SAUDI ARABIA

ASSAULTING HUMAN RIGHTS IN THE NAME OF COUNTER-TERRORISM

COUNTER TERROR
WITH JUSTICE

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Cover photo: Saudi Arabian special forces guard a hotel in Riyadh at which an international counter-terrorism conference was held in February 2005. © AP Photo/Hasan Jamali

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GLOSSARY

ACST	Arab Convention for the Suppression of Terrorism (1998)
Al-Mabahith al-'Amma	Interior Ministry's General Intelligence
Body of Principles	Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
CEDAW	UN Convention on the Elimination of All Forms of Discrimination against Women; also UN Committee on the Elimination of Discrimination against Women
CGL	Court of Grievances Law (2007)
Convention against Torture	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Council of Senior Ulema	Council of religious scholars
Fatwa	Religious edict
GCC	Gulf Co-operation Council
Hadd (singular)	Law of fixed punishments
Hiraba	"The killing and terrorization of innocent people, spreading evil on earth (*al-ifsad fi al-ard*), theft, looting and highway robbery"
Lawyers Code	Code of Law Practice (2001)
LCP	Law on Criminal Procedure (2001)
Mutawa'een	Religious police
NHRC	National Human Rights Commission
NSHR	National Society for Human Rights
OIC	Organisation of Islamic Conference
Qisas	Law governing retribution for murder and bodily mutilation
Shari'a	Islamic law
Shura Council	Consultative Council appointed by the King
UDHR	Universal Declaration of Human Rights

1. INTRODUCTION

"Please do not abandon us to the claws of tyranny and blind power. I fear for myself, my children and especially for my husband, who is in detention. I don't know what has happened to my husband, where he is, or what will happen to him. As for my children and for me, without him, we are the living dead. Please help me to get my husband justice. I beg of you in the Name of Allah."

Name withheld for fear of reprisal.

This is one of many cries for help that Amnesty International has received from the wives, mothers, fathers, brothers and sisters of people whose human rights are being abused with impunity in Saudi Arabia in the name of security and counter-terrorism.

Since the 11 September 2001 attacks in the USA, carried out by a group which included Saudi Arabian nationals, and in the wake of a series of attacks by armed groups and individuals inside Saudi Arabia, the Saudi Arabian authorities have imposed a range of counter-terrorism measures that have worsened what was already a dire human rights situation. Combined with longstanding and severe repression of any perceived dissent and an extremely weak human rights institutional framework, these measures have swept aside embryonic legal reforms and left people in Saudi Arabia almost completely devoid of fundamental freedoms and protection of their human rights.

Old and new laws prescribe harsh and cruel punishments for terrorism-related offences, including beheading and flogging, yet they are so vaguely written that they can be, and are, used to punish and suppress expression and activities that are recognized and protected as legitimate the world over. The security forces fail to respect even these laws, however, routinely committing human rights violations in the knowledge that their actions are unlikely ever to be investigated let alone punished. In the rare instances when the laws are enforced in practice, this is done by a secretive, all male judiciary that lacks independence yet possesses very wide discretion to impose sentences of death or flogging.

Thousands of people have been detained in recent years on security grounds, including religious scholars and people suspected of belonging to or supporting Islamist groups such as al-Qa'ida or other groups, opposed to the Saudi Arabian government and its links with the USA and other Western countries, who are officially dubbed as "misguided." Most were arrested in Saudi Arabia but others were forcibly returned, often secretly, from countries such as Iraq, Pakistan and Yemen. Typically, they have then been detained in prisons for months or even years in conditions of virtual secrecy, held without charge or trial and without any means of challenging their detention or obtaining remedy. Most have been held in prolonged

incommunicado detention for interrogation and have been denied access to lawyers, medical assistance and family visits for long periods. All have been held in places where torture and other ill-treatment of prisoners are rife. Some, it appears, have been tried secretly, and sentenced to prison terms but then have continued to be detained once their sentences have expired. Others, according to the government, are being held for "re-education".

Caught up in the sweeping security-related repression are an unknown number of human rights defenders, peaceful advocates of political reform, members of religious minorities and many others who have committed no crime recognized as such by international law. Some of these are prisoners of conscience.

The minority of security detainees who have been charged and brought to trial have faced grossly unfair and secret proceedings. These have included brief sessions before a panel of three inquisitors who simply questioned the accused about confessions or other statements they made, or were alleged to have made, under interrogation while held incommunicado in pre-trial detention. Some of those convicted after such sessions have reportedly been sentenced to flogging in addition to prison terms.

In October 2008 the government announced that a special criminal court was being established to try detainees held in connection with terrorism and that the files relating to some 991 detainees had been completed and that they were to stand trial on capital charges, including murder and causing bomb explosions. The government provided no further information, however, until March 2009, when the Minister of the Interior disclosed that the trials had begun. He gave no further details, neither disclosing the names of any defendants nor whether they were being permitted access to or representation by defence lawyers. Three months later, such information was still being withheld; the trials, if they were proceeding, remained shrouded in secrecy and it was unclear how many defendants had been convicted, what sentences had been imposed, and whether defendants have a right of appeal to a higher judicial tribunal, as required by international standards for fair trial. It was expected that the defendants would include eight men who were paraded on Saudi Arabian television in 2007 and shown "confessing" to planning terrorist attacks, undermining their right to fair trial, but at the time of writing this report, June 2009, this too had not been confirmed by the Saudi Arabian authorities. The secrecy surrounding the entire trials process raised the chilling prospect that hundreds of men may now or soon be facing execution after summary, unfair trials.

Amnesty International fully recognizes the duty and responsibility of the Saudi Arabian authorities to protect the public from violent attacks, including by bringing to justice those who plan, commit and incite such attacks. In doing so, however, the Saudi Arabian authorities must comply with their obligations under international human rights law and not subject suspects or others in their custody to violations of their rights such as arbitrary detention and torture or other ill-treatment. Further, the state authorities have an obligation to ensure that any officials who do commit torture or other human rights violations are held accountable under the law. Combating terrorism and other threats against public safety may not be used as a pretext or valid justification for gross violations of human rights or for permitting security and other officials to commit such violations with impunity.

In Saudi Arabia, the authorities have subordinated human rights and adopted methods of repression as the principal element of their counter-terrorism strategy. They have signed up to an armoury of laws, regulations, international and regional conventions, and secret bilateral co-operation agreements ostensibly dedicated to combating terrorism, including some which fail signally to distinguish between the legitimate exercise of human rights and acts which constitute recognizable crimes under international law.

This disregard for human rights shown by the authorities in their pursuit of security is not new. There has been a longstanding pattern of draconian legislation, repression and denial of human rights in Saudi Arabia, where state power rests almost entirely with the King and the ruling Al-Saud family. The Constitution (the 1992 Basic Law of Government) gives the King absolute power in the running of government institutions and the affairs of state, and severely curtails political dissent and freedom of expression, religion, association and assembly. It also offers little specific protection to human rights beyond the vague undertaking: "The state shall protect human rights in accordance with Islamic Shari'a."[1]

A country with some 25 million residents, Saudi Arabia lacks any semblance of democracy or institutions independent of government, and political parties and trade unions are not tolerated. Women are discriminated against in both law and practice and their rights are severely curtailed. Those who express dissent face arrest and imprisonment, whether political critics, bloggers or academic commentators, and the media is closely constrained.

Yet, such flagrant disregard for human rights has been largely ignored by governments around the world, due both to Saudi Arabia's political and strategic importance as a source of oil, international finance, arms contracts, intelligence, and military bases, and to its leadership position within the Islamic world. Rather than hold the Saudi Arabian government accountable for its dire human rights record, all too often other governments have preferred to look the other way and not question what goes on in the secrecy of Saudi Arabia's interrogation centres and prisons.

This report is Amnesty International's latest attempt to break the wall of secrecy and to draw international attention to the human rights violations being committed by the Saudi Arabian authorities in the name of security and the fight against terrorism.[2] It is based on an assessment of the legal, judicial and human rights changes introduced since 2001, as well as cases that Amnesty International has been able to document since then despite the obstacles placed in the way by the Saudi Arabian government.

Researching human rights in Saudi Arabia is a tough challenge. The government continues to prevent Amnesty International from visiting the country in order to undertake first hand research on human rights, although it has permitted the US-based organization Human Rights Watch to visit several times.

This report highlights cases of prisoners on whose behalf Amnesty International has campaigned. It includes testimonies of former detainees held incommunicado and tortured. It cites information provided by the government to UN human rights mechanisms, including Saudi Arabia's reports to the UN Counter-Terrorism Committee.[3]

Amnesty International has sought clarification from the Saudi Arabian authorities about many of the cases included in this report, but it has not received any substantive response.

Amnesty International is publishing this report to draw attention to the gross and widespread human rights violations being committed in the name of security in Saudi Arabia, and to help stop these violations. To this end, Amnesty International is calling on the Saudi Arabian authorities to take urgent action, including:

- immediately release anyone held solely because of the peaceful exercise of their right to freedom of opinion, expression, peaceful assembly and association;

- end all arbitrary arrests and detentions;

- provide fair, prompt and public trials to all detainees charged or held, including on suspicion of terrorism-related offences;

- investigate thoroughly and independently all allegations of torture and other ill-treatment and bring those found responsible to justice;

- ensure that the death penalty and cruel, inhuman and degrading punishments, such as flogging, are neither sought nor carried out in the pending terrorism-related trials;

- bring Saudi Arabia's terrorism-related laws and practices into line with international human rights standards;

- investigate thoroughly and independently all killings by government forces and armed groups and bring the perpetrators to justice without the use of the death penalty.

Amnesty International is also calling on other governments, through their bilateral relations and in multilateral forums, to urge the Saudi Arabian authorities to end repression and to insist that they must abide by their obligations under international law to uphold and respect human rights.

2. BACKGROUND

ARMED ATTACKS AND POLITICAL KILLINGS

Saudi Arabia has experienced repeated, sporadic incidents of political violence over many years mounted, it appears, particularly by groups and individuals opposed to the ruling Al Saud family and to the government's close links with the USA and other Western countries. In 1988, for example, attackers destroyed a major oil installation in Jubail, in 1995 there were bombings of US-linked buildings in Riyadh and in 1996 an attack on a US military housing complex in al-Khobar killed 19 and injured hundreds of US servicemen and women.

The incidence of such attacks increased significantly after the US-led invasion of Iraq in March 2003. On 12, 29 and 30 May 2003, a series of lethal bombings targeted housing complexes in Riyadh, killing 35 people and injuring many others, and there was then a spate of incidents in which security forces were reported to have engaged in shoot outs or clashes with armed men suspected of involvement in carrying out terrorist attacks. On 3 July, the government said security forces had killed the alleged mastermind of the May bombings, naming him as Turki Nasser Mishaal Aldandeny, and three others whom they had surrounded. In July, security forces were reported to have killed six suspects and wounded another, and to have killed others in raids on apartments in Jizan and in Makkah in September and November, and to have cornered two others, who then blew themselves up, on 7 November in Riyadh.

A similar pattern of sporadic attacks and clashes between security forces and armed militants, who sought particularly to attack US and other Westerners and Saudi Arabian security installations, was also reported in 2004 and 2005 and, to a lesser extent, in the following years. In April 2004, a group apparently linked to al-Qa'ida detonated a car bomb at a security forces building in Riyadh, killing four, and in the succeeding months carried out attacks and killed foreigners in Yanbu, Riyadh and Jeddah, including abducting and filming the beheading of a US engineer in June. The same period was punctuated with further government announcements of clashes between security forces and militants, in most of which the militants were reported to have been killed. Sometimes, though infrequently, the government disclosed the names of leading militants who it said had been killed. Invariably, however, very few details were provided about any of the clashes or the precise circumstances in which militants were killed. On no occasion, as far as Amnesty International is aware, did the authorities indicate that any independent investigations had been conducted into the clashes and the precise circumstances in which militants were killed by the security forces.

Typical of the information provided by the authorities is a report carried by Saudi Arabian television on 23 June 2006, which stated that security forces had:

> *"Pursued seven leaders of the deviant group who were travelling in a stolen car to a house in al-Nakhil neighbourhood in Riyadh, which they had made their den and springboard to launch their criminal plans. However, God spared his people their evil and returned their evil, and justice prevailed, for when they opened fire, they were dealt with in the appropriate manner. Six people were killed immediately."*

A seventh, unnamed member of the armed group was reported to have been wounded and captured while one member of the security forces was also killed.

A lack of clarity also surrounds the identity of the various militants and militant groups and their motivations, other than what can be deduced from the nature of their attacks, which have mostly targeted state institutions, oil installations and Western nationals, indicating their opposition to the government's domestic and foreign policies, particularly its close ties with the USA and Western states. Some of those behind the attacks appear to have been linked to the loose transnational network known as al-Qa'ida or to have shared its general ideology, but beyond that not much is known about them, and the Saudi Arabian authorities have had little to say on the matter other than describing them as "deviant" or "misguided", seemingly a euphemism signifying their supposed linkage to al-Qa'ida.

Following the May 2003 bombings in Riyadh, the security forces launched a massive offensive in different cities against groups and individuals suspected of holding militant views. Security forces carried out house-to-house searches and raids, street chases and clashes with armed men in various parts of the country during the following four years, during which hundreds of people, including members of the security forces, were killed and hundreds more were injured.

Throughout, however, the details of reported attacks and of human rights abuses committed by armed groups or individuals were especially hard to verify due to strict government secrecy and control over media and other access to the scenes of violent incidents.

Despite this, it is clear that abuses committed by armed groups or individuals have included deliberate targeting of civilians, indiscriminate bombings, killings following abductions and hostage-taking. For example, following an attack on offices of oil companies in al-Khobar in May 2004, the attackers reportedly separated non-Muslims from their Muslim work colleagues and then killed the non-Muslims.[4] A month later in another incident, Paul M. Johnson, a 49-year-old engineer and US national, was abducted and reportedly held hostage by armed men who demanded the release of detainees, and then killed him.[5]

Amnesty International has repeatedly and unreservedly condemned killings and hostage-taking by armed groups and individuals in Saudi Arabia,[6] and called for the perpetrators of these crimes to be brought to justice in accordance with international standards. It has appealed to the armed groups to respect the humanity of all individuals, and urged them to respect international law and standards that prohibit the targeting of civilians, hostage-taking and political killings. For example, after the abductions and killings in May 2004 in al-Khobar, Amnesty International condemned the killings as "totally unjustifiable", stating that:

> *"They tear into the fabric of common humanity enshrined in international and humanitarian principles. The respect of such principles and standards, which hold human beings equal in dignity and rights, is the duty of everyone, governments and armed groups alike. Amnesty International calls on armed groups in Saudi Arabia as well as the government to abide by these principles and standards."*[7]

The threat of terrorism has been, and may well remain, a very real one in Saudi Arabia, as Amnesty International recognizes – just as it recognizes the government's responsibility to

protect the public from terrorism and other violence while at the same time insisting that the government must also fully respect its obligations under international human rights law. To date, the government appears to have been interested only in combating terrorism and the threat of it through repressive means, and to have been intent on using the rhetoric of the fight against terrorism and its array of anti-terrorism measures also to clamp down on legitimate expression and dissent. Thousands of people have been detained as alleged terrorism suspects by the security forces, who remain effectively unaccountable under the law, and either held without trial for months or years or sentenced after grossly unfair trials. They include prisoners of conscience. As well, questions remain as to whether all those killed by the security forces in what the government says were shoot outs and house sieges were in all cases lawfully killed, or whether the security forces may have operated some kind of shoot to kill policy in which suspects were shot without being offered an adequate opportunity to surrender. Certainly, the authorities have disclosed very little information about those individuals, relatively few, who were reported to have been taken prisoner in such incidents, and none of them are known to have been brought openly to trial.

POSITIVE DEVELOPMENTS

Nine years ago, it appeared that the government of Saudi Arabia had decided to institute a programme of much-needed human rights reforms. In April 2000, it took the unprecedented step of declaring before the then UN Commission on Human Rights that it accepted the universality and indivisibility of human rights, stating: ''human rights are a non-negotiable objective for the achievement of which we must all strive together''. It added that Saudi Arabia was committed to ''the protection and promotion of human rights through carefully studied measures within the context of a comprehensive human rights strategy''. In addition, the government invited the UN Special Rapporteur on the independence of judges and lawyers to visit the country, and announced plans to set up national human rights bodies.[8]

Another important development soon followed: the enactment of both the long-awaited Law on Criminal Procedures,[9] which replaced the 1983 Statute of Principles of Arrest, Temporary Confinement, and Preventive Detention,[10] and the Code of Law Practice (Lawyers Code).[11] The two new laws, both introduced in October 2001, contain rights and procedural safeguards that were previously not available in Saudi Arabia's criminal justice system.

Before the introduction of the Law on Criminal Procedures, suspects could be held without charge or trial indefinitely; this was now limited to a maximum of six months. As well, for the first time under this law detainees were provided with the right to legal assistance and legal representation,[12] and the use of torture against detainees during interrogation and questioning was expressly prohibited. Although, ultimately falling far short of international standards and never adequately respected in practice, the introduction of the two new laws represented an incremental but significant advance.

Two other new laws, introduced much more recently, in October 2007, to reform and modernize the judiciary also represent similar steps forward. The Law of the Judiciary, which replaces the Judicial Law of July 1975, provides for a new court structure, with a Supreme Court at the highest level, appeal courts at the intermediate level and courts of first instance at its base. It also sets out the rules governing the profession of judges, including their recruitment, inspection, promotion and discipline. It proclaims the independence of judges

although it effectively leaves them under the control of the government. Among other provisions, article 17 requires that appeal judgments should be issued after a hearing involving the parties concerned, though this still does not occur, at least in many cases. If implemented as the law requires, it would undermine the secrecy that surrounds appeals, particularly in death penalty cases.[13]

The Court of Grievances Law, issued at the same time, replaces the Law of Board of Grievances issued in May 1982, and reforms the Board of Grievances, which acted as an administrative court with jurisdiction to consider complaints against the state and its public services. Under the new law, an administrative judicial system is to run in parallel to the criminal court system stipulated under the Law of the Judiciary. It stipulates a hierarchy of courts comprising a Supreme Administrative Court, Administrative Courts of Appeal and Administrative Courts. The Court of Grievances system, however, is under the direct control of the executive branch of government. Potentially, it could have a role in hearing cases brought on behalf of individuals who allege that their human rights were violated by the authorities. Indeed, in June 2009 it was reported that the Court of Grievances had taken the unprecedented decision to accept and consider a complaint brought on behalf of the detained university professor '**Abdul Rahman al-Shumayri** (see below, Chapter 4 on Targeting of peaceful activists and government critics), challenging his continued imprisonment, though no outcome had been reported by the end of June. Previously, the Court is said by lawyers to have refused to hear such cases on the grounds that they involved acts which related to the sovereign powers of the executive branch of government and so fell outside its jurisdiction.

In 2004 and 2005 respectively, the Saudi Arabian government authorised the establishment of two human rights bodies, the National Society for Human Rights (NSHR) and the National Human Rights Commission (NHRC). The first is the only national human rights organization officially sanctioned in Saudi Arabia. It comprises 41 members who are said to have sought permission to set up the organization and whose proposal was then welcomed by the King. According to its statute, the NSHR is administered by a president and an executive council elected by the members.

The NHRC, on the other hand, is an overtly official body whose president and senior office holders are directly appointed by the King. The NHRC was established as a 24-member body with a role "to protect and promote human rights…(and) be the government competent body to submit views and counselling on human rights issues."[14]

Despite – or perhaps because of – their close links to the government, both the NHRC and the NSHR have contributed to raising the visibility of human rights within Saudi Arabia and have assisted the government in preparing its reports on human rights to international treaty monitoring bodies. The NHRC, for example, appears to have been instrumental in the government's reporting to the UN Committee on the Elimination of Discrimination against Women (CEDAW) in January 2008, signalling increased government recognition of discrimination against women in Saudi Arabia and its detrimental impact and perhaps presaging greater readiness to address CEDAW's concerns, as also reflected by its acceptance of a visit to Saudi Arabia in February 2008 by the UN Special Rapporteur on violence against women.

The NSHR has been important also as an organization to which people who consider that their human rights have been infringed can bring complaints. In its report for 2008, released in March 2009, the NSHR said it had received 12,400 human rights-related complaints from the public since its establishment, but did not detail how it dealt with them. The report, the second to be published by the NSHR, also provided a relatively frank human rights appraisal, commenting on the strengths and weaknesses of the legal and human rights framework, describing certain types of human rights violations and criticizing law enforcement officials. Although conspicuously silent on the use of death penalty, corporal judicial punishment and bodily mutilation, the report's other findings are broadly consistent with those documented by Amnesty International over the years. They include many of the human rights concerns arising out of the government's counter-terrorism policies and which this Amnesty International report addresses, including detention for years without trial and detention beyond expiry of sentence, incommunicado detention and torture and other ill-treatment.[15]

CONTINUING CONTEMPT FOR HUMAN RIGHTS

These encouraging steps cannot, however, mask the underlying dismal state of human rights in Saudi Arabia, nor have they been robust enough to resist the sweeping and repressive counter-terrorism measures. One victim of abuse told Amnesty International that, in his view and experience, the new laws "are not worth the paper they are written on."[16]

The secret and summary nature of the justice system not only continues, but in some respects has got worse. An increased number of offences, some not recognized internationally as crimes, are now punishable by death. Executions of men, women and even juvenile offenders – those sentenced to death for crimes committed when they were under 18 years of age - are regularly reported. Those executed invariably received grossly unfair trials in which they did not have adequate - or any – legal representation and were convicted on the basis of confessions which they say were forced and untrue, and were denied a right of appeal consistent with the requirements of international fair trial standards. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that executions carried out in cases in which basic fair trial guarantees were not respected constitute a violation of the right to life.[17] Some foreign nationals are known to have been executed after they were convicted and sentenced to death in trials in which the proceedings were not translated into a language that they understood.[18]

Thousands of people languish in jail, some of whom have been held for years without trial. All are denied basic prisoners' rights. Among them are prisoners of conscience held solely for the peaceful expression of their views.

Torture and other ill-treatment remain rife - unsurprisingly, in view of the lack of safeguards for detainees in practice and because interrogators know that they can commit torture or ill-treat suspects with impunity. Courts readily accept "confessions" which defendants allege they were forced to make under beatings, electric shock torture or other ill-treatment, and the authorities show no interest in investigating such allegations and bringing to justice those who perpetrate torture or who order or acquiesce in its use.

The right to freedom of expression and association, which has long been severely restricted, has been further curtailed by vague legal definitions of "terrorism" and the government's

counter-terrorism policies. The restrictions are embedded in Saudi Arabia's Constitution, which grants the King absolute powers in running state affairs and government institutions.[19]

Political participation in public affairs is limited to elections of some members only of all-male local government councils. Political parties, independent organizations or trade unions are not tolerated, and efforts to establish them are routinely repressed. In 2008, it was reported that a law had been drafted to provide for and regulate the establishment of independent associations and societies, and this was discussed and approved by the Shura Council (the Consultative Council appointed by the King) before the end of the year. It remains unclear, however, whether it has yet been approved by the King and brought into effect. As approved by the Shura Council, it appears to fall far short of providing an effective framework for allowing the free creation of independent associations and societies.[20] The NSHR commented:

> *"Perhaps the most important observation about the draft law adopted by the Shura Council is its content relating to the prevention of the establishment of associations and institutions on the grounds of conflict with public order. These are, without doubt, very vague wordings which provide wide margins for interpretations and manipulative use to prevent authorizations to association and institutions on the grounds of conflict of their regulations with public order."*[21]

As to freedom of expression, it is governed by long-standing restrictive rules, including Article 12 of the Constitution: "The state shall foster national unity and preclude all that may lead to disunity, mischief and division".[22]

Constitutional restrictions are entrenched by other laws. The Printing and Publication Law,[23] for example, contains various restrictions. Article 8 states that freedom of expression is guaranteed within the framework of *Shari'a* and other law, but this is negated by Article 9, which requires that a publication does not, among other things, contradict *Shari'a* rules; undermine the security of the state or serve foreign interests contrary to national interest; lead to the approval of and incitement of crimes; or harm the economy.

These restrictions are cemented with the catch-all Article 6 of the Constitution that obliges citizens to obey the King.[24]

The undermining of the human rights framework in which terrorism-related issues are addressed in Saudi Arabia is reflected in the country's reporting to the UN Counter-Terrorism Committee. The government has submitted at least five reports to the Counter-Terrorism Committee on its implementation of UN Security Council resolutions 1373 (2001) and 1624 (2005), a level of response not seen in relation to the human rights treaties to which it is party.[25] Furthermore, the five reports devoted little space to human rights.

The lack of promptness and frequency in Saudi Arabia's other human rights treaty reporting, and the little attention given to human rights in its Counter-Terrorism Committee reporting, are particularly regrettable as the UN General Assembly has emphasized that "respect for human rights for all and the rule of law" is "the fundamental basis of the fight against terrorism" and "essential to all components" of the UN Global Counter-Terrorism Strategy.[26]

Dr Matrouk al-Falih © Private

Dr 'Abdullah al-Hamid © Private

'Ali al-Daminy © Private

A trial in 2004 that was allowed an unusual level of coverage highlighted the use of counter-terrorism measures to suppress freedom of expression and association.

The case related to a group of academics, lawyers, journalists and intellectuals who were arrested in March 2004 because they had met and discussed the political situation in Saudi Arabia and published petitions suggesting political reforms. There was no evidence that they had used or advocated violence or committed any other acts that could be considered recognizably criminal offences. Official documentation relating to interrogations and charges shows clearly that they were accused of, among other things, justification and incitement to terrorism solely because of their peaceful criticism of government policies in public petitions, and statements made to international media on their demand for peaceful change of the political system to a constitutional monarchy.

The accusation of justifying terrorism was based on the defendants' analysis of the political situation in the country. The accusation of incitement to terrorism was based on the ground that by criticizing the government and its policies, the group was inciting people to doubt the Islamic character of the state and the role of the ruler, and to adopt and support terrorism as a means of reform, thereby threatening the country's stability and unity. Other charges included holding illegal meetings and disobeying the ruler.

The group included three prominent human rights defenders: **Dr Matrouk al-Falih**, a professor in the faculty of political science at King Saud University in Riyadh; **Dr 'Abdullah al-Hamid**, a former professor of contemporary literature at Imam Muhammad bin Sa'ud University in Riyadh; and **'Ali al-Daminy**, a writer. A year later they were convicted and sentenced to six, seven and nine years' imprisonment respectively, but were pardoned and released by King 'Abdullah bin 'Abdul 'Aziz Al-Saud following his accession to the throne in August 2005.

However, their harassment as human rights defenders continued. Dr Matrouk al-Falih, for instance, was arrested in May 2008 and held in solitary confinement for eight months before he was released untried. The immediate reason for his arrest was an article he had published days earlier criticizing the harsh conditions in Buraida Prison where Dr 'Abdullah al-Hamid and his brother 'Issa were serving prison terms imposed as a direct result of their challenge to human rights abuses committed by the authorities in the name of counter-terrorism (see Chapter 6 on Unfair trial below).

ROLE IN WORLD AFFAIRS

Saudi Arabia possesses vast reserves of oil and receives huge sums of money annually as one of the world's main suppliers of oil. As the birthplace of Islam's Prophet Muhammad, it is also a focal point for over a billion Muslims around the world, millions of whom visit Islam's holiest shrines in Makkah and Madina every year as part of their Islamic religious duties.

Both features make Saudi Arabia strategically crucial for world powers and give the country enormous influence over regional and international affairs. Regionally, the Saudi Arabian government has played a significant role in peace initiatives and processes between Israel and Arab states, and is an important actor in regional forums such as the Gulf Co-operation Council (GCC) and the League of Arab States. Globally, Saudi Arabia is an important player in the Organization of Islamic Conference (OIC) and other significant multilateral forums, including the G20. The government is also playing a leading role in interfaith dialogues and continues to provide economic aid in response to emergencies around the world.

However, the authorities in Saudi Arabia also use this religious, political and economic clout to shield the government from criticism on its human rights record by its allies in the West, including the USA and the EU, as well as in the developing world. Saudi Arabia's Western allies appear to attach far less weight to human rights in the country than to their own economic and strategic interests in the region and wish to remain on close and cordial terms with the Saudi Arabian government. As well, governments in developing countries appear unwilling to speak out for fear of jeopardising the flow of remittances sent back by their nationals who are migrant workers in Saudi Arabia and economic assistance that they receive from the Saudi Arabia government, or themselves have poor human rights records.

Saudi Arabia is a member of the UN Human Rights Council. As such it should take a leading role in promoting adherence to the rights set out in the Universal Declaration of Human Rights (UDHR). The Saudi Arabian government was an active participant in the discussions that led to the adoption of that historic Declaration, the foundation of modern international human rights law, in 1948. Yet, Saudi Arabia remains one of the few states globally that has yet to become party to the two main international human rights covenants that derive from the Declaration – the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Moreover, the government appears confident that due to Saudi Arabia's religious, economic and political significance, the international community will do little or nothing to hold it to account for its continuing repression of the rights proclaimed in the Declaration.

3. LEGAL FRAMEWORK

Strict observance of human rights while protecting the public from violent attacks requires a human rights framework and a criminal justice system firmly based on international standards of fairness. It also requires state institutions that are governed by international human rights standards. In Saudi Arabia, however, the government's counter-terrorism laws and policies are unprecedented in their scope and impact on an already weak human rights framework, and include a web of secret and apparently unwritten multilateral and bilateral security agreements.[27]

INTERNATIONAL OBLIGATIONS WHEN COUNTERING TERRORISM

In September 2006 UN member states adopted the UN Global Counter-Terrorism Strategy, one of a number of universal legal instruments concerning counter-terrorism and human rights that have been developed and adopted under the auspices of the UN and related intergovernmental organizations. It stresses that:

> *"The promotion and protection of human rights for all and the rule of law is essential to all components of the Strategy, recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing…"*[28]

The UN Human Rights Council, of which Saudi Arabia is a member, has repeatedly urged all states, including in the context of counter-terrorism measures, to:

> *"Respect and promote the right of anyone who is arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power and to be entitled to trial within a reasonable time or to release."*[29]

It has also called on them to:

> *"Respect and promote the right of anyone who is deprived of his/her liberty by arrest or detention to be entitled to bring proceedings before a court, in order that the court may decide without delay on the lawfulness of his/her detention and order his/her release if the detention is not lawful, in accordance with their international obligations."*[30]

International law clearly affirms the right of every individual who is detained for an alleged offence, whatever its nature, to be brought promptly before a judge or other independent and impartial judicial officer.[31]

Principle 4 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles)[32] provides that:

> *"Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject*

to the effective control of, a judicial or other authority."

The Body of Principles further stipulates that 'a judicial or other authority' means:

> *"A judicial or other authority under the law whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence."*

Principle 11 provides that:

> *"A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority."*

Recognizing the increased risk of torture or other abuse that arises when those responsible for interrogating a suspect also have control of his custody, the General Recommendations of the UN Special Rapporteur on torture provide that:

> *"Those legally arrested should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pre-trial detention which, in any case, should not exceed a period of 48 hours. They should accordingly be transferred to a pre-trial facility under a different authority at once, after which no further unsupervised contact with the interrogators or investigators should be permitted."*[33]

These provisions, however, are routinely violated in Saudi Arabia, as international human rights bodies have long signalled. As far back as 2002, in its Concluding Observations on Saudi Arabia's initial periodic report as a state party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture),[34] the Committee against Torture expressed concern about: "prolonged pre-trial detention of some individuals beyond the statutory limits prescribed by law"; "instances of denial, at times for extended periods, of consular access to detained foreigners"; "the limited degree of judicial supervision of pre-trial detention"; "incommunicado detention of detained persons, at times for extended periods, especially during pre-trial investigations"; and, particularly, detainees' "lack of access to external legal advice and medical assistance, as well as to family members".

Seven years on, the Committee's concerns have not been adequately addressed, let alone remedied, by the Saudi Arabian authorities and the situation has deteriorated further due to the impact of the government's anti-terrorism laws and practices.

The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, has repeatedly emphasized that definitions of terrorism must not be vague or overbroad. In his 2006 Report to the UN General Assembly, he set out the following elements, citing as authority UN Security Council resolution 1566 (2004) and the UN Secretary-General's High-level Panel on Threats, Challenges and Change:[35]

> *"…At the national level, the specificity of terrorist crimes is defined by the presence of three cumulative conditions: (i) <u>the means used</u>, which can be described as deadly, or*

> *otherwise serious violence against members of the general population or segments of it, or the taking of hostages; (ii) the intent, which is to cause fear among the population or the destruction of public order or to compel the Government or an international organization to do or refraining from doing something; and (iii) the aim, which is to further an underlying political or ideological goal. It is only when these three conditions are fulfilled that an act should be criminalized as terrorist; otherwise it loses its distinctive force in relation to ordinary crime."*[36]

He also warned that crimes not specifically described in the existing universal terrorism-related treaties may be criminalized as "terrorist crimes" in national law only where it "is strictly necessary and provided that the definition or proscription complies with the requirements of legality (accessibility, precision, applicability to counter-terrorism alone, non-discrimination and non-retroactivity)."[37] With regard to the need for precision in the definition, he noted that this includes a requirement that:

> *"The law is adequately accessible so that the individual has a proper indication of how the law limits his or her conduct; and the law is formulated with sufficient precision so that the individual can regulate his or her conduct."*[38]

SAUDI ARABIAN LAW AND THE VAGUE CONCEPT OF TERRORISM

In Saudi Arabia, however, domestic ad hoc criminal laws and regulations as well as international conventions that Saudi Arabia has ratified in the name of countering terrorism, have widened the scope of terrorism-related crimes, adopted vaguely worded and overly broad definitions of "terrorism", and provided no safeguards to protect fundamental rights and freedoms. One consequence has been a further blurring and erosion of the already severely restricted margins of legitimate expression and exercise of other rights, increasing the scope for human rights violations.

One of the first definitions of "terrorism" to appear in modern-day Saudi Arabia's domestic legislation was included in Fatwa No. 148 of August 1988 issued by the official Council of Senior Ulema (religious scholars). A fatwa (religious edict) when issued by an official body such as the Council of Senior Ulema is considered a legal rule in Saudi Arabia. Fatwa No. 148 was issued to make the sentence of death mandatory for:

> *"Anyone proved to have carried out acts of sabotage and corruption on earth which undermine security by aggression against persons and private or public property such as the destruction of homes, mosques, schools, hospitals, factories, bridges, ammunition dumps, water storage tanks, resources of the treasury such as oil pipelines, the hijacking and blowing up of planes, and so on."*[39]

The fatwa provides examples of violent acts that are recognizable offences under international law and are already severely punished in Saudi Arabia under Shari'a criminal rules of murder, bodily harm and aggression in general. However, the fatwa contains the vague concept of terrorism as any act considered "corruption on earth."[40] Without clearly defining this phrase and without including qualifications required by international standards, the fatwa left the door wide open for any activity to be deemed a terrorist crime.

The fatwa reflected the authorities' determination to stifle political dissent through vague counter-terrorism laws. Media reports on the reasons for Fatwa No. 148 suggested that it represented the:

> *"Kingdom's keenness…not to allow any person to propagate any belief, ideology or idea which runs counter to Islam and Shari'a, including the fomentation of sedition and sowing seeds of discord among citizens. The rules of the decision shall be applied to any individual who breaches the teachings of Islam, undermines security or attempts to shake the foundations of the existing government in the country."*[41]

In the wake of the 11 September 2001 attacks in the USA, the government rapidly expanded the number and scope of the country's anti-terrorism-related laws and regulations. Some addressed recognizably criminal offences and were, in general, clearly formulated, including the Arms and Ammunition Law, issued by Royal Decree No. M/45 and dated 30 August 2005, and the Explosives Law, issued by Royal Decree No. M/38 and dated 16 May 2007. Both laws contain rules and regulations for dealing with these weapons and munitions and prescribe penalties – terms of imprisonment and fines – for offenders.

Other laws covered different issues and were less clearly worded, two of which are of particular relevance – the 2003 Law to Combat Money Laundering[42] and the 2007 Law to Combat Internet-related Crimes. The first does not define "terrorism" but in Article 1 states that it covers:

> *"Any criminal activity punishable according to Shari'a or law, including the financing of terrorism, terrorist activities and terrorist organizations."*[43]

Similarly, the Law to Combat Internet-related Crimes does not define "terrorism" but prescribes up to 10 years' imprisonment and a fine, or one of these punishments, for anyone who:

> *"Sets up a website for terrorist organizations on the internet or a computer system, or publicizing it so as to facilitate the communication with leaders of such organizations or any of its members, or propagating its ideas or financing it, or publishing how to produce incendiary systems or explosives or any means usable for terrorist activities."*[44]

It also prescribes up to five years' imprisonment and a fine, or one of these punishments, for anyone who produces anything harmful to public order, religious values, public morals or privacy. The same punishment is prescribed for anyone who prepares, posts, or saves such things through internet or a computer system.[45]

The provision appears to criminalize publication of "any means usable for terrorist activities" regardless of the purpose or intention of the publisher. Virtually any kind of information could potentially be "usable for terrorist activities". The NSHR stated:

> *"It is possible to interpret such general concepts in a vague way in order to criminalize many writings and participation in internet networks on the grounds of harming such concepts."*[46]

Both laws list numerous other activities as crimes of money laundering and internet usage beyond those specifically related to terrorism. Like Fatwa No. 148, they are extremely vague and contain no clauses of exclusion to protect activities such as peaceful expression of conscientiously held beliefs, apart from armed struggle for independence.

The vague and ad hoc nature of the anti-terrorism legal regime in Saudi Arabia and the threat it presents to human rights is reflected in government reports to the UN Counter-Terrorism Committee. For example, in its first report to the Committee clarifying anti-terrorism legislation, the government stated:

> *"It is a basic principle of the Islamic Shariah that whatever leads to the forbidden is itself forbidden. Terrorist acts are forbidden and are among the most serious crimes in the Shariah texts. Therefore, in accordance with the norms of the Islamic Shariah, anything that is conducive to or that facilitates the commission of such acts is also forbidden, and this includes the provision or collection of funds to be used for terrorist acts."*[47]

In a subsequent report the government stated:

> *"The Kingdom's staunch position on terrorism, every form of which it rejects, is derived from the Shariah, the source of all its statutes and regulations, as emphasized in previous reports. Consequently, the Kingdom includes crimes of terrorism among the crimes of hiraba, for they are viewed as coming under the spreading of evil on earth (al-ifsad fi al-ard) and are subject to the most extreme penalties, which may even include the death penalty."*[48]

Hiraba is defined as "the killing and terrorization of innocent people, spreading evil on earth (*al-ifsad fi al-ard*), theft, looting and highway robbery".[49]

The vagueness of Saudi Arabia's domestic legislation is also mirrored in at least three regional conventions to which it is a state party and which deal with the difficult issue of terrorism – the 1998 Arab Convention for the Suppression of Terrorism (ACST), the 1999 Organisation of Islamic Conference (OIC) Convention on Combating International Terrorism and the 2004 Gulf Co-operation Council (GCC) Convention for the Suppression of Terrorism. Like the domestic laws above they fail in crucial aspects to meet international standards for the protection of human rights. The ACST contains provisions that are a cause of grave concern. These mainly relate to the broad and unsatisfactory definitions it provides of what constitutes "terrorism" and a "terrorist offence"; the applicability of the death penalty; lack of guarantees for fair trial or adequate regulation of detention; lack of guarantees for freedom of expression and the role of the media or of the right to privacy; protection of judicial review, extradition, and the protection of refugees and asylum-seekers.[50] The other two conventions present similar concerns.

The definitions of "terrorist offences" in the ACST and the OIC Convention on Combating International Terrorism are overly broad. Under Article 1(2) of the ACST, "terrorism" is defined as:

> *"Any act or threat of violence, whatever its motives or purposes, that occurs in the*

advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize a national resources".[51]

The ACST also defines "terrorist offence" in Article 1(3) as:

"Any offence or attempted offence committed in furtherance of a terrorist objective in any of the Contracting States, or against their nationals, property or interests that is punishable by their domestic law."[52]

An amendment to the treaty, widening the definition to include: "Also providing money or collecting it to finance terrorism crimes with full knowledge is considered a terrorist crime"[53] was accepted by the Saudi Arabian government on 23 March 2009 and now is also presumed to have been incorporated into national law.

Any precision gained through the ACST's definition of "terrorism" is therefore potentially lost by its vague and broad definition of "terrorist offence". Furthermore, the ACST adopts as "terrorist offences" acts criminalized under a number of international conventions, listed in the treaty.[54]

Expansion of the scope of "terrorism-related crimes" is taken further by the OIC Convention on Combating International Terrorism. The Convention reproduces the same definition of "terrorism" as the ACST with an additional clause at the end of ACST's Article 1(2) cited above of: "…or international facilities, or threatening the stability, territorial integrity, political unity or sovereignty of independent States".[55]

The OIC Convention does not define concepts such as "stability", "territorial integrity" or "sovereignty of independent states", nor recognize that such vague concepts should not be applied in ways that breach international human rights standards. The only explicit exception in both Conventions is the exclusion of armed struggle for national liberation, which is considered a legitimate activity, although not in the territories of the states parties to the ACST.[56]

The GCC Convention for the Suppression of Terrorism reproduces the main definitions of "terrorism" contained in the original ACST with three significant expansions. The first is an addition to the definition of "terrorist offence" under Article 1(3) of the ACST cited above of:

"…and also incitement to terrorist crimes, or propagating for it or applauding making it, and printing or publishing or possessing leaflets, publications or recordings of any kind if it was prepared for distribution or for others to read and contained propagation or applauding for those crimes."[57]

The second is a new paragraph at the end of the same Article 1(3), which stipulates that collecting and donating money of any sort to knowingly finance terrorism is considered a terrorist crime.[58]

The third adds a series of activities relating to supporting and financing terrorism, including propagating for terrorism. They are specifically listed as:

> *"Every action that comprises gathering or receiving or delivering or allocation or transporting or transferring of funds or their revenues to any individual or collective terrorist activity inside or outside the country, or conducting any such activity or its components through banking or commercial transactions, or obtaining any monies, directly or through another medium, to be invested in terrorist activity interests, or propagating and promoting its principles or securing places for training or housing its elements, or providing those with any weapons or false documents, or knowingly offering them any other means of assistance, support or finance."*[59]

Again, there is no express recognition that these provisions need to be interpreted and applied in a manner consistent with international human rights obligations.

The Saudi Arabian government has repeatedly explained to UN human rights mechanisms that international conventions, once ratified, become part of Saudi Arabia's domestic legislation. For example, in its report to the Committee on the Elimination of Discrimination against Women on 29 March 2007, the government stated:

> *"The provisions of the Convention, ratified by royal decree, are considered to be a part of domestic law. Accordingly, the provisions of the Convention may be invoked before the courts or other judicial or administrative authorities in the Kingdom."*[60]

It is impossible, however, due to the secrecy surrounding the operation of the courts and justice system to see whether this has any meaning or effect in practice. In fact, as far as Amnesty International is able to determine, the judiciary takes little or no account of the international treaties that Saudi Arabia has ratified and the government has taken no steps to advise and train judges on how to interpret the requirements of Saudi Arabia's international treaty obligations in the domestic legal setting. On the contrary, judges appear to retain very wide discretion to interpret the law and to impose sentences, including sentences of flogging and death, on the basis of vague notions such as "spreading evil on earth".

As it is, both domestic laws and the international conventions relating to countering terrorism that Saudi Arabia has ratified fail adequately to stipulate that their provisions must be applied in a manner consistent with international human rights law and standards, for instance by making it clear that they should not be used in relation to peaceful protests, demonstrations, work stoppages and other activities protected under international human rights law. In practice, counter- terrorism laws and measures provide a convenient means and justification for the authorities in Saudi Arabia to restrict further the rights to freedom of expression and association and to clamp down on those who express dissent or call for political change. Internationally, the Saudi Arabian authorities also use the conventions as a means by which to target political critics and opponents abroad and to obtain their forcible return to Saudi Arabia on the grounds that they are suspected of involvement in "terrorist offences".

SAUDI ARABIAN SECURITY FORCES

Saudi Arabia's internal security forces, including the religious police (Mutawa'een) and the Interior Ministry's General Intelligence (al-Mabahith al-'Amma), regularly use fear and repression to counter critics of the state and advocates of freedom of expression and association. The General Intelligence, in particular, monitors without accountability those it sees as political opponents, targets them for arbitrary arrest and interrogates suspects while holding them in secret and prolonged incommunicado detention, sometimes using torture and other ill-treatment without fear of punishment.

The Interior Ministry controls most arresting authorities as well as the Bureau of Investigation and Prosecution. These authorities decide whether to carry out an arrest; determine the conditions of detention, such as access to family; decide the length of detention and whether or not to release or re-arrest a suspect; and determine which cases should proceed to trial. The powers of these arresting authorities were spelled out in the 1983 Statute of Principles of Arrest, Temporary Confinement, and Preventive Detention; these leave suspects almost entirely under the control of, and at the mercy of, the Ministry of the Interior.[61]

In 2001, this all-encompassing power of the Interior Ministry and its security forces faced an unprecedented challenge with the introduction of the Law on Criminal Procedures and the Lawyers Code, which replaced the 1983 Statute, as these introduced a limit to the length of detention, requiring that suspects be brought to trial or released after six months, and provided for suspects to be permitted access to legal assistance and representation.[62] In practice, however, not even these minimal reforms, which fall far short of international standards for judicial supervision of detentions,[63] are respected and, eight years after the new laws were introduced, the Interior Ministry's powers remain unchecked.

4. ARBITRARY ARREST AND DETENTION

"Yes I have contacted them [the NHRC and NSHR] and sent them what they requested. However, I have not heard a response from them nor can I get a hold of the person I originally contacted but I will try again this Saturday. My relative was able to call me for the first time yesterday but we were forced to only speak Arabic which I can barely speak. He said he has been transferred to Jeddah and until now does not know why he has been taken and they have not told him anything. Please advise on the next steps we can take to ensure his safe release."

An email from a relative of a detainee that reached Amnesty International in April 2009.

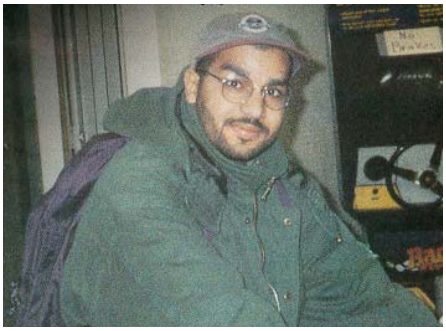
CASE STUDY: MUHAMMAD NOUR BIN 'ABD AL-FATTAH ZIN AL-'ABIDEEN

Muhammad Nour bin 'Abd al-Fattah Zin al-'Abideen, a 45-year-old Syrian national and father of nine children, had been living with his family in Riyadh for nearly 10 years. On 28 March 2008, while driving to the mosque for dawn prayer, he was followed by a car driven by security forces officials. At the door of the mosque, they arrested him and took him away by force. They then entered and searched his home, removing two computers, three mobile phones, 16,500 Saudi Arabian riyals (about US $4,400), and various documents. Initially, the Ministry of the Interior denied the arrest and detention of Muhammad Nour bin 'Abd al-Fattah Zin al-'Abideen until he was eventually allowed to make a phone call to his family and, seven months after his arrest, to receive one visit from them.

Muhammad Nour bin 'Abd al-Fattah Zin al-'Abideen is reported to have been taken to al-Ha'ir Prison in Riyadh, where he was detained in solitary confinement for seven months and interrogated. As a result, he is said to have lost weight, to suffer from stomach problems and to experience periodic shaking in his arms and legs. It is not known what, if any, medical facilities are available to him.

The authorities have not given any reasons for his arrest and detention or explained its legal basis, and it remains unclear whether he has been charged with an offence or faces other legal proceedings. His family are reported to be unaware of the reason for his imprisonment and Muhammad Nour bin 'Abd al-Fattah Zin al-'Abideen is said to have been made to sign an undertaking not to discuss with anyone what he was questioned about during his interrogation. His family are reported to have asked if they can appoint a lawyer to represent him but to have been told that this was not permitted because it is a "state security case".

A pattern of arbitrary arrests and the detention of political and security suspects indefinitely without trial and without access to lawyers have been a long-standing feature in Saudi Arabia, despite the six month limit on detention without trial that was introduced under the 2001 Law on Criminal Procedures. For example, nine people from the Shi'a community in the Eastern Province arrested about 13 years ago in connection with the 1996 attack in al-Khobar are reported to continue to be held without trial. The nine were interrogated and tortured, and denied access to lawyers together with the opportunity to challenge in court the legality of their detention or seek redress for other abuses of their rights. They are reported to be held at al-Dammam Prison. They include **Hani al-Sayegh**,[64] now in his 40s, who had sought asylum in the USA, but was forcibly returned to Saudi Arabia on 11 October 1999. He was detained immediately on arrival. The other eight are: 'Abdullah Ahmad al-Jarrash, Hussain 'Abdullah Al Magis, 'Abdulkarim Hussain al-Nimr, al-Sayyid Mustafa al-Qassab, al-Sayyid Fadhil al-'Alawi, Mustafa Ja'far al-Muallam, 'Ali Ahmad al-Marhoun and Salih Mahdi Ramadan.



Hani al-Sayegh © Private

Since 2001, however, the number of people being detained arbitrarily in Saudi Arabia has risen from hundreds to thousands. In July 2007, the Interior Minister reported that 9,000 security suspects had been detained between 2003 and 2007 and that 3,106 of them remained held,[65] though without naming any of the detainees or indicating how many detainees had been released after questioning, charged and brought to trial or transferred to centres for "re-education" (see below, Chapter 7 on "Re-education"). Other, unofficial sources estimate the number to be much higher. Since the Interior Minister's July 2007 announcement, the Saudi Arabian media has reported new waves of arrests that have targeted foreign nationals, among others, on security and immigration grounds.

The high level of official secrecy means that only the Interior Ministry knows precisely how many people are being held at any time in connection with alleged terrorism-related offences. It is known, however, that large numbers of security detainees are held throughout the country, in particular in Makkah and Jeddah in the west, Riyadh and Buraida in the centre, and in al-Dammam in the Eastern Province.

One case involves **Hamad al-Neyl Abu Kassawy**, a 34-year-old Sudanese national, who phoned his family in Sudan from Damascus Airport in Syria on 24 June 2004. He called to tell them that he was travelling with Saudi Arabian Airlines to Madina in Saudi Arabia in order to carry out *'umra* (a form of Islamic pilgrimage) for three days. He said he would then continue his journey to Sudan and would phone again when he arrived at Madina Airport. However, when he arrived at Madina later that day, he was arrested by the General Intelligence. As a result, he was not able to call his family in Sudan as arranged and it was eight months before they received any

Hamad al-Neyl Abu Kassawy © Private

news of him or his whereabouts. The family are reported to have notified the Sudanese authorities of his disappearance and to have asked unsuccessfully that they help clarify his whereabouts. They first obtained word of what had happened only in February 2005, when they received a phone call from a Saudi Arabian national who said that while visiting a relative in a prison in Madina, he had met Hamad al-Neyl Abu Kassawy, who had asked him to let them know that he was being imprisoned, suspected of belonging to an illegal organization. Hamad al-Neyl Abu Kassawy was able subsequently to confirm his whereabouts and arrest at the airport in a phone call to his family.

Hamad al-Neyl Abu Kassawy appears to be a suspect because of his frequent journeys between Sudan, Dubai and Damascus. According to the family, he is the sole breadwinner for his three children, wife, mother and father. His job is known in Sudan as a suitcase trader – suitcase-scale buying and selling of items in different places. He is said to have been working as a suitcase trader since 1997.

Hamad al-Neyl Abu Kassawy is said to be held without charge or trial. He and his family continue to suffer the agony of waiting without knowing when his case, and the economic and financial hardship brought on them by his detention, will come to an end.

Security detainees usually have no idea of what is going to happen to them. Most have been held for years without trial and without access to lawyers or to the courts or any other judicial body to challenge the legality of, or grounds for, their continuing detention. They are invariably held incommunicado following arrest and throughout the period of interrogation, which can last for years, before they are allowed family visits. The overwhelming majority of these detainees are likely to remain in detention until the arresting authorities are satisfied that they are not a security threat or until they promise to forego their right to peaceful opposition and to pledge obedience to the ruler.

In other cases, there has been a pattern of re-arrest of prisoners immediately or shortly after release and of repeated arrest without charge. This has long been used against critics and opponents of the government but such practices appear to have become even more common since 2001 in the context of countering terrorism.

Ghazi al-'Utaybi, then aged about 25, was arrested in May 2003 in Jubail in the Eastern Province where he lives, and transferred to the prison in al-Dammam run by Interior Ministry's General Intelligence (al-Mabahith al-'Amma), where he was detained without charge or trial for 18 months, and then released. He was then re-arrested about six months later and is believed to be still held, again detained without charge or trial.

Salih bin 'Awad bin Salih al-Hawayti © Private

Salih bin 'Awad bin Salih al-Hawayti, a poet born in 1964 in Riyadh, was arrested by members of the General Intelligence in 2004 at the house of his brother Faisal in Riyadh. He was suspected of having connections with Islah, a reform movement, and was known for his poems on injustices and hardships faced by the *Bidoun* (stateless Arabs within the Gulf) community. His late father was stripped of his Saudi

Arabian nationality and, with the strengthening of border controls, his family that had previously moved freely between Jordan and Saudi Arabia ended up split between the two countries.

Salih bin 'Awad bin Salih al-Hawayti suffered prolonged incommunicado detention in 'Ulaysha Prison in Riyadh before his family was allowed to visit him. The family say that they found out informally after two years that he had been charged with "insulting officials", tried secretly and sentenced to 11 months' imprisonment. This meant that he should have been released in 2005. Instead, however, he was transferred to al-Ha'ir Prison then to al-Taif Prison. The family lost touch with him for nearly a year. In April 2007 he was released and went to stay with relatives in al-Taif until he could obtain identity papers to enable him to travel with his brother to his home in Riyadh. However, five days later, according to his family, he was re-arrested and detained in al-Taif. When his family sought clarification of the reasons for his re-arrest, they were apparently informed by the NHRC and NSHR that this related to a new security offence that he was alleged to have committed. The organizations also said that the case was being investigated and that should there be evidence against him he would be referred to a court for trial. However, Salih bin 'Awad bin Salih al-Hawayti is said to have since been transferred to Jeddah, where he is believed to be still held without trial.

Repeated arrest and detention without a clear explanation for the reasons and without offering the person concerned the opportunity to challenge the deprivation of their liberty is arbitrary in the extreme.

While it is difficult for Amnesty International to verify accurate timelines for each of the detentions mentioned in this report, the organization is concerned that in many of the cases the government initially concealed the fate or whereabouts of the detainee, sometimes for months, and that therefore the detentions may have amounted to enforced disappearances – a grave human rights violation.

CASE STUDY: "SAID"

An email from the brother of a detainee whose name has been changed to protect the identity of the source.

"Dear sir/madam

I am writing to you in hope of receiving advice regarding a very sensitive situation. I am referring to the wrongful imprisonment of my brother Said. [He] is currently being held in a prison in Saudi Arabia.

Said's[66] *background is that of working as an imam in Saudi Arabia. Part of his role was to collect small funds from the local community to help poor families in the neighbourhood. He did his job honestly. Shortly after the 9/11 2001, the Saudi security police visited our house and arrested my brother not giving him or the rest of the family a reason for this action. In the following months and years we did not know where Said had been taken and on what grounds. When turning to the Saudi authorities, they did not want to hear our questions and did not want to help us.*

At last, we heard from Said after nine months, he had phoned us from prison…where he was being held on

accounts he did not know. It later emerged that Said was being held on account of terrorism but further information could not be given. From then on, our visits are limited to one hour, once a month.

We are very concerned about the well-being of Said, and as we are unable to communicate with the Saudi government regarding this matter, we are hoping to find help elsewhere.

Looking back, I cannot comprehend what actions could have triggered such a grave suspicion of my brother being a terrorist. Evidently, the Saudi government has no evidence of this as Said has not been charged, sentenced or allowed to have a legal representative. His imprisonment is indefinite.

I would like to add to this, that my brother has a…child who has not been allowed to receive education in public schools or private with the reason that the father is a terrorist suspect. The child has not been to school since autumn 2001.

Three months ago my brother was removed from…prison to a prison in the city of…We don't know the reason for this. Is it where terrorist suspects are held? Do you have any information about this prison?"[67]

Mahmoud Ahmed al-Sheikh © Private

Mahmoud Ahmed al-Sheikh, aged 24, and **Khalid 'Abdullah al-Khatir**, aged about 30, are believed to be detained in the General Intelligence Prison in al-Dammam. Mahmoud Ahmed al-Sheikh was arrested in 2004 in al-Dammam when he was a student at al-Dammam Petroleum University. He is said not to have been allowed any visits by his family since his arrest. The reason for his detention is not clear to his family or to Amnesty International. Khalid 'Abdullah al-Khatir was arrested in or about 2002 from his home in al-Jubail, in the Eastern Province, during waves of arrests targeting suspected Muslim activists. He was held incommunicado and in solitary confinement for approximately the first five months of his detention before he was allowed family visits.

TARGETING OF PEACEFUL ACTIVISTS AND GOVERNMENT CRITICS

A particularly disturbing development is the rising number of human rights defenders, advocates of political reform and other non-violent activists who have been arbitrarily arrested and detained for challenging or criticizing the repressive measures employed by the authorities in the name of countering terrorism. Amnesty International has information to suggest that the grounds for detaining some of these individuals were solely their peaceful criticism of government policy; if so they are or may be prisoners of conscience who should be released immediately and unconditionally.

'Abdul Rahman al-Shumayri © Private

'Abdul Rahman al-Shumayri, a university professor, and nine other university professors, lawyers and writers have

been detained in Jeddah since February 2007.[68] Some have since been released. All are well-known advocates of peaceful political change who have been repeatedly detained for their activism. They were held at the General Intelligence Prison in Jeddah for six months before they were allowed family visits, and subsequently transferred to Dhahban Prison, near Jeddah. According to a response provided by the government to the UN Working Group on Arbitrary Detention:

> *"…The competent authorities in the Kingdom of Saudi Arabia have indicated that the above-mentioned persons were arrested and charged with 'engaging in activities involving the collection of donations in an illicit manner and the smuggling and transmission of funds to bodies suspected of using such funds to deceitfully incite citizens into travelling to locations where disturbances are taking place'. This was announced officially and the said persons are currently being treated in accordance with the Kingdom's judicial standards, which respect human rights, prohibit injustice, comply with international rules and conventions, permit visits by relatives, ensure that no physical or mental humiliation or harm is inflicted on the accused, and guarantee them a fair trial."*[69]

The government added:

> *"…that those proved guilty will be referred to the Kingdom's judicial authority, which is well known for its independence and is the only body competent to adjudicate in all crimes, determine penalties after conviction and hand down a final judgement on the accused. It is noteworthy that the said persons and their families are currently enjoying all aspects of care (health, social and financial)."*[70]

The Working Group on Arbitrary Detention concluded in November 2007 that the detention of 'Abdul Rahman al-Shumayri and the nine others was arbitrary and asked the Saudi Arabian government "to take the necessary steps to remedy the situation in order to bring it into conformity with the norms and principles enshrined in the Universal Declaration of Human Rights."[71] However, at least seven of the ten continue to be detained without trial and denied the basic right to challenge their detention before an independent and impartial authority. In June 2009, 'Abdul Rahman al-Shumayri's lawyer, who has not been permitted to visit him in prison, stated that he had referred his case to the Court of Grievances and that the Court had agreed to consider it,[72] though it remained unclear when this would occur and whether 'Abdul Rahman al-Shumayri' and his lawyer will be allowed to appear in person before the court and to call witnesses.

According to Amnesty International's information, the 10 were arrested because they met and discussed the establishment of an association to defend human rights activists, the possibility of establishing a political party, and the possibility of lodging complaint with the Board of Grievances (Administrative Court) against the Ministry of the Interior, demanding the fair trial or release of detainees held in the name of countering terrorism. This last topic was discussed because the lawyers among the 10 had received dozens of powers of attorneys from relatives of such detainees.

Fouad Ahmad al-Farhan © Private

Fouad Ahmad al-Farhan,[73] aged 32, a blogger and father of two children, was arrested by security agents on 10 December 2007 at the office of the information technology company that he owns in Jeddah. He was held incommunicado in Jeddah, first at the General Intelligence Prison then at Dhahban Prison, near Jeddah. The government did not disclose the reason for his detention. Information received by Amnesty International suggests that it was related to a web journal he kept in which he criticized government policies, including the detention without charge or trial of prisoners of conscience. He was held in solitary confinement for five months before he was released untried on 26 April 2008.

Shaikh Nasser al-'Ulwan, a religious scholar aged about 40, was arrested in 2004 or 2005 in Buraida reportedly because he refused to issue a fatwa when instructed to do so by officials. Amnesty International does not know what was the nature of the fatwa or what it was intended to address but it appears that Shaikh Nasser al-'Ulwan's refusal interpreted as an act of opposition to the government. He is said to have been held incommunicado and mostly in solitary confinement since his arrest. A number of other shaikhs are said to be held with him in al-Ha'ir Prison in Riyadh without charge or trial, but Amnesty International has yet to obtain details of their cases.

Dr Sa'id bin Zu'air © Private

Sa'ad bin Zu'air © Private

Dr Sa'id bin Zu'air,[74] a 60-year-old university professor, was arrested in June 2007 at a checkpoint outside Riyadh while returning home from Makkah. Official reasons for his arrest and detention are not known to Amnesty International, but he is reported to have criticized the government in a number of media interviews and to have refused to give an undertaking to desist. He is believed to be held in al-Ha'ir Prison. His son, **Sa'ad bin Zu'air**, is said to be detained with him, also for criticizing the authorities. Neither is known to have been charged or tried.

PROHIBITION OF ARBITRARY DETENTION

International human rights law and standards clearly prohibit the arbitrary arrests and detentions seen so frequently in Saudi Arabia. Article 9 of the Universal Declaration of Human Rights provides that: "No one shall be subjected to arbitrary arrest, detention or

exile." The Working Group on Arbitrary Detention considers that detention becomes arbitrary when it falls into one or more of the following categories:[75]

- *"When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his sentence or despite an amnesty law applicable to him) – Category I;*

- *When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by Articles 7, 13, 14, 18, 19, 20 and 21 of the UDHR – Category II;*

- *When the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the UDHR and relevant international instruments accepted by the states concerned, is of such gravity as to give the deprivation of liberty an arbitrary character – Category III."*

The Working Group on Arbitrary Detention has specifically stated its concern "at the extremely vague and broad definitions of terrorism in national legislation" prevailing in many countries, and has noted that:

> *"…either per se or in their application, [these definitions] bring within their fold the innocent and the suspect alike and thereby increase the risk of arbitrary detention, disproportionately reducing the level of guarantees enjoyed by ordinary persons in normal circumstances."*[76]

Article 19 of the UDHR guarantees "the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." The Working Group on Arbitrary Detention has recently stressed, in the context of deprivation of liberty linked to or resulting from use of the internet, that:

> *"…the peaceful, non-violent expression or manifestation of one's opinion, or dissemination or reception of information, even via the Internet, if it does not constitute incitement to national, racial or religious hatred or violence, remains within the boundaries of the freedom of expression. Hence, deprivation of liberty applied on the sole ground of having committed such actions is arbitrary."*[77]

Thus, when depriving people of their liberty in the context of counter-terrorism measures, governments must distinguish this protected form of communication from communication specifically "aimed at preparing or carrying out terrorist plots" which may in some circumstances justify deprivation of liberty.[78]

As stated above, the Law on Criminal Procedures introduced in 2001 imposed a six month limit on detention without trial, requiring that detainees be either charged and brought to trial or released at the end of such period. In practice, however, this requirement appears to be routinely ignored by Saudi Arabia's detaining authorities and individuals who are detained beyond the legal six month limit appear to be denied any effective remedy or means to challenge or appeal against their continuing detention to the courts or any other judicial body.

5. TORTURE AND OTHER ILL-TREATMENT

"They shackled my feet on a 24-hour basis for three weeks and put me in a small cell with no air conditioning. Every time I complained they gave me electric shocks with what looked like a short stick of similar thickness to that of a mobile phone…which affected me psychologically and I continue to suffer as a result."

Name withheld for fear of reprisal against the detainee.

These are the words of a former security detainee who was held in various prisons in Saudi Arabia without charge or trial from 2002 to 2006, speaking to Amnesty International in February 2008. In addition to these abuses, he was also held in solitary confinement for four months.

Detainees in Saudi Arabia are frequently tortured or otherwise ill-treated even though Saudi Arabia is a party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[79] These gross violations of human rights are committed with impunity and are facilitated and perpetuated by legal, judicial and institutional failures. In practice, the safeguards introduced by the 2001 Law on Criminal Procedures, which prohibit torture (Articles 2 and 35) and require interrogations not to affect the will of the accused in making a statement (Article 102), appear to have had little or no effect in curbing the use of torture or other ill-treatment of detainees.[80]

Although this pattern of abuse long pre-dates 2001, the counter-terrorism measures introduced since then have put more people at greater risk. The first reason is the sheer scale of the number of people arbitrarily detained as terrorism suspects and held incommunicado; this has vastly increased the number of people at risk of torture. Secondly, the government's counter-terrorism strategy places a high value on information extracted from detainees, and emphasizes what it describes as "interrogation of criminal elements in order to learn about the methods by which they move illegally among states."[81]

Methods of torture and other ill-treatment of suspects are reported to include severe beatings with sticks, punching, suspension from the ceiling or cell doors by the ankles or wrists, the application of electric shocks to the body, prolonged sleep deprivation, as well as flogging, which is imposed as a legal punishment, either as a stand alone penalty or in addition to imprisonment, and can involve sentences of thousands of lashes. To Amnesty International's knowledge, none of the allegations of torture detailed in this report has been investigated and no one has been brought to account for them. It is normal in Saudi Arabia that perpetrators

of torture enjoy impunity as such a crime is rarely if ever subjected to independent and impartial investigation.

Ahmad 'Abdu 'Ali Jabran and '**Umar 'Abd Rabbuh 'Umar al-Awdhali** were allegedly tortured and otherwise ill-treated with methods that included combined beatings with sticks, punching and kicking all over the body, shackling, blindfolding and interrogation for lengthy periods during the night. The two Yemeni nationals were initially detained in Malez Prison in Riyadh and subsequently moved to al-Qassim Prison, where they are reported to be still held together with some 80 other Yemenis. Ahmad 'Abdu 'Ali Jabran, married with children, was arrested in September 2004 at King Khalid International Airport in Riyadh following his return from a visit to Syria. He was then held incommunicado and in solitary confinement in the General Intelligence Prison in 'Ulaysha in Riyadh for nearly three months before he was allowed visits by his family. During this period, he was reportedly questioned about his visit to Syria as well as his relationship with a Saudi Arabian detainee in the same prison, whose name is not known to Amnesty International.

'Umar 'Abd Rabbuh al-Awdhali was arrested in January or February 2004; Amnesty International does not have further information about his case.

Majed Nasser al-Shummari (see Chapter 7 on Detention beyond expiry of sentence) was allegedly beaten and suspended by his wrists from the top of his cell door during his interrogation in the General Intelligence Prison in al-Dammam following his transfer there from the town of Hafr al-Batin.

Another detainee held in Riyadh without charge or trial, in the context of allegations of terrorism, described the interrogation techniques used to force his confession:

> *"I was held in solitary confinement in a cell measuring approximately 2x1 metres…I was subjected to a bad and degrading treatment by those in charge. Most of the time I was taken for interrogation in the middle of the night while blindfolded and shackled and was kept like that throughout the session of interrogation which lasted for hours."*[82]

Amnesty International has also received allegations of torture and other ill-treatment from foreign nationals detained following waves of arrests mounted by the security forces since 2003.

These persistent allegations of torture and other ill-treatment in Saudi Arabia's prisons and police stations have been repeatedly exposed and denounced by Amnesty International and other organizations. In 2002, the Committee against Torture recommended that Saudi Arabia:

> *"Ensure that all places of detention or imprisonment conform to standards sufficient to guarantee that no person is thereby subjected to torture or cruel, inhuman or degrading treatment or punishment."*[83]

Rather than changing practice, however, the authorities' actions taken in the name of countering terrorism have caused a further deterioration.

ABSOLUTE BAN ON TORTURE

Torture and all other forms of cruel, inhuman or degrading treatment or punishment are prohibited in absolute and non-derogable terms under international human rights law. The absolute prohibition is also a rule of customary international law binding on all states regardless of whether they are party to particular treaties. It applies in all circumstances: no exceptional circumstances of any kind whatsoever can justify an act of torture or other ill-treatment.

The UN Convention against Torture defines torture as:

> *"…any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."*[84]

Incommunicado detention, which increases the risk of enforced disappearance, torture or other ill-treatment, is also prohibited. Prolonged incommunicado detention can itself constitute a form of cruel, inhuman or degrading treatment or even torture.[85]

Saudi Arabia has ratified the UN Convention against Torture but when doing so entered a reservation under Article 28 of the treaty according to which it does not recognize the competence of the Committee against Torture to undertake confidential inquiries into allegations of systematic torture if warranted.

Although the Saudi Arabian government has repeatedly assured the international community that international treaties, once ratified, are incorporated into Saudi Arabia's domestic law, there is little to suggest that the Convention against Torture has been so incorporated – or, if it has, that this has had any effect in ensuring that the safeguards required by the Convention are enforced in practice. Thus, there is little to suggest that allegations of torture made by detainees are investigated, as required by Article 12 of the Convention, to protect the complainant against possible further abuse (Article 13), to compensate victims of torture (Article 14), and to ensure that statements made as a result of torture are not used as evidence in trials of individuals who were subjected to torture (Article 15). Indeed, Amnesty International knows of no cases in which the Saudi Arabian authorities have undertaken thorough and independent investigations into allegations of torture of detainees, nor of any instances in which members of the security forces or other officials have ever been held criminally liable for torturing or otherwise ill-treating detainees.

As stated above, the 2001 Law on Criminal Procedures introduced safeguards prohibiting torture (Articles 2 and 35) and requiring interrogators not to affect the will of the accused in making a statement (Article 102). However, these safeguards do not appear to be enforced in practice and have not curbed the use of torture or other ill-treatment against detainees.

CASE STUDY: 'ABDULLAH

'Abdullah, a 30-year-old Yemeni national, was arrested in Saudi Arabia during counter-terrorism operations in 2002. He described his torture in the General Intelligence Prison in 'Ulaysha in Riyadh:

"On arrival [in 'Ulaysha Prison] they asked me what I was doing in Saudi Arabia and when I said I was legally there five of them started beating me with a cable all over the body. One of them who had a strongly built body punched me in the face until blood burst out of my mouth. They then put me in a small cell (2mx1m) where they detained me for 56 days and subjected me to interrogation and torture every three to four days. After the first day when they wanted to know what I was doing in Saudi Arabia, they changed their questions to did you travel to Afghanistan and if I knew names of people they presented to me in a list. I told them: yes, I did travel to Afghanistan, but I did not know any of the names they presented to me. When I did not know answers to their questions or they did not believe me, they tortured me.

Interrogations were carried out in the evenings and I was regularly subjected to beatings all over the body and beatings on the soles of the feet and legs while my legs were shackled and body laid on my back. I was also put under the air conditioner for a few hours. I was taken to hospital for treatment five times as a result of torture, and at one time I was hospitalized for three days. A doctor told them that I was not well and should not be tortured. I asked for a medical certificate but they refused to give it to me.

After 56 days they moved me to a collective cell. After eight months in 'Ulaysha they transferred me to al-Ha'ir Prison also in Riyadh. I asked them to try me or release me because I had not done anything wrong. They told me that they were satisfied that they had nothing against me to try me but they could not release me until a release order comes from the Ministry of Interior. I was kept waiting for this order for five months then I was deported to Yemen. Until this day I am still suffering from pains in back, legs and mouth as a result of the injuries sustained during the torture."[86]

6. UNFAIR TRIALS

For several years the government has indicated that it will bring to trial at least some of the thousands of people who have been arrested as suspects in terrorism-related cases and who have been subjected to prolonged detention. In October 2008 it said that two measures had been taken to start trials.[87] One was the decision to transform the security section of the General Court in Riyadh into a special criminal court to try security suspects in terrorism-related cases. The other was the Interior Ministry referral to the court of the files, including the alleged confessions of 991 detainees accused of terrorism-related crimes, including murder and causing bomb explosions.

This was accompanied by wide media coverage within Saudi Arabia of the incidents of violence, and the charges that the Interior Ministry said it was bringing against the defendants under the rules of "corruption on earth" and *hiraba*,[88] which can carry the death penalty.

The Ministry said that there would be 991 defendants but did not name any of them or indicate whether they would be tried individually, in groups or even all together. Nor did the Ministry provide any indication whether the defendants would have access to defence lawyers and to legal representation in court, or whether there would be any media reporting of or public access to the trials – for example, by defendants' relatives or by the victims of terrorist attacks or their families – or whether they were to be held entirely behind closed doors.

It was expected, nonetheless, that among the defendants would be eight men who were shown on Saudi Arabian television in 2007 "confessing" to planning terrorist attacks, although this is a capital offence. Prior to this, the eight had been detained incommunicado for long periods. They may have been tortured to induce their televised confessions; other individuals who have been shown on television confessing to crimes in the past have alleged that they were tortured or otherwise ill-treated beforehand. Five are Saudi Arabian nationals: '**Abdullah 'Abdel 'Aziz al-Migrin, Ahmed 'Abdel 'Aziz al-Migrin, Khaled al-Kurdi, Mohamed 'Ali Hassan Zein** and **'Amir Abdul Hamid al-Sa'di**; two are Chadian nationals, '**Ali 'Issa 'Umar and Khalid 'Ali Tahir**; and one, **Muhammad Fatehi al-Sayyid**, is an Egyptian national.

Human rights defenders in Saudi Arabia and elsewhere have urged the authorities to ensure that all defendants, including those in terrorism-related cases, receive trials that conform to international fair trial standards, but the government has failed to give unequivocal guarantees in this regard. It stated in its submission to the Universal Periodic Review process of the UN Human Rights Council:

> *"The Government is implementing a number of programmes to support its anti-terrorism endeavours and intensify its campaign against extremists through, inter alia, the establishment of a special security court to try suspected terrorists in which general safeguards are applied to ensure that the court, far from acting as a military tribunal, operates in conformity with the law and the judicial practices in force."*[89]

In mid-March 2009, the Minister of the Interior is reported to have stated that the trials had

started and that full responsibility for them had been passed to the Ministry of Justice.[90] No further information was provided, however, increasing anxiety among relatives of those detained. One detainee's relative wrote to Amnesty International:

> *"In the name of Allah, The Merciful, The Compassionate*
>
> *Dear Sirs,*
>
> *This is to report that prisoners in KSA are being taken by the dozens to fake courts and arbitrarily receiving 30 to 40 year sentences. They cannot speak while their sentence is read to them; they are forced to sign it and then are sent back to jail. This is the "fair" trial of Saudi Arabia.*
>
> *My relative…may be sent to one of those fake courts and be sentenced without a fair trial nor lawyer neither right of defence after serving almost 7 years in jail. I and his child are not able to see him. This is inhumane treatment of prisoners and prisoner's family. This is transgressing the rights of children as well."*
>
> Message received at the end of March 2009. Name of relative withheld for fear of reprisal against the detainee.

In a subsequent message, the relative gave details about the "fake" trials, including that they were being held in Riyadh in a special court that did not permit defence lawyers or any right of appeal, and in which the process consisted of nothing more than defendants' "confessions" being read out unsupported by the presentation of other evidence or witnesses.[91]

If correct, this would be consistent with Amnesty International's documentation of other trials in Saudi Arabia over the decades. Trials of political or security detainees invariably fail to meet international standards of fairness. Court hearings are often held in secret. Defendants are rarely permitted legal assistance or legal representation by a lawyer. In many cases defendants and their families are not informed of the progress of legal proceedings against them.

This pattern of human rights violation in Saudi Arabia pre-dates the measures adopted since 2001. However, breaches of the fundamental right to fair trial have now reached a new level, particularly in terms of the number of people affected and the level of secrecy surrounding the trials.

In fact, prior to the establishment of the new special court announced in October 2008, some – possibly hundreds – of political or security detainees are believed to have been tried since 2001 although very little is known about the trial proceedings. Those accused are said to have been taken before a form of court that comprised a three-member panel which, in a few short sessions, questioned them about their "confession" or other statements they had made in pre-trial detention under interrogation by General Intelligence officials. Most are reported to have been sentenced to prison terms and floggings. Information is even more

limited in cases of defendants charged with violent acts, such as bombings or killings of members of security forces, which are capital offences.

A typical case of unfair trial involved **'Abdul Rahman al-Sudais**, a 48-year-old Saudi Arabian national and lecturer at Um al-Qura University in Makkah. He was arrested in 2003 from his home in Jeddah and held incommunicado for a lengthy period. According to the government, he was arrested together with a cell of "terrorists" and subsequently tried and sentenced to a total of 40 years' imprisonment.[92] His trial was held in secret and he was not allowed any legal assistance or representation.

The government nevertheless assured the UN Working Group on Arbitrary Detention:

> *"…following a fair and independent trial, Mr. Al Sudays was convicted of the charges brought against him and sentenced…The Government considered it noteworthy that he is enjoying all his legally guaranteed rights. Finally, it wishes to reaffirm its willingness to co-operate with the Working Group by providing requisite information on such cases, while at the same time, trusting that the Working Group understands the high priority that the Government must currently accord to the campaign against terrorism."*[93]

In response, the Working Group observed that "the fight against terrorism threats cannot justify undermining due process rights afforded to all accused and corresponding international human rights obligations of the State concerned", and found the detention of 'Abdul Rahman al-Sudais to contravene of the UDHR.[94]

The much talked about trials of the 991 detainees appear to follow the longstanding pattern of extreme secrecy combined with summary trials and denial of any legal assistance at any stage of the trial process.

In contrast to the secrecy surrounding security-related trials, the trial of lawyer and prisoner of conscience **Dr 'Abdullah al-Hamid,** was conducted relatively openly, although his prosecution as a lawyer seeking to uphold the law and the rights of security detainees and their families gives serious cause for concern.[95]

He was released on bail after being detained briefly in connection with a women's protest in July 2007, and was eventually tried before an ordinary criminal court in a partly public hearing. The protest was staged by women relatives of security detainees, who called for the trial or release of the detainees. Many of the women protesters were briefly detained, including **Rima al-Jareesh**, a relative of Dr 'Abdullah al-Hamid, who was protesting on behalf of her husband, **Muhammad al-Hamli**, detained without charge or trial since his arrest, apparently on security grounds, in 2004 or 2005.

Dr 'Abdullah al-Hamid, acting as an attorney, challenged members of the security forces when they went to Rima al-Jareesh's house to arrest her. He and his brother were tried by a court in Buraida on charges of inciting women to protest and obstructing members of the security forces during their arrest of Rima al-Jareesh. During a partially public hearing, he was allowed defence representation by a lawyer colleague. He told the judge that all he had done was ask the security forces to show a legal arrest warrant as required by the Law on Criminal Procedures, and that he had done this in accordance with the rules of the Lawyers

Code. Despite this, in November 2007 he and his brother were found guilty as charged and sentenced to six and four months' imprisonment respectively, in addition to being required to sign an undertaking not to incite the women to protest. He was allowed to appeal against the verdict but lost. Both men served their sentences and were released.

Over the years not only have lawyers been denied access to their clients and prevented from mounting an effective defence, they have also been targeted for repression themselves.

For example, lawyer '**Abdul Rahman al-Lahem** was arrested and detained at least twice in 2004 while defending the group calling for reforms (see above, Chapter 2 on Continuing contempt for human rights, reference to Dr Matrouk al-Falih and others) simply because he criticized the unfairness of the proceedings and spoke to the media about it. He was subjected to a travel ban and remained unable to go abroad even to collect awards given to him for his service to human rights until May or June 2009, when the restriction was lifted.[96] However, many other critics of the state remain banned from travelling abroad.

'Abdul Rahman al-Lahem © Private

The role of lawyers was further undermined by a November 2008 circular from the Minister of Justice requiring lawyers to disclose information about their clients. The circular calls on lawyers to:

> *"…inform on any suspicious cases of money laundering you may come to know about through your work by filling in the attached questionnaire and returning it to the Police Department for the Suppression of Organized and Economic Crimes and Reception of Information on Money Laundering on the following telephone lines…We thank you for your co-operation for the public interest."*[97]

The questionnaire appears to have been designed primarily for financial institutions and asks for details of financial transactions: currency, sums, dates, banks, transferer and beneficiary as well as the reasons for suspecting the transaction. The circular does not explicitly prescribe penalties for those lawyers who fail to report any suspicions that have about their clients to the authorities but this provides little comfort in a country in which lawyers have been punished for upholding the rights of those they are engaged to represent and the circular and its accompanying questionnaire also seriously risks undermining the principle of lawyer-client confidentiality, a principle enshrined in international law.[98]

RIGHT TO A FAIR TRIAL

Articles 10 and 11(1) of the UDHR provide that:

> *"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."*

They also provide that:

> *"Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence."*

Principle 1 of the UN Basic Principles on the Role of Lawyers states that:

> *"[A]ll persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings."*[99]

Rule 93 of the UN Standard Minimum Rules for the Treatment of Prisoners[100] specifies that:

> *"For the purposes of his defence, an untried prisoner shall be allowed to…receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions."*

The UN Body of Principles also provides that all detained persons "shall be entitled to have the assistance of a legal counsel" and are to be given "adequate time and facilities for consultation" and otherwise for exercising this right.[101] "Adequate facilities" include access to documents and other evidence, which must include all materials that the prosecution plans to offer in court against the accused or that are exculpatory.[102] In cases of a claim that evidence was obtained through torture or other ill-treatment, information about the circumstances in which such evidence was obtained must be made available to allow an assessment of such a claim.[103]

An important element of fair trial is equality of arms, such that "the same procedural rights are to be provided to all the parties unless distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant."[104]

Another important element, explicitly recognized in Article 10 of the UDHR, is the principle that trials must in principle be conducted in public.

As mentioned before, the Law on Criminal Procedures, the Lawyers Code and the Law of Judiciary contain provisions guaranteeing a number of fair trial rights, such as the right to legal assistance and representation, the right to a public hearing and the right of appeal. However, the provisions formulate the rights concerned in a vague or weak manner and are consistently sidelined by the authorities.[105]

7. PUNISHMENTS

DEATH PENALTY

Photo provided by a contact who confirmed that it contains the bodies of three men who were executed and crucified in al-Jouf on 1 April 2005 © Private

In November 2004 the Ministry of the Interior announced that four men arrested in 2003 and accused of political killings in al-Jouf, northern Saudi Arabia, were to be referred for trial. No further information was released until 1 April 2005, when local people awoke to see the bodies of three of the four men on crucifixes after they had been executed. The fourth defendant was sentenced to a term of imprisonment.

The Interior Ministry announced that the three men had been convicted of *hiraba* and "corruption on earth" and sentenced to death. Any trial or appeal that might have taken place was hidden behind a wall of secrecy in total disregard for safeguards required by the Law on Criminal Procedures (2001), let alone those provided for in international standards, particularly those relating to the right to public hearing and legal assistance and representation.

These were reported to have been the first executions of members of a group accused of politically motivated killings carried out in Saudi Arabia since the 11 September 2001 attacks in the USA. They prompted fears that further executions of people arrested in connection with armed clashes with security forces would follow.

In May 2007, more than a dozen detainees were shown on prime-time television "confessing" that they had committed offences that carry the death penalty, including planning to attack oil installations and other government targets. No information was given, however, to explain how the "confessions" were obtained, whether or not they had been made voluntarily and whether those making them had received any legal advice or assistance, or had been or would be tried. Further, since their appearance on television, the authorities have provided no information against the group, who included **'Abdullah 'Abdel 'Aziz al-Migrin**, **Ahmed 'Abdel 'Aziz Migrin**, **Khaled al-Kurdi** and **Muhammad 'Ali Hassan Zein**, and their case, like so many others, remains shrouded in secrecy. It is not known whether they remain alive, are imprisoned or are now dead.

The government has not announced any executions of people detained for suspected involvement in terrorism-related offences since the 1 April 2005 executions. However, Amnesty International is concerned that those shown "confessing" and hundreds of other detainees arrested following clashes with security forces or other violent activities may be at imminent risk of execution following secret and summary trials if, indeed, they have not yet been secretly executed.[106] Moreover, the fate and whereabouts of many of those arrested in connection with violent acts remain unknown.

People suspected of terrorism-related crimes in Saudi Arabia are usually denied all communication with the outside world, in contrast to defendants in ordinary capital cases who are sometimes allowed access to their families after interrogation or after trial.

The right to life is recognized in the UDHR, other international human rights instruments and many national constitutions. Amnesty International believes that the death penalty violates these rights. This view is finding increasing acceptance among intergovernmental bodies and in national constitutions and court judgments. Indeed, in December 2007, the UN General Assembly called for a moratorium on the death penalty,[107] and reaffirmed this call in December 2008.[108]

Even among those who maintain that the death penalty remains legal under international law, there is recognition that any imposition of the death penalty after a trial that in any way falls short of full international fair trial standards constitutes a violation of the right to life. Safeguard 5 of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted by the UN Economic and Social Council in 1984, states:

> *"Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in Article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings."*[109]

In a 1989 resolution, the Economic and Social Council recommended that UN member states strengthen further the rights of those facing the death penalty by:

"(A)ffording special protection to persons facing charges for which the death penalty is provided by allowing time and facilities for the preparation of their defence, including the adequate assistance of counsel at every stage of the proceedings, above and beyond the protection afforded in non-capital cases."[110]

In a 1996 resolution, the Economic and Social Council once again encouraged UN member states in which the death penalty had not been abolished to ensure that defendants facing a possible death sentence are given all guarantees to ensure a fair trial, bearing in mind the UN Basic Principles on the Independence of the Judiciary, the UN Basic Principles on the Role of Lawyers, the UN Guidelines on the Role of Prosecutors, the UN Body of Principles, and the UN Standard Minimum Rules for the Treatment of Prisoners.[111] In 2005, the UN Commission on Human Rights urged all states that still maintain the death penalty to impose the death penalty "only pursuant to a final judgement rendered by an independent and impartial competent court, and to ensure the right to a fair trial", and "[t]o ensure that all legal proceedings, including those before special tribunals or jurisdictions, and particularly those related to capital offences, conform to the minimum procedural guarantees contained in Article 14 of the International Covenant on Civil and Political Rights."[112]

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that the carrying out of a death sentence passed after a trial in which basic fair trial standards were not respected constitutes a violation of the right to life.[113] He has emphasized that fair trial safeguards in death penalty cases must be implemented in all cases without exemption or discrimination.[114] The Special Rapporteur has reiterated that:

> *"…proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries, in accordance with the pertinent international legal instruments. All defendants facing the imposition of capital punishment must benefit from the services of a competent defence counsel at every stage of the proceedings. Defendants must be presumed innocent until their guilt has been proved beyond a reasonable doubt, in strict application of the highest standards for the gathering and assessment of evidence. In addition, all mitigating factors must be taken into account."*[115]

AT RISK OF EXECUTION

At risk of execution are up to 24 Iraqi nationals reported to have left their war-torn country to seek security in Saudi Arabia only to find themselves convicted of drugs- and terrorism–related offences punishable by death.

Those facing execution include **Raid Halassa Sakit**,[116] aged about 20, who may have been a child at the time of his arrest in 2005. He was apprehended near Rafha on the border with Iraq and detained by the General Intelligence in Rafha town. He is reportedly suspected of links with the *Mujahideen* (armed political groups) in Iraq and of being involved in drugs offences. He is reported to have been tortured over a period of about 15 days and forced to sign a confession which he could not read as he is illiterate.

According to information received by Amnesty International, he was tried without any legal assistance in three secret court sessions. After the first two-hour session, he was sentenced to five years' imprisonment. In response he told the judge that he was innocent, but the judge apparently said to him "you had signed", meaning he signed his confession. When he said: "I only did that because I was tortured", the judge apparently told him "such talk is of no benefit to you now". The second session took place about two months later and the sentence was increased to 20 years' imprisonment. In the third session it was changed to death. Although he may have been a child at the time of the arrest, the government has made no effort to inform his family in Iraq or verify his age.

CORPORAL PUNISHMENT OF FLOGGING

Under Shari'a rules in Saudi Arabia, flogging is used as *hadd* punishment (law of fixed punishments) or a discretionary punishment. As a *hadd* punishment it is applied to three offences. Two of these are fornication and the drinking of alcohol and are punished by a maximum of 100 and 80 lashes respectively. The third offence is false accusation of fornication and the drinking of alcohol and is punished by a maximum of 100 and 80 lashes respectively.

As it is a discretionary punishment, flogging is imposed by judges either as a main punishment or as an additional punishment to other penalties, such as imprisonment. Judges have full discretion to determine the number of lashes that can be imposed, as no limit is set in Saudi Arabian law and they can and do impose floggings comprising thousands of lashes. The highest sentence that Amnesty International has recorded was 40,000 lashes, recently imposed on a defendant in a manslaughter case in addition to a sentence of 15 years' imprisonment.[117] Floggings have also been imposed against defendants in terrorism-related cases and are expected to be used against those now facing trial on terrorism-related charges.

DETENTION BEYOND EXPIRY OF SENTENCE

Some security suspects remain imprisoned although they have completed their sentences. They include **Majed Nasser al-Shummari** and **Mislat al-Mutayri**, both aged in their twenties, who are reportedly being detained without new charges being brought against them in the General Intelligence Prison in al-Dammam.

Majed Nasser al-Shummari was previously arrested in about 2002 in Hafr al-Batin and detained in the General Intelligence Prison there for approximately five months. He was then moved to the General Intelligence Prison in al-Dammam and tried and sentenced to three years' imprisonment on charges that apparently related to travel that he had undertaken to Afghanistan. His prison term is believed to have expired but, despite this, he has not been released.

Mislat al-Mutayri was arrested in either 2002 or 2003 in Hafr al-Batin and reportedly tried and sentenced to flogging and a prison term of around two years that has now expired. Both he and Majed Nasser al-Shummari are said to have been convicted and sentenced following a secret trial in Riyadh in which they had no legal assistance or representation.

Once a prisoner has served their sentence, there is no legal basis for their continued

detention. If they are kept in prison, they are being arbitrarily detained. Indeed, "when a person is kept in detention after the completion of his sentence" is cited by the UN Working Group on Arbitrary Detention as an archetypical example of arbitrariness.[118]

"RE-EDUCATION"

As part of its armoury in the fight against terrorism, the government has developed and maintains a programme known as *al-Munasaha*, in which individuals known or suspected of holding extremist Islamic views are exposed to a process of "reform" or "re-education". Although many of the details remain obscure, this programme has attracted wide and often favourable attention from media and from policy-makers outside Saudi Arabia, even being seen by some as a flagship attempt to deflect Islamic militancy and extremism. It has tended to receive far more attention than Saudi Arabia's other counter-terrorism policies and, in particular, their serious human rights consequences.

According to former detainees who have spoken to Amnesty International, those admitted to the *al-Munasaha* programme are confined to a centre where they receive collective or individual lectures by religious officials, including judges, and are exposed to discussions which focus on their views on the duty of loyalty and obedience due to the King as well as on *jihad* (holy struggle) and *takfir* (the declaration of a Muslim by another of being a non-believer).

Those subjected to this "re-education" include people detained without charge or trial and prisoners serving sentences imposed after secret and unfair trials. They are also said to have included Saudi Arabian nationals formerly detained by the US authorities and returned from Guantánamo Bay, Cuba, to Saudi Arabia, as well as former detainees, people imprisoned after they surrendered under the terms of government amnesties, and young people who had returned from countries such as Iraq and Pakistan, or were arrested because they were suspected of planning to go to those countries. It is unclear what criteria are used to determine whether a particular individual should be included in the programme, and what criteria are applied to decide when a person has been persuaded successfully to amend their views and is considered fit to leave the programme and return to normal life. Some of those who were judged to have been successfully "re-educated" are reported to have been rewarded with a salary and money to pay for marriage and cars, but others are said not to have been released although they are considered "successful" graduates of the programme. In November 2007, the government said that it had released 1,500 detainees who had completed the "reform" programme under the guidance of religious and psychological experts.[119]

Amnesty International continues to seek more information[120] about this programme and the extent to which it is voluntary to join, to participate in and to leave, and to what extent it is offered as an alternative to imprisonment, either detention without trial or imprisonment following trial and sentencing. If it is imposed without their voluntary agreement on individuals who have not been charged with offences or faced fair trial, it would represent simply another form of arbitrary detention – even if the conditions of detention for those experiencing "re-education" are significantly better than those pertaining in other Saudi Arabian detention facilities, and might open up the prospect of earlier release for those who are deemed to have completed their "re-education" successfully.

However, the high level of secrecy regarding who is included in the programme, on what grounds and what they must achieve on order to complete it successfully and be released raised questions about possible discrimination. It raises too the question whether some individuals who may have been responsible for grave human rights abuses, such as deliberate attacks on civilians, are able effectively to escape justice by obtaining admission to the "re-education" programme as an alternative to being charged and brought to trial.

8. RENDITIONS AND FORCIBLE RETURNS

In the US-led "war on terror" launched in late 2001, Saudi Arabia became part of an international web of renditions – the unlawful and usually secret transfer of suspects between states.[121] This has involved the transfer of Saudi Arabian and other nationals to Saudi Arabia, and their detention there, and forcible transfers of suspects from Saudi Arabia to other states.

The arrangements include a protocol of security co-operation between Iraq and nearby countries to suppress terrorism, secret entry (*tasallul*) into contracting countries, and organized crime. The protocol was signed in Jeddah on 18 September 2006 by the governments of Iraq, Saudi Arabia, Bahrain, Egypt, Iran, Jordan, Kuwait, Syria and Turkey.[122] It provides for security co-operation between the contracting parties but includes no human rights safeguards for those who fall within the remit of the agreement and who are subject to forcible transfer from one state to another. As well, the protocol prohibits the divulging of information exchanged between the contracting states when implementing the agreement without the express consent of states involved.[123]

Talal Najm 'Abdullah al-Majed, a Saudi Arabian national born in 1975 in Kuwait and who lived with his family in al-Dammam, was taken from his hotel in Doha, Qatar on 20 July 2002 by unidentified individuals believed to be security officials. He is reported to have been beaten, handcuffed and blindfolded, and then put on a plane and flown to Riyadh, apparently because he was suspected of involvement in terrorism or possessing information of interest to the Saudi Arabian security authorities. On arrival in Riyadh, he was immediately detained and then held in secret for 10 months before he was allowed family visits. He is said to have been presented before a panel of judges but it is not clear if this was a trial or what was its outcome. According to recent reports Talal Najm 'Abdullah al-Majed continues to be held in solitary confinement in al-Ha'ir Prison in Riyadh.

His brother **Faisal Najm 'Abdullah al-Majed**, a Saudi Arabian national born in 1978, married and father of one child, lived and worked in Kuwait. He is reported to have been arrested on 30 September 2007 from his home in Kuwait for reasons which have not been disclosed but possibly in connection with the earlier imprisonment of his brother. After a short interrogation by the Kuwaiti security officials who arrested him, he was apparently driven to al-Khafji town on the border with Saudi Arabia, where he was handed over to Saudi Arabian authorities. He was detained for about a week in the General Intelligence Prison in al-Dammam, before he was transferred to al-Ha'ir Prison in Riyadh. He was not allowed to contact his family for six months, during which they apparently had no news about him.

At present, Faisal Najm 'Abdullah al-Majed is believed to be held in a collective cell in al-Ha'ir Prison and allowed to contact his family approximately once a fortnight. He is also reported to have been told by his interrogators that they have nothing against him but that he cannot be released until this has been agreed by the Ministry of the Interior.

Ziya Kassem Khammam al-Hussain, an Iraqi businessman resident in Kuwait, was arrested from his home on 15 January 2007 by security forces in Kuwait. He was detained for about two weeks, during which he was allegedly tortured. In early February 2007 he was handed over to Saudi Arabian security agents and flown to Riyadh. There, he was detained for two years without charge or trial before being forcibly returned to Iraq. He is reported to have been held in solitary confinement throughout his detention and was only allowed family visits once, in September 2008. Prior to that his family was refused permission to visit him despite repeated requests, although they travelled to Riyadh from their homes in Kuwait and Qatar in the hope of being able to see him.

In January 2009, his sister travelled from Kuwait but on arrival in Riyadh was informed that he had already been sent to Iraq, even though Ziya Kassem Khammam al-Hussain had expressed concern for his safety there and had asked the Saudi Arabian authorities to let him seek asylum in a third country. They refused to do so and sent him to Iraq, possibly as part of the security protocol cited above, where he was initially held at Camp Cropper, the US-administered detention facility close to Baghdad airport. His family remain fearful for his life should he be handed over to the Iraqi authorities.

The Working Group on Arbitrary Detention noted that Ziya Kassem Khammam al-Hussain was subjected to rendition.[124] It also determined that his detention contravened Article 9 of the UDHR. It requested the government of Saudi Arabia to "take the necessary steps to remedy the situation in order to bring it into conformity with the standards and principles of the Universal Declaration of Human Rights."[125]

In response, the Saudi Arabian government said that Ziya Kassem Khammam al-Hussain was questioned because "he was involved in an illegal fund raising operation that could be linked to groups threatening regional peace and stability."[126]

Khalil 'Abdul Rahman 'Abdul Karim al-Janahi © Private

Similar treatment was meted out to **Khalil 'Abdul Rahman 'Abdul Karim al-Janahi**,[127] aged 37, a Bahraini born United Arab Emirates (UAE) national and a student of *Shari'a* in Saudi Arabia. On 26 April 2007 he went to Riyadh to catch a plane back to Bahrain to see his wife and attend the marriage of his niece, only to be arrested at passport control and taken to 'Ulaysha Prison.

His wife told Amnesty International:

> *"When he did not arrive home at 10pm and he was not answering me on his mobile, I began to worry and called the police in Bahrain and asked if they know anything about his whereabouts, but without success.*
>
> *After four months and numerous attempts, someone informed me that Khalil was in 'Ulaysha Prison. I looked for the phone number of 'Ulaysha Prison to check and called it many times. At first they denied he was there but after several attempts they admitted he was there. When we learned this, I along with several members of the family went to visit him. We started our journey at dawn and we arrived at 'Ulaysha at about 11am. We*

asked the guards at the gate of the prison if Khalil was there and they said he was there but we could not see him because we did not have permission…We returned home without seeing him. I continued to phone the prison and ask to speak to Khalil. But their answer was always that we were not allowed to speak to him before the end of the investigation…

Following another call I made to the prison the respondent informed me that the investigation with Khalil had finished but he was not able to let me speak with him without the permission of the officer without explaining who the officer was…One day in August I called the prison again while I was crying and begged the prison staff to let me speak with my husband. One of them felt sorry for me and put me through to him for about five minutes. During the conversation Khalil informed me that the investigation with him had concluded and asked me to apply for permission for visits."

At least four months elapsed after Khalil 'Abdul Rahman 'Abdul Karim al-Janahi's arrest before he was allowed visits. He did not, however, receive any clarification of the reasons for his detention. He is said to have been interrogated about his religious views, particularly whether he considered that some Muslims should be declared "non-believers". Like most other detainees he was denied trial and access to legal assistance.

On 24 November 2008, without warning or explanation, Khalil 'Abdul Rahman 'Abdul Karim al-Janahi was handed over to the United Arab Emirates (UAE) authorities in breach of the principle of *non-refoulement*. He was detained in the UAE, and his place of detention was not disclosed to his wife, until 11 June 2009 when he was released uncharged and untried. He was held incommunicado throughout his detention and was only allowed a few controlled phone calls to his wife. His relatives reportedly asked the authorities in the UAE to clarify his whereabouts and allow them to visit him but their requests were rejected. Amnesty International is concerned that he may have been tortured.[128] Detainees held in the UAE in the context of countering terrorism, particularly in Abu Dhabi, are routinely held incommunicado and tortured or otherwise ill-treated. Methods of torture documented by Amnesty International include sleep deprivation, suspension by the wrists or ankles, severe beatings on the soles of the feet, the use of electric shocks, and threats of sexual violence.[129]

As long ago as 2002, the Committee against Torture expressed concern about "cases of deportation of foreigners that have been drawn to the Committee's attention." It urged Saudi Arabia to "ensure that its law and practice reflect the obligations imposed by Article 3 of the Convention."[130]

Despite this, the Saudi Arabian authorities have continued to return people to countries where they will be in danger of serious human rights abuses. Saudi Arabia is not a state party to the 1951 Convention relating to the Status of Refugees and has no domestic laws that clearly prohibit *refoulement*, as required by Article 3 of the Convention against Torture.[131]

The Saudi Arabian government's practice of returning people to situations of danger has been exacerbated by its counter-terrorism measures and by the bilateral secret security arrangements it has agreed with various other governments, particularly those in the Gulf region.[132] Indeed, forcible returns on the pretext of countering terrorism appear to have become common between Saudi Arabia and its neighbouring states.[133]

In 2003, for example, over a dozen foreign nationals, most of them Yemenis, were handed over to the authorities in their home countries. The Saudi Arabian authorities said that the handover was undertaken in compliance with its bilateral security co-operation agreements to "fight terrorism" but no reference was made to indicate either that the authorities had provided the foreign nationals with access to asylum procedures or had carried out an assessment to ensure that they would not be placed at risk of serious human rights violations in the states to which they were returned.

Since then, scores of security suspects and political opponents have been swapped between Saudi Arabia and Yemen even though torture is rife in both countries. Methods of torture regularly documented by Amnesty International in Yemen include beating with sticks, punching, kicking, prolonged suspension by the wrists or ankles, burning with cigarettes, being stripped naked, deprivation of food, denial of timely access to medical help, and threats of sexual abuse.

9. CONCLUSION AND RECOMMENDATIONS

Since 2001 the counter-terrorism policies and practices of the Saudi Arabian authorities have largely disregarded human rights law and have exacerbated an already dire human rights situation in the country. Firstly, they have had a profoundly negative impact on the country's human rights framework. Secondly, they have substantially increased the range and number of victims of human rights violations.

The counter-terrorism measures set back promising legal reforms and led to a proliferation of laws and regulations unqualified by human rights standards. They have extended the vague definitions of "terrorism" in law and expanded the concept of crimes of terrorism. The government has made secret security deals and co-operation agreements with other states that disregard human rights safeguards. All these steps have failed to protect basic human rights, such as the rights to freedom of expression, belief, association and assembly.

The scale of human rights violations is shocking. Thousands of people have had their lives turned upside-down or destroyed by violations of their rights in the name of countering terrorism. This grim reality is due to the government's refusal to appreciate that human rights and the rule of law are, as the UN General Assembly has emphasized, not merely compatible with protecting the public from violent attack, but are the very foundation of such efforts.

Government authorities in Saudi Arabia habitually spare no effort in deflecting attention from their grim human rights record, utilizing the country's position of power and influence in world affairs to do so. Most recently, for example, the UN Human Rights Council failed to examine adequately the pattern of serious human rights violations during its consideration of Saudi Arabia under the Universal Periodic Review process and to insist that the government uphold its obligations under international human rights law, including in the context of countering terrorism.

RECOMMENDATIONS

Recommendations to Saudi Arabian government

Amnesty International is calling on the government of Saudi Arabia to pursue the UN framework for countering terrorism and strictly observe human rights. It urges the authorities to:

- Bring Saudi Arabia's terrorism-related laws and practices into line with international human rights standards as required by its international obligations, and as States have been repeatedly urged to do by the UN General Assembly,[134] the Security Council[135] and the Human Rights Council;[136]

- Immediately and unconditionally release all detainees and prisoners held solely because

of the peaceful exercise of their right to freedom of opinion and expression and freedom of peaceful assembly and association, as guaranteed under Articles 19 and 20 of the Universal Declaration of Human Rights;

- Ensure that no one is subjected to arbitrary arrest or detention, as prohibited by Article 9 of the Universal Declaration of Human Rights, including by ensuring that all individuals detained on suspicion of involvement in acts of violence:

  - are detained only on the basis of clearly defined criminal offences in laws that are themselves consistent with international law, including international human rights obligations;

  - are promptly brought, in person, before a judicial authority; and

  - have the right to challenge the lawfulness of their detention before a court, and the court to order their release if the detention is found to be unlawful;

- Ensure that all detainees charged or otherwise deprived of their liberty, including on grounds of suspected involvement in acts of violence, promptly and in full equality receive a fair and public hearing by an independent and impartial court in accordance with international human rights standards, including Articles 10 and 11 of the Universal Declaration of Human Rights, with an effective opportunity to exercise their rights of defence and appeal;

- Ensure that all allegations of torture and ill-treatment are thoroughly, independently and impartially investigated and that those found responsible for all such abuses are brought to justice, in accordance with Saudi Arabia's obligations under Articles 2, 4-8, 12, 13 and 16 of the UN Convention against Torture;

- Root out the causes of torture by taking "effective legislative, administrative, judicial or other measures to prevent acts of torture" as required by article 2 of the Convention against Torture (and to prevent other ill-treatment as required by article 16 of the Convention), including ending the practice of prolonged incommunicado detention, secret detention, renditions, and impunity and otherwise following the recommendations of the UN Committee against Torture and other international standards;

- Rescind immediately death sentences imposed on persons under 18 at the time of the crime of which they were convicted, impose an immediate moratorium on executions and review all other death penalty cases with the aim of commuting the death sentences or providing a new and fair trial without resort to the death penalty;

- Ensure that the death penalty and corporal judicial punishments, such as flogging and bodily mutilation, are neither sought nor carried out in the pending terrorism-related mass trials in which defendants have been charged under the vaguely worded concepts of "corruption on earth" and *hiraba*;

- Ensure that all killings by government forces as well as armed groups are thoroughly, independently and impartially investigated; that arbitrary deprivations of life are effectively

prevented; and that perpetrators of extrajudicial executions are brought to justice in accordance with international standards and without the use of the death penalty;

- Ensure that all victims of human rights violations have access to an effective remedy, including as required in respect of torture and other ill-treatment by Articles 14 and 16 of the Convention against Torture as interpreted by the Committee against Torture;

- Promote and implement the principles in the UN Declaration on Human Rights Defenders, including the right to communicate views, information and knowledge on all human rights and fundamental freedoms.

Recommendations to the League of Arab States

Amnesty International is also calling on the international community to bring pressure to bear on the Saudi Arabia authorities.

It urges the League of Arab States to:

- Review the Arab Convention for the Suppression of Terrorism and amend it in accordance with international standards, balancing the combating of terrorism with the need to ensure appropriate protection of human rights;

- Request states parties to the ACST to abide by international standards in their strategies for combating terrorism.

Recommendations to the UN and international community

It also urges the UN and the international community, including particularly states that maintain close political, diplomatic and economic relations with Saudi Arabia to:

- Urge the Saudi Arabian government to fully respect and observe international human rights law and standards in both its strategy and practice in combating terrorism;

- Ensure that Saudi Arabia's reporting to the Counter-Terrorism Committee gives urgent attention to the human rights situation in the country by providing details of individuals affected by its counter-terrorism policies, including their conditions of detention and trial proceedings; and guarantees that none are subject to torture or other ill-treatment.

ENDNOTES

[1] Article 44 of the Basic Law of Government (1992) states that:

> *"The powers of the State shall comprise: The Judicial Power; The Executive Power; The Organizational Power. All these powers shall co-operate in performing their duties according to this Law and other regulations. The King is the ultimate source of all these authorities."*

[2] See also Amnesty International, *The Gulf and the Arabian Peninsula: Human rights fall victim to the "War on Terror"* (Index: MDE 04/002/2004), June 2004.

[3] See Saudi Arabia's reports to the Counter-Terrorism Committee: *Report of the Kingdom of Saudi Arabia submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) concerning counter-terrorism*, UN Doc. S/2001/1294, Annex, 27 December 2001; *Report of the Kingdom of Saudi Arabia in response to the comments contained in the letter dated 18 April 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism*, UN Doc. S/2002/869, Annex, 1 August 2002; *Report of Saudi Arabia containing responses to the observations received on 24 February 2003 in a letter from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism*, UN Doc. S/2003/583, Annex, 2 June 2003; *Fourth report of the Kingdom of Saudi Arabia based on the observations of the Security Council Committee established pursuant to resolution 1373 (2001) (Counter-Terrorism Committee) on the Kingdom's previous reports*, UN Doc. S/2004/884, Annex, 2 November 2004; *Report of the Kingdom of Saudi Arabia submitted under resolution 1642 (2005) to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism*, UN Doc. S/2007/67, Annex, 8 February 2007.

[4] Amnesty International, *Saudi Arabia: Amnesty International condemns the killing of civilians by armed groups in al-Khobar* (Index: MDE 23/006/2004), 4 June 2004.

[5] Amnesty International, *Saudi Arabia: Amnesty International appeals to armed group for the safety and release of Paul M. Johnson* (Index: MDE 23/008/2004), 17 June 2004.

[6] See for example, Amnesty International, *Saudi Arabia: Amnesty International condemns the killing of civilians by armed groups in al-Khobar* (Index: MDE 23/006/2004), 4 June 2004; *Saudi Arabia: Amnesty International appeals to armed group for the safety and release of Paul M. Johnson* (Index: MDE 23/008/2004), 16 June 2004; *Saudi Arabia: Amnesty International condemns the killing of civilians by armed group in Jeddah* (Index: MDE 23/017/2004), 7 December 2004.

[7] Amnesty International, *Saudi Arabia: Amnesty International condemns the killing of civilians by armed group in al-Khobar* (Index: MDE 23/006/2004), 4 June 2004.

[8] See statement by His Highness Prince Torki Mohammed Saud al-Kabeer, Undersecretary for Political Affairs and Director-General for International Organizations Department at the 56th Session of Commission on Human Rights, Geneva 6 April 2000. To be found at http://www.saudiembassy.net/Issues/HRights/hr-2000-Geneva.html accessed on 7 May 2009.

[9] Issued by Royal Decree No. M/39 of 16 October 2001.

[10] Statute of Principles of Arrest, Temporary Confinement, and Preventive Detention of 11 November 1983.

[11] Issued by Royal Decree No. M/38 of 15 October 2001. It provides safeguards against lawyers being penalized simply for defending their clients and requires courts and criminal investigation bodies and other official authorities to co-operate with defence lawyers. Although it does not embody all international standards for the protection of lawyers, it represents a first step towards the institutionalization of the legal profession as an integral part of the criminal justice system and consolidation of the principle of equality in arms.

[12] Article 4 of Law on Criminal Procedures, issued by Royal Decree No. M/39 of 16 October 2001, states: "Any accused person shall have the right to seek the assistance of a lawyer or a representative to defend him during the investigation and trial stages."

[13] Both the Law of the Judiciary and Court of Grievances Law were introduced by Royal Decree No.M/78, dated 19/9/1428 Hijra (1 October 2007). For more details on these laws see Amnesty International report, *Affront to Justice: Death Penalty in Saudi Arabia* (Index: MDE 23/027/2008), October 2008, pp5-6.

[14] See Article 1 of the "Statute of the Human Rights Commission (HRC)" issued by Council of Ministers Decision No. 207, dated 12 September 2005.

[15] National Society for Human Rights, *Second Report on the Human Rights Situation in the Kingdom of Saudi Arabia in 2008 (1429 H)*, released in March 2009, particularly pp27-29.

[16] A statement by a detainee whose name is withheld for fear of reprisal.

[17] *Extrajudicial, summary or arbitrary executions: Report of the Special Rapporteur*, E/CN.4/2001/9, 11 January 2001, para86. See also ECOSOC, *Safeguards guaranteeing protection of the rights of those facing the death penalty*, E.S.C. res. 1984/50, annex, 1984 UN ESCOR Supp. (No. 1) at 33, UN Doc. E/1984/84 (1984).

[18] For a detailed analysis, see Amnesty International report, *Affront to justice: Death penalty in Saudi Arabia* (Index: MDE 23/027/2008), October 2008.

[19] See Article 44 of the Basic Law of Government (1992).

[20] It is said to stipulate the creation of a national governmental organization for associations and societies to be in charge of registering associations only if they meet strict criteria such as being considered not to contravene broad concepts such as Shari'a rules, public order and national unity. The national organization of associations and societies is said to have the powers to dissolve registered societies and associations on the same grounds. Human rights activists are concerned that such a set-up, if approved without strong safeguards, is unlikely to make much difference to the current situation, where the only registered societies and associations are those under state control.

[21] See National Society for Human Rights, *Second Report on the Human Rights Situation in the Kingdom of Saudi Arabia in 2008 (1429 H)*, released in March 2009, pp14-15.

[22] Similarly, Article 39 of the Basic Law of Government (1992) states:

> *"Mass media, publication facilities, and other means of expression shall function in a manner that is courteous and fair and shall abide by State laws. They shall play their part in educating the masses and boosting national unity. All that may give rise to mischief and discord, or may compromise the security of the state and its public image, or may offend against man's dignity and rights shall be banned..."*

[23] The Print and Publication Law was issued by Royal Decree No. M/32, dated 9/3/1421 Hijra (12 June 2000) based on Council of Ministers Decision No. 211, dated 1/9/1421 Hijra (28 November 2000).

[24] Article 6 of the Basic Law of Government (1992) requires people to:

> *"…Pledge allegiance to the King on the basis of the Book of God and the Prophet's Sunnah, as well as on the principle of 'hearing is obeying' both in prosperity and adversity, in situations pleasant and unpleasant."*

[25] For instance, Saudi Arabia became party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1997. Its initial CAT report was more than two years late, and its second and third reports, due in 2002 and 2006, have not yet been submitted. Saudi Arabia became party to the Convention on the Elimination of All Forms of Racial Discrimination (CERD) also in 1997. Again, its initial report under this Convention was almost three years late, and its fourth and fifth reports have been overdue since 2006. Saudi Arabia joined the Convention on the Elimination of All Forms of Discrimination against Women in 2000, but did not submit its initial report, due in October 2001, until 29 March 2007. Saudi Arabia's best reporting record appears to be under the Convention on the Rights of the Child, to which it became a party in 1996, and under which it has submitted two reports, some months late but within the year they were originally due.

[26] See General Assembly Resolution A/RES/60/288, 20 September 2006, part IV.

[27] See examples of these, including security agreements and extradition procedural details, in *Report of the Kingdom of Saudi Arabia in response to the comments contained in the letter dated 18 April 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism*, UN Doc. S/2002/869, Annex, 1 August 2002, pp9-11, and *Report of the Kingdom of Saudi Arabia submitted under resolution 1642 (2005) to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism*, UN Doc. S/2007/67, Annex, 8 February 2007, pp3-4.

[28] Resolution 60/288, adopted by the General Assembly on 8 September 2006, *The United Nations Global Counter-Terrorism Strategy*, A/RES/60/288, 20 September 2006, at http://www.un.org/terrorism/strategy-counter-terrorism.shtml#poa4 accessed on 23 June 2009.

[29] Human Rights Council, Resolution 6/4 on Arbitrary Detention, 28 September 2007, para5(c).

[30] Human Rights Council, Resolution 6/4 on Arbitrary Detention, 28 September 2007, para5(d).

[31] Articles 9, 10 and 11 of the Universal Declaration of Human Rights set out the rights not to be subjected to arbitrary arrest or detention, to receive a fair trial and to be presumed innocent until proved guilty "according to law in a public trial" with "all the guarantees necessary" for defence. These rights are further elaborated in Articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR). Saudi Arabia is one of the few states that has not ratified the ICCPR but the rights it sets out, arguably, are reflective of international legal norms and the practice of prohibiting their violation is well established and accepted within the international community.

[32] See General Assembly Resolution 43/173 adopted on 9 December 1988.

[33] *Report of the Special Rapporteur on the question of torture submitted in accordance with Commission resolution 2002/38*, E/CN.4/2003/68, 17 December 2002, para26(g).

[34] *Conclusions and recommendations of the Committee against Torture: Saudi Arabia*, CAT/C/CR/28/5,

12 June 2002.

[35] See *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, E/CN.4/2006/98, 28 December 2005, para26-50.

[36] See *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/61/267, 16 August 2006, para44. For more detailed analysis see *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, E/CN.4/2006/98, 28 December 2005, para26-50.

[37] *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, A/61/267, 16 August 2006, para44, referring to E/CN.4/2006/98, para45-49.

[38] *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, E/CN.4/2006/98, 28 December 2005, para46.

[39] Published in the Arabic daily newspaper *al-Jazirra*, 30 August 1988.

[40] For more details on the vagueness of this fatwa, see Amnesty International's report, *Saudi Arabia: A Justice System Without Justice* (Index: MDE 23/02/00), 10 May 2000, pp5-6.

[41] See "Official source warns law breakers" *Arab News*, 1 September 1988.

[42] Issued by Council of Ministers Decision No. 167, dated 20/6/1424 Hijra (19 August 2003), and ratified by Royal Decree No. M/39, dated 25/6/1424 Hijra (24 August 2003).

[43] See Articles 1 and 2(d) of the Law to Combat Money Laundering (2003).

[44] See Article 7(1) of the Law to Combat Internet-related Crimes (2007).

[45] See Article 6(1) of the Law to Combat Internet-related Crimes (2007).

[46] See National Society for Human Rights, *Second Report on the Human Rights Situation in the Kingdom of Saudi Arabia in 2008 (1429 H)*, released in March 2009, p15.

[47] See *Report of the Kingdom of Saudi Arabia submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) concerning counter-terrorism*, UN Doc. S/2001/1294, Annex, 27 December 2001, p4.

[48] See *Fourth report of the Kingdom of Saudi Arabia based on the observations of the Security Council Committee established pursuant to resolution 1373 (2001) (Counter-Terrorism Committee) on the Kingdom's previous reports*, UN Doc. S/2004/884, Annex, 2 November 2004, p3.

[49] See Saudi Arabia's Report to the Counter-Terrorism Committee, *Report of the Kingdom of Saudi Arabia submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) concerning counter-terrorism*, UN Doc. S/2001/1294, Annex, 27 December 2001, p5.

[50] See Amnesty International's critique of the inconsistencies of the Convention with international standards in Amnesty International, *The Arab Convention for the Suppression of Terrorism: A Serious Threat to Human Rights* (Index: IOR 51/001/2002), 9 June 2002.

[51] Article 1(2) of the Arab Convention for the Suppression of Terrorism (1998).

[52] Article 1(3) of the Arab Convention for the Suppression of Terrorism (1998).

[53] See "Cabinet amends Arab accord on combating terror" *Saudi Gazette*, 24 March 2009.

[54] These are listed under Article 1(3) of the Arab Convention for the Suppression of Terrorism (1998) as follows:

> *"(a) The Tokyo Convention on offences and Certain Other Acts Committed on Board Aircraft, of 14 September 1963;*
>
> *(b) The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, of 16 December 1970;*
>
> *(c) The Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, of 23 September 1971, and the Protocol thereto of 10 May 1984;*
>
> *(d) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 14 December 1973;*
>
> *(e) The International Convention against the Taking of Hostages, of 17 December 1979;*
>
> *(f) The provisions of the United Nations Convention on the Law of the Sea, of 1982, relating to piracy on the high seas."*

[55] The full Article 1(2) of the OIC Convention on Combating International Terrorism (1999) states that:

> *'"Terrorism' means any act of violence or threat thereof notwithstanding its motives or intentions perpetrated to carry out an individual or collective criminal plan with the aim of terrorizing people or threatening to harm them or imperilling their lives, honor, freedoms, security or rights or exposing the environment or any facility or public or private property to hazards or occupying or seizing them, or endangering a national resource, or international facilities, or threatening the stability, territorial integrity, political unity or sovereignty of independent States."*

[56] Article 2 of the Arab Convention for the Suppression of Terrorism (1998):

> *"(a) All cases of struggle by whatever means, including armed struggle, against foreign occupation and aggression for liberation and self-determination, in accordance with the principles of international law, shall not be regarded as an offence. This provision shall not apply to any act prejudicing the territorial integrity of any Arab State;*
>
> *(b) None of the terrorist offences indicated in the preceding article shall be regarded as a political offence. In the application of this Convention, none of the following offences shall be regarded as a political offence, even if committed for political motives:*
>
> > *(i) Attacks on the kings, Heads of State or rulers of the contracting States or on their spouses and families;*
> >
> > *(ii) Attacks on crown princes, vice-presidents, prime ministers or ministers in any of the Contracting States;*
> >
> > *(iii) Attacks on persons enjoying diplomatic immunity, including ambassadors and diplomats serving in or accredited to the Contracting States;*
> >
> > *(iv) Premeditated murder or theft accompanied by the use of force directed against individuals, the authorities or means of transport and communications;*

(v) Acts of sabotage and destruction of public property and property assigned to a public service, even if owned by another Contracting State;

(vi) The manufacture, illicit trade in or possession of weapons, munitions or explosives, or other items that may be used to commit terrorist offences."

[57] Article 1(3) of the GCC Convention for the Suppression of Terrorism (2004).

[58] Article 1(3) of the GCC Convention for the Suppression of Terrorism (2004).

[59] See Article 1(4) of the GCC Convention for the Suppression of Terrorism (2004).

[60] Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States Parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women - Combined initial and second periodic reports of States Parties - Saudi Arabia*, CEDAW/C/SAU/2, 29 March 2007, p8.

[61] For full analysis of the 1983 Statute of Principles of Arrest, Temporary Confinement, and Preventive Detention see Amnesty International, *Saudi Arabia: A Justice System Without Justice* (Index: MDE 23/02/00), 10 May 2000, pp3-5.

[62] Article 114 of Law on Criminal Procedures (2001) states:

"The detention shall end with the passage of five days, unless the Investigator sees fit to extend the detention period. In that case, he shall, prior to expiry of that period, refer the file to the Chairman of the branch of Bureau of Investigation and Prosecution in the relevant province so that he may issue an order for extending the period of the detention for a period or successive periods provided that they do not exceed in their aggregate forty days from the date of arrest, or otherwise release the accused. In cases that require detention for a longer period, the matter shall be referred to the Director of the Bureau of Investigation and Prosecution to issue an order that the arrest be extended for a period or successive periods none of which shall exceed thirty days and their aggregate shall not exceed six months from the date of arrest of the accused. Thereafter, the accused shall be directly transferred to the competent court, or be released."

[63] For example, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, UN General Assembly Resolution 43/173, 9 December 1988.

[64] See Amnesty International Urgent Action, EXTRA 86/97, *Fear of refoulement/Fear for Safety* (Index: AMR 20/02/97), 11 June 1997, see also Further Information on EXTRA 86/97 (Index: AMR 20/03/97, 20 June 1997) and Further Information on EXTRA 86/97 (Index: AMR 51/39/97, 7 July 1997). See also Amnesty International, *Saudi Arabia: A Secret State of Suffering* (Index: MDE 23/01/00), 28 March 2000, pp3-4.

[65] "Saudi Arabia foils 180 'terror' attacks since 2003", AFP, 2 July 2007.

[66] Name changed to protect the identity of the source.

[67] Name of the prisoner's brother withheld for fear of reprisal.

[68] The other detainees include: Sulieman al-Rushudi, Dr Saud al-Hashimi, al-Sharif Saif al-Ghalib, Musa al-Qirni, and 'Abdelaziz al-Khariji. See Amnesty International Urgent Action, UA 27/07, *Incommunicado detention/fear of torture* (Index: MDE 23/007/2007), 5 February 2007. See also Amnesty International Urgent Action UA 312/08, *Fear of torture and other ill-treatment* (Index: MDE 23/045/2008), 11

November 2008 and further information on UA 312/08 (Index: MDE 23/017/2009, 08 June 2009).

[69] UN Working Group on Arbitrary Detention, Opinion No. 27/2007 (Saudi Arabia), para22. Their case was brought to the attention of the Working Group by the organisation Alkarama for Human Rights.

[70] UN Working Group on Arbitrary Detention, Opinion No. 27/2007 (Saudi Arabia), para23.

[71] UN Working Group on Arbitrary Detention, Opinion No. 27/2007 (Saudi Arabia), para33.

[72] See lawyer's televised interview about the case at http://www.youtube.com/watch?v=0E4cbwcpk64 accessed on 29 June 2009.

[73] See Amnesty International Urgent Action, UA 04/08, *Fear of torture or ill-treatment/ incommunicado detention* (Index: MDE 23/002/2008), 4 January 2008.

[74] See Amnesty International Urgent Action, UA 147/07, *Incommunicado detention/fear of torture or ill-treatment/medical concern* (Index: MDE 23/022/2007), 13 June 2007.

[75] Office of the High Commissioner for Human Rights, *Fact Sheet No. 26: The Working Group on Arbitrary Detention*, at http://www.ohchr.org/Documents/Publications/FactSheet26en.pdf accessed on 23 June 2009.

[76] Working Group on Arbitrary Detention, *Report to the Commission on Human Rights*, UN Doc. E/CN.4/2004/3, 15 December 2003, para64.

[77] Working Group on Arbitrary Detention, *Report to the Commission on Human Rights*, UN Doc.E/CN.4/2006/7, 12 December 2005, para47.

[78] Working Group on Arbitrary Detention, *Report to the Commission on Human Rights*, UN Doc.E/CN.4/2006/7, 12 December 2005, para48.

[79] The Convention against Torture, which entered into force on 26 June 1987 and was acceded to by Saudi Arabia in 1997 requires all states party to:

> *"Take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its administration" and stipulates that torture may never be justified and that no state party may return or expel an individual to a state where there are "substantial grounds for believing that he would be in danger of being subjected to torture."*

[80] One of the main incentives for torture in ordinary criminal cases is the primacy of confession as evidence in court. Thus of grave concern is the emphasis in Saudi Arabia's criminal procedures on confession, as evident in Article 162 of the Law on Criminal Procedures (2001) which states:

> *"If the accused at any time confesses to the offence of which he is charged, the court shall hear his statement in detail and examine him. If the court is satisfied that it is a true confession and sees no need for further evidence, it shall take no further action and decide the case. However, the court shall complete the investigation if necessary."*

The Law contains no provision rendering void statements obtained by torture and coercion as required by Article 15 of the Convention against Torture, to which Saudi Arabia is a state party. For further information see Amnesty International report, *Affront to Justice: Death Penalty in Saudi Arabia* (Index: MDE 23/027/2008), October 2008.

[81] See *Report of the Kingdom of Saudi Arabia submitted under resolution 1642 (2005) to the Security*

Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, UN Doc. S/2007/67, Annex, 8 February 2007, p4.

[82] Name withheld for fear of reprisal against the detainee.

[83] Committee against Torture, *Concluding Observations on initial report of Saudi Arabia*, UN Doc. CAT/C/CR/28/5, 12 June 2002.

[84] See Article 1, Convention against Torture.

[85] General Assembly Resolution A/RES/61/153, 14 February 2007; see also Human Rights Committee, El-Megreisi v. Libya, Communication No. 440/1990 (1994) and the General Recommendations of the UN Special Rapporteur on Torture, UN Doc. E/CN.4/2003/68, para26(g):

> *"Incommunicado detention should be made illegal, and persons held incommunicado should be released without delay."*

[86] Source's details withheld for fear of reprisal.

[87] See, for example, "First President for security cases begins his duties in the 'Special Criminal Court'", Arabic daily *al-Watan* newspaper of 30 October 2008.

[88] See statement by the Minister of Interior, Saudi Arabia Press Agency, 20 October 2008; and also "*Hiraba* and long term imprisonment awaits the guilty", *al-Watan*, 24 October 2008.

[89] Saudi Arabia report to the Human Rights Council, Working Group on the Universal Periodic Review, A/HRC/WG.6/4/SAU/1, 4 December 2008, para68. The Universal Periodic Review process, established by the UN Human Rights Council under UN General Assembly resolution 60/251, adopted on 15 March 2006, provides for all UN member states to have their record of implementation of their obligations under international human rights law and standards reviewed by the Council every four years.

[90] See "Interview with the Minister of Interior", Arabic daily *Okaz*, 14 March 2009.

[91] The relative gave the following details:

> *"(1) The court is in Riyadh;*
>
> *(2) It is not a regular court, it is especially for them;*
>
> *(3) They have the judge, people from ministry (interrogators, the word he used for these people) and one that reads the "confession". No defence lawyers, no right to appeal (if they refuse, they keep coming back until they accept);*
>
> *(4) They go inside one by one;*
>
> *(5) Hundreds have been taken, indiscriminately. They are taken in groups ("like sheep", he said) and stay for some weeks and then come back to the same place;*
>
> *(6) The inmate sits while the "confession" or "case" is read;*
>
> *(7) There are no evidences, witnesses whatsoever, the case is not presented but a paper is read with "exaggerated", "fabricated", "magnified" descriptions of what they claim the inmate did (these are the words he used);*
>
> *(8) After they finish reading pages and pages, they ask the inmate "Is this your case? Do you agree?", if the person says yes, they sign and send the inmate back to the same prison with the*

verdict. If the person denies, they take him and give him a "hard time like before - I will not describe the hard times we went through" (his words), and bring the inmate the next day and ask the same question and increase the sentence until the person says "yes" and signs it.

(9) He said this is a "new" style, these short "trials", he said they started doing this not long ago. He says he feels he will be taken soon;

(10) The sentences being given are 30 to 40 years, with a minimum of "60%" of 40 years (his words)."

[92] The case was submitted to the UN Working Group on Arbitrary Detention by the organisation Alkarama for Human Rights.

[93] See UN Working Group on Arbitrary Detention, Opinion No.6/2008 (Saudi Arabia), para13.

[94] See UN Working Group on Arbitrary Detention, Opinion No.6/2008 (Saudi Arabia), para22. The Working Group found the detention contravened Articles 9 and 10 of the UDHR and fell under category III of the categories applicable the cases submitted for consideration of the Working Group.

[95] See Amnesty International Urgent Action update (Index: MDE 23/029/2007), 24 July 2007. Further information on UA 187/07, *Fear of torture or ill-treatment/ incommunicado detention* (Index: MDE 23/028/2007), 19 July 2007.

[96] See, for example, Amnesty International, further information on UA 112/04 (Index: MDE 23/006/2005), 17 May 2005.

[97] For more details see Circular No. 13/T/3493, dated 3/11/1429 Hijra (2 November 2008).

[98] Principle 22 of the UN Basic Principles on the Role of Lawyers provides:

"Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential."

[99] UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

[100] UN Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, Rule 93.

[101] Body of Principles, Article 17, and see also Article 18.

[102] Human Rights Committee, *General Comment No. 32: Right to equality before courts and tribunals and to a fair trial*, UN doc. CCPR/C/GC/32, 23 August 2007, para33. Although Saudi Arabia is not a party to the International Covenant on Civil and Political Rights, the phrase "adequate time and facilities" is identical in the Covenant and in the Body of Principles. There is no reason why the Human Rights Committee's elaboration of the concept should not be equally applicable to understanding the meaning of the term in the Body of Principles. The General Comment also specifies that exculpatory material includes not only material establishing innocence but also other evidence that could assist the defence (such as indications that a confession was not voluntary).

[103] Human Rights Committee, *General Comment No. 32: Right to equality before courts and tribunals and to a fair trial*, UN doc. CCPR/C/GC/32, 23 August 2007, para33.

[104] Human Rights Committee, *General Comment No. 32: Right to equality before courts and tribunals*

and to a fair trial, UN doc. CCPR/C/GC/32, 23 August 2007, para13.

[105] For detailed analysis of the weakness of these rights see Amnesty International report, *Affront to Justice: Death Penalty in Saudi Arabia* (Index: MDE 23/027/2008), October 2008, pp16-26.

[106] See Amnesty International Urgent Action, UA 122/07, *Torture/Death penalty* (Index: MDE 23/021/2007), 24 May 2007.

[107] A/RES/62/149, 18 December 2007.

[108] A/RES/63/168, 18 December 2008.

[109] ECOSOC, *Safeguards guaranteeing protection of the rights of those facing the death penalty*, E.S.C. res. 1984/50, annex, 1984 U.N. ESCOR Supp. (No. 1) at 33, U.N. Doc. E/1984/84 (1984).

[110] ECOSOC, *Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty*, Resolution 1989/64, adopted on 24 May 1989, UN Doc: E/1989/INF/7, 127.

[111] ECOSOC, *Implementation of the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty*, ECOSOC Res. 1996/15, UN Doc. E/CN.15/1996/15 (1996).

[112] UN Commission on Human Rights, Resolution on the Death Penalty, Resolution 2005/59, adopted 20 April 2005.

[113] *Extrajudicial, summary or arbitrary executions: Report of the Special Rapporteur*, UN document E/CN.4/2001/9, 11 January 2001, para86.

[114] *Extrajudicial, summary or arbitrary executions: Report of the Special Rapporteur*, UN document E/CN.4/2001/9, 11 January 2001, para86.

[115] *Extrajudicial, summary or arbitrary executions: Report by the Special Rapporteur*, UN document E/CN.4/1997/60, 24 December 1996, para81.

[116] See Amnesty International Urgent Action, UA 157/09, *Death Penalty/Alleged juvenile offenders* (Index: MDE 23/019/2009), 18 June 2009.

[117] See "Children of Hausawi objected to the verdict and called for *qisas* for the killer of their mother", *al-Madina* newspaper, 10 April 2009, see http://al-madina.com

[118] See Office of the High Commissioner for Human Rights, *Fact Sheet No. 26: The Working Group on Arbitrary Detention*, at http://www.ohchr.org/Documents/Publications/FactSheet26en.pdf accessed on 23 June 2009.

[119] See "Over 1,500 Extremists Freed after Repenting", *Arab News,* 26 November 2007.

[120] On 6 September 2006, Saudi Arabia's ambassador in London informed Amnesty International that his government had established certain administrative and legal procedures to deal with Saudi Arabian nationals who the US authorities had returned to the country after detaining them for various periods at Guantánamo Bay, Cuba. The ambassador wrote that the returned detainees would have access to medical treatment, including psychological assessment, and to family visits, and would be afforded access to educational and training programmes to assist their rehabilitation. He added that the Investigation and Public Prosecution Commission would review each returnee's case and would prepare charges against any who were found to have committed offences under Saudi Arabian law, whose cases would then be referred to the judiciary for trial. In response, Amnesty International requested further information,

including the number of returnees and how many had been referred for trial, on what charges and before which courts, and indicated its wish to send an international observer to attend such trials, but received no response.

[121] The UN Working Group on Arbitrary Detention has stated that the practice:

> *"Known as renditions, i.e. the informal transfer of a person from the jurisdiction of one State to that of another on the basis of negotiations between administrative authorities of the two countries without procedural safeguards is irremediably in conflict with the requirements of international law."*

See the *Report of the Working Group on Arbitrary Detention*, A/HRC/4/40, 9 January 2007, para50.

[122] Protocol of Security Co-operation for Suppressing Terrorism issued by Royal Decree M/31, dated 17 April 2007.

[123] See Article 13 of the Protocol of Security Co-operation for Suppressing Terrorism.

[124] Working Group on Arbitrary Detention, Opinion No. 19/2007 (Saudi Arabia), para18.

[125] Working Group on Arbitrary Detention, Opinion No. 19/2007 (Saudi Arabia), para21-22.

[126] Working Group on Arbitrary Detention, Opinion No. 19/2007 (Saudi Arabia), para12.

[127] See Amnesty International Urgent Action UA 142/09, *Incommunicado detention/Fear of torture or ill-treatment* (Index: MDE 25/005/2009), 08 June 2009 and Further Information on UA 142/09 (Index: MDE 25/007/2009, 11 June 2009).

[128] For further information see Amnesty International Urgent Action UA 142/09, *Incommunicado detention/Fear of torture or ill-treatment* (Index: MDE 25/005/2009), 08 June 2009 and Further Information on UA 142/09 (Index: MDE 25/007/2009, 11 June 2009).

[129] See, for example, Amnesty International, *United Arab Emirates: Submission to the UN Universal Periodic Review: Third Session of the UPR Working Group of the UN Human Rights Council*, *December 2008,* 14 July 2008, p4.

[130] See Committee against Torture, *Concluding Observations on initial report of Saudi Arabia*, CAT/C/CR/28/5, 12 June 2002.

[131] Article 3(2) of the Convention against Torture requires:

> *"...The competent authorities shall take into account all relevant considerations including, where applicable, the existence in the state concerned of a consistent pattern of gross, flagrant or mass violations of human rights."*

[132] For more details see *The Arab Convention for the Suppression of Terrorism: A Serious Threat to Human Rights* (Index: IOR 51/001/2002), 9 June 2002.

[133] See, for example, Amnesty International Urgent Action, *Fear of torture and ill-treatment* (Index: MDE 23/005/2007), 1 February 2007, issued on behalf of Yemeni and Saudi Arabian nationals being swapped by their respective governments.

[134] One of the four "pillars" of the UN General Assembly, in its *United Nations Global Counter-Terrorism Strategy*, is that all states must take "measures to ensure the respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism", UN General Assembly resolution

A/60/288, Annex, Plan of Action, part IV. In its annual resolution on *Protection of human rights and fundamental freedoms while countering terrorism* it:

> *"Reaffirms that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law."*

For example see Resolution 61/171, 19 December 2006, para1.

[135] See Security Council resolution 1456 (2003):

> *"States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular human rights, refugee and humanitarian law."*

See also Resolutions 1624 (2005), 1787 (2007) and 1805 (2008).

[136] See Human Rights Council Resolution 7/7, 27 March 2008, para1.

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SAUDI ARABIA

ASSAULTING HUMAN RIGHTS IN THE NAME OF COUNTER-TERRORISM

In the name of security and the fight against terrorism, the Saudi Arabian authorities have launched a sustained assault on human rights. Thousands of people have been arrested and detained in virtual secrecy, others have been killed in uncertain circumstances in what the authorities say were clashes with the security forces. Hundreds now face secret and summary trials and possible execution.

Anti-terrorism measures adopted by the government since the attacks in the USA on 11 September 2001 have stifled previous initiatives towards human rights reform and exacerbated long-standing patterns of human rights abuse. Combined with severe repression of all forms of dissent and an extremely weak human rights institutional framework, this has resulted in an almost complete lack of protection of freedoms and rights in Saudi Arabia.

This report evaluates the impact on human rights of the counter-terrorism measures introduced in Saudi Arabia in recent years and highlights several cases of prisoners. It calls on the authorities and the international community to take urgent action to remedy the dire human rights situation in Saudi Arabia and end the daily abuses.

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WITH JUSTICE

AMNESTY
INTERNATIONAL