

قانون الإجراءات الجنائية وتعديله

باللغة الانجليزية

ترجمة غير رسمية

GULF TRANSLATIONS W.L.L.

Legal Translation Services

Legislative Decree No. 46 of the year 2002 with respect to promulgating the code of Criminal Procedure

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LEGISLATIVE DECREE NO.(46) OF THE YEAR 2002
WITH RESPECT TO PROMULGATING THE CODE
OF CRIMINAL PROCEDURE

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain,

Having reviewed the Constitution,

And the Code of Criminal Procedure 1966, as amended,

And the Civil and Commercial Procedures Act Promulgated by Legislative Decree No.(12) of 1971, as amended,

And Legislative Decree No.(3) of 1972 with respect to Judicial Fees, as amended,

And the Penal Code promulgated by Legislative Decree No.(15) of 1976, as amended,

And Legislative Decree No.(17) of 1976 with respect to Juveniles,

And the Public Security Forces Law promulgated by Legislative Decree No.(3) of 1982, as amended,

And the Law of the Trusteeship of Funds promulgated by Legislative Decree No.(7) of 1986,

And the Court of Cassation Law promulgated by Legislative Decree No.(8) of 1989,

And the Law of Evidence in Civil and Commercial Matters promulgated by Legislative Decree No.(14) of 1996,

And the Civil Code promulgated by Legislative Decree No.(19) of 2001,

And the Judicial Authority Law promulgated by Legislative Decree No.(42) of 2002,

And having sought the opinion of the Supreme Judicial Council,

And upon the submission of the Minister of Justice and Islamic Affairs,

And with the approval of the Council of Ministers,

Hereby Decree the Following Law:

Article 1:

The attached Code of Criminal Procedure shall come into effect.

Article 2:

The Criminal Procedure Code 1966 shall be revoked.

Article 3:

The provisions of the attached Code shall not prejudice the provisions set forth in special legislation.

Article 4:

The Ministers, each in his respective capacity, shall implement this Law which shall come into effect from the first day of the month following the lapse of 3 months from the date of its publication in the Official Gazette.

**Signed: Hamad bin Isa Al Khalifa,
King of the Kingdom of Bahrain**

**Khalifa bin Salman Al Khalifa,
Prime Minister**

**Abdulla bin Khalid Al Khalifa,
Minister of Justice & Islamic Affairs**

Issued at Rifaa Palace
On 17th Shaaban, 1423 Hijra
Corresp. 23rd October, 2002

THE CODE OF CRIMINAL PROCEDURE

PRELIMINARY

GENERAL RULES

Article 1:

The provisions of this Law shall be applicable to any actions that have not been resolved and to the procedures that have not been taken before the effective date thereof with the exception of the following:

- (a) Judgements amending jurisdiction where they come into effect after closing the time for pleadings in the proceedings.
- (b) Judgements amending time limits where the time limit commences before the effective date thereof.

Article 2:

Every procedure that has validly taken place under the Criminal Procedure Code 1966 or any other law shall remain valid unless otherwise provided for.

Article 3:

Any new time limits for the lapse of criminal proceedings or forfeiture of a criminal penalty or precautionary measure shall not be applicable except from the effective date of the Law that brings them into effect.

Article 4:

The provisions of the Civil and Commercial Procedures Act promulgated by Legislative Decree No.(12) of 1971 shall be applicable in respect of all matters that are not specifically dealt with in this Law to the extent that does not conflict with its provisions.

Article 5:

The Public Prosecution shall be an integral part of the judicial authority and shall be responsible for criminal proceedings. It shall conduct the investigation, prosecution and the exercise of all its powers in accordance with the provisions of the Law.

Article 6:

For the words "Criminal Procedure Code, there shall be substituted the words "Code of Criminal Procedure", for the words "General Prosecution", there shall be substituted the words "Public Prosecution", for the words "Attorney General", there shall be substituted the words "Public Prosecutor", for the words "penal proceedings", there shall be substituted the words "criminal proceedings" and for the words "penal courts", there shall be substituted the words "criminal proceedings" wherever they appear in the applicable laws and regulations.

BOOK ONE
PROCEEDINGS BEFORE THE CRIMINAL COURTS

PART ONE
CRIMINAL PROCEEDINGS

CHAPTER ONE
COMMENCING CRIMINAL PROCEEDINGS

Article 7:

The Public Prosecution shall be solely competent to initiate and conduct a criminal action and shall not be commenced by any other party except in the events indicated in the Law.

A criminal legal action shall not be waived, suspended or delayed except in the events indicated in the Law.

Article 8:

The Public Prosecutor shall, personally or through a member of the Public Prosecution, commence and conduct a criminal legal action according to the provisions of the Law.

Duties of the Public Prosecution may be undertaken by such other persons as stated according to the Law.

Article 9:

A criminal legal action shall not be initiated except upon a verbal or written complaint filed by the victim or by his attorney with the Public Prosecution or with an officer who has the power of summary arrest in respect of the following crimes:

- (a) Adultery which is provided for in Article (316) of the Penal Code.
- (b) Refusal to hand over a child as provided for in Article (318) of the Penal Code.
- (c) An indecent act with a woman as provided for in Article (350) of the Penal Code.
- (d) Libel and slander as provided for in Articles (364), (365) and (366) of the Penal Code.
- (e) Other crimes provided for in the Law.

A complaint shall not be admitted three months after the victim becomes aware of the crime and its perpetrator unless the Law otherwise provides.

Article 10:

If the victim in the crimes referred to in the preceding Article has not reached 15 full years of age at the time of filing the complaint or if he suffers a mental disability, the complaint shall be filed by his guardian.

If a crime is committed against property, a complaint shall also be accepted from a guardian or custodian.

Where the victim's interest in the preceding events conflict with his representative or if he has no representative, the Public Prosecution shall replace him.

Article 11:

The right to file a complaint shall lapse upon the victim's death.

If the death takes place after filing the complaint, it shall not affect the pursuit of criminal proceedings.

Article 12:

A criminal legal action shall not be initiated except upon a written application filed with the Public Prosecution by the Minister of Justice in the crimes provided for in Article (215) of the Penal Code and the other crimes specified by the Law.

A criminal legal action shall not be initiated except upon a written application filed with the Public Prosecution by the victim's legal representative in the crimes provided for in Article (216) of the Penal Code and the other crimes specified by the Law.

A criminal legal action shall not be initiated except upon a written permission obtained by the Public Prosecution from the competent authority in the events specified by the Law.

Article 13:

If there are several victims in a crime, it shall be sufficient that the complaint or application to be filed by one of their number.

If there are several offenders involved in a crime, a complaint or an application filed in respect thereof shall be applicable to the remaining offenders.

Article 14:

In all the cases where the Law requires for initiating a criminal legal action the filing of a complaint or application or obtaining a permission, no investigation procedure shall be adopted except after the filing of a complaint or application or obtaining a permission unless the Law otherwise provides.

Article 15:

Anyone who has filed a complaint or application in the events specified by the Law shall be entitled to abandon the complaint or application at any time before handing down a final judgement in the case. A criminal legal action shall lapse when it is abandoned.

In case there are several victims, abandoning a complaint shall not be effective unless it is filed by all the persons who have filed the complaint.

Abandoning a complaint or an application in respect of an offender shall be applicable to all the offenders.

If a victim dies after filing the complaint, the right to abandoning the complaint shall devolve upon his heirs. Such waiver shall not be effective unless it is unanimously made by them.

Article 16:

If the High Criminal Court or High Criminal Court of Appeal, as the case may be, finds that there are other offenders other than those against whom a criminal legal action is brought or other facts apart from these related to them or that there is a felony or misdemeanour related to the offences being examined by the said Court, it shall be empowered to initiate action against such persons or in respect of such facts. The legal action shall be referred to the Public Prosecution for investigation and for the necessary action.

The Court shall be empowered to nominate one of its members to undertake the investigation procedures. In such case, the designated member of the Court shall be subject to all the provisions applicable to the magistrate.

If a decision is adopted at the end of the investigation to refer the case to Court, it shall be referred to the High Criminal Court. The rulings shall not be handed down by a panel of judges that includes one of the judges who have decided to initiate the case.

If the Court has not adjudged the original case and where it is closely linked to the new case so as to be inseparable therefrom, the entire case shall be referred to another Court.

The Court of Cassation shall, upon examining the subject-matter where a challenge is filed for the second time, be entitled to initiate the proceedings as stipulated in this Article.

CHAPTER TWO
ABATEMENT OF CRIMINAL CASE

Article 17:

A criminal action shall finally abate upon the death of the defendant, handing down a final judgement in respect thereof, relinquishing it by the person having a right related thereto, grant of a full amnesty, revocation of the law that punishes the act in question or by the lapse of time.

An abatement of the criminal action upon the death of the defendant shall not bar a judgement of confiscation according to the provision of Article (64) of the Penal Code if the death occurs in the course of hearing the said action.

Article 18:

A criminal action involving felonies shall abate upon the lapse of 10 years, in case of misdemeanours shall abate upon the lapse of 3 years and in case of offences upon the lapse of one year from the date of committing the crime unless the Law otherwise provides.

Notwithstanding the provisions of the preceding Paragraph, a criminal action shall not abate with the passage of time in the case of felonies provided for in Part One of the relevant section of the Penalties and Fines provided for in Article (23) of Legislative Decree No.(4) of 1973 with respect to Control of Trading in Narcotic Materials and Preparations and the Use thereof.

The effectiveness of the period for abatement of a criminal action in the felonies provided for in Chapter Two of Part Two of the special section of the Penal Code that are committed by a civil servant or officer in charge of a public service except from the date of the termination of capacity or end of the assignment unless an investigation thereof commences.

Article 19:

The effective period for abatement of a criminal action shall not be discontinued for any reason whatsoever.

Article 20:

A criminal action's period of abatement shall be discontinued by the investigation, indictment or trial procedures or a penal order and also by the procedures involving the collection of evidence if they are taken against the defendants or if notice is given thereto in a formal manner. A new effective period shall be applicable from the date of discontinuation.

If there are several procedures for discontinuation of the effective period, they shall come into effect and shall commence from the date of the last procedure.

Article 21:

If there are several defendants involved in a crime, the discontinuation of the time limit in respect of one of their number shall result in discontinuation for the remaining defendants even though no actions have been taken against them for discontinuation of the effective period.

PART TWO
CIVIL CLAIMS RELATED TO A CRIMINAL ACTION

Article 22:

Anyone who has suffered a direct personal injury whose occurrence has been established arising from a crime shall be entitled to claim civil rights against the accused in the course of collection of evidence, conducting the investigation or before the Court that hears the criminal action in any state it may be until the issue of a decision to close the stage of filing pleadings. Such claims shall not be admitted before the Court of Appeal.

Claims of civil rights shall be filed and procuring the intervention of the person responsible therefor in the course of collecting evidence or conducting an investigation into the case shall take place by an application to be recorded in the minutes. The Public Prosecution shall decide upon admitting the plaintiff's civil rights or intervention of the person responsible therefor within three days from the date of filing the application.

Anyone whose application has been rejected may contest it before the High Criminal Court that convenes its session in the consultation room within 3 days from the date of adopting the decision against the petitioner or from the date of notifying him thereof by a report to be lodged with the Court Clerks Department. However, the Court's ruling shall not be contested.

Civil rights claims, irrespective of the amount thereof, and intervention of the person liable therefor shall take place before the Court that hears the criminal action in the manner outlined in the Civil and Commercial Procedures Act.

If the plaintiff has been admitted in respect of the civil rights in the investigation in such capacity, the reference of criminal action to the Court shall include the civil action.

The plaintiff's intervention with the civil rights shall not delay handing down a judgement in respect of the criminal action, otherwise the Court shall rule for non-admission of his intervention.

Article 23:

If a person who has suffered damages from the crime is not legally qualified to file a law-suit and has no one to legally represent him, the Court before which the criminal action is being heard may upon the request of the Public Prosecution appoint a representative thereof to claim civil rights on his behalf. In such case, this shall not result in obliging him to pay the legal costs.

Article 24:

A civil action for compensation for damage shall be initiated against the defendant accused of committing the crime if he is eligible to bring legal action, otherwise it shall be filed against his legal representative. Where he has no legal representative, the Court that hears the criminal action shall nominate a representative thereof in accordance with the preceding Article.

Further, a civil action may be commenced against the person responsible for the civil rights arising from the defendant's act.

The Public Prosecution shall be empowered to bring the intervention of the person responsible for the civil rights even though there is no plaintiff in the said action to claim civil rights to pass a judgement against him to pay the costs due to the State.

No action for claiming a bond shall be filed before criminal courts nor shall any person intervene in the said action other than the defendant for claiming civil rights and the person liable for civil rights.

Article 25:

A civil action may be initiated against an insurer to pay a compensation for the damage arising from the crime before the court examining the criminal action. The insurer shall be subject to all the provisions liable for the civil rights provided for in this Law.

Article 26:

A person liable for civil rights shall be entitled to intervene of his own initiative in the criminal action, in any stage thereof, even though he does not claim civil rights.

Article 27:

A plaintiff who claims civil rights shall pay the legal costs and shall provide in advance a deposit to be determined by the Public Prosecution or the Court on account of the Experts' fees, witnesses' expenses and such other costs. He shall also provide the supplementary deposit that may be required in the course of the proceedings.

Article 28:

The defendant, person liable for civil rights and the Public Prosecution shall be empowered to submit at the hearing an objection to accepting the claim of the plaintiff for civil rights if a civil legal action is inadmissible or unacceptable.

The Public Prosecution and the plaintiff who claims civil rights shall be empowered to challenge admitting the intervention of the person liable for civil rights.

Article 29:

A decision of the Public Prosecution for non-admission of the plaintiff who claims civil rights or rejecting the intervention of the person liable therefor shall not prevent the civil intervention of the person liable therefor or intervention before the criminal court. Further, it shall not bar the filing of a civil legal action before the competent civil court.

A decision issued by the criminal court for admitting the plaintiff who claims civil rights or the person liable therefor shall not result in the invalidation of the previous procedures in which they were not involved.

A decision of the Public Prosecution for admission of the plaintiff who claims civil rights or the person liable therefor shall not be binding upon the court before which the legal action is brought.

Article 30:

The defendant may file a claim with the criminal court against the plaintiff who claims civil rights for a compensation for the damages suffered as a result of filing the legal action against him if this is relevant.

Article 31:

The procedures set forth in this Law shall be followed in adjudging a civil legal action brought before the criminal courts.

Article 32:

Every judgement handed down in respect of the subject-matter of the criminal case shall rule in respect of the compensations claimed by the plaintiff who claims civil rights or the defendant.

If the Court feels that a judgement in respect of the compensations requires conducting a special investigation upon which is based a ruling in the criminal case, it shall refer the civil legal action to the competent civil court without payment of legal costs.

Article 33:

The provisions set forth in the Civil and Commercial Procedures Act shall be applicable with respect to the legal costs of the civil legal action. The assessment of such costs and manner of collecting them shall take place according to the provisions of the Judicial Fees Law.

Article 34:

Upon passing a judgement in respect of compensations to the plaintiff in respect of civil rights, the court shall be empowered to issue an order for accelerated execution, with or without bail, in respect of all or some of the adjudged amount.

Article 35:

Execution of the judgements handed down in respect of civil rights at the request of the plaintiff who claims civil rights shall take place in accordance with the provisions of the Civil and Commercial Procedures Act.

Article 36:

A plaintiff who claims civil rights shall be entitled to relinquish his claim in any state of the legal action and shall be liable to pay the aforesaid legal costs without prejudice to the right of the defendant to claim compensations if they are relevant. Such relinquishment shall not have any effect upon the criminal legal action.

Article 37:

The plaintiff's failure to appear in court without a justifiable excuse after serving the summonses upon him personally, his failure to send an attorney to appear on his behalf and failure to submit claims at the hearing shall be deemed as a relinquishment of the legal action.

Article 38:

If a plaintiff who claims civil rights relinquishes his case before the criminal courts, he may file it with the civil courts unless he has authorized the relinquishment of the right for which the legal action is brought.

Article 39:

Non-admission of the plaintiff who claims civil rights or relinquishment of his case shall result in excluding the person liable for civil rights from the case if his involvement takes place at the plaintiff's request.

Article 40:

If the person who has suffered damages from the crime files a claim of compensation with the civil court and then a criminal legal action is commenced, he may if he has relinquished his case with the civil court file his case with the criminal court together with the criminal legal action.

Article 41:

If a civil legal action is filed with the civil courts, adjudging shall be suspended pending the handing down of a final judgement in the criminal legal action either before filing it or in the course of its hearing.

However, if adjudging the criminal case is suspended because of the defendant's suffering a mental disability, a judgement shall be handed down in respect of the civil legal action.

Article 42:

A civil legal action filed before the criminal court shall not be heard upon the lapse of period prescribed in the Civil Code.

If the criminal legal action lapses after initiating it for any of the special reasons, the court before which the civil case is filed shall refer the said case to the competent civil court unless the case has been prepared for delivering a judgement in respect of its subject-matter.

BOOK TWO
COLLECTION OF EVIDENCE AND INVESTIGATING CRIMES

PART ONE
COLLECTION OF EVIDENCE

CHAPTER ONE
JUDICIAL ARREST OFFICERS AND THEIR DUTIES

Article 43:

Judicial arrest officers shall investigate crimes, search for offenders and collect evidence as required for investigations and dealing with the case.

Article 44:

The judicial summary officers shall report to the Public Prosecutor and be subject to his supervision with respect to their job duties.

The Public Prosecutor shall be empowered to request the relevant authority to examine the conduct everyone who commits a breach of his duties or fails to perform his job responsibilities and to take disciplinary action against him. This shall not bar the commencement of a criminal action.

Article 45:

The judicial arrest officers shall include the following each in the area of his competence:

- (a) Public Prosecution members.
- (b) Public Security officers, non-commissioned officers and personnel.
- (c) Border, port and airport guards.
- (d) Customs inspectors.

A governor shall, in the area of his competence, perform the duties exercised by the judicial arrest officer.

An order of the Minister of Justice in agreement with the concerned officer may delegate to some officers the power of the judicial arrest officers in respect of the crimes that take place in the areas of their jurisdiction and related to their job duties.

The provisions set forth in the laws, decrees and orders with respect to delegating some officers the powers of the judicial arrest officers shall be deemed as orders issued by the Minister of Justice in agreement with the concerned minister.

Article 46:

The judicial arrest officers shall accept reports and complaints received with respect to crimes. They and their junior staff shall obtain all the necessary clarifications for facilitating the investigation of the facts reported to them or which they become aware thereof in any manner whatsoever. They shall take all the necessary precautionary measures to maintain evidence related to the crime.

All the actions carried out by the judicial arrest officers shall be recorded in minutes to be signed by them in which shall be indicated the time of taking action, place of its occurrence and such minutes shall also include the signatures of witnesses and experts who have been heard. The minutes shall be forwarded to the Public Prosecution together with the documents and apprehended items.

Article 47:

Everyone who is aware of the occurrence of a crime, for which the Public Prosecution may initiate a legal action in respect thereof without a complaint or application, shall report it to the Public Prosecution or a judicial arrest officer.

Article 48:

Every civil service or officer entrusted with a public service who becomes aware, during or by reason of the performance of his duties, of the occurrence of a crime, for which the Public Prosecution may initiate a legal action in respect thereof without a complaint or application, shall report it to the Public Prosecution or the nearest judicial arrest officer.

Everyone who has provided assistance in his ex officio medical practice in cases that give the appearance of the occurrence of a crime shall submit a report about it to the Public Prosecution or a judicial arrest officer within 24 hours from the date of providing such assistance.

Article 49:

Where a complaint is filed without claims of civil rights, it shall be deemed as a report. A complainant shall not be deemed to claim civil rights unless expressly declared in his complaint or in a paper subsequently presented by him or if he claims a compensation in either of them after payment of the prescribed fees.

Article 50:

In the course of collecting evidence, judicial arrest officers shall be empowered to carry out the necessary inspections and to hear the statements of persons who have information about the crimes and their perpetrators. They shall also question the defendant in this respect. The defendant, victims, plaintiff who claims civil

rights, the person liable therefor and their attorneys shall attend such procedures whenever possible. Judicial arrest officers shall seek the assistance of physicians and other experienced professionals whose oral or written opinion shall be sought.

They shall not make the witnesses or experts act under oath unless it is feared that the witness' statements cannot be heard under oath.

CHAPTER TWO FLAGRANTE DELICTO

Article 51:

Flagrante delicto shall be deemed to have occurred immediately after committing a crime or after a short time from the time of committing it.

Flagrante delicto shall be deemed to have taken place if the victim pursues the perpetrator or if the latter is pursued by members of the public with screaming following the commission of the crime or if the perpetrator is found shortly after committing the crime carrying hardware, weapons, property or items that provide evidence that he is a perpetrator or accomplice in a crime or if he is found at such time to have effects or marks evidencing the above.

Article 52:

A judicial arrest officer shall in the event of flagrante delicto in a felony of misdemeanour immediately move to the scene of the crime. He shall inspect the material effects of the crime and hold them in custody. He shall establish the state of the premises, persons and everything that helps in revealing the truth. The statements of anyone who was present or who could provide clarifications with respect to the crime and its perpetrator shall be heard. Immediately upon calling at the scene of the crime, he shall give notice to the Public Prosecution.

A Public Prosecution member shall upon being given notice of a felony involving flagrante delicto immediately call at the scene of the crime.

Article 53:

A judicial arrest officer shall in the event of flagrante delicto in crimes stop the persons present at the scene of the crime from leaving the scene or going away therefrom until a statement is drawn up. He shall be empowered to immediately summon anyone who may provide clarifications concerning the crime.

Article 54:

If one of the persons present violates the order of the judicial summary arrest officer according to the preceding Article or if one of the persons asked to appear refuses to do so, he shall record this fact in the minutes. In such case, an offender shall be liable for payment of a fine not exceeding BD50.

CHAPTER THREE
ARREST OF THE ACCUSED

Article 55:

In felonies and misdemeanours involving flagrante delicto for which the sentence exceeds three months, a judicial summary arrest officer shall arrest the accused who is present if there is sufficient evidence of his indictment.

If the accused is not present, the summary arrest officer may issue an order apprehending and bringing him, which action shall be recorded in the statement. The order shall be implemented by a public authority officer.

Article 56:

Notwithstanding the cases indicated in the preceding Article, if there is sufficient evidence to indict a person of committing a felony, theft misdemeanour, fraud, serious assault, possession or ownership of narcotic drugs in other than the cases provided for in the Law, the judicial arrest officer may arrest him.

Article 57:

A judicial summary arrest officer shall immediately hear the statements of the accused following his arrest. If he fails to provide evidence of his acquittal, he shall send him to the Public Prosecution within 48 hours.

The Public Prosecution shall question him within 24 hours, then shall order his imprisonment or release.

Article 58:

Everyone who witnesses an offender in the act for which he may be legally remanded in custody shall take him to the nearest member of the Public Security forces without the need for an arrest warrant.

Article 59:

In felonies involving flagrante delicto for which a judgement of imprisonment may be passed, members of the public authority shall be empowered to bring the accused to be handed over to the nearest judicial arrest officers.

They shall also have this power in offences involving flagrante delicto if it is not feasible to identify the accused.

Article 60:

If an offence involving flagrante delicto requires that a criminal action in respect thereof is dependent upon filing a complaint, the accused shall not be arrested unless a complaint is filed by a person having the right to submit it. In such case, the complaint shall be submitted by any member from the Public Security forces who is present.

Article 61:

No one shall be arrested nor imprisoned except by an order of the legally competent authority. He shall be treated in such a manner as to maintain his human dignity and shall not be subjected to any bodily or psychological harm.

Every person who is arrested shall be informed of the reasons for his arrest. He shall have the right to contact any of his relatives to inform him of what has happened and to seek the aid of a lawyer.

Article 62:

No one shall be imprisoned except in the prisons maintained for this purpose.

The prison officer shall not admit anyone in the prison unless by an order signed by the concerned authorities and shall not keep him after the period indicated in the said order.

Article 63:

The High Civil Court of Appeal President, High Civil Court President, execution judges and members of the Public Prosecution shall be empowered to inspect prisons at any time to satisfy themselves that there is no person who is illegally imprisoned. They shall be empowered to have access to the prison books, arrest and imprisonment warrants, to obtain copies thereof, to have contact with any prisoner and to hear from him any complaint that he may have. The prison officers and staff shall render to them all the assistance to obtain the information that they request.

Article 64:

Every prisoner shall be entitled to file at any time with the prison officer a written or verbal complaint to be reported to the High Civil Court of Appeal President, High Civil Court President, execution judge or Public Prosecution. The said officer shall accept the complaint immediately and report it to the concerned person after recording it in the register maintained for this purpose in the prison.

Everyone who becomes aware of any person who is illegally imprisoned or kept in a place that is intended for imprisonment shall give notice to the execution judge or a member of the Public Prosecution. Each shall be required to immediately call at the place in which the prisoner is detained and to carry out an investigation and then order the release of a prisoner who is illegally detained. He shall draw up a statement to this effect to be sent to the Public Prosecutor for taking legal action towards the person responsible for such imprisonment.

If an order is issued for filing the complaint, it shall be reported to the complainant.

CHAPTER FOUR
ENTRY AND SEARCH OF HOMES AND
SEARCH OF PERSONS

Article 65:

Members of the public authority shall not enter any inhabited premises except in the events indicated in the Law or in case of seeking assistance from inside the premises, fire, drowning or such similar events.

Article 66:

In the events where it is legally admissible to arrest the accused, the judicial arrest officer may search him.

If the accused is a female, the search shall be undertaken by a female to be designated for this purpose by the judicial arrest officer after taking the oath to carry out her duties faithfully and sincerely.

Article 67:

In case of felonies and misdemeanours involving flagrante delicto and punishable by imprisonment for a period exceeding 3 months, the judicial arrest officer shall be empowered to search the accused's home and to apprehend therein the items and documents that help reveal the truth if it is clear to him that there are strong indications that they are available therein.

Article 68:

If during the search of a house belonging to the accused there are strong presumptions against the accused or any person present therein that he is hiding something that is useful for uncovering the truth, the judicial arrest officer may search him.

Article 69:

A search shall take place only for apprehending objects related to the crime concerning which collection of evidence or an investigation takes place.

However, if there appear during the search the presence of articles, the possession thereof constitutes a crime or is useful in revealing the truth in another crime, they shall be apprehended by the judicial arrest officer.

Article 70:

The search shall take place in the presence of the accused or a representative acting on his behalf, otherwise it shall take place in the presence of two witnesses whenever possible. Such witnesses shall as far as possible be from the accused's adult relatives or the persons resident with him in the house or his neighbours. This shall be recorded in the search statement.

Article 71:

If sealed documents are found in the accused's home or documents wrapped in any other manner, the judicial arrest officer shall keep them in custody to be handed over to the Public Prosecution without being unsealed.

Article 72:

The judicial arrest officers shall be empowered to put the seals on the places that have traces or articles that are useful in uncovering the truth. They shall be empowered to appoint guardians thereof. They shall give immediate notice to the Public Prosecution to adopt the decision it deems necessary.

The property owner or person in possession thereof may challenge such action by virtue of a petition to be filed with the Public Prosecution. The latter shall immediately refer the complaint to the judge accompanied by its opinion.

Article 73:

The judicial arrest officers shall be empowered to seize the documents, weapons, machinery and everything that is likely to have been used in committing the crime or arising from committing it or the object against whom the crime has been committed as well as everything that is useful in revealing the truth.

Such items shall be shown to the accused who shall be requested to make his comments thereon and a statement to that effect shall be drawn up to be signed by the accused. Where the latter refuses to sign, this fact shall be indicated in the statement.

Article 74:

The articles and documents that are seized shall be kept in a sealed receptacle, which shall be stamped, and a tape inside the stamp shall carry the date of the statement prepared after seizing such articles and reference shall be made to the matter for which the seizure has taken place.

Removing the stamps kept according to the provisions of this Article and Article (72) of this Law upon the places and items shall take place in the presence of the accused or his attorney and the person with whom such seized items were found whenever possible.

Article 75:

Everyone who becomes aware because of the search of information about the items and documents covered by the search and disclosed to any person who has no legal capacity or made use thereof in any manner whatsoever shall be punishable by the penalties prescribed in Article (371) of the Penal Code.

Article 76:

Anyone with whom documents, in which he has an immediate interest, have been seized shall be given copies thereof attested by the Public Prosecution unless this is detrimental to the interest of the investigation.

Article 77:

Judicial arrest officers shall, in the course of carrying out their duties, be empowered to seek the direct assistance of the military force.

CHAPTER FIVE
ACTION OF THE PUBLIC PROSECUTION
AFTER COLLECTION OF EVIDENCE

Article 78:

If the Public Prosecution decides that it is irrelevant to proceed with the legal action upon the evidence collected, it shall order the safekeeping of the documents.

Article 79:

If the Public Prosecution issues an order for safekeeping of the documents, notice thereof shall be given to the victim and the plaintiff who claims civil rights. If either of them dies, the notice shall be given to all his heirs at his residence address. The victim and the plaintiff who claims civil rights shall be entitled to file an appeal against the safekeeping decision with the Lower Court within 10 days from the date of the said notice. The said Court shall be empowered to revoke the safekeeping decision and to order an investigation into the case or reference of the case to the competent court.

Article 80:

If the Public Prosecution decides in respect of matters of felonies and civil wrongs that a legal action can be prosecuted on the basis of the collected evidence, it shall instruct the accused to appear directly before the competent court.

PART TWO
INVESTIGATION BY THE PUBLIC PROSECUTION

CHAPTER ONE
CONDUCTING AN INVESTIGATION

SECTION ONE
GENERAL PROVISIONS

Article 81:

The Public Prosecution shall conduct an investigation in felonies and shall be empowered to conduct it in misdemeanours if it deems such action relevant.

Article 82:

A Public Prosecution member conducting an investigation shall be accompanied by a Public Prosecution clerk to draw up the necessary statements. In cases of exigency, he may instruct another person after taking the oath. The Public Prosecution member and the clerk shall sign each page of the statement.

The Public Prosecution member shall record the necessary investigation procedures before the attendance of the clerk. The statements shall be filed together with the remaining documents in the Clerks Department.

Article 83:

Investigation procedures and the results arising therefrom shall be deemed confidential. Members of the Public Prosecution, their assistants such as clerks and experts and such others who are concerned with the investigation or who attend it in their official capacity or due to their occupation shall not disclose any information in respect thereof.

Anyone who violates this provision shall be liable for the penalty prescribed in the first paragraph of Article (371) of the Penal Code.

Article 84:

The accused, victim, and plaintiff who claims civil rights, the person liable therefor and their attorneys shall be entitled to attend all investigation procedures. A Public Prosecution member shall give them notice of the date on which the investigation procedures take place and venue thereof.

A Public Prosecution member shall be empowered to conduct the investigation in their absence if such action is necessary to reveal the truth. Where such necessity no longer exists, he shall allow them access to the investigation.

In case of urgency, he shall be empowered to conduct the investigation procedures in the absence of the litigants. The latter shall be entitled to have access to the documents confirming such procedures.

The litigants shall always have the right to be accompanied by their attorneys in the investigation. A litigant's attorney shall not make a statement except by a permission of the Public Prosecution member. Where such permission is denied, this shall be recorded in the statement.

Article 85:

A Public Prosecution member shall be empowered to designate a judicial arrest officer to carry out a particular duty or more in connection with the investigation except for questioning the accused.

Where necessary he shall, for taking action in an area outside his jurisdiction, be empowered to instruct a member of the Public Prosecution to take such action.

Article 86:

In all the cases where another member is designated to conduct certain investigations, a member of the Public Prosecution shall indicate the issues required to be investigated or the procedures required to be taken.

A designated member shall carry out any other duty related to the investigation or cross-examine the accused in the cases where loss of time is feared where this is connected to the duty for which he is designated and is essential for revealing the truth.

Article 87:

The accused, victim, plaintiff who claims civil rights and the person liable therefor shall be entitled to request at their expense in the course of the investigation copies of the documents of whatever kind unless the investigation takes place without their attendance pursuant to a decision issued in this respect.

Article 88:

The investigation shall be conducted in Arabic. A Public Prosecution member shall be empowered to seek the assistance of a translator under oath to carry out his duty faithfully and sincerely if the accused or witness does not speak Arabic.

SECTION TWO
INSPECTION, SEARCH AND SEIZURE
OF THINGS RELATED TO THE CRIME

Article 89:

A Public Prosecution member shall call at any place to establish the state of persons, places and things related to the crime and everything whose state needs to be established. Where it is necessary to take action in an area outside his jurisdiction, he shall be empowered to request its implementation by a member of the concerned Public Prosecution.

Article 90:

The Public Prosecution shall issue a search warrant for searching the accused's house upon an indictment against him for committing a felony or misdemeanour punishable by imprisonment or participating in the commission thereof. Further, it shall be empowered to search any place belonging to the accused for seizing weapons, equipment, things and every article that may have been used in committing the crime or arising therefrom and everything that is useful in revealing the truth.

In all cases, the search order shall be substantiated.

Article 91:

The search shall take place in the presence of the accused or the person acting on his behalf, if possible.

Where the search takes place in a house not belonging to the accused, its owner shall be invited to appear personally or by a representative acting on his behalf, if possible.

Article 92:

A Public Prosecution member shall be empowered to search the accused.

He shall not be empowered to search any person other than the accused or a house that does not belong to him unless it appears that there are strong indications that he is in possession of things related to the crime. For taking such action, a prior permission shall be obtained from the Lower Court judge. The judge shall issue such permission upon reviewing the documents.

Article 93:

The Public Prosecution may seize in post offices all letters, mail, newspapers, publications and parcels and in telegraph offices all telegrams. It shall be empowered to censor telecommunications conversations and correspondence or order the recording of conversations that occurred in a special place where this is useful in revealing the truth in a felony or misdemeanour punishable by imprisonment.

For taking any of the above actions, a prior permission shall be obtained from the Lower Court judge. The judge shall issue such permission upon reviewing the documents.

In all cases, the seizure, censorship or recording shall take place upon a substantiated order for a period not exceeding 30 days which is renewable for another similar period(s).

Article 94:

A Public Prosecution member shall not seize with the attorney defending the lawyer or the consulting expert the papers and documents delivered to them by the accused for the discharge of the mandate entrusted to them nor the correspondence exchanged between them in the case.

Article 95:

A Public Prosecution member shall be exclusively empowered to have access to the seized letters, mail and other documents, provided that their review shall take place in the presence of the accused, person in possession thereof or addressee and shall note down his comments thereon. Depending upon the results of the review, he shall be empowered to include such documents in the case file or to return them to the person in possession thereof or to the addressee.

Article 96:

A Public Prosecution member shall be empowered to order the person in possession of a thing which he decides to seize or inspect it to produce such thing. The provision of Article (123) of this Law shall be applicable to anyone who violates

this order unless he is in an event where the law authorizes him to refrain from giving his testimony.

Article 97:

The seized letters and mail shall be delivered to the accused or addressee or shall be given a copy thereof as soon as possible unless this is detrimental to the investigation.

Every person who has a claim against the seized things shall be entitled to request the Public Prosecution member to deliver them to him. In case of refusal, he may file an appeal with the Lower Court and plead for hearing his statements by the said Court.

SECTION THREE
ATTACHMENT OF PROPERTY RELATED TO THE CRIME

Article 98:

In the cases where the investigation provides sufficient evidence of the validity of the charge for any of the offences provided for in Part Two of the special section of the Penal Code, such other crimes affecting the properties owned by the State or public organisations and institutions and their affiliate units or such other corporate entities and the crimes which the Law requires the Court to rule, of its own initiative, to refund the amounts or the value of things subject to the crime or to indemnify the victim if the Public Prosecution decides in its sole discretion that the matter requires taking precautionary measures upon the accused's properties including barring him from disposal or management thereof, it shall refer the matter to the High Criminal Court seeking the handing down of a judgement to secure the execution of the ruling in terms of a fine, refund or compensation.

The Public Prosecutor shall be empowered, in case of necessity or urgency, to temporarily order that the accused, his/her spouse or minor children be forbidden from disposing or managing their properties. Such order for a ban from undertaking the management shall include the appointment of a manager of the attached properties. In all cases, the Public Prosecutor shall refer the prohibition order to the High Criminal Court within a maximum of 7 days from the issue thereof with a plea to give a judgement for prohibition of disposal or management, otherwise the matter shall be deemed null and void.

Article 99:

The High Criminal Court shall hand down its judgement in the cases indicated in the preceding Article upon hearing the statements of the concerned persons within a period not exceeding 15 days from the date of referring the matter thereto. The Court shall decide upon the extent of the effectiveness of the provisional order indicated in the preceding Article where it feels that there is ground for postponing a review of the application. The judgement shall include the reasons upon which it is based. A management ban shall be applicable to the person who is in charge of managing the properties under attachment after seeking the opinion of the Public Prosecution.

The Court may, upon the request of the Public Prosecution, include in its judgement any property owned by the accused's spouse or minor children if there is sufficient evidence that it has been acquired from the offence subject to the investigation and devolved upon them from the accused after including them in the application.

An officer appointed for the management of such property shall take delivery of the attached properties and conduct an inventory thereof in the presence of the concerned persons and a representative of the Public Prosecution or an expert to be designated by the court.

A person appointed for management of the assets shall maintain the proper management thereof and return them together with the earnings received in respect thereof according to the provisions set forth in the Civil Code with respect to the agency in management duties, trusteeship and custodianship in the manner to be regulated by an order to be issued by the Minister of Justice.

Article 100:

Everyone against whom a judgement has been handed down barring him from disposal or management shall challenge it before the High Criminal Court three months after the date of the judgement. If his challenge is dismissed, he shall be empowered to file a new complaint after the lapse of every three months from the date of the judgement dismissing the challenge.

Anyone against whom a judgement has been passed barring him from disposal or management and every interested party shall be entitled to challenge the procedures for execution thereof.

The challenge shall be effected by filing a report with the Clerks Department of the High Criminal Court and the Court President shall fix a hearing for examination of the challenge for which the summonses shall be given to the petitioner and to every interested party. The Court shall deliver its judgement in respect of the challenge within a period not exceeding 15 days from the date of the report.

Article 101:

The High Criminal Court shall, in the course of hearing the case of its own initiative or at the request of the Public Prosecution or the concerned parties, rule for terminating the disposal or management determined by the judgement or modifying its scope or execution procedures.

The order issued for disposal in the criminal case or the judgement delivered in respect thereof shall outline the action to be taken in respect of the precautionary measures referred to in Article 98 of this Law.

In all cases, the ban upon disposal or management shall be terminated by adopting a decision that there is no ground for bringing a criminal legal action or handing down a final judgement of acquittal or completing the execution of the financial penalties.

Article 102:

In the execution of a judgement for payment of a fine, refund of amounts, value of things subject to the crime or indemnifying the victim, as the case may be, no disposal shall be recognized where it contravenes the order or judgement referred to in Articles 98 and 99 of this Law from the date of registering either in a special register to be organized by an order of the Minister of Justice. Every interested party shall have access to such register.

Article 103:

Upon handing down a judgement for refund of amounts or value of the things subject to the crimes referred to in Article 98 of this Law or compensating the victim, the Court shall be empowered to rule at the request of the Public Prosecution or plaintiff who claims civil rights, as the case may be, for the execution of such judgement towards the properties of the accused's spouse and minor children if it is proved that they devolved upon them from the accused and acquired from the crime subject to the judgement.

SECTION FOUR
DISPOSING OF THE SEIZED THINGS

Article 104:

An order may be issued for returning the things seized in the course of the investigation even though such order is made before the judgement unless they are necessary for the proceedings or subject to confiscation.

Article 105:

Returning the seized things shall be to the person who had possession thereof at the time of their seizure. However, if the seized things were involved in the crime or resulting therefrom, they shall be returned to the person who lost possession thereof because of the crime unless the person with whom they were seized has the right to withhold them in pursuance of the law.

Article 106:

The return order shall be issued by the Public Prosecution or the High Criminal Court held in an appellate capacity in the Consultation Room. The Court may order the return of such items in the course of hearing the case.

Article 107:

An order to return shall not bar the concerned parties from filing a claim before the Civil Courts with respect to their rights. However, this shall not be admissible for the accused or the plaintiff who claims civil rights if the return order is issued by the Court pursuant to an application from either towards the other.

Article 108:

A return order shall be issued even without an application.

The Public Prosecution shall not order the return of a disputed article or where there is suspicion as to the person entitled to take delivery thereof. In such case, the matter shall be referred to the High Criminal Court held in an appellate capacity in the Consultation Room upon an application from the concerned parties to issue an order as it deems fit.

Article 109:

The Court that examines the subject-matter or the High Criminal Court held in an appellate capacity in the Consultation Room shall order the reference of the litigants to a litigation before the Civil Courts if this is deemed necessary. In this case, the seized items shall be kept under receivership or other precautionary measures shall be adopted against them.

Article 110:

Upon the issue of an attachment order or where there is no ground for commencing a legal action, a Public Prosecution member shall decide the manner of disposing of the seized articles if this has not been done previously. The same shall be applicable upon handing down a judgement in the case where the return claim is filed with the court.

Article 111:

If the seized article is perishable with time or if the safekeeping thereof requires expenses in excess of the value thereof, it may be sold by a public auction where this is allowed by the requirements of the investigation and the proceeds of sale shall be maintained for the benefit of the rightful owner thereof.

Article 112:

Seized things or the proceeds of their sale that are not claimed by their owners within 3 years from the date of finalizing the legal action shall become the property of the State without any need for a judgement to be delivered in this respect.

Article 113:

In case of suspending the legal action or issue of an order that there is no ground for a criminal legal action, the Public Prosecution shall order the confiscation of the seized things whose manufacture, holding, possession, use or trading therein is considered a crime or is intended as a remuneration for committing it. The above shall be without prejudice to the rights in kind of bona fide third parties.

SECTION FIVE
HEARING WITNESSES

Article 114:

A Public Prosecution member shall hear the statements of any witnesses he deems necessary concerning the facts that prove or result in proving the crime, its circumstances and attributing it to the accused or his acquittal therefrom.

He shall hear the statements of witnesses whom the litigants ask to be heard unless he feels that it is not useful to hear such witnesses.

Article 115:

A Public Prosecution member shall serve the summonses upon the witnesses whom he decides to hear. Instructing them to appear shall take place through a member of the public authority. He shall hear the testimony of any witness who appears of his own initiative. In such case, this shall be recorded in the statement.

Article 116:

A Public Prosecution member shall hear every witness individually and shall be empowered to confront the witnesses with each other and with the accused.

A plaintiff who claims civil rights shall be heard as a witness under oath.

Article 117:

A Public Prosecution member shall request every witness to give his name, surname, age, occupation, nationality, residence address and his relationship with the accused, victim and plaintiff who claims civil rights and shall ascertain his identity. Such details and the witnesses' testimonies shall be amended without amendment, erasure, striking off, insertion or addition. None of the above shall be formalized unless endorsed by a member of the Public Prosecution, clerk and witness.

Article 118:

The testimony shall be signed by the Public Prosecution member and the clerk as well as the witness after being read out thereto and his acknowledgement that he insists upon such statements. Where he refuses to sign, stamp or use his fingerprint or if he is unable to do that, this fact shall be recorded in the statement with a mention of the reasons. In all cases, the Public Prosecution member and the clerk shall sign every page on a regular basis.

Article 119:

A witness who has completed 15 years of age shall be under oath before giving his testimony by saying that he swears to say the truth and nothing but the truth.

Taking the testimony according to the special conditions applicable in his religion if he so requests.

Meanwhile, a testimony of an underage person by way of guidance without taking the oath may be had.

Article 120:

Upon hearing the witness' testimony, the litigants may comment on the former's statement. They shall be entitled to request a member of the Public Prosecution to hear the witness' statements about other points that they wish to raise.

A Public Prosecution member shall be empowered to refuse asking any question to the witness where it is not related to the subject-matter of the investigation or whose wording prejudices third parties. He shall stop the witness from making an explicit or implicit statement and every indication resulting in confusing his thinking or intimidating him.

He shall not rebut the witnesses for any reason whatsoever.

Article 121:

It shall be admitted to give a testimony against the accused from his close relatives, blood-relations, relatives and in-laws to the second degree and his/her spouse even after the termination of the bond of marriage unless the crime has been committed against the witness, his spouse, one of his relatives or aforesaid in-laws even though he is the person who reported the crime or if there is no further evidence.

Article 122:

Without prejudice to the provisions of the Penal Code, preventing a witness from giving testimony or relieving him from giving such testimony shall be subject to the rules laid down in the Law of Evidence in Civil and Commercial Matters.

Article 123:

Without prejudice to the provisions of the preceding two Articles, if a witness refuses to take the oath or to testify, the Lower Court Judge shall upon the request of the Public Prosecution sentence him to imprisonment for a term not exceeding 3 months or a fine not exceeding BD100.

If the witness changes his mind before completion of the investigation, the Public Prosecution shall refer the matter to the Judge who may grant an exemption from all or some of the penalty after hearing the statements of the Public Prosecution member.

Article 124:

Anyone who is invited to appear before the Public Prosecution to give testimony shall attend on the basis of the summons addressed thereto, otherwise the Public Prosecution member shall ask the Lower Court Judge to sentence him to payment of a fine not exceeding BD50.

A Public Prosecution member may issue an order instructing him to appear again at his expense or shall issue an order for his arrest and appearance.

If a witness appears after instructing him to appear again or of his own initiative and requests exempting him from payment of the fine or if he submits a written application if he is unable to appear in person, the Public Prosecution member shall refer the matter to the Lower Court Judge. The Judge may after hearing the statements of the Public Prosecution exempt him from the fine if he gives acceptable excuses.

Article 125:

If the witness is sick or has a reason preventing him from appearance, his testimony shall be heard at the place where he is present. If the Public Prosecution member calls at such place to hear his testimony and finds that the excuse is false, he shall be sentenced by the Lower Court Judge upon the Public Prosecution's judge to imprisonment for a period not exceeding one month or a fine not exceeding BD100.

Article 126:

Judgements handed down by the Lower Court Judge according to the aforesaid three Articles may be challenged before the High Criminal Court in accordance with the conditions set forth in the law.

Article 127:

A Public Prosecution member shall estimate, at the request of the witnesses, the costs and expenses to which they are entitled because of their appearance to give testimony.

SECTION SIX
NOMINATION OF EXPERTS

Article 128:

If the investigation requires seeking the assistance of a medical practitioner or such other expert to establish a particular condition, the Public Prosecution member shall issue an order for his nomination in which shall be specified the mandate entrusted thereto.

A Public Prosecution member shall be empowered to appear at the time when the expert carries out his mandate.

An expert may carry out his mandate without the appearance of the litigants.

Article 129:

Unless he is a government expert or registered in the Rolls of Experts, an expert shall take the oath before the Public Prosecution member to carry out his duties honestly and sincerely.

Article 130:

The expert shall submit his report in writing. A Public Prosecution member shall fix a date for the expert to submit the said report and he may replace him by another expert if he fails to submit his report on the fixed date or if this is required by the investigation.

Article 131:

The litigants shall be entitled to seek the assistance of a consulting expert. They shall be entitled to enable him to have access to the documents and everything already provided to the expert nominated by the Public Prosecution, provided that this shall not result in delay the pursuit of the case.

Article 132:

The litigants shall be entitled to challenge the expert if there are valid reasons for such action. An application challenging the expert shall be submitted to the Public Prosecution to adopt a decision in respect thereof. They shall indicate the reasons for the challenge.

The Public Prosecution shall adopt a decision in respect thereof within 3 days from the date of submitting it.

Filing such application shall result in discontinuation of the expert's duties except in the case of urgency by an order of the Public Prosecution member.

SECTION SEVEN
QUESTIONING AND CONFRONTATION

Article 133:

A Public Prosecution member shall upon the appearance of the accused for the first time in the investigation note down all the personal details of the accused and shall inform him of the charge brought against him and shall confirm in the minutes the statements given by him.

Article 134:

Apart from the two cases of flagrante delicto and urgency because of concern for the loss of evidence, in crimes a Public Prosecution member shall not question the accused nor confront him with other defendants or the witnesses except upon

inviting his lawyer to appear, if present. The accused shall declare the name of his lawyer by a report to be given to the Court Clerks Department or to the prison officer. In addition, his lawyer may file such report.

The lawyer shall not have the right to speak except by a permission given by the Public Prosecution member. If no such permission is given, this shall be recorded in the statement.

Article 135:

The accused's lawyer shall be enabled to have access to the investigation at least one day prior to the cross-examination or confrontation unless the Public Prosecution member decides otherwise.

In all cases, the accused shall not be separated from his lawyer who is present with him in the course of the questioning.

SECTION EIGHT
APPEARANCE INSTRUCTION, ARREST WARRANT AND
COMPULSORY APPEARANCE

Article 136:

A Public Prosecution member shall be empowered to issue, as the case may be, an instruction for the accused's appearance, his arrest or compulsory appearance.

Article 137:

Every instruction shall contain the accused's name, surname, occupation, nationality, residential address, charge brought against him, date of the instruction, signature of the Public Prosecution member and official seal.

In addition, an appearance instruction shall include an order to appear on a fixed date.

The arrest warrant and appearance instruction shall contain an order to the Public Security forces to arrest the accused and to procure his compulsory appearance before the Public Prosecution member if he refuses to immediately appear of his own free will.

Article 138:

Orders shall be notified to the accused by a member of the public authority with a copy thereof to be delivered thereto.

Article 139:

Orders issued by a Public Prosecution member shall be effective throughout the State of Bahrain.

Article 140:

If the accused fails to appear without an acceptable excuse after instructing him to appear, if it is feared that he may escape, if he does not have a known residence address in the State of Bahrain or if the crime involves flagrante delicto, a Public Prosecution member shall issue a warrant to arrest the accused and to force him to appear unless the fact of the case does not allow remanding the accused in custody.

Article 141:

A Public Prosecution member shall immediately question the accused who has been arrested. If this is not feasible, he shall order that he be detained in a place intended for such detention pending his questioning. The period of detention shall not be more than 24 hours. If this period expires, the officer in charge of administering such place shall refer him to the Public Prosecution. The latter shall question him immediately otherwise it shall order his release.

SECTION NINE
ORDER TO REMAND IN CUSTODY

Article 142:

If it is found after questioning the accused or in case of his escape that there is sufficient evidence and where the incident constitutes a felony or misdemeanour that is punishable by imprisonment for a period of more than 3 months, the Public Prosecution member may issue a warrant for remanding the accused in custody.

An accused may always be remanded in custody if he has no established and known domicile in the State of Bahrain where the offence is a felony punishable by imprisonment.

Article 143:

Upon the imprisonment of the accused pursuant to the arrest warrant, a copy thereof shall be delivered to the prison officer after signing the original in acknowledgement of receipt.

Article 144:

The arrest, production or imprisonment warrants shall not be executed six months after the issue thereof unless they are approved by the Public Prosecution member for a further term.

Article 145:

The prison officer shall not permit a Public Authority member other than those who are authorized to inspect prisons to contact the detainees in prison except by a written permission from the Public Prosecution. He shall record in the prison

book the name of the person who has given such permission, time and date of the interview and content of the permission.

Article 146:

The Public Prosecution shall be empowered to order that the detained accused shall not have contact with other detainees and no one shall visit him without prejudice to the accused's right to always contact the attorney defending him without the presence of a third party.

Article 147:

A detention order issued by the Public Prosecution shall not be valid except for the seven-day period following the hand-over of the accused thereto. If the Public Prosecution decides to extend the period of detention in custody, it shall prior to the expiry of the seven-day period refer the documents to the Lower Court Judge to issue his order upon hearing the statements of the Public Prosecution and the accused for extending the detention for a successive term(s) whose total shall not exceed 45 days or shall release the accused with or without bail.

For the offences provided for in Part One of the Special Section of the Penal Code, the Public Prosecution shall have the powers of the Lower Court provided for in the preceding paragraph.

Article 148:

If the investigation is not completed and where the Public Prosecution decides to extend the detention in custody over and above the period prescribed in the preceding Article, the documents shall prior to the expiry of the said period be referred to the High Criminal Court that is held in the Consultation Room to issue its order upon hearing the statements of the Public Prosecution and the accused to extend the detention for successive terms each of which shall not exceed 45 days if this is deemed in the interest of the investigation or shall release the accused with or without bail.

However, the matter shall be referred to the Public Prosecutor if three months elapse following the accused's detention in custody for taking the appropriate actions for finalizing the investigation.

In all cases, the period of detention in custody shall not be more than 6 months unless the accused is given notice of his reference to the competent court before the expiry of the above period. If the offence attributed to the accused is a felony, the period of detention in custody shall not be more than 6 months except upon obtaining before its expiry an order from the competent court for extending the detention for a period of no more than 45 days which may be renewed for similar terms, otherwise the accused shall be released from custody.

SECTION TEN
TEMPORARY RELEASE

Article 149:

The Public Prosecution shall be empowered to order the temporary release of the accused who is remanded in custody at all times of its own initiative or upon the accused's request, provided that the accused shall undertake to ensure appearance whenever he is requested to do so and not to abscond from execution of a judgement handed down against him.

Article 150:

Save for the cases where the accused's release is imperative, the accused shall not be released with or without bail except upon advising the residence address where he will be staying.

Article 151:

Apart from the cases where the accused's release is imperative, a temporary release may be made conditional upon providing bail.

A Public Prosecution member or a judge of the Lower Court or High Criminal Court held in the Consultation Room, as the case may be, shall determine the bail amount.

Fifty percent of the bail amount shall be the penalty for the accused's failure to appear at any of the proceedings of the investigation and trial, proceeding for execution of the judgement and performing all the other duties imposed upon him. The balance shall be used for payment of the following in such order:

- First: Expenses incurred by the government,
- Second: Financial penalties that may be imposed against the accused.

Article 152:

The bail amount shall be paid by the accused or by another person through the deposit of the determined amount in the Court Treasury.

It may be accepted from any person who has filled in an undertaking to pay the estimated bail amount if the accused violates any of the release conditions. He shall be asked to provide the said undertaking in the minutes of the investigation or in the report at the Court Clerks Department.

The minutes or report shall have the force of an enforceable deed.

Article 153:

If a Public Prosecution member feels that the accused's condition does not allow him to provide bail, he shall oblige him to proceed to the police station at the times fixed in the release order while taking his personal conditions into consideration.

Article 154:

If the accused fails without a justifiable excuse to perform one of the obligations imposed upon him, the first fifty percent of the bail shall become state property without the need for a judgement for this purpose.

The other fifty percent shall be refunded to the accused if a decision is adopted that the case is groundless or if a judgement of acquittal is handed down.

Article 155:

A release order shall not bar a Public Prosecution member from issuing a new order for arresting the accused or his detention if evidence against him becomes stronger, if he violates the conditions imposed upon him or if there are circumstances necessitating such action.

If the court issues the release order, the issue of a new order for arresting the accused shall take place by the same court upon the request of the Public Prosecution.

Article 156:

If the accused is sent to court, his release where he is imprisoned or detained where he is to be released shall be subject to the competence of the court to which he is sent.

In case of passing a judgement that the court has no jurisdiction, the High Criminal Court held in the Consultation Room shall have the jurisdiction to examine the release or detention plea pending the reference of the case to the court that has jurisdiction.

Article 157:

Neither the victim nor a plaintiff who claims civil rights shall be permitted to plead for the detention of the accused nor shall his statements be heard in the discussions related to release of the accused.

Article 158:

The Lower Court judge shall be empowered to determine the amount of bail for releasing the accused whenever the Public Prosecution requests an extension of the detention, subject to the provisions of Articles from 150 to 154 hereof.

In cases of serious crimes, the Public Prosecution shall be empowered to appeal against the order issued by the Lower Court judge for release of the accused who is remanded in custody.

A release order shall not be executed before the expiry of the time limit for the appeal and not before adjudgement thereof if the appeal is filed within the time limit.

The appeal shall be filed by submitting a report to the Court Clerks Department.

The appeal shall be filed with the High Criminal Court held in the Consultation Room and its time limit shall be 48 hours which shall commence from the date of issuing the order.

The Court shall be empowered to extend the accused's detention as stipulated in Articles 147 and 148.

If no award is delivered in respect of the appeal within 3 days from the date of filing the report in respect thereof, the release order shall be immediately executed.

Article 159:

The Attorney General and the competent court may, upon hearing an extension of the provisional detention should it be decided to release an accused in a felony or misdemeanour punishable by imprisonment and where it is in the interest of the investigation to bar him from traveling abroad, issue an order for including him in the lists of persons prohibited from traveling abroad. The accused may contest such order before the High Criminal Court held in the Consultation Room. Should his challenge be dismissed, he may file a new one whenever one month passes since the date of dismissing the challenge unless the case is referred to the court that has jurisdiction to hear it in which case the travel ban order or its cancellation shall be subject to its competence.

CHAPTER TWO
DEALING WITH A CRIMINAL ACTION

Article 160:

If the Public Prosecution feels following the investigation that there is no ground for legal action to be brought, it shall issue an order to this effect and shall release the detained accused unless he is detained for another reason. An order considering lack of grounds for bringing a legal action in felonies shall only be issued by the Attorney General.

The order shall include the reasons upon which it is based.

Notice of such order shall be given to the plaintiff who claims civil rights and where he has died, such notice shall be given to all his heirs at his domicile.

Article 161:

A plaintiff who claims civil rights shall be entitled to challenge the order issued by the Public Prosecution that there is no ground to commence a criminal legal action.

The challenge shall be filed with the High Criminal Court held in the Consultation Room in the case of misdemeanours and with the High Criminal Court of Appeal held in the Consultation Room in the case of felonies.

Such challenge shall be filed by means of a report to be lodged with the Court Clerks Department within 10 days from the date of giving the plaintiff notice of the civil right involved in the order.

If the Court revokes the order of the lack of ground for bringing a criminal legal action, it shall refer the case to the competent court.

Article 162:

The Public Prosecutor shall be empowered to revoke the order of the lack of grounds for bringing a legal action within the three months following the issue thereof unless a decision is adopted by the competent court for dismissal of the challenge filed in respect of such order.

Article 163:

An order issued by the Public Prosecution that there is no ground for bringing a legal action shall bar a return to the investigation unless there is new evidence emerging prior to the expiry of the prescribed period for the lapse of the criminal legal action.

Testimony of witnesses, minutes, papers and things that have not been referred to the Public Prosecution and which are likely to strengthen the evidence that was found inadequate or that provides further clarification leading to establishing the truth shall be deemed as new evidence.

Article 164:

If the Public Prosecution feels after the investigation that the fact constitutes a felony, misdemeanor or civil wrong and the evidence against the accused is sufficient, it shall provide a legal description of the offence with all its constituting elements, all the aggravating or mitigating circumstances and articles of the Law desired to be applied and shall refer the legal action to the competent court.

In the case of civil wrongs and misdemeanours, this shall take place by instructing the accused to appear before the Lower Court.

For felonies, a legal action shall be brought by their reference by the Attorney General or whoever acts for him before the High Criminal Court by a bill of indictment indicating the crime attributed to the accused as aforesaid. It shall be accompanied by a statement of the details of the witnesses' statements and probative evidence, all of which shall be given by notice to the accused. In such case, the Attorney General shall decide whether to continue remanding the accused in custody, release him, arrest him and to remand him in custody unless he has already been released or acquitted.

Article 165:

If the investigation involves more than one crime subject to the jurisdiction of courts of the same degree and where they are all linked, they shall all be referred to the competent court that has jurisdiction with respect to place. However, if the crimes are subject to the jurisdiction of courts that have different degrees, they shall be referred to the court of the highest degree.

Meanwhile, if some of these crimes are subject to the jurisdiction of common courts and some others are subject to the jurisdiction of special courts, they shall all be referred to the common courts unless the Law otherwise provides.

Article 166:

If any event occurs after issue of the order for reference and prior to passing a judgement in the case so as to require conducting supplementary investigations, the Public Prosecution shall conduct them and procure their reference to the court as they stand or by a supplementary reference order by the addition of other charges or defendants, as the case may be.

PART THREE
MAGISTRATE

Article 167:

If the Public Prosecution decides in felonies or misdemeanours that the investigation of the case by a magistrate is more appropriate given its special circumstances, it may in any condition of the investigation request the President of the High Civil Court to nominate one of its judges to conduct the investigation.

The Minister of Justice shall be empowered to request the President of the High Court of Appeal to nominate one of its judges to investigate a certain crime or crimes of a particular type.

Article 168:

The Public Prosecution shall continue the investigation until it is conducted by the designated judge in case of the issue of a decision to this effect. Then, the latter shall be exclusively empowered to conduct the investigation.

Article 169:

The magistrate shall conduct the investigation according to the provisions prescribed with respect to conducting the investigation by the Public Prosecution subject always to the terms of the articles hereunder set forth.

Article 170:

Upon conducting the investigation, the magistrate shall have the powers of the Lower Court judge and the Court's powers with respect to the order during the hearing.

Article 171:

The magistrate shall be empowered to instruct a Public Prosecution member or a judicial summary arrest officer to undertake a certain duty or more of the investigation duties except for cross-examining the accused. Such designated officer shall have, to the extent of his powers, the magistrate's authority.

Article 172:

The Public Prosecution shall be empowered to attend the investigation at any time and to have access to the documents to become aware of the developments of the investigation, provided that this shall not result in delaying the pursuit thereof.

Article 173:

The Public Prosecution and the remaining litigants shall be empowered to submit to the magistrate the defence pleas and claims that they feel should be submitted in the course of investigation. The magistrate shall decide upon such defence pleas and claims within 3 days and shall indicate the reasons for his decisions.

If not already issued, the magistrate's orders shall be notified to the litigants and Public Prosecution within 3 days from the date of their issue.

Article 174:

Before issue of a detention order, the magistrate shall hear the statements of the Public Prosecution. The latter shall be empowered to request the magistrate at any time to order the detention of the accused in custody.

Article 175:

The magistrate shall be empowered at all times whether of his own initiative or upon the request of the accused to order, upon hearing the Public Prosecution's statements, the temporary release of the accused if he has ordered his detention in custody. If the detention in custody has been ordered by the High Criminal Court held in the Consultation Room upon the Public Prosecution's appeal of the release order previously issued by the magistrate, he shall not issue the release order during the period for which a detention order has been issued.

Article 176:

The magistrate shall forward the documents to the Public Prosecution immediately upon the completion of the investigation. The latter shall submit thereto its requests in writing within 3 days from the date of receiving the investigation documents if the accused is held in custody and 10 days if he has been released.

He shall give notice to the remaining litigants to present their statements within 3 days from the date of such notice documents if the accused is held in custody and 10 days if he has been released.

If the magistrate feels that the incident constitutes a felony, misdemeanour or civil wrong and that there is sufficient evidence against the accused, he shall refer the case to the competent court.

However, where he decides that the event is not punishable by law or that the evidence against the accused is not sufficient, he shall issue an order that there are no grounds for bringing a legal action.

Article 177:

If anything arises after issue of the reference order that necessitates conducting supplementary investigations, the Public Prosecution shall request the magistrate to conduct them and to submit the minutes to the court.

Article 178:

The investigation shall not be resumed according to the provision of Article 163 except upon the Public Prosecution's request.

Article 179:

The Public Prosecution shall file an appeal, even in the interest of the accused, in respect of all the orders issued by the magistrate either of his own initiative or at the request of the litigants.

A plaintiff who claims civil rights shall be entitled to challenge the order of the magistrate that there is no ground for bringing a criminal legal action.

The appeal shall be filed in the manner provided for in Article 161 and its time limit towards the Public Prosecution shall commence from the date of issuing the contested order.

Article 180:

The Public Prosecution shall have the exclusive power to file an appeal with respect to an order issued by the magistrate in a felony in the manner provided for in Article 158.

BOOK THREE
THE COURTS

PART ONE
COURTS JURISDICTION

CHAPTER ONE
JURISDICTION WITH RESPECT TO CRIMINAL ACTION

Article 181:

The Court of Cassation shall have the jurisdiction provided for in the Law governing its establishment.

The High Criminal Court of Appeal shall be competent to examine appeals of judgements handed down by the High Criminal Courts.

The High Criminal Court shall have jurisdiction to hear cases of felonies and appeals of judgements delivered by the Lower Courts.

The Lower Courts shall be competent to hear misdemeanours and offences.

The above shall be applicable unless the Law provides for the competence of any of these courts to examine certain crimes or other matters.

Article 182:

Jurisdiction shall be determined according to the place in which the crime has taken place or in which the accused resides or where he is arrested.

Article 183:

In the case of attempting to commit an offence, the crime shall be deemed to have taken place in every place in which an act is committed as part of starting to initiate an action. In the case of continuous crimes, the scene of the crime shall be every place in which the state of continuation takes place. For customary crimes and successive crimes, the scene of the crime shall be every place in which the acts constituting them takes place.

Article 184:

If a crime subject to the provisions of the laws of the State of Bahrain is committed abroad, legal action shall be commenced against its perpetrator before the Criminal Courts in the capital.

CHAPTER TWO
JURISDICTION TO DEAL WITH MATTERS CRUCIAL FOR
EXAMINING A CRIMINAL LEGAL ACTION

Article 185:

The Criminal Court shall have the jurisdiction to decide upon all matters crucial for adjudging a legal action referred thereto unless the Law otherwise provides.

Article 186:

If a judgement in a criminal legal action is dependent upon a ruling in another criminal legal action, the first legal action shall be suspended pending the handing down of a verdict in respect of the second legal action.

Article 187:

If a judgement in a criminal legal action is dependent upon a ruling in respect of a personal status matter, the Criminal Court may suspend the legal action and shall give the accused, the plaintiff who claims civil rights or victim, as the case may be, a grace period to refer the aforesaid matter to the competent authority.

The suspension of the case shall not bar taking the necessary action or conducting the necessary or urgent investigations.

Article 188:

If the time limit referred to in the preceding Article expires and no legal action has been initiated with the concerned authority, the Court may disregard the suspension of the legal action and deliver its judgement. Further, it may fix for the litigant a further time limit if it feels that there are acceptable reasons justifying such action.

Article 189:

When dealing with non-criminal matters being examined as part of a criminal legal action, the Criminal Courts shall follow the methods of proof prescribed in the law governing such matters.

CHAPTER THREE
CONFLICT OF JURISDICTION

Article 190:

If two final judgements are handed down confirming jurisdiction or non-jurisdiction for a single crime or several connected crimes by two ordinary courts or by an ordinary court and another special court, an application for determination of the competent court shall be filed with the Court of Cassation.

Article 191:

Both the Public Prosecution and litigants in the case shall be empowered to file an application for determination of the competent court by virtue of a statement to be lodged with the Court of Cassation's Clerks Department containing, apart from the names of litigants and their residential addresses, the application's subject-matter and a sufficient account of the case in respect of which the dispute is referred.

An applicant shall deposit with this statement copies thereof equivalent to the number of litigants with the docket of documents that support his application and a memorandum of his defence.

The Court Clerks Department shall serve the litigants with a copy of the petition together with an instruction to appear at the hearing fixed for hearing the case.

No fees shall be charged for such application.

The Court shall be empowered to order a stay of execution of the two contradictory judgements or verdicts, or either of them.

Article 192:

Upon examining the documents, the Court of Cassation shall determine the competent court and shall also rule with respect to the procedures and judgements that may have been delivered by the other court whose jurisdiction has been revoked by the Court of Cassation.

PART TWO
TRIAL PROCEDURES

CHAPTER ONE
SUMMONSES TO LITIGANTS

Article 193:

If the case is referred to a criminal court, the Public Prosecution shall instruct the accused to appear before the competent court according to the provision of Article 164 of the Law.

Article 194:

Instructing the accused to appear before the court may be dispensed with if he is charged by the Public Prosecution and the accused accepts the trial.

Article 195:

Instructing the litigants to appear in court shall take place one whole day before the hearing in civil wrongs, at least three days in misdemeanours and 10 days in felonies.

The summons to appear in court shall contain the charge and provisions of the Law that provide for the penalty.

In case of being caught in the act, the instruction to appear may be without a fixed date. If the accused appears and pleads for being given a certain date to enable him to prepare his defence, the court shall grant him the time limit stated in the first paragraph.

Article 196:

The court summons shall be served upon the person to be given notice personally or at his residence address by one of the methods prescribed in the Civil and Commercial Procedures Act. He may be served with the summons by a member of the Public Authority.

If the search does not lead to finding the accused's residence address, the summons shall be delivered to the police station of the area of his most recent residence address in the State of Bahrain. The place of the scene of the crime shall be deemed as the most recent residence address of the accused unless proved otherwise.

Article 197:

Service of summons upon the detainees shall be to the prison officer or whoever acts on his behalf. Service of summons to the Bahrain Defence Force and National Guard servicemen shall be through the Military Judiciary Directorate.

Article 198:

Litigants shall be entitled to have access to the documents of the case once they are served with the summonses to appear in court.

CHAPTER TWO
APPEARANCE

Article 199:

An accused involved in a misdemeanour or felony that is punishable by a prison sentence that the law requires its immediate execution when the judgement is handed down, shall appear in person.

In other cases, the accused may appoint an attorney to submit his defence without prejudice to the right of the Court to order his appearance in person.

Article 200:

In all cases, it shall be permitted for another person to appear to give an excuse that the accused is unable to appear. If the court finds the excuse acceptable, it shall fix a date for his appearance in court.

Article 201:

If the accused who is instructed to appear in court according to the law on the date indicated in the summons and if he fails to send an attorney to appear on his behalf in the events where this is permitted, a judgement may be passed against him in absentia after examining the documents. However, if the summons for appearance has been delivered to the accused personally, the Court may, if he fails to submit an excuse justifying his absence, decide to consider the judgement in his presence and shall indicate the reasons relied upon in this respect.

Article 202:

A judgement shall be deemed passed in presence in respect of each of the litigants who appear once the call for proceedings has been made even though he leaves the court hearing or fails to attend the hearings to which the case is adjourned without providing an acceptable excuse.

Article 203:

If a legal action is brought against several persons in respect of a single event and where some of them appear but others fail to appear in spite of instructing them to appear against the law, the court shall adjourn the proceedings for a future hearing. It shall instruct the service of the summonses once again upon those who have failed to appear while warning them that if they fail to appear at such hearing, the judgement shall be deemed to have been passed in their presence. However, if they still fail to appear and where it is found by the court that there is no justification for their absence, it shall be empowered to consider the judgement given in their presence and shall, in such case, state the reasons relied upon for this purpose.

Article 204:

If a litigant appears before the end of the hearing during which a judgement was delivered against him in absentia, the case shall be reheard in his presence.

In the cases where a judgement is deemed to be handed down in presence, the court shall investigate the case as though the litigant is actually present.

A protest shall not be entertained in a judgement passed in such cases unless the convicted litigant proves that there was a reason preventing his appearance that he could not submit prior to the judgement when his challenge was not permitted.

CHAPTER THREE
MAINTAINING ORDER AT THE HEARING

Article 205:

The President is empowered to maintain order and administer proceedings at the hearing. For this purpose, he shall be empowered to order the expulsion of any person who commits a breach of order from the court room. If he fails to comply and misbehaves further, the Court shall be authorized to order his imprisonment for 24 hours or compel him to pay a BD10 fine. A sentence in this respect shall not be appealed against. If a breach is committed by a person on duty at the court, it shall be empowered to punish him during the hearing by the disciplinary penalties that may be inflicted upon him by his administrative senior.

Meanwhile, the Court shall be empowered to rescind the verdict passed until the end of the hearing.

Article 206:

If an assault crime is committed against the Criminal Court's judges, one of its members or an officer therein or where such crime constitutes a violation of the respect due thereto or is likely to affect one of its members or a witness therein in connection with a law-suit being heard before it, it shall be empowered to refer the accused to the Public Prosecution for an investigation.

Article 207:

If a misdemeanour or violation is committed at the hearing, the Court shall be empowered to commence legal action immediately against the accused and shall deliver its ruling upon hearing the statements of the Public Prosecution and accused's defence. The said ruling shall be enforceable even if it is appealed against. If the crime is a felony or misdemeanour of giving a false testimony, the Court shall order the arrest of the accused and shall refer him to the Public Prosecution.

Commencing legal action in this instance shall not be dependent upon a complaint or petition if the crime is of the type that the law requires for its commencement upon the filing of a complaint or petition in respect thereof.

In all other cases, the Court shall have the power to order the accused's arrest where necessary.

Article 208:

Subject to the provisions of the Legal Practice Act, if a lawyer commits in the course of carrying out his duties or by reason thereof what is considered as a breach of order or anything rendering him criminally liable, the hearing's chairman shall draw up minutes confirming what happened and shall refer him to the Public Prosecution.

The Public Prosecution shall take criminal action if what is committed by the lawyer constitutes a crime punishable by law or shall refer him to the concerned disciplinary commission if what he has committed is merely a breach of duty or order.

Article 209:

Where the Court does not commence proceedings in respect of crimes that are committed during the hearing shall be heard according to the normal rules.

CHAPTER FOUR
JUDGES' STEPPING DOWN AND BARRING FROM JUDGEMENT

Article 210:

A judge shall be barred from taking part in hearing a case if the crime has been committed against him personally or if he performs in respect of the case duties as a judicial arrest officer, job of Public Prosecution, defends one of the litigants, gives evidence in respect of the case or carries out duties as an expert.

He shall also be barred from taking part in handing down a judgement if he undertakes in respect of the case any of the duties of investigation or reference. Further, he shall be barred from taking part in ruling in respect of the challenge if the challenged judgement was delivered by him.

Article 211:

Litigants shall be entitled to challenge judges to bar them from handing down judgements in the cases mentioned in the foregoing Article and in all instances of challenge determined by the law.

Neither members of the Public Prosecution nor judicial arrest officers shall be challenged.

For a plea of challenging a judge, the victim shall be deemed as a litigant in the case.

Article 212:

If there is any of the grounds of challenge, the judge shall bring it to the attention of the Court so that it shall decide, in the Consultation Room, in respect of his stepping down. A Lower Court judge shall refer the issue to the President of the High Civil Court.

Apart from the instances of challenge prescribed under the law, the judge may if he has grounds that make him feel embarrassed to hear the case refer the question of him stepping down to the Court or to the Court President, as the case may be, for a decision.

Article 213:

The procedures and provisions set forth in the law shall be applicable in respect of filing a plea for challenge and a decision in respect thereof.

In examining a plea for challenge, a judge shall not be cross-examined nor asked to take the oath.

CHAPTER FIVE
HEARING THE CASE AND PROCEEDINGS AT THE HEARING

Article 214:

The hearing shall be held in public but the Court may for purposes of compliance with public order or for preservation of public morals order that the entire case or part thereof be heard behind closed doors or decide to bar certain groups from attendance thereof.

Article 215:

A Public Prosecution member shall attend hearings of the criminal courts and the Court shall hear his statements and decide in respect of his pleas.

Article 216:

A lawyer shall appear in court with every accused. An appointed lawyer shall notify the Court of his name before the hearing fixed for examining the case at least four days before the date of such hearing.

If the Court finds that an accused in a felony has not appointed an attorney to defend him, it shall appoint an attorney for him.

Article 217:

Apart from cases of excuse or objection which is proved to be valid, the lawyer whether he is appointed by the Court or instructed by the accused shall appear for defending the accused at the hearing or shall nominate another to act on his behalf, otherwise the Court shall pass a verdict for payment of a penalty not exceeding BD100 without prejudice to disciplinary accountability, if necessary.

The Court shall be empowered to exempt him from payment of the fine if it is proved thereto that it was impossible for him to appear at the hearing personally or to nominate another to act on his behalf.

Article 218:

The accused shall appear at the hearing without being chained and shall be subject to the necessary inspection and observation.

He shall not be removed from the hearing in the course of examining the case unless he causes disturbance necessitating such action. In this case, the proceedings shall continue until they are pursued in his presence. The Court shall inform him of the actions taken in his absence.

Article 219:

The Court shall, in the felonies and misdemeanours that are punishable by imprisonment, order the arrest of the accused and bringing him. It shall be empowered to order that he shall be remanded in custody and to release on bail or without bail an accused that is remanded in custody.

Article 220:

Proceedings at the hearing shall start by calling the accused and witnesses. The accused shall be asked to give his name, surname, age, occupation, nationality, residence address and place of birth. The charge shall be read over as indicated in the summons or reference order, as the case may be, then the Public Prosecution and the plaintiff who claims civil rights, if any, shall make their claims.

Then, the accused shall be asked whether he admits his commission of the offence that he is accused of. If he admits having committed the offence, the Court shall be satisfied with his admission and shall sentence him without hearing the witnesses unless the crime is punishable by death in which case the Court shall complete its investigation. Later, it shall hear the witnesses' testimony and the latter shall be cross-examined by the Public Prosecution first, then by the victim, by the plaintiff who claims civil rights, by the accused and subsequently by the officer in charge of civil rights.

The Public Prosecution, victim and plaintiff who claims civil rights shall be empowered to cross-examine the aforesaid witnesses to clarify the facts for which they have given their testimonies in their answers.

Article 221:

Upon hearing the testimony of the witnesses for the prosecution, the defence witnesses shall be heard. They shall first be cross-examined by the accused, by the officer in charge of civil rights, by the Public Prosecution, by the victim and by the plaintiff who claims civil rights. The accused and the officer in charge of civil rights shall ask the aforesaid witnesses for the second time to clarify the facts for which they gave their testimonies.

Article 222:

Each of the litigants has the right to plead for rehearing the witnesses to clarify or confirm the facts for which they have already testified or to seek the hearing of other witnesses for this purpose.

Article 223:

The Court shall be empowered at any stage of the proceedings ask the witnesses any question it deems necessary to reveal the truth or to grant permission to the litigants for this purpose.

In addition, it shall prevent anyone from asking questions to a witness if they are not relevant to the case or if they are inadmissible.

It shall have the duty to protect the witness from any implicit or explicit statement and every reference that is likely to confuse his thoughts or intimidate him.

It shall be empowered to refrain from hearing witnesses about facts which it feels are adequately clear.

Article 224:

An accused shall not be questioned unless he agrees to do so. If there appear during the pleadings and discussion certain facts for which it is necessary to provide clarifications in respect thereof by the accused to reveal the truth, the judge shall draw his attention thereto and shall permit him to provide such clarifications.

If the accused refuses to answer or where his statements in the hearing were contrary to his statements in the minutes of evidence collection or investigation, the Court may order reading out his earlier statements.

Article 225:

Upon hearing the testimonies of the prosecution and defence witnesses, the Public Prosecution, accused and each of the other litigants may address the Court, provided that the accused shall be the last one who addresses the Court.

The Court shall be empowered to stop the accused and all the litigants and their attorneys from continuing the defence pleadings if they diverge from the issue of the case or make repeated statements. Then, the Court shall decide to close the door for hearing the defence pleadings and shall hand down its judgement after consultation.

Article 226:

Minutes of the trial shall be drawn up and every page shall be signed by the Court President and clerk no later than the following day.

The minutes shall contain details of the date of the hearing, whether the hearing is held in public or behind closed doors, names of the judges, clerk and Public Prosecution member present at the hearing, litigants' names, their attorneys, witnesses' testimonies and litigants' statements. Reference shall be made to the documents read out, all the procedures that have taken place, the claims filed in the course of proceedings, rulings in respect of secondary matters and the texts of verdicts that were handed down as well as all the happenings during the hearing.

CHAPTER SIX
WITNESSES AND OTHER EVIDENCE

Article 227:

Witnesses shall be instructed to appear at the request of litigants in the manner outlined in the Civil and Commercial Procedures Act 24 hours before the hearing except in the case of being caught in the act in which case they may be instructed

to appear at any time even verbally by a summary arrest officer. A witness may appear at the hearing without service of the summons if requested by the litigants.

In the course of hearing the case, the Court shall be empowered to summon and hear the statements of any person even by the issue of an arrest warrant and bringing him to court, if necessary. It shall have the power to order him to appear at another meeting.

Meanwhile, the Court shall be empowered to hear the testimony of any person who appears of his own initiative to provide information in respect of the case.

Article 228:

The witnesses shall be called by their names and those who are present shall be kept in the room designated for them which they shall only leave individually to give testimony before the Court. Anyone whose testimony is heard shall remain in the courtroom until the end of proceedings unless the Court sanctions his departure.

It may be necessary to order the exit of a witness in the course of hearing another and it shall be admissible for witnesses to confront each other.

Article 229:

If a witness fails to appear in court upon instructing him to appear, he may be sentenced after hearing the statements of the Public Prosecution to pay a fine not exceeding BD5 in civil wrongs, BD50 in misdemeanours and BD100 in felonies.

If the Court feels that his testimony is necessary, it may postpone the proceedings to re-instruct him to appear in Court. It shall be empowered to order his arrest and to bring him to the Court.

Article 230:

If a witness appears upon instructing him for the second time to appear or if he appears of his own accord and gives acceptable excuses, he may be exempted from payment of the fine after hearing the Public Prosecution's statements.

If the witness fails to appear on the second occasion, he may be sentenced to pay a fine not exceeding double the maximum amount indicated in the preceding Article; and the Court shall be empowered to order his arrest and appearance at the same hearing or at a hearing to which the proceedings shall be adjourned.

Article 231:

If the witness gives acceptable excuses justifying his inability to appear, the Court shall be empowered to call at him to hear his testimony after giving notice to the Public Prosecution and the remaining litigants. The litigants shall be empowered to appear in person or by their attorneys and to cross-examine the witness by asking the questions they feel are necessary to be asked.

If it is found by the Court upon calling at the witness the lack of truth in the excuse given, it may order his imprisonment for a period not exceeding 3 months and a fine not exceeding BD200.

Article 232:

If the witness fails to appear before the Court until handing down the judgement in the case, he may contest the prison sentence or the fine by the usual methods.

Article 233:

If the witness refuses to take the oath or give testimony in the cases other than these allowed by the law, he shall be sentenced in respect of civil wrongs for imprisonment for a period not exceeding 15 days or a fine not exceeding BD10 and in misdemeanours and felonies for imprisonment for a period not exceeding 3 months or a fine not exceeding BD100.

If the witness changes his mind about his refusal before closing the door for filing pleadings, he shall be exempted from the penalty handed down upon him wholly or partially.

Article 234:

The provisions of Articles 88, 116 (2), from Article 117 to 122 and Article 127 of this Law shall be applicable with respect to witnesses.

Article 235:

The Court shall be empowered to decide to read out the testimony given in the preliminary investigation or the statements made in the minutes of the collection of evidence or before the expert if it is not feasible to hear the witness for any reasons or if so accepted by the accused or his attorney.

Article 236:

If the witness states that he no longer remembers one of the facts, the part related to this fact may be read out from the testimony given in the course of the investigation or from his statements in the minutes of the collection of evidence.

The same shall be applicable if the witness' testimony given at the hearing conflicts with his previous testimony or statements.

Article 237:

The Court shall be empowered to order, even though of its own accord, in the course of hearing the case for provision of any evidence it deems necessary for revealing the truth.

Article 238:

The Court shall be empowered of its own accord or at the request of litigants to appoint an expert or more in respect of the case. If the situation warrants, it shall nominate a committee of experts who shall be of odd number.

Article 239:

The Court shall be empowered of its own accord or at the request of litigants to order that the summonses be served upon the experts to submit a clarification at the hearing about the reports submitted by them in the investigation or before the Court.

Article 240:

If it is not feasible to investigate an evidence before the Court, it may travel for the investigation thereof to designate one of its members to undertake this duty.

CHAPTER SEVEN

SECONDARY FORGERY CASE

Article 241:

The Public Prosecution and all the litigants in any state of the case shall be entitled to challenge as a forgery with respect to any document submitted in the case.

Article 242:

The challenge shall be made by lodging a report with the Clerks Department of the Court before whom the case is being heard and such report shall specify the particular document contested as being a forgery and the evidence confirming that it is forged.

Article 243:

If the Court hearing the case feels that there is ground for proceeding with an investigation of the forgery claim, it shall refer the documents to the Public Prosecution.

It shall be empowered to suspend the proceedings pending the resolution of the forgery claim by the competent authority if the resolution of the case being heard is dependent upon the contested document.

Article 244:

In case the Prosecution turns down the forgery claim, a ruling shall be given in the judgement or verdict passed that there is no ground of forgery compelling the party claiming the forgery to pay a BD200 fine.

Article 245:

If a ruling is passed confirming that an official document is wholly or partially forged, the Court that has delivered the forgery ruling shall order its cancellation or correction, as the case may be, and a statement to this effect shall be drawn up according to which an indication shall be made on the relevant document.

CHAPTER EIGHT
ACCUSED PERSONS WITH MENTAL AND PSYCHIATRIC DISEASES

Article 246:

If the situation warrants an examination of the accused's mental or psychiatric condition, the Lower Court judge may at the request of the Public Prosecution or the Court hearing the case, as the case may be, shall order that the accused be kept under observation - if he is remanded in custody - in a medical institution intended for this purpose for a period or periods that shall not be in total more than 45 days upon hearing the pleadings of the Public Prosecution and the accused's attorney, if he has one.

If this period expires, the matter shall be referred to the competent court to decide what it deems fit according to Article 148. If the accused is not remanded in custody, he may be ordered to be kept under observation in any other place.

Article 247:

If it is proved that the accused is unable to defend himself because of infirmity, being of unsound mind or suffering from a severe mental or psychological ailment that occurred following the commission of the crime, the filing of the case against him or his trial shall be suspended until he regains his sound mind.

In such case, the Lower Court judge may at the request of the Public Prosecution or the Court hearing the case, if the occurrence is a felony or misdemeanour punishable by a prison sentence, issue an order for keeping the accused in a medical institution intended for this purpose until it is decided to release him.

Article 248:

The suspension of the case shall not bar taking the investigation procedures deemed urgent or necessary.

Article 249:

In the case provided for in Articles 246 and 247, the period spent by the accused under observation or detention shall be deducted from the sentence period adjudged against him.

Article 250:

If an order is issued that there is no ground for bringing a legal action or if a judgement is passed for acquittal of the accused because of a mental or psychiatric illness, the authority that has issued the order or handed down the judgement if the occurrence constitutes a felony or misdemeanour punishable by a prison sentence shall order the detention of the accused in a medial institution until the judge executing the penalty orders the termination of his detention after reviewing the report of the medical institution's director and hearing the statements of the Public Prosecution and take the action he deems necessary to ascertain that the accused has regained his sound mind.

CHAPTER NINE
PROTECTION OF MINOR VICTIMS OR PERSONS
WITH MENTAL DISABILITY

Article 251:

It shall be permissible in every felony or misdemeanour committed against a minor who is not yet fifteen years of age to order that he be kept in the custody of a trusted person to undertake his observation and to look after him or to a recognized charity pending the resolution of the case.

An order to this effect shall be issued by the Public Prosecution or by the Court that hears the case, as the case may be.

If the felony or misdemeanour is committed against a person of unsound mind, it shall be permitted to issue an order for his temporary detention in a sanitarium or a mental hospital or his hand-over to a trusted person, as the case may be.

CHAPTER TEN
JUDGEMENT

Article 252:

Unless there is a provision in the Law to the contrary, the Court shall not adhere to the records in the evidence collection minutes or in the preliminary investigation.

The minutes drawn up in respect of civil wrongs shall be deemed as proof in respect of the facts confirmed by the concerned officers until there is proof denying the truth thereof.

Article 253:

The judge shall deliver a judgement in respect of the case according to his own conviction with complete freedom. However, he shall not base his judgement upon any evidence that has not been brought before him at the hearing. Every statement that has been proved to have been given by an accused or a witness under coercion or a threat thereof shall be ignored and shall not be relied upon.

Article 254:

A judgement shall be passed at a public hearing even though the case has been heard behind closed doors and it shall be recorded in the minutes of the hearing and shall be signed by the Court President and clerk.

The Court shall be empowered to take the necessary measure for preventing the accused from leaving the courtroom before delivering the judgement or for ensuring his attendance of the hearing to which the judgement's delivery will be postponed even though this could be by issuing an order for his imprisonment if the event justifies being remanded in custody.

Article 255:

If the fact is not proved or is not punishable by law, the Court shall pass a judgement for acquittal of the accused who shall be released if he is imprisoned solely for this fact.

Article 256:

If the fact is proved and constitutes a punishable act, the Court shall inflict upon him the penalty stipulated under the law.

Article 257:

If it is found by the Court that hears the case that it has no jurisdiction to hear the said case, it shall rule that it has no jurisdiction and shall refer the same to the court that has jurisdiction. The Court to whom the case has been referred shall pass a judgement in respect thereof unless the judgement of no jurisdiction is not rescinded by the Court of Appeal.

Article 258:

The accused shall not be punished for a fact other than that indicated in the reference order or the appearance warrant. In addition, no judgement shall be passed except upon the accused against whom the case is filed.

Article 259:

In its judgement, the Court shall be empowered to change the legal description of the fact for which the accused is liable. It shall be empowered to amend the charge by the addition of aggravating circumstances that are proved by the investigation or pleadings at the hearing even though it is not mentioned in the reference order or appearance warrant.

The Court shall draw the attention of the accused to such change and shall give him a period of time to prepare his defence on the basis of the new legal description or amendment, if he so requests.

It shall also be authorized to correct every material error and remedy every omission in the description of the charge stated in the reference order or appearance warrant.

Article 260:

The Court shall not pass a death sentence except by the unanimous vote of its members.

It shall confirm in the judgement that it is handed down by a unanimous vote.

Article 261:

A judgement shall contain the reasons upon which it is based.

Every conviction judgement shall contain the fact which is punishable, the circumstances in which the event took place and a reference to the provision of the law according to which the said judgement is passed.

If the judgement is passed to take precautionary measures, it shall contain the elements of the events necessitating them.

Article 262:

The Court shall hand down a ruling in respect of the claims filed by the litigants and shall state the reasons upon which the said ruling is based.

Article 263:

The judgement shall be written with its reasons in full within 8 days from the date of handing it down as far as possible and shall be signed by the Court President and Clerk. Where the President is unable to sign it, it shall be signed by a judge who has taken part in delivering it.

If the judgement is handed down by a lower court and if the judge who has handed it down signed it personally, the High Court President may personally sign the original copy of the judgement or shall designate a judge to sign it in pursuance of such reasons, If the judge has not signed the reasons, the judgement shall be deemed null and void.

Signing the judgement within the prescribed eight days shall not be delayed except for strong reasons.

At any rate, a judgement shall be rendered null and void except for its acquittal ruling if three days elapse without lodging the signed judgement.

The Court Clerks Department shall issue the concerned party, at his request, with a certificate confirming that the signed judgement was not handed down within the aforesaid time limit.

Article 264:

Every judgement of conviction delivered in respect of a felony in the accused's absence shall inevitably necessitate depriving him of disposing or managing his properties or filing any legal action in his name and every disposal or obligation undertaken by the convicted person shall be null and void.

The High Civil Court shall, upon the request of the Public Prosecution and every interested party, appoint a receiver to manage the property of the convicted litigant. The Court shall be empowered to oblige the person so appointed to provide a guarantee and shall report thereto in respect of all matters related to receivership and submission of an account.

Article 265:

The receivership shall be terminated upon handing down a judgement in presence in the criminal case or upon the accused's death, either actually or virtually as prescribed in respect of personal status matters. Upon the termination of the receivership, the receiver shall submit an account for his acts of management.

CHAPTER ELEVEN
LEGAL COSTS

Article 266:

Every accused who is convicted of a crime may be compelled to pay all or part of the legal costs.

Article 267:

If an appeal award is handed down for upholding the judgement appealed against, the applicant may be compelled to pay all or part of the legal costs.

Article 268:

If several accuseds have been subject to a single judgement for a single crime, the legal costs shall be equally collected from them unless a ruling is delivered for distribution thereof in a different manner or shall be jointly compelled to pay the same.

Article 269:

If the accused is not rendered liable to pay the legal costs, it shall be imperative to specify in the judgement the amount he shall be bound to pay.

Article 270:

If the accused is convicted of the crime, he shall be obliged for the benefit of the plaintiff who claims civil rights to pay the legal costs incurred. However, the Court

shall be empowered to reduce the amount thereof if it feels that some of the aforesaid costs has been unnecessary.

However, if the plaintiff who claims civil rights is not awarded compensations, he shall be liable to pay the legal costs required for his involvement in the case. However, if he is awarded some compensations that he has claimed, such costs shall be assessed at a percentage to be indicated in the judgement.

Article 271:

A person who is liable for civil rights shall be treated as the accused with respect to the legal costs of the civil case.

Article 272:

If the judgement obliges the accused to pay all or some of the legal costs of the criminal case, the person liable for the civil rights shall be compelled to pay the awarded amount. In such case, the legal costs determined shall be jointly collected from both of them.

CHAPTER TWELVE
PENAL ORDER

Article 273:

The Public Prosecution shall be empowered in respect of civil wrongs and misdemeanours for which the Law does not provide for a penalty of imprisonment or a fine whose minimum exceeds BD100 if it feels that it is sufficient for the crime in the light of its circumstances to be punishable by a fine not exceeding BD100 in addition to the supplementary and joint penalties, the amount to be reimbursed and the legal costs, to plead with the Judge of the Lower Court that has jurisdiction to hear the case to inflict a penalty upon the accused by an order issued on the basis of a petition, which relies upon minutes of the collection of evidence or other kinds of evidence without conducting an investigation or hearing any pleadings.

Article 274:

For a penal order, a ruling shall only be limited to the payment of a fine, supplementary and joint penalties, amounts to be reimbursed and the legal costs. In misdemeanours, a fine shall not exceed BD100. A judgement may be passed for acquittal, dismissal of the civil action or a stay of execution.

Article 275:

The judge shall reject the issue of an order if he finds:

- a) that a judgement cannot be passed in respect of the case as it stands, without an investigation or pleadings.

- b) that owing to the accused's precedents or owing to any other reason, the fact requires inflicting a penalty that is severer than the fine for which an order may be passed.

The judge shall issue his decision of rejection by an indication upon the written application filed with him. Such decision shall not be contested.

As a consequence of the rejection decision, the case shall be pursued in the normal manner.

Article 276:

In addition to the ruling, the order shall contain such details as the accused's name, the fact for which he is punished and the applicable article of the law.

The order shall be served upon the accused and the plaintiff who claims civil rights using the form to be prescribed by the Minister of Justice. The service of the summons may be undertaken by a member of the public authority.

Article 277:

The Public Prosecution and the remaining litigants shall be entitled to challenge the penal order by virtue of a report to be filed with the Court Clerks Department within three days from the date of issuing the order in respect of the Public Prosecution and from the date of service of notice thereof to the remaining litigants. Such report shall have the effect of the lapse of the order and considering it null and void.

The clerk shall fix the date on which the case shall be heard before the Court subject to the time limits set forth in Article 195 (1) of this Law.

Notice shall be given to the person who contests and this shall be deemed as a summons thereto. The remaining litigants and witnesses shall be instructed to appear on such date.

If there is no challenge to the order in the aforesaid manner, it shall be deemed final and enforceable.

Article 278:

If the person who opposes the penal order appears at the hearing fixed for this purpose, the case shall be heard towards him in accordance with the normal procedures. The Court shall be empowered to pass a judgement to the extent of the prescribed penalty by inflicting a harsher penalty than the fine imposed by the penal order.

However, if he does not appear in court, the order shall regain its force and shall become final and enforceable.

Article 279:

If there are several defendants against whom a criminal order is issued and they decide not to accept it and if some of them appear on the date fixed for hearing the case but others do not appear, the case shall be heard in the normal manner in respect of those who have appeared and the order shall become final in respect of those who have failed to appear.

Article 280:

If the accused claims upon execution that his right to challenge the order is still valid owing to failure to give him notice of the order, for some other reason, an emergency has prevented him from appearing at the hearing fixed for the case or if there is some other impediment preventing the execution, an account of the impediment shall be submitted to the execution judge to rule in respect thereof without pleadings unless he finds that it is not possible to resolve it in its current state or without an investigation or pleadings and shall fix a date for examining the impediment in accordance with the normal procedures. The accused and the remaining litigants shall be instructed to appear on the aforesaid date. If the procedural impediment is admitted, the trial shall take place according to Article 278 of this Law.

CHAPTER THIRTEEN
ASPECTS OF INVALIDITY

Article 281:

Invalidity shall arise from failure to comply with the provisions of the law relating to any fundamental action.

Article 282:

If the invalidity is attributed to non-compliance with the provisions of the law related to formation of the Court, its competence to hand down a judgement in the case, its jurisdiction in respect of the type of crime referred thereto or such other consideration related to the public order, it may be invoked in any stage of the case and shall be awarded even without an application to this effect.

Article 283:

In cases other than these referred to in the preceding Article, the right to plead on the ground of invalidity of procedures of the collection of evidence, preliminary investigation or investigation at the hearing in respect of felonies and misdemeanours shall be forfeited if the accused has an attorney and the action took place in his presence without any objection from him.

In civil wrongs, such action shall be deemed valid if it is not challenged by the accused and no attorney appears with him at the hearing.

Further, the right to plead on the ground of invalidity shall be forfeited towards the Public Prosecution if it fails to invoke it for the time being.

Article 284:

If the accused appears at the hearing in person or by an attorney acting for him, he shall not be entitled to invoke the invalidity of the summons to appear in court but shall be entitled to request the correction of the summons or completing any missing details therein and shall be given a grace period for preparing his defence before starting to hear the case and the Court shall meet his request.

Article 285:

The judge may even of his own initiative correct every action that he finds to be invalid.

Article 286:

If it is determined that any action is invalid, such invalidity shall apply to all the effects directly which shall be reinstated where possible.

Article 287:

If a material error occurs in a judgement or order but no validity arises therefrom, the panel of judges that handed down the judgement or order shall correct the error of its own initiative or at the request of one of the litigants after instructing them to appear in court.

The correction shall take place after hearing the litigants' statements and an indication thereof shall be made in the margin of the said judgement or order.

This action shall be followed in correcting the accused's name and surname.

The decision adopted for correction may be challenged if the panel of judges that has taken it exceeds its powers of correction by following the permitted methods of challenge of the judgement or order subject to the correction.

As for the decision adopted for rejecting the correction, it shall not be challenged independently.

BOOK FOUR
METHODS OF CONTESTING JUDGEMENTS

PART ONE
CHALLENGES

Article 288:

Challenges of judgements in absentia shall be admitted from both the accused and the person liable for civil rights within the seven days following the notice given to

him in respect of the judgement in absentia. Such notice may contain a summary of the judgement in the form to be determined by the Minister of Justice.

However, if the notice with respect to the judgement has not been given to the accused personally, the time limit for the challenge in respect of the penalty handed down shall commence from the date of his knowledge of the notice given, otherwise the challenge shall be permitted until the legal action is forfeited with the lapse of time.

Article 289:

No challenge by the plaintiff who claims civil rights shall be admitted.

Article 290:

A challenge shall take place by virtue of a report to be filed with the Court Clerks Department of the Court that has handed down the judgement in which shall be confirmed the date of the hearing fixed for examining the case and this shall be considered as a notice thereto even though the report is filed by an attorney.

The challenger shall attend the hearing fixed for hearing the challenge and the Public Prosecution shall instruct the remaining litigants in the case to appear and the witnesses shall be given notice to attend the aforesaid hearing.

Article 291:

The challenge shall have the effect of restoring the case towards the challenger to the Court that has handed down the judgement in absentia.

It shall not be permitted in any case for the challenger to suffer damages as a result of the challenge filed by him.

Nevertheless, if the challenger fails to attend any of the hearings fixed for examining his challenge, the Court shall pass a judgement considering his challenge null and void.

A challenge by a challenger in respect of a judgement handed down in his absence shall not be admitted.

PART TWO
OF APPEALS

Article 292:

Both the accused and Public Prosecution may file an appeal of the judgements handed down in respect of a criminal case from the Courts of first instance.

Appeals may be filed in respect of judgements handed down in respect of a civil case by the plaintiff who claims civil rights and by the person liable therefore or

the accused in connection with the civil rights alone if the claimed compensations exceed the level of the Court's final judgement.

Article 293:

Before deciding the subject-matter of the case, no appeals of preliminary and initial verdicts handed down in respect of secondary matters shall be heard unless they result in barring the examination of the case.

An appeal of a judgement handed down in respect of the subject-matter shall inevitably result in appealing against such verdicts. However, judgements given confirming non-jurisdiction may be appealed against.

Article 294:

An appeal shall be filed by submitting a report to the Clerks Department of the court that handed down the judgement or before the prison officer within 15 days from the date of handing down the judgement in presence, the judgement given in respect of an objection, from the expiry date of the time limit prescribed for contesting a judgement in absentia or from the date of the judgement considering it null and void.

For judgements passed in the accused's absence and considered delivered in presence according to Articles 201, 202 and 203, the time limits for their appeal shall commence from the date of giving him notice thereof.

Article 295:

Notwithstanding the provisions of the preceding Article, the Court that hears an appeal may agree for an acceptable excuse to by-pass the time limits allowed for the appeal.

The Public Prosecutor shall be empowered to file an appeal within 30 days from the date of handing down the judgement and shall decide to file the appeal with the Clerks Department of the court competent to hear the appeal.

Article 296:

The Court Clerks Department shall fix for the appellant in the appeal report the date of the hearing fixed for hearing it. This shall be deemed as a summon thereto even if the report comes from an attorney. Such date shall not be before the lapse of three whole days. The Public Prosecution shall instruct the other litigants to appear at the fixed date of the hearing.

Article 297:

If a litigant files an appeal within the prescribed 15-day period, the time limit of the appeal shall be extended for the remaining litigants who have the right to appeal by five days from the date of expiry of the aforesaid 15-day period.

Article 298:

An appeal shall be filed with the competent Court of Appeal and a hearing shall be fixed for examining it within a maximum of 30 days from the date of the report in respect thereof.

If the accused is held in custody, an early hearing shall be fixed for the appeal filed by him and such appeal shall be heard as quickly as possible.

Article 299:

A member of the Appeal Department shall prepare a report signed by him. Such report shall contain a summary of the facts of the Case, its circumstances, prosecution and defence evidence, all secondary issues submitted and the procedures that have been taken.

Following the hearing of this report and before expressing an opinion in respect of the case by the person who has prepared the report or the remaining members, the appellant's statements shall be heard as well as the aspects relied upon in his defence, then he will be followed by all the litigants. The accused shall be the last person to testify and then the Court shall hand down its judgement upon examining the documents.

Article 300:

An appeal filed by an accused convicted of an enforceable penalty depriving him of liberty shall be forfeited unless he proceeds for enforcing such penalty before the hearing.

Article 301:

The Appeal Court shall hear the witnesses who should have been heard before the court of first instance and shall be empowered to designate one of its members for this purpose. It shall also fulfill every other deficiency in the investigation procedures.

In all cases, it shall be justified to order taking the necessary action for fulfilling the investigation requirements or the hearing of witnesses.

No witness shall be instructed to appear unless an order is issued by the Court in this respect.

Article 302:

If the appeal is filed by the Public Prosecution, the Court shall be empowered to uphold the judgement, revoke or amend the said judgement whether against the accused or in his favour.

A severer penalty shall not be passed nor shall a judgement of acquittal be revoked except by the unanimous vote of the Court judges.

However, if the appeal is filed by a party other than the Public Prosecution, the Court shall only uphold the judgement or amend it in favour of the appellant.

If the lapse of the appeal is awarded or if it is not admitted or rendered inadmissible or dismissed, the appellant shall be ordered to pay a fine of no less than BD30.

Article 303:

Where a judgement awarding a compensation is revoked and where it has been initially executed, such compensation shall be refunded pursuant to the revocation judgement.

Article 304:

Judgements passed in absentia and challenging them before the Court of Appeal shall be subject to the procedures followed before the Court of First Instance.

Article 305:

If the Court of First Instance passes a judgement in respect of the subject-matter and if the Court of Appeal feels that there is an invalidity in the procedures or in the judgement, it shall correct such invalidity and shall hand down a new judgement in the case.

However, if it passes a judgement that it has no jurisdiction or by the admission of a new secondary plea resulting in barring it from hearing the case and where the Court of Appeal rules for revoking such judgement and jurisdiction of the court or dismissal of the secondary plea and hearing the case, it shall return the case to the Court of First Instance to pass a judgement in respect of the subject-matter thereof.

PART THREE
CHALLENGE BY CASSATION AND PETITION
FOR REHEARING

Article 306:

The provisions of the Court of Cassation Law promulgated by Legislative Decree No.8 of the Year 1989 shall be applicable in respect challenge by cassation and petition for rehearing of criminal matters.

PART FOUR
FORCE OF FINAL JUDGEMENTS

Article 307:

A criminal case shall lapse towards the accused and the facts attributed to him by handing down a final judgement by acquittal or conviction.

If a judgement is delivered in respect of the subject-matter of the criminal case, it shall not be reheard except by challenging such judgement by the methods prescribed by law.

Article 308:

A criminal case shall not be reheard after having passed a final judgement in respect thereof when new evidence emerges, new circumstances arise or upon the change of the legal description of the crime.

Article 309:

A final criminal judgement handed down by the criminal court in respect of the subject-matter of a criminal case by acquittal or conviction shall have the force that shall be recognized by the civil courts in the cases which have not yet been settled by a final judgement related to commission of the crime, its legal description and attributing it to its perpetrator. A judgement of acquittal shall have such force whether by lack of indictment or lack of evidence. It shall not have such force if it is based on the fact that the occurrence is not punishable by law.

Article 310:

Judgements handed down by the civil courts shall not have a legal force before the criminal courts with respect to the commission of the crime and attributing it to its perpetrators.

Article 311:

Judgements handed down by the personal status courts, to the extent of their jurisdiction, shall have a legal force towards the criminal courts in the matters that are dependent upon a ruling in the criminal case.

BOOK FIVE
EXECUTION

PART ONE
PENALTY EXECUTION JUDGE

Article 312:

The manner of execution of a penalty aims at reforming the perpetrator and qualifying him to achieve the ethical and social aims intended by the penalty.

Humanitarian principles and respect for human dignity shall be ensured in the execution of penalties resulting in deprivation of liberty.

Article 313:

Execution of penalties and precautionary measures shall take place under the supervision of the penalty execution judge who shall be nominated from the judges of the High Criminal Court.

Article 314:

The penalty execution judge shall have the following powers:

- (a) Settlement of all disputes related to execution of penalties and precautionary measures and issue all the related decisions and orders.
- (b) Handing down judgements for revocation of stay of execution of judgements in the cases referred to in Article 84 of the Penal Code.
- (c) Ordering conditional release and revoking it.
- (d) Deciding upon execution wrangles.
- (e) Deciding upon petitions of reinstatement.
- (f) All other powers provided for in the law.

Reports related to execution of precautionary measures shall be submitted to the penalty execution judge. He shall visit prisons and places of execution of measures situated in his jurisdiction at least once every three months.

Article 315:

The procedures applicable before the High Criminal Court shall be followed before the penalty execution judge unless the law otherwise provides.

However, the presence of the Public Prosecution shall not be necessary except upon examining petitions of reinstatement and wrangles in execution. Apart from these two events, the judge may hold hearings in a prison or the places intended for the execution of precautionary measures.

Article 316:

For every convicted person, a file shall be maintained in which shall be kept all the documents related to the execution of the judgement and everything that is issued in respect of such execution such as rulings, decisions and orders.

Such files shall be referred to the penalty execution judge before taking any of the measures provided for in Article 314. The judge shall be empowered to combine the case file if this is deemed necessary.

Article 317:

Judgements, decisions and orders issued by the penalty execution judge shall be immediately enforceable even though they are appealed before the High Criminal Court of Appeal.

PART TWO
ENFORCEABLE JUDGEMENTS

Article 318:

Penalties or precautionary measures prescribed by law shall not be enforced in respect of any crime or offence except by virtue of a criminal judgement or order issued by a competent court.

Article 319:

Judgements handed down by criminal courts shall not be executed unless they become final unless the law otherwise provides.

Article 320:

Execution of judgements given in respect of a criminal case shall take place at the request of the Public Prosecution as prescribed under this Law.

Article 321:

The Public Prosecution shall execute enforceable judgements handed down in respect of a criminal case and shall be empowered, where necessary, to seek the direct assistance of military force.

Article 322:

Judgements handed down for payment of a fine and costs shall be immediately enforceable even if they are appealed as well as the judgements handed down in respect of a felony or imprisonment in a theft or against a returning defendant or who has no firm residence address in the State of Bahrain.

The same shall be applicable in other cases of the judgement handed down for imprisonment unless provides a guarantee that he will not, if the judgement is not appealed, escape the execution of the judgement upon the lapse of the appeal time limits; and where it is appealed he will attend the hearing and does not escape the execution of the judgement. Every judgement delivered for imprisonment in such event shall indicate the amount to be provided for bail. If the accused is remanded in custody, the court may order the temporary execution of the judgement.

Article 323:

Penalties that involve the limitation of liberty handed down together with a prison sentence or detention shall be executed in accordance with the foregoing Article.

Article 324:

In cases other than the above, a stay of execution shall take place during the time limit for the appeal indicated in Article 294 and during the hearing of the appeal filed during the aforesaid time limit.

Article 325:

An accused who is remanded in custody shall be released immediately if he receives an acquittal judgement or an action that does not limit his liberty or if the judgement includes an order for stay of execution of the penalty or if the accused spends in custody the period of the penalty handed down against him.

Article 326:

A judgement in absentia may be executed if it is not challenged by the convicted party within the time limit provided for in the first paragraph of Article 288.

Upon handing down its judgement providing assurances of civil rights to the plaintiff, the Court shall be empowered to order temporary execution conditional upon payment of a bail even with a challenge or filing an appeal in respect of all or some of the adjudged amount and shall be empowered to exempt the successful litigant from payment of a bail.

Article 327:

Upon passing a judgement in absentia or a prison sentence for a period of one month or more, the Court shall be empowered to order, at the request of the Public Prosecution, the arrest and detention of the accused if he does not have a specific residential address in the State of Bahrain or if an order is issued against him for his detention in custody.

The accused shall be imprisoned following his arrest for execution of such order until a judgement is handed down in respect of the challenge filed by him or if the prescribed time limit lapses. He shall not under any circumstance remain in detention for more than the prison sentence passed against him unless the Court with whom the challenge is filed decides to release him prior to delivering its ruling.

PART THREE
EXECUTION OF THE DEATH PENALTY

Article 328:

Once the death sentence becomes final, the documents of the case shall be immediately referred to the King by the Minister of Justice.

A death sentence shall not be executed except with the King's approval.

Article 329:

A convict to be executed shall be kept in prison upon an order to be issued by the Public Prosecution using the form to be prescribed by the Minister of Justice pending the execution of the judgement against him.

Article 330:

Relatives of a convict to be executed may meet him on the date fixed for the execution, provided that the meeting shall be at a remote location from the place of execution.

If the convict's religion imposes upon him to make a commission or to perform some other religious ritual before death, the necessary facilities shall be given to enable a clergyman to meet him unless such action is not feasible.

Article 331:

The death penalty shall be executed in prison or in some other place that is not exposed upon the written request of the Public Prosecution to the Prison Director ensuring the fulfillment of the procedures set forth in Article 328.

Article 332:

Execution of the death sentence shall take place in the presence of the penalty execution judge, a member of the Public Prosecution, prison officer, prison physician or any other physician designated by the Public Prosecution and the prison preacher. Apart from the above, no one shall be allowed to attend the execution except by a special permission from the Public Prosecutor. An attorney defending the convict shall always be permitted to attend if so requested. The death sentence's text and the offence for which the convict is to be executed shall be read out at the place of execution in the presence of the persons in attendance. If the convict wishes to make a statement, the penalty execution judge shall draw up a statement to this effect.

Upon completion of the execution, the penalty execution judge shall draw up a statement to this effect in which shall be recorded the physician's testimony with respect to death and time of its occurrence.

Article 333:

Execution of the death penalty shall not take place on the public holidays related to the convict's religion.

Article 334:

Execution of the death penalty shall not take place against a pregnant woman except three months after she gives birth.

Article 335:

Burying the body of person sentenced to the death penalty shall be borne by the government unless he has next of kin who demand to undertake his burial.

Burial shall take place without holding any ceremony.

PART FOUR
EXECUTION OF PENALTIES DEPRIVING OF LIBERTY

Article 336:

Judgements handed down for penalties depriving of liberty shall be executed in the prisons intended for this purpose by virtue of an order to be issued by the Public Prosecution using the form prescribed by the Minister of Justice.

Article 337:

Every convict who is sentenced for imprisonment for a period not exceeding 3 months shall be entitled to request the execution judge instead of executing the prison sentence to be employed outside the prison as prescribed under Article 371 and the following articles.

Article 338:

The day on which execution begins shall be calculated as part of the sentence's period. Convicts shall be released on the date following the last day of the sentence at the time fixed for releasing prisoners.

Article 339:

If the prison sentence handed down against the accused is twenty four hours, its execution shall be completed on the day following the date of his arrest at the time fixed for releasing prisoners.

Article 340:

The period of the penalty depriving of liberty shall commence from the date of arresting the convict in pursuance of the judgement that must be executed but such period shall be reduced by the time of detention in custody and period of his arrest.

Article 341:

If a judgement is handed down for acquittal of the accused from the crime for which he was detained in custody or if an order is issued that there is no ground to institute a legal action, the period of detention shall be deducted from the period of the sentence passed in respect of another crime that he may have committed or investigated during or prior to his detention in custody.

Article 342:

Deduction of the period of detention in custody and the period of his arrest shall be deducted, where there are several penalties depriving the accused of his liberty, first from the lesser penalty.

Article 343:

If the convict is a pregnant woman who is in her sixth month of pregnancy but sentenced to a penalty depriving her of liberty, execution may be postponed until she gives birth and 40 days elapse after delivery.

If it is decided to proceed with the execution but it appears during execution that she is pregnant, she shall be treated in prison as those who are detained in custody until she serves the period prescribed in the preceding paragraph.

Article 344:

If the person sentenced to a penalty depriving him of liberty is suffering a disease that is a threat in itself or is a threat to his life by reason of execution, execution of the penalty may be postponed.

Article 345:

If the convict who is sentenced to a penalty depriving him of liberty becomes insane, mentally disabled, suffers mental retardation or a serious psychological illness rendering him unable to totally control his own behaviour, execution of the penalty shall be postponed until he recovers. He shall be kept in a sanitarium and the period spent in such sanitarium shall be reduced from the term of his penalty.

Article 346:

If a man and his wife are sentenced to imprisonment for a period not exceeding one year, even though for different crimes and have not been previously imprisoned, execution of the judgement against either may be postponed until the other is released where they care for a child who is not more than 15 full years of age and where they have a known residential address in the State of Bahrain.

Article 347:

The execution judge shall be empowered, at the request of the Public Prosecution or the concerned authorities, to postpone execution of the penalty against the convict in the events referred to in the preceding articles. He shall be empowered to request to make payment of a bail to ensure that he would not evade the execution when the reason for postponement no longer exists and shall determine the bail amount in the postponement order. He may also require for the postponement of the execution to take the necessary precautions to prevent the escape of the convict.

Article 348:

A convicted prisoner shall not be released before serving the period of his sentence except in the cases set forth in this Law.

PART FIVE
CONDITIONAL RELEASE

Article 349:

Every convict sentenced to a penalty depriving of him of liberty may be conditionally released if he has spent in prison three quarters of the term of his penalty where his conduct during his time in prison has inspired confidence that he would improve his behaviour unless his release involves a threat to public security. His prison term shall not be less than 9 months.

Where his penalty is a life sentence, he shall not be released unless he has spent in prison at least 20 years.

A conditional release shall not be granted unless the convict has performed the financial obligations to which he has been sentenced by the Criminal Court unless it is possible for him to satisfy such obligations.

Article 350:

A conditional release shall take place by an order of the Execution Judge at the request of the Penal Institutions Director. The release order shall be notified to the Minister of Justice and Minister of Labour and Social Affairs upon its issue.

Article 351:

If there are several penalties inflicted for crimes committed before the convict's imprisonment, his release shall be dependent upon the terms of such penalties.

However, if the convict commits a crime during his stay in prison, his release shall be on the basis of the remaining period at the time of committing such crime in addition to the term of the penalty for which he is sentenced to serve.

Article 352:

If the convict sentenced to a penalty depriving him of liberty has spent a period of detention in custody that must be reduced from the period of his sentence, his release shall be in the basis of the remaining period to which he is sentenced.

If an amnesty is issued for a reduction of the term of the penalty, the period to be spent in prison shall be calculated on the basis of the reduced penalty.

Article 353:

A conditional release order shall indicate the conditions that the released convict must comply with in terms of his residential address and the manner of earning his living.

Article 354:

A conditional release may be revoked at the request of the Public Prosecution if the released person violates any of the conditions laid down for his release or if he fails to carry out the duties imposed upon him or if he deliberately commits a

felony or misdemeanour that is punishable by imprisonment and shall be returned to prison to spend the remaining time of his penalty from the date of his release. The said request shall contain the reasons justifying such action.

If the Public Prosecution feels that the release must be revoked, it shall be empowered to order the convict's arrest and his imprisonment for a period not less than 7 days, provided that the revocation request shall be submitted to the Execution Judge during such period to issue his order in this respect.

If the release is revoked, the period spent in prison shall be deducted from the term to be executed after cancellation of the release.

Article 355:

If a temporary release is not revoked until the date prescribed for termination of the penalty, the release shall become final.

If the penalty to be inflicted is life imprisonment, the release shall be final five years after the date after the temporary release.

Article 356:

Following the revocation of the release, a prisoner may be released once more if the conditions set forth in this Part are fulfilled. In such case, the period remaining of the penalty after canceling the release shall be deemed as the term of his sentence to be served.

If the penalty to be inflicted is life imprisonment, such release shall only be granted after serving five years.

PART SIX
EXECUTION CONCERNING ADJUDGED AMOUNTS

Article 357:

Upon the settlements of sums of money due to the State in respect of a fine, amounts of reimbursements and compensations and expenses, the Public Prosecution shall prior to execution thereupon serve the summonses upon the convicted litigant to the extent of these amounts unless they are indicated in the judgement.

Article 358:

Amounts due to the State may be collected by the methods prescribed by the Civil and Commercial Procedures Act or by the legally prescribed methods.

Article 359:

If a convicted person fails to pay the amounts due to the State, the Execution Judge shall issue upon the request of the Public Prosecution an order for physical

coercion in accordance with the provisions set forth in Article 363 and the following articles.

Article 360:

If a judgement is handed down for payment of a fine, amounts that must be reimbursed, compensations and expenses and where the convict's property are insufficient to meet all the above, the proceeds acquired shall be divided among the holders of rights in the following order:

- (a) Amounts payable to the State.
- (b) Amounts due to a civil claimant.
- (c) Fine, amounts to be reimbursed to the State and compensations.

Article 361:

If a person is detained in custody and only sentenced to pay a fine, it shall be reduced upon execution by a sum of BD5 for each of the days of the aforesaid detention in custody. If his sentence includes imprisonment and payment of a fine and where the period of his detention in custody exceeds the period of his prison sentence, the amount of the said fine shall be reduced by the aforesaid amount in respect of each of the excess days.

Article 362:

The Execution Judge shall be empowered in exceptional circumstances to grant a convict, at his request and upon seeking the opinion of the Public Prosecution, a grace period for payment of the sums owed to the State or shall permit him to pay them by instalments, provided that the period shall not be more than 2 years. A decision issued for accepting or rejecting the request shall not be contested.

If the convict delays the payment of an instalment, the remaining instalments shall become immediately payable. The Judge may withdraw the order issued by him if he finds such action justifiable.

PART SEVEN
PHYSICAL COERCION

Article 363:

Physical coercion may be used for collection of amounts arising from the crime for which a judgement is passed in favour of the State against the perpetrator of the crime. Such coercion shall take place by imprisonment whose term shall be assessed at the rate of one day for every BD5 or less.

However, in case of civil wrongs, the coercion period shall not be more than one day for the fine and no more than seven days for the expenses, reimbursements and charges.

In felonies and misdemeanours, the coercion period shall not be more than 6 months for the fine and 6 months for the expenses, reimbursements and charges.

Article 364:

Execution by way of physical coercion shall not take place against a convict who is not 15 full years of age at the time of committing the crime nor against a convict sentenced to imprisonment with stay of execution.

Article 365:

The provisions of Articles from 343 to 348 of this Law shall be applicable with respect to execution by physical coercion.

Article 366:

Where there are several judgements that are handed down in respect of civil wrongs, felonies or misdemeanours, execution shall take place in respect of the total of all amounts awarded. In such case, the period of physical coercion shall not be more than double the maximum in felonies and misdemeanours and no more than 21 days in civil wrongs.

However, if the crimes are of different types, the prescribed maximum for each shall be taken into consideration. In all cases, the coercion period shall not be more than one year for fines and one year for expenses, reimbursements and charges.

Article 367:

If the crimes subject to the judgement are of different types, the amounts paid or collected by way of execution against the convict's properties shall be deducted from the amounts awarded in respect of misdemeanours, then felonies and then civil wrongs.

Article 368:

Execution by physical coercion shall take place by an order of the Execution Judge at the request of the Public Prosecution using the form to be prescribed by the Minister of Justice.

Execution shall be commenced at any time upon giving notice to the convict pursuant to Article 357 after having spent all the terms of penalties depriving him of his liberty.

Article 369:

Physical coercion shall be terminated when the amount relevant to the period spent by the convict under coercion in compliance with the preceding Articles equals to the original required amount after deducting the sum actually paid by the convict or collected from him by way of execution against his properties.

Article 370:

The convict shall not be discharged from liability for expenses, disbursements and compensations by execution of physical coercion against him. He shall not be released from liability for the fine except upon payment of BD5 for each day.

Article 371:

A convict may ask the Execution Judge at any time prior to the issue of the physical coercion order for its replacement by manual or industrial labour to be undertaken by him.

Article 372:

A convict shall serve his term of labour free of charge for any government or municipal authority for a period of time that is equal to the period of coercion that must be executed against him. The types of labour to be served by the convict as well as the administrative authorities where such labour is to be served shall be determined by an order to be issued by the concerned Minister.

For the labour he shall be forced to do on a daily basis, consideration shall be given to his ability to complete it within 6 hours according to his physical condition.

Article 373:

A convict who is to be treated according to Article 371 and fails to attend the premises intended for serving labour, absents himself therefrom or does not serve the labour he is required to do on a daily basis without an excuse that the administrative authorities feel is acceptable, shall be sent to prison for execution against him by physical coercion which should have been enforced upon. However, the days he served as expected from him shall be deducted from his sentence.

Execution by physical coercion shall take place against a convict who has opted for serving labour rather than physical coercion if there is no labour that is felt useful from doing it.

Article 374:

There shall be deducted from the amounts due to the State such as fines, reimbursements, compensations and expenses such amounts that are in consideration of the convict's labour at the daily rate of BD5.

PART EIGHT
EXECUTION OF PRECAUTIONARY MEASURES

Article 375:

Without prejudice to the provisions set forth in Legislative Decree No.17 of the Year 1976 with respect to Juveniles, judgements handed down for detention in a labour institution or a medical facility shall be executed by detention in the places

intended for this purpose. Detention of a convict shall take place pursuant to an order to be issued by the Public Prosecution using the form to be prescribed by the Ministry of Justice.

Detention in a medical facility shall be subject to the provision of Article 345.

Detention in a labour institution shall be subject to the provisions of Articles from 343 to 348.

Article 376:

Precautionary measures shall not be executed except upon the execution of penalties depriving from liberty. Notwithstanding the above, the measure of detention in a medical facility shall be executed prior to the execution of any other penalty or measure and the material measures shall be executed immediately unless the law otherwise provides.

PART NINE
EXECUTION WRANGLES

Article 377:

Legal wrangles that arise in the course of execution of criminal judgements shall be referred to the penalty execution judge irrespective of the court that has handed down such judgements.

Article 378:

A legal wrangle shall be formalized by filing a report with the Clerks Department in which shall be indicated the date on which such wrangle shall be heard, provided that it shall not exceed seven days from the date of the report. The party who files such report shall be instructed to appear in the fixed date and the Public Prosecution shall instruct all the litigants to appear on the aforesaid date.

If the legal wrangle relates to the execution of a death sentence, a report in respect thereof may be filed before the officer of the prison in which the execution takes place. He shall immediately refer the report to the penalty execution judge to fix the date of hearing it and the Public Prosecution shall instruct the litigants to appear on the aforesaid date.

Article 379:

A report in respect of a legal wrangle shall not result in stay of execution of the judgement involved in the execution unless the judgement is a death sentence. In other cases, the judge may order a stay of execution until the legal wrangle is resolved. The Public Prosecution shall be empowered, where necessary and prior to referring the legal wrangle to the penalty execution judge, to order the temporary stay of execution of the judgement.

Article 380:

A legal wrangle shall be settled following an expression by the Public Prosecution of its opinion and hearing the statements of the concerned persons. The judge shall be empowered to conduct the investigations he deems necessary.

The judge shall rule in respect of the legal wrangle's subject-matter by declaring the inadmissibility of the execution or dismissal of the legal wrangle and continuation with the execution.

Upon passing a ruling for non-admission of the said wrangle, its inadmissibility or dismissal thereof, the party who raises the legal wrangle shall be compelled to pay a fine not exceeding BD100 unless the legal wrangle is brought up by a person subject to a death sentence.

Article 381:

A judgement passed in respect of an execution wrangle shall not be appealed by way of a challenge.

Its appeal shall take place by means of a report to be filed with the Clerks Department within 3 days from the date of handing down the judgement.

Article 382:

In case of execution of financial judgements against the convict's property and where a dispute raised by a party other than the accused in respect of the property against which the execution is required, the matter shall be referred to the concerned civil court according to the Civil and Commercial Procedures Act.

PART TEN
FORFEITURE OF PENALTIES AND ACTIONS WITH
THE LAPSE OF TIME AND CONVICT'S DEATH

Article 383:

A felony's penalty shall be forfeited upon the lapse of 20 years unless it is a death penalty which shall be forfeited upon the lapse of 30 years.

A misdemeanour's penalty shall be forfeited upon the lapse of 5 years.

A civil wrong's penalty shall be forfeited upon the lapse of 2 years.

Article 384:

An action of detention in a medical facility shall not be forfeited upon the lapse of time unless the penalty execution judge decides, upon the request of the convict or his representative, that he no longer constitutes a criminal threat.

A precautionary action shall be forfeited upon the lapse of the period prescribed for the lapse of the penalty for a misdemeanour.

Article 385:

The above period shall commence from the date on which the judgement becomes final unless the judgement is handed down in absentia in a felony in which case the said period shall commence from the date of delivering the judgement.

A period that forfeits an adjudged action with a liberty depriving penalty shall not commence except after its complete execution or forfeiture by the lapse of time.

Article 386:

The period shall be interrupted by the arrest of a convict adjudged to a liberty depriving penalty and by every execution action taken against him or of which he becomes legally aware or if the convict commits a crime of the same or similar type of crime for which he is convicted.

Article 387:

The effective period shall be interrupted by everything that bars proceeding with the execution whether legally or materially including the convict's departure from the country.

Article 388:

The prescribed provisions for the lapse of time laid down in the Civil Code shall be applicable with respect to compensations, compulsory reimbursements and adjudged legal costs. However, execution by way of physical coercion shall not be permitted after the lapse of the period prescribed for forfeiture of the penalty.

Article 389:

If a convict dies after handing down a final judgement against him, financial penalties, compensations, reimbursements and legal costs shall be executed against his estate.

PART ELEVEN
REINSTATEMENT

Article 390:

Every convict in a felony or misdemeanour may, at his request, be reinstated and a judgement to this effect shall be passed by the penalty execution judge.

Article 391:

For reinstatement, the following shall be required:

- (a) The penalty shall have been fully executed, an exemption has been issued in respect thereof or forfeited with the lapse of time.
- (b) A period of four years shall have been passed since the date of completing the execution of the penalty or an exemption has been issued if the penalty is for a felony or a period of two years shall have passed if the penalty is for a misdemeanour; and such periods shall be doubled in case of a judgement of recurrence and forfeiture of the penalty with the lapse of time.

Article 392:

If the penalty is coupled with a certain action, the period shall commence from the date on which the execution is completed or is forfeited with the lapse of time.

If the convict is released under a condition, the period shall not commence except from the date prescribed for the lapse of the penalty or from the date on which the conditional release becomes final.

Article 393:

For a judgement of reinstatement to be passed, a convict shall carry out all the obligations under his judgement such as a fine, reimbursement, payment of a compensation or expenses. The penalty execution judge shall be empowered to waive such requirement if the convict proves that there is no way he can perform such obligation.

If no claims are made against the convict for payment of compensations, reimbursements or expenses or if he refuses to accept them, the convict shall deposit them as prescribed under the Civil and Commercial Procedures Act and may recover them if three years pass without being claimed by the judgement creditor.

If the convict is subject to a joint judgement, it shall be sufficient for him to pay the amount he personally owes of the debt. Where necessary, the penalty execution judge shall determine the share to be paid by him.

Article 394:

In case of handing down a judgement in a bankruptcy crime, the applicant shall prove that he has obtained a commercial reinstatement judgement.

Article 395:

An application for reinstatement shall be filed by a petition with the Public Prosecution and must include all the necessary details to identify the applicant and shall state the date of the judgement handed down against him and the places in which he stayed since that time.

Article 396:

The Public Prosecution shall conduct an investigation concerning the application to ascertain the date of the applicant's residence in every place in which he stayed since the date of handing down the judgement and period of such residence in order to determine the nature of his behaviour, means of earning his living and in general all the necessary information. The investigation shall be combined with the application and be referred to the penalty execution judge in the next three-month period to be submitted by a report expressing its opinion and shall indicate the reasons upon which it was based. The following shall accompany the application:

- (a) A copy of the judgement passed against the applicant.
- (b) Applicant's criminal record statement.
- (c) A report concerning his conduct during his presence in prison.

Article 397:

The penalty execution judge shall examine the application and shall decide upon it after hearing the Public Prosecution's statements and the applicant's statements. He may seek all the information he deems necessary to obtain.

The summons shall be served upon the applicant to attend at least 8 days before the date fixed for the hearing.

A judgement handed down in respect of the reinstatement shall not be contested by way of a challenge.

Article 398:

When the conditions provided for in the preceding Articles, the penalty execution judge shall pass a ruling for reinstatement of the applicant if he feels that his conduct since passing the judgement against him gives confidence to improve his behaviour.

Article 399:

The Public Prosecution shall send a copy of the reinstatement judgement to the Court that has handed down the judgement in respect of the penalty or action to make an entry thereof on its margin and shall order that an entry thereof shall be kept at the Criminal Evidence Directorate at the Ministry of the Interior.

Article 400:

If the reinstatement application is dismissed for a reason attributed to the convict's behaviour, it shall not be renewed except after one year.

In other cases, it may be renewed once the necessary conditions are fulfilled.

Article 401:

A reinstatement judgement delivered may be revoked if it appears that other judgements have been passed against the convict but the penalty execution judge has not been made aware or if he is sentenced after his reinstatement in respect of a crime that had taken place before handing down the said judgement.

A judgement shall be passed in this case by the penalty execution judge at the request of the Public Prosecution.

Article 402:

A reinstatement shall be awarded by the force of law if no judgement is handed down against the convict during the following time limits for a penalty in respect of a felony or misdemeanour that is kept on record in his criminal offence statement:

- (a) For a person sentenced for a felony if ten years have passed since its execution, exemption therefrom or forfeiture.
- (b) For a person sentenced for a misdemeanour if six years have passed since its execution or exemption unless the judgement considers the convict liable for recurrence or if the penalty is forfeited because of the lapse of time in which case the time limit shall be eight years.

Article 403:

If several judgements have been handed down against the convict, he shall not be reinstated by a court ruling or by the force of law unless the mandatory conditions of reinstatement are fulfilled in respect of each judgement, as the case may be, provided that the calculation of the duration shall be based upon the most recent of such judgements.

Article 404:

A reinstatement shall have the effect of rescinding the conviction judgement in the future and termination of all the consequences thereof such as the lack of legal qualification, deprivation of rights and all the criminal effects.

Article 405:

Reinstatement shall not be effective towards third parties with respect to rights arising from the conviction judgement, especially with respect to reimbursements and compensations.

BOOK SIX
MISCELLANEOUS PROVISIONS

PART ONE
PROCEDURES TO BE FOLLOWED IN CASE OF LOSS OF DOCUMENTS AND
JUDGEMENTS AND CALCULATION OF PERIODS

Article 406:

If the original copy of the judgement is lost before its execution or if all or some of the investigation documents have been lost before adopting a decision in respect thereof, the procedures set forth in the following articles shall be implemented.

Article 407:

If an official copy of the judgement is found, it shall replace the original copy.

If the copy is in the possession of a person or a certain party, the Public Prosecution shall seek an order from the President of the Court which has handed down the judgement for the surrender thereof. Anyone from whom the said copy is taken may apply for obtaining a true and original copy without payment of charges.

Article 408:

The loss of the judgement's original copy shall not result in a retrial once all the appeal methods have been exhausted.

Article 409:

If all or some of the investigation documents are lost before adopting a decision in respect thereof, the investigation shall be repeated in respect of the events whose documents have been lost unless an official copy thereof is found to replace the originals.

Where the case is being heard before a court, it shall conduct the investigation it deems necessary.

Article 410:

All periods of time in this Law shall be construed according to the Gregorian calendar.

If the Law determines a time limit for a certain action to take place, the date of issuing the order shall not be recognized as it is deemed in law as initiating the time limit. It shall expire on the last day thereof where the time limit is a period during which the action must take place.

If the last day of the time limit is a public holiday, it shall be extended to the first working day thereafter.

Article 411:

There shall be added to the time limits set forth in this Law a sixty-day travel time for anyone whose domicile is outside the State and depending upon the availability of transport facilities and reasons of urgency such time limit may be reduced by order of the competent judge, which order shall be duly notified with the document.

PART TWO
EXTRADITION OF THE ACCUSED, CONVICTS AND
JUDICIAL DELEGATION OF AUTHORITY

CHAPTER ONE
EXTRADITION OF THE ACCUSED AND CONVICTS

Article 412:

Without prejudice to the provisions of international treaties and conventions that have the force of law in the Kingdom of Bahrain, the extradition of convicted or accused persons to a foreign country that requests their extradition for execution of foreign judgements handed down by them or for their criminal trial shall take place according to the following provisions and rules of international law in respect of matters that are not specifically dealt with in a certain provision.

Article 413:

An extradition shall be governed by the following conditions:

- (a) The crime must have taken place in the territory of the state that requests the extradition or if it is committed outside its territory and where its laws punish such crimes.
- (b) The crime should be a felony or misdemeanour shall be punishable in both the law of the Kingdom of Bahrain and the law of the state that requests the extradition by imprisonment for at least one year and the person required to be extradited for such crime shall be convicted for a prison sentence of no less than 6 months.

Article 414:

The key consideration in determining the nationality of the person requested to be extradited shall be the time on which the crime was committed.

Article 415:

Extradition shall not take place in the following cases:

- (a) If the person requested to be extradited is a citizen of the Kingdom of Bahrain.
- (b) If the crime for which extradition is required is limited to breach of military duties or has a political nature and is not considered - even for a political aim - one of the following crimes:
 - 1. Attacks against kings and heads of state of countries, their wives, direct family members or in-laws.
 - 2. Attacks against crown princes or deputy heads of states.
 - 3. Deliberate murder and theft accompanied by coercion against individuals, authorities or transport and communication facilities.

- (c) If the person requested to be extradited is under investigation or trial in the Kingdom of Bahrain for the same crime for which he is required to be extradited or if he was previously tried for the aforesaid crime and acquitted, convicted or if the criminal case has lapsed or the penalty forfeited for any of the reasons of forfeiture or lapse according to the laws of the Kingdom of Bahrain or the law of the state that requests extradition.

Article 416:

If the person requested to be extradited is under investigation or trial for another crime in the Kingdom of Bahrain, his extradition shall be deferred until the end of his trial and execution of the penalty ordered by the court judgement.

Article 417:

An extradition request shall be submitted through the diplomatic channels to the government of the Kingdom of Bahrain for its reference to the Ministry of Justice for a decision in accordance with the law.

Article 418:

An extradition request shall be accompanied by the following details and documents:

- (a) If the request relates to a person under investigation, it shall be accompanied by the arrest warrant issued by the concerned authority indicating the type of crime and the incriminating article of the law as well as an official copy of the investigation documents attested by the judicial authority that handled it or that is in possession of the documents.
- (b) If the request relates to a person who is sentenced in absentia or in presence, it shall be accompanied by an official copy of the judgement.

In all cases, the extradition request shall be accompanied by an official copy of the legal provision applicable to the crime and a full account about the identity of the person to be extradited, his description and the documents supporting the nationality of the requested person if he is a citizen of the requesting country.

All the extradition documents shall be attested by the Minister of Justice in the requesting state or by the person acting on his behalf.

Article 419:

The High Criminal Court shall have jurisdiction to examine extradition requests, fulfillment of their conditions and procedures. It shall be empowered to issue a warrant for searching the premises it deems necessary.

Article 420:

The person required to be extradited shall be informed of the charge against him, the available evidence against him and the documents related to the request for his extradition.

Upon his interrogation, he shall appear along with an attorney and should he have no attorney the Court shall nominate an attorney for him.

Article 421:

In case of urgency, the competent court shall, upon a request submitted directly thereto ask the judicial authorities in the requesting state using any available method of communication, decide to remand the person requested to be extradited in custody until the receipt of the written extradition request and its enclosures.

A person requested for extradition shall not be detained pending the receipt of the written extradition request and its enclosures for a period of more than 30 days unless the country requesting such extradition gives an excuse that is acceptable to the competent court or if the Court confirms that there is a reason necessitating the continuation of detention. In any case, the detention in custody shall not be more than 60 days.

The release of a person requested to be extradited without remanding him in custody shall not bar his detention upon receipt of the extradition request and its enclosures.

Article 422:

The High Criminal Court shall issue its substantiated decision in respect of the extradition request and shall notify it to the Minister of Justice; and the Minister shall adopt a decision for extradition or its rejection.

Article 423:

Without prejudice to third party rights, the High Criminal Court may surrender to the state requesting extradition everything in possession of the person against whom a decision has been adopted for his extradition with respect to the items collected in respect of the crime of which he is accused, used in committing it or which may be used as evidence against him.

Article 424:

If the state that requests extradition fails to take custody of the person against whom a decision has been adopted for his extradition within 60 days from the date of being notified of such decision, he shall be released. Meanwhile, he shall not be extradited thereafter except by a new decision.

Article 425:

In the cases where the judicial authorities in the Kingdom of Bahrain examines a request for extradition of an accused or a person convicted by another state for his trial for a crime committed by him or for execution of a judgement handed down therein, such request shall be referred to the High Criminal Court accompanied by the documents indicated in Article 418 to have an opinion in respect of the aforesaid request. Unless the request is issued by the High Criminal Court of Appeal, it shall have competence to deal therewith.

If the Court feels that the request is acceptable, the Ministry of Justice shall refer the request to the Ministry of Foreign Affairs to take the necessary action for its implementation through the diplomatic channels.

In case of urgency, the provisions of Article 421 of the Law shall be applicable.

CHAPTER TWO
JUDICIAL DELEGATION OF AUTHORITY

Article 426:

If a foreign country wishes to conduct an investigation by the judicial authorities in the Kingdom of Bahrain, a judicial delegation request shall be sent by the competent authority in such country through the diplomatic channels and the request shall be referred to the High Criminal Court.

The judicial delegation request shall be accompanied by an official copy of the investigation documents with respect to the crime, a full account of its circumstances, indictment evidence, applicable legal provisions in respect thereof, a determination of the actions required to be taken and the investigations desired to be conducted.

However, in case of urgency a judicial delegation shall take place by direct contacts between the concerned judicial authorities in the two countries pending the receipt of the delegation request through the diplomatic channels.

Article 427:

If the High Criminal Court decides to accept the judicial delegation request after ascertaining that its implementation does not conflict with the public order in the Kingdom of Bahrain, it shall nominate a judge or the Public Prosecution to conduct an investigation in accordance with the conditions prescribed in this Law.

If it is necessary to pay a deposit on account of the experts' fees, charges and fees payable in respect of the documents presented in the course of implementing the judicial delegation, the competent authority in the requesting state shall be duly informed thereof for payment of such costs to the Public Treasury. It shall also be given notice at the appropriate time of the place of execution of the judicial delegation.

Article 428:

In the cases where the judicial authorities in the Kingdom of Bahrain feel that it is necessary to take a certain action or to conduct an investigation, the question of judicial delegation shall be referred to the High criminal Court for its opinion unless the request is issued by the High Criminal Court of Appeal in which case it shall have jurisdiction.

If the Court feels that the judicial delegation is acceptable, the Ministry of Justice shall forward the judicial delegation file to the Ministry of Foreign Affairs to take the necessary actions for its implementation through the diplomatic channels.

In case of urgency, the provisions of the last paragraph of Article 426 shall be applicable.

Note:

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**LAW NO.41 OF 2005 WITH RESPECT TO AMENDING CERTAIN
PROVISIONS OF THE CODE OF CRIMINAL PROCEDURE PROMULGATED BY
LEGISLATIVE DECREE NO.46 OF 2002**

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain,

Having reviewed the Constitution,

And the Code of Criminal Procedure promulgated by
Legislative Decree No.46 of 2002,

The Consultative Council and Council of
Representatives have ratified the following Law which
we approve and enact:

Article 1

For the provisions of Articles (391 and 402) of the Code of
Criminal Procedure promulgated by Legislative Decree No.46 of
2002, there shall be substituted the following:

Article 391:

For reinstatement, the following shall be required:

- a) The penalty shall have been fully executed; an exemption
has been issued in respect thereof or forfeited with the
lapse of time.
- b) A period of two years have been passed since the date of
completing the execution of the penalty or an exemption has
been issued if the penalty is for a felony or a period of
one year shall have passed if the penalty is for a
misdemeanour; and such period shall be doubled in case of a
judgement of recurrence and forfeiture of the penalty with
the lapse of time.

Article 402:

A reinstatement shall be awarded by the force of law if no
judgement is handed down against the convict during the following
time limits for a penalty in respect of a felony or misdemeanour
that is kept on record in his criminal offence statement:

- a) For a person sentenced for a felony if five years have
passed since its execution, exemption therefrom or
forfeiture.
- b) For a person sentenced for misdemeanour if three years have
passed since its execution or exemption unless the
judgement considers the convict liable for recurrence or if

the penalty is forfeited because of the lapse of time in which case the time limit shall be four years.

Article 2

The Ministers, each in his respective capacity, shall implement the provisions of this Law which shall come into force from the first date of the month following its publication in the Official Gazette.

**Signed: Hamad bin Isa Al Khalifa,
King of the Kingdom of Bahrain.**

Issued at Rifa'a Palace
On: 12th Thulqaida, 1426 Hijra,
Corresponding to: 14th December 2005 AD.