

APRIL 2016

Submission to the United Nations Committee against Torture on Saudi Arabia

Introduction

This memorandum, submitted to the United Nations Committee Against Torture ahead of its upcoming review of Saudi Arabia, highlights areas of concern Human Rights Watch hopes will inform the Committee's consideration of the Saudi government's compliance with the International Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment. It contains information on how Saudi Arabia's behavior is inconsistent with the Convention, and proposes specific concerns that Committee members should raise with the government of Saudi Arabia.

Human Rights Watch closely monitors the human rights situation in Saudi Arabia. The information below is drawn from Human Rights Watch press releases and reports, which are based on first-hand interviews and documentary evidence, including written trial judgments.

Saudi Arabia acceded to the Convention Against Torture in September 1997, with reservations that it did not recognize the jurisdiction of the Committee in examining well-founded indications that torture is being systematically practiced (art. 20) or the arbitration procedure for when States Parties differ concerning the interpretation or application of the Convention (art. 30.1).

Definition and Criminalization of Torture (Articles 1, 4)

Saudi Arabia applies Sharia (Islamic law) as the law of the land. Judges decide many matters relating to criminal offenses pursuant to Sharia in accordance with established rules of Islamic jurisprudence and precedent. As such, Saudi Arabia lacks a written criminal penal code or any written regulation specifically defining crimes of torture or ill-treatment or establishing associated punishments.

While Saudi Arabia's Criminal Procedure Code prohibits "torture" and "undignified treatment" (art. 2), it does not define these terms and it does not provide criminal sanctions for officials who torture or coerce detainees. The Criminal Procedure Code also does not make statements obtained through torture or ill-treatment inadmissible in court. Human Rights Watch has documented numerous cases in which individuals alleged abuse in court, but officials failed to investigate these claims and then based sentences on the allegedly coerced confessions.

Torture and cruel, inhuman and degrading treatment during detention (Articles 2, 11, 16)

Human Rights Watch has documented allegations that officials at detention facilities sometimes subject detainees to torture and other ill-treatment, including at detention facilities run by Saudi Arabia's Public Security Department (police) and by the General Directorate of Investigation (*al-Mabahith*).

The governmental Human Rights Commission and nongovernmental National Society on Human Rights told Human Rights Watch in July 2013 that incidents of torture and ill-treatment in prison have decreased significantly since they began regular prison visits and established offices inside prisons to receive complaints beginning in 2004. Human Rights Watch continues to receive reports of torture and other ill-treatment in prisons and detention centers. Human rights activists, for example, have alleged torture and other ill-treatment during their detentions, including beatings, electrocution, and pouring chemicals into the mouth.

Mikhlif al-Shammari, a human rights activist, was arrested by criminal investigation officers on June 15, 2010. He was detained in al-Khobar police station and then moved to Dammam General Prison in early July. On July 27, 2011, al-Shammari said that prison guards removed him from his cell and told him that he was to undergo routine medical examinations. Al-Shammari said that while in prison, at least eight guards dragged him to a room without video recording equipment where they beat him until he fainted. After regaining consciousness, al-Shammari said he felt a burning sensation in his mouth and

realized that one guard was sitting on his chest and pouring detergent down his throat and shouting, “You dirty... die... and I will say you committed suicide.”¹

Ali Aldubasi is a human rights activist whom Saudi police detained at a checkpoint on September 25, 2011 at 1:30 am and then held in a dark cell at a police station in Qatif for seven days. On October 2, authorities transferred him to the General Intelligence Prison in Dammam, where they held him for 48 days, during which he underwent five interrogation sessions. He said that during the first three sessions his interrogator and other men punched him, slapped him, kicked his legs, beat him with hoses, denied him medical treatment, and forced him to stand for long periods with his hands raised. He said that his interrogator abused him verbally using anti-Shia sectarian insults. Aldubasi said that during his interrogation he heard an unknown detainee screaming in the next room as well as a crackling sound that he believed were electric shocks being used by interrogators on the detainee. During his entire detention, he said he was denied access to a lawyer and was not permitted to contact family members until 57 days into his detention.²

Waleed Abu al-Khair, a Jeddah-based human rights lawyer, was detained on order of the minister of interior in April 2014. A relative of Abu al-Khair told Human Rights Watch that during the first two weeks of his detention in al-Ha’ir prison, south of Riyadh, Abu al-Khair was held in solitary confinement, and authorities pointed a bright spotlight into his cell in order to deprive him of sleep. The relative said that on August 14, 2014, prison authorities in Jeddah’s Bureiman prison beat Abu al-Khair on his back and dragged him from the prison with chains, leaving visible bruises on his ankles, after he refused to cooperate in his transfer to another prison the previous day.³

Refusal to investigate allegations of torture and cruel, inhuman or degrading treatment (Article 11, 12, 13, 14, 15, 16)

Numerous detainees allege that Saudi interrogators and police officers have beaten and threatened suspects in order to extract confessions at police stations and detention

¹ Human Rights Watch, *Challenging the Red Lines: Stories of Rights Activists in Saudi Arabia*, December 17, 2013, <https://www.hrw.org/report/2013/12/17/challenging-red-lines/stories-rights-activists-saudi-arabia#49aa0b>.

² Human Rights Watch telephone interview with Ali Aldubasi, March 31, 2016.

³ “Saudi Arabia: Imprisoned Activist Dragged, Beaten,” Human Rights Watch news release, August 16, 2014, <https://www.hrw.org/news/2014/08/16/saudi-arabia-imprisoned-activist-dragged-beaten>.

centers, in particular at the branches of the Ministry of Interior's Criminal Investigation Department and *al-Mabahith* detention centers. Based on the cases that Human Rights Watch has observed, judges rarely, if ever, seek to authenticate the validity of confessions or take steps to ensure they were not obtained under duress.

Human Rights Watch obtained and analyzed seven separate trial judgments that the Specialized Criminal Court handed down in 2013 and 2014 against men and children accused of protest-related crimes following popular demonstrations by members of the Shia minority in 2011 and 2012 in Eastern Province towns. In all seven trials, detainees alleged that confessions were extracted through torture, but judges quickly dismissed these allegations without investigation, admitted the confessions as evidence, and then convicted the detainees almost solely based on these confessions, sometimes handing down death sentences.

In nearly all of the trial judgments analyzed by Human Rights Watch, defendants repudiated their confessions, saying they were coerced in conditions that in some cases amounted to torture, including beatings and prolonged solitary confinement. The court rejected the allegations out of hand. Some defendants asked judges to request video footage from the prison that they said would show them being tortured. Others requested that the court summon interrogators as witnesses to inquire details on how confessions were obtained. In all cases judges ignored these requests. Two of the cases involved three defendants whom judges sentenced to death for crimes allegedly committed before they were 18.

Fadhil al-Manasif, a human rights activist, was arrested on October 2, 2011. Security forces transferred him to the *Mabahith* prison in Dammam, and placed him in solitary confinement for four months, denying him any visits from his family until August 11, 2012, 314 days after his initial arrest. According to local activists, al-Manasif alleges that authorities subjected him to various forms of torture during his detention, including beatings on his hands and legs, blindfolding for extended periods of time, forced standing for extended periods of time, and electrocution.

During his trial, al-Manasif repudiated his confession, saying it was coerced. In citing evidence that "confessions" were made under torture or coercion, al-Manasif's defense team cited an investigator's comment to al-Manasif from the case file that the team argued

constituted a clear threat, including, “Lack of disclosure will prolong your stay in prison.” In spite of pages of arguments submitted by al-Manasif’s legal team that investigators had coerced his statement, the judge dismissed the claims in one sentence, saying there was a lack of evidence. Al-Manasif was sentenced in April 2014 to 15 years in prison, a 15-year ban on travel abroad, and a large fine. An appeals tribunal later reduced the sentence to 14 years in prison.⁴

Reda al-Rabh, sentenced to death in May for alleged attacks on the police in 2011, alleged in court that his confession had been coerced. His lawyer told the judge, “He was forced to sign it by means of pressure, torture, manipulation, [and] psychological intimidation.” The lawyer said al-Rabh spent four months and 17 days in solitary confinement before his alleged confession.⁵ Like in al-Manasif’s case, the judge dismissed al-Rabh’s claims of torture and coercion, admitted the confession and used it in sentencing.

Ali al-Nimr, sentenced to death in 2014 by the Specialized Criminal Court, was under 18 at the time of his alleged crimes. His trial was marred by serious due process violations, and the court failed to investigate his allegations that he had been tortured in detention. The Saudi news website *Okaz* reported on September 14, 2015 that a Saudi appeals court and the country’s Supreme Court had upheld the death sentence.⁶

Family members told Human Rights Watch that following al-Nimr’s arrest in February 2012, authorities did not permit them to visit him for four months. The authorities called him before a judge for the first time in December 2013, without informing his family, allowing him to appoint a lawyer, or providing a copy of his charge sheet. The court held three more sessions before the authorities allowed al-Nimr to appoint a defense lawyer. Yet, as the trial judgment records, despite court orders to the contrary, Dammam Mabahith Prison officials did not allow al-Nimr’s lawyer to visit him in prison to help prepare a defense before or during his trial.

⁴ “Saudi Arabia: Protest Convictions Flawed, Unfair,” Human Rights Watch news release, September 10, 2014, <https://www.hrw.org/news/2014/09/10/saudi-arabia-protest-convictions-flawed-unfair>.

⁵ “Saudi Arabia: Protest Convictions Flawed, Unfair,” Human Rights Watch news release, September 10, 2014, <https://www.hrw.org/news/2014/09/10/saudi-arabia-protest-convictions-flawed-unfair>.

⁶ “Saudi Arabia: Alleged Child Offender at Risk of Execution,” Human Rights Watch news release, September 15, 2015, <https://www.hrw.org/news/2015/09/15/saudi-arabia-alleged-child-offender-risk-execution>.

The court found al-Nimr guilty in May 2014 solely on the basis of a confession he signed during his interrogation despite his statements that one of his interrogators wrote it and that he signed under duress without reading it. The court was aware that the investigator wrote the confession, but judged it admissible because al-Nimr signed it. Family members said that al-Nimr agreed to sign the statement only after interrogators told him that they would then release him.

The Specialized Criminal Court convicted **Dawoud al-Marhoun** and **Abdullah al-Zaher** in a group trial that concluded in October 2014. Al-Marhoun was 17 at the time of arrest, while al-Zaher was 15. The charges against the young men relate to their alleged role in the Eastern Province protests. Al-Marhoun and Al-Zaher were detained without charge for lengthy periods and denied access to lawyers before and during their trials.

The court found Al-Marhoun and al-Zaher guilty based on their confessions, which the defendants claim were coerced. Defense lawyers of Al-Zaher and al-Marhoun said both were beaten and threatened with further beatings if they did not sign confessions written by interrogators. One of al-Marhoun's relatives said that interrogators forced him to provide an ink fingerprint on a written confession that he did not read and that he had trouble speaking and eating because of his beatings. Prosecutors presented no material evidence connecting al-Marhoun to his alleged crimes other than the confession and, for al-Zaher, prosecutors presented only the confession and his arrest report, which stated that police "saw people with Molotov bombs and chased one of them until they arrested him, and after scanning the area they were in they found 33 glasses filled with benzene..."

In each of the cases detailed above, judges immediately dismissed defendants' claims that interrogators coerced confessions. In dismissing al-Nimr's torture claims, the judge said that "Religious scholars have ruled that retracting a confession for a discretionary crime is not acceptable.... Therefore, what the defendant has retracted from what appeared in his legally signed statement is not permitted, and what the defendant has argued regarding coercion was not proven to the judges."

In several trial judgments analyzed by Human Rights Watch, such as al-Nimr's, judges argued that the rules for retracting confessions were different for *ta`zir* or "discretionary" crimes, which Islamic law does not specifically define or establish a set punishment, than for *hadd* or "limit" crimes, for which Islamic law mandates a specific punishment and in

certain cases are considered more severe crimes. Judges stated that it is impermissible under Islamic law to retract a confession for a *ta`zir* case, while in *hadd* cases it is possible. In at least three cases analyzed by Human Rights Watch, judges “reduced” *hadd* cases to *ta`zir* cases after defendants retracted their confessions, yet still sentenced them to death over the same offenses because of the “enormity” of their crimes.

Inadequate measures to prevent torture and cruel, inhuman or degrading treatment (Article 2, 16)

Unduly long pre-trial detention period without detainees being brought promptly before a judge

Article 114 of Saudi Arabia’s Criminal Procedure Code provides that a person may be held in detention without charge for a maximum of five days, renewable up to a total of six months by an order from the Bureau of Investigation and Prosecution, which sits under the ministry of interior. After six months, article 114 requires that a detainee “be directly transferred to the competent court, or be released.” Saudi Arabia’s Penal Law for Crimes of Terrorism and its Financing, promulgated in 2014, raises the legal limit on the time officials may hold a terrorism suspect in pretrial detention from 6 months to 12, with unlimited extension upon court order, and allows for incommunicado detention of terrorism suspects for 60 to 90 days from the date of arrest.⁷

Human Rights Watch research indicates that officials frequently violate protections in the Criminal Procedure Code with impunity. In violation of Saudi law, police officers often carry out arrests without warrants, fail to inform suspects of the reasons for their arrest or of their rights to legal counsel, do not bring detainees promptly before a judge, and do not grant detainees the right to communicate with the outside world. Sometimes prosecutors hold suspects for lengthy periods without charging them with a crime. Saudi Arabia has held hundreds of individuals in pre-trial detention for lengthy periods of time.

In early 2013, the Interior Ministry created a website called *Nafetha Tawasul* (Communication Window), a regularly updated online database that purports to list cases

⁷ “Saudi Arabia: Terrorism Law Tramples on Rights,” Human Rights Watch news release, February 6, 2014, <https://www.hrw.org/news/2014/02/06/saudi-arabia-terrorism-law-tramples-rights>.

of detainees in Saudi prisons, without identifying them, and the status of their cases. Human Rights Watch analyzed data from the portal as it appeared on May 15, 2014, when it showed that 2,766 people were in detention. They included 293 people apparently held in pre-trial detention for over six months without the cases being referred to the judiciary, including 16 people apparently held for over two years, one of them for over 10 years.⁸

Right to access lawyers restricted

Article 4 of Saudi Arabia's Criminal Procedure Code grants detainees the right to have a lawyer present during investigation and trial, but Human Rights Watch's research indicates that authorities routinely deny the right to a lawyer during interrogation. None of the trial judgments analyzed by Human Rights Watch indicates that a lawyer was present during interrogations of detainees, including during interrogations of children.

Some detainees had difficulties meeting their lawyers during trials. **Ali al-Nimr**, for example, was under 18 at the time of the alleged crimes for which he was sentenced to death. Authorities did not allow him to appoint a lawyer during his first four trial sessions or provide him a copy of his charge sheet. As the trial judgment records, despite court orders to the contrary, Dammam Mabahith Prison officials did not allow al-Nimr's lawyer to visit him in prison to help prepare a defense before or during his trial.

Right to access families limited

Authorities have repeatedly failed to provide detainees' access to their families.

Ali al-Nimr, sentenced to death in 2014 by the Specialized Criminal Court, was under 18 at the time of his alleged crimes. He was held in prolonged pretrial detention without judicial review, and the trial court failed to investigate his allegations that officials tortured him in detention. Family members told Human Rights Watch that following al-Nimr's arrest in February 2012, authorities did not permit them to visit him for four months. The authorities called him before a judge for the first time in December 2013, without informing his family.

⁸ "Saudi Arabia: End Arbitrary Detention," Human Rights Watch news release, September 23, 2014, <https://www.hrw.org/news/2014/09/23/saudi-arabia-end-arbitrary-detention>.

Fadi Musallam, 27, a Jordanian mathematics professor, was arrested in Saudi Arabia in March 2014 but not charged. Musallam told a family member by phone from prison that he was arrested on March 7, 2014, during a visit to the Haram Mosque in Mecca, following a brief altercation that began when a police officer told him he could not take pictures inside the mosque. Police took him to a local police station, the family member told Human Rights Watch, where authorities held him overnight, then moved him to Dhahban Prison, outside Jeddah, where he remained for 59 days without being allowed to contact his family members or see a lawyer. He later told family members that authorities only began allowing him one 10-minute phone call a week to Jordan after he went on a hunger strike. The family member told Human Rights Watch that authorities have not released any information regarding his case, and that Musallam's only meeting with officials was the day after he was detained, when members of the Mabahith, the intelligence service, questioned him about the incident for about a half-hour.⁹

A family member of **Dawoud al-Marhoun** told Human Rights Watch that authorities held him without charge from the time of his arrest on May 21, 2012 until late 2013 before charging him and taking him to court. The family member said authorities held him incommunicado at a detention facility for minors for two weeks, and then held him incommunicado again for one month after transferring him to Dammam Mabahith Prison. Defense lawyers for al-Marhoun and **Abdullah al-Zaher** argued in court that neither were permitted to have a parent or lawyer present during interrogation.

Continued use of corporal punishment (Article 1)

International human rights law prohibits judicial verdicts imposing corporal punishment, including lashing, as constituting torture. The United Nations Committee against Torture, in its 2002 comments on Saudi Arabia's first and only report to the committee, criticized "[t]he sentencing to, and imposition of, corporal punishments by judicial and administrative authorities, including, in particular, flogging and amputation of limbs, that are not in conformity with the Convention."

Judicial authorities in Saudi Arabia continue to regularly impose corporal punishment, including flogging. In a well-publicized case, Saudi authorities sentenced prominent

⁹ "Saudi Arabia: End Arbitrary Detention," Human Rights Watch news release, September 23, 2014, <https://www.hrw.org/news/2014/09/23/saudi-arabia-end-arbitrary-detention>.

blogger Raif Badawi in 2014 to 10 years in prison and 1,000 lashes for insulting Islam by setting up a liberal website. Saudi authorities began carrying out the sentence on January 9, 2015, administering 50 lashes in public in front of the Juffali Mosque in central Jeddah, but they have not carried out any more flogging sessions since then. Saudi activists told Human Rights Watch that lashing is generally carried out with a light wooden cane, and the blows are distributed across the back and legs, which leaves bruising but normally does not break the skin.

During its Universal Period Review at the UN Human Rights Council in 2013, Saudi Arabia rejected all recommendations to abolish corporal punishment.

Executions by beheading (Article 1)

In previous conclusions and recommendations to states parties the Committee has expressed concern that certain methods of execution that that inflict “severe pain and suffering” may be in violation of articles 1, 2, and 16 of the Convention (CAT/C/USA/CO/2, para 31).

Saudi Arabia carries out executions primarily through beheading by a swordsman, sometimes in public. In January 2015, authorities said they would prosecute a security official who filmed the January beheading of a Burmese woman in Mecca in which the swordsman required three sword strikes to sever the victim’s head.¹⁰

Recommendations

Human Rights Watch encourages the Committee to use the upcoming review to:

- Urge Saudi authorities to enact a written criminal regulation that prohibits torture and ill-treatment, contains a definition of torture consistent with the Convention, and sets associated punishments.
- Urge Saudi authorities to enact a written regulation that prohibits admission into the record by courts of confessions or statements extracted through torture or coercion and requires that judicial authorities thoroughly investigate the

¹⁰ Human Rights Watch, World Report 2016 (New York: Human Rights Watch, 2016), Saudi Arabia, <https://www.hrw.org/world-report/2016/country-chapters/saudi-arabia>.

circumstances under which confessions alleged to have been obtained by torture or ill-treatment were obtained.

- Urge Saudi authorities carry out fundamental reforms that prevent violations of existing protections in domestic law and align existing domestic law with the Convention.
- Empower defense lawyers and independent monitors to observe the treatment of detainees, including during interrogations.
- Ask the Saudi government to explain what steps have been taken to investigate the credible and well-documented allegations of ill-treatment and torture of Mikhlif al-Shammari, Fadhel al-Manasif, Waleed Abu al-Khair, Ali al-Nimr, Dawoud al-Marhoun, Abdullah al-Zaher, and Ali Aldubasi, and the status of investigations, if any, and their results.
- Urge the Saudi government to end its crackdown on civil society and human rights work, ensuring independent civil society groups and activists can operate without undue hindrance or fear of persecution.
- Ask the Saudi government to outline what steps it has taken, or is taking, to investigate promptly and impartially all allegations of torture or ill-treatment, including denial of proper medical care, by law enforcement and prison officials and prosecute to the fullest extent of the law, in a court that meets international fair trial standards, any official against whom there is credible evidence of involvement in ordering, carrying out, or acquiescing to torture or ill-treatment.