conformity with article 51 of the Charter of the United Nations and Security Council resolution 2216 (2015), the preamble to which reaffirmed the Council’s strong commitment to the unity and sovereignty of Yemen and its commitment to stand by the people of Yemen, recognized the legitimate Government, condemned the coup d’état and demanded that the parties thereto immediately withdraw from all areas they have seized and cease all actions that are exclusively within the authority of the legitimate Government.
60	<ul style="list-style-type: none"> • “The Special Rapporteur recalls that all parties to the conflict in Yemen, including Saudi Arabia as the leading member of the coalition forces, are obliged to respect the applicable rules of international humanitarian law ...” 	<ul style="list-style-type: none"> • The Kingdom emphasizes that what is happening in Yemen is not a conflict between parties; it is a coup d’état against the legitimate Government by subversive insurgent militias in defiance of the wishes and resolutions of the international community as expressed by the Security Council, the League of Arab States, the Cooperation Council for the Arab States of the Gulf and the outcome of the Yemeni National Dialogue.
61	<ul style="list-style-type: none"> • “... OHCHR noted its concern that the Team appeared to accept assertions that an intended target was a legitimate military objective as sufficient justification for carrying out attacks that resulted in civilian casualties and damage or destruction of civilian 	<ul style="list-style-type: none"> • It is noteworthy that all the operations undertaken by the Coalition forces supporting the legitimate Government are in full conformity with the relevant provisions of international humanitarian law and international human rights law. All the sites targeted by the Coalition forces are either military objectives or facilities proven to be used for military purposes. Those sites are pinpointed through a number of meticulous procedures

<p>62</p> <p>63</p> <p>64</p>	<p>objects. Critically, to date, it appears that no concrete actions have been taken in relation to either prosecution or reparations to the victims and survivors of such incidents.”</p> <ul style="list-style-type: none"> • “The Special Rapporteur would like to take this opportunity to remind Saudi Arabia that international human rights law and international humanitarian law include obligations to investigate violations to ensure that the perpetrators are brought to justice and to provide victims with full and effective reparation ...” • “Since his country visit, the Special Rapporteur has learned with distress the devastating effects on the impoverished and war-affected and dislocated population of Yemen of the reported decision by Saudi Arabia to close air and sea ports in Yemen ...” • “Echoing these concerns, OHCHR also expressed alarm at a series of attacks on civilians in recent days that have killed dozens of people, including several children ...” 	<p>designed to verify the accuracy of the information received concerning them. No site is targeted until its nature has been definitively ascertained in order to avoid harm or damage to civilians or civilian objects.</p> <ul style="list-style-type: none"> • All the military operations carried out by the Coalition forces are in conformity with the provisions of international humanitarian law and international human rights law including, in particular, the obligation to refrain from targeting civilians, health, educational, religious and cultural facilities, offices of diplomatic missions, evacuation zones and infrastructure. A comprehensive review of every operation is undertaken after its completion and any observations in regard thereto are carefully examined and investigated so that the requisite measures can be taken in this connection. • The Coalition forces supporting the legitimate Government in Yemen have formed an Incidents Assessment Team to investigate any operation alleged to have violated the provisions and rules of international humanitarian law and international human rights law. It is noteworthy that the Houthi militias and other terrorist groups deliberately blow up civilian objects and kill civilians during or after airstrikes in a despicable attempt to place the blame for these horrific crimes on the Coalition forces. It should also be noted that the information presented in numerous reports and communiqués issued by United Nations mechanisms and non-governmental organizations and containing statistics on the number of civilians and children allegedly killed during airstrikes attributed to the Coalition forces supporting the legitimate Government in Yemen are inaccurate and not based on reliable sources. • In association with all its international partners, the Kingdom is providing the Yemeni people with humanitarian assistance through the King Salman Humanitarian Aid and Relief Center. • The Kingdom of Saudi Arabia has provided Yemen with a total of more than US\$ 13 billion in emergency relief and humanitarian assistance, financial and banking services, support for public programmes, social services, transport, education, electricity generation and supply, health, energy, water and public health.. • The Kingdom of Saudi Arabia has provided Yemen with 290 projects in the fields of emergency relief and humanitarian assistance, education, transport, support for public programmes, social services, water, public health, energy, electricity generation and supply, health and financial and banking services. • At the beginning of 2018, the Kingdom and the States participating in the Arab Coalition supporting the legitimate Government launched the Yemen Comprehensive Humanitarian Operations Plan to alleviate the suffering of the Yemeni people in various parts of the country.
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65	<ul style="list-style-type: none"> • “However, the Special Rapporteur has been receiving persistent and credible reports that several of the most violent extremist armed groups involved in violent ‘jihad’ in Syria, which have been committing widespread and systematic atrocities against the civilian population as well as army soldiers they captured, have enjoyed various forms of political, military, financial and logistical support implicating official and unofficial sources in Saudi Arabia ...” 	<ul style="list-style-type: none"> • At the pledging conference held in Geneva to fund the Yemen Humanitarian Response Plan announced by the United Nations in 2018, the Kingdom donated an amount of US\$ 500 million which it handed to the United Nations. • The Kingdom of Saudi Arabia affirms its commitment to the roles that it is playing within the Global Coalition, including its co-chairmanship of the Counter ISIS Finance Group with the United States of America and Italy and the establishment of the Terrorist Financing Targeting Center. The Kingdom also points out that it is providing humanitarian assistance for the Syrian people, in collaboration with the relevant international organizations, through the United Nations and its specialized agencies. In this regard, the Kingdom emphasizes its firm commitment to support the fraternal Syrian people and free them from tyranny.
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