

# Torture in Saudi Arabia - Impunity Reigns

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## Introduction

Torture is practised systematically in Saudi Arabia, both to extract confessions during interrogation and as a form of punishment during detention. Although detainees have reported telling courts about torture they have suffered, investigations are virtually never conducted into such allegations, and coerced confessions are routinely admitted as evidence against the accused. The overall lack of legal safeguards to prevent torture creates an environment that is conducive to the practice. Moreover, legislation like the Counter-terrorism Law contains provisions that facilitate, if not actively encourage, torture.

This report elaborates on the structural causes that underlie the practice, the forces responsible for acts of torture and ill-treatment as well as the methods used. It analyses Saudi Arabia's compliance with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), which it ratified in 1997, both through legal examination and recent case studies which also provide an insight into new developments and trends. This includes the torture of women human rights defenders in unofficial detention facilities by a squad of people close to the Crown Prince and is a particularly worrying development given that the torture of women detainees was previously unheard of in Saudi Arabia.

Finally, the report offers a set of recommendations that, if implemented, would bring the country into compliance with the UNCAT and help to eradicate the practice, prosecute the perpetrators, compensate the victims, and prevent future incidents of torture.

This report was written and researched by ALQST in cooperation with the Gulf Centre for Human Rights (GCHR) through a project funded by the European Union to address torture and accountability in the Gulf region.

## The political and judicial system

Saudi Arabia is an absolute monarchy that has neither a formal constitution, nor a criminal code. The absence of a criminal code makes it possible for the public prosecution and judges to use their own discretion when considering crimes and their sanctions, undermining any clarity and legal certainty. Thus, the legal definition of crimes and the severity of their punishments relies solely on the judge's discretion.

In addition, all state powers are under the final authority of the executive, specifically the monarch and his immediate family. The Shura Council, which supposedly acts as the legislative power – alongside the Council of Ministers – is limited to a consultative role and consists of representatives selected by the King, with members of the royal family holding key positions. Laws are ultimately ratified by Royal Decree and the King may dissolve and reconstitute both Councils.

Saudi Arabia does not have an independent judiciary as its judicial system is also overwhelmingly controlled by the executive. Judges are appointed and discharged by Royal Decree, based on a proposal of the Supreme Judicial Council and it is the King who appoints the heads of the Supreme Judicial Council and of the Supreme Court.

## The Board of Grievances

The Board of Grievances is an administrative tribunal “directly linked to the King” with judges appointed and dismissed by the King, which was founded to deal with complaints filed by individuals, including grievances against State agents for unlawful administrative decisions. Individuals may seek reparation for damages resulting from an unlawful act by a state agent.<sup>1</sup>

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<sup>1</sup> *Law on the Board of Grievances: Royal Decree No. M/51, 10 May 1982, article 13.*

ALQST has not documented any cases in which families of individuals arbitrarily detained or tortured in detention who file grievances with the Board have received reparations.

## The Bureau of Investigation and Public Prosecution (BIPP)

The Ministry of Interior (MoI) is responsible for investigation and prosecution through the Bureau of Investigation and Public Prosecution, created in 1989 by a Royal Decree<sup>2</sup> but effective from 1995. Although the BIPP Decree states that “members of the Bureau are totally independent,”<sup>3</sup> in practice, the Bureau is controlled by the MoI. This is further illustrated by the fact that the premises of the prosecution services are within the MoI<sup>4</sup> and the Chief Prosecutor is nominated by the MoI.<sup>5</sup>

## Methods of torture and forces responsible

A systematic and widespread practice in Saudi Arabia, torture is used both during interrogation to extract confessions and as a form of punishment during detention. In spite of reports by detainees indicating that they have informed courts of the acts of torture which they have endured, investigations are rarely conducted into such allegations, and coerced confessions are routinely admitted as evidence against the accused. Methods of torture and ill-treatment include beating, flogging, electric shocks, sleep deprivation, exposure to extreme temperatures and stress positions, *incommunicado* and prolonged solitary detention, sexual assault and threats of raping or killing victims’ relatives.

There are several forces responsible for acts of torture including the Bureau of Investigation and Public Prosecution; the General Intelligence or *Al-Mabahith*; the Commission for the Promotion of Virtue and the Protection of Vice; as well as most recently a special squad associated with MBS. In its Concluding Observations on the second periodic report of Saudi Arabia, the UN Committee against Torture expressed deep concern “at the numerous reports brought to its attention that torture and other ill-treatment are commonly practised in prisons and detention centres in the State party, in particular in branches of the Criminal Investigation Department of the Ministry of the Interior and in *Al-Mabahith* detention centres.”<sup>6</sup>

## Torture by the Bureau of Investigation and Public Prosecution

As laid out in articles 15 and 24 of the Code of Criminal Procedure (CCP), the Bureau of Investigation and Public Prosecution (BIPP) has jurisdiction to initiate proceedings against criminal actions before competent courts and its preliminary criminal investigation officers are responsible for pursuing offenders and collecting information and evidence necessary for the investigation and indictment.

Routinely practiced by BIPP agents, torture is often used to obtain coerced confessions from the victim. The State party’s criminal procedure favours confessions as a means of evidence, and as a result coerced confessions from the accused hold significant weight. Confessions are often written and prepared prior to interrogation and victims are informed that the torture will only cease once they agree to sign the document. Moreover, the victim is usually not permitted to read the confession before signing. When they are presented to the judge, any claims by the victim that they have been tortured or any attempts to retract their statements obtained under torture, are unlikely to be taken into account.

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<sup>2</sup> *Law of the Bureau of Investigation and Public Prosecution: Royal Decree No. M/56, 29 May 1989.*

<sup>3</sup> *Ibid*, article 5.

<sup>4</sup> *Ibid*, article 1.

<sup>5</sup> *Ibid*, article 10.

<sup>6</sup> UN Committee against Torture, *Concluding observations on the second periodic report of Saudi Arabia*, 8 June 2016, UN Doc CAT/C/SAU/CO/2, para. 7.

## Torture by the General Intelligence

In selected detention centres falling under the command of the intelligence services, detainees are kept outside of the protection of the law and are subjected to violations which are systematic in nature, such as torture and arbitrary detention. Many of the documented cases of torture by *Al-Mabahith* forces illustrate that these acts are perpetrated in a disturbingly methodical manner in order to extract confessions during the investigation stage.

Granted sweeping powers, the intelligence services operate in security-related cases, but also in political cases, arresting peaceful dissidents and activists. Taken to an unknown location, victims are detained in solitary confinement and held *incommunicado* for extended periods of time, ranging from a few days to weeks, and even years in some cases. According to the Special Rapporteur on Torture, indefinite and prolonged solitary confinement in excess of 15 days amounts to cruel, inhuman or degrading treatment or punishment.<sup>7</sup>

## Powers of the Religious Police curtailed

The Commission for the Promotion of Virtue and Prevention of Vice (CPVPV), better known as Saudi Arabia's religious police, monitors public behaviour to enforce strict adherence to official interpretation of Islamic norms. It reports to the King and the Ministry of Interior. Article 26 of the CCP considers it as a law enforcement institution. While they should follow the CCP procedures, in practice, these forces are used to arrest, interrogate and detain individuals outside the framework of the law, and were responsible for the commission of acts of torture and ill-treatment. In 2016, the cabinet issued regulations severely curtailing the CPVPV's enforcement powers.<sup>8</sup> The new regulations prohibit CPVPV officers from investigating, detaining or arresting individuals. ALQST has not documented cases of torture or ill-treatment by these forces since 2016.

## New torture trends under Mohammed bin Salman

In July 2017, King Salman issued a royal decree that established the State Security Presidency (SSP), an all-encompassing security agency which reports directly to the king. This new entity consolidates the counterterrorism and domestic intelligence services under one roof and is concerned with all matters related to state security. The royal decree moved the General Directorate of Investigation, Special Security Forces, Special Emergency Forces, General Security Aviation Command, General Directorate of Technical Affairs, and the National Information Center from the Ministry of Interior to the SSP. The exercise of these powers is now under the direct authority of the king, thus sidestepping the Ministry of the Interior. This reflects the increasing centralisation of power in Saudi Arabia.

King Salman and his son, Crown Prince Mohammed bin Salman (MBS), have also embarked on a violent crackdown of civil society, with new tactics being applied in an attempt to silence dissent. In November 2018 reports emerged of the brutal torture of detained women human rights defenders (WHRDs) in different prisons, including the *Al-Mabahith* prison in Dammam, Dhahban Central Prison in Jeddah and Al-Ha'ir political prison in Riyadh, as well as in unofficial places of detention known as "the hotel" and "the officers' guesthouse", where they were subjected to interrogation. The women suffered beatings, flogging and electric shocks that left some of them unable to walk or stand properly, with uncontrollably shaking hands and with marks of torture on their bodies.

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<sup>7</sup> UN General Assembly, *Torture and other cruel, inhumane and degrading treatment or punishment*, Note by the Secretary General, 5 August 2011, para. 76.

<sup>8</sup> CNN, *Saudi Arabia strips religious police of arrest powers*, 15 April 2016, available at: <https://edition.cnn.com/2016/04/14/middleeast/saudi-arabia-religious-police-powers/index.html> (accessed on 22 November 2020).

Younger WHRDs were also sexually assaulted by being kissed or hugged by male interrogators, stripped naked, or groped and beaten on sensitive parts of their bodies while handcuffed. At least one WHRD is reported to have attempted suicide on several occasions as a result.<sup>9</sup>

This is a particularly worrying development given that the torture of women detainees was previously unheard of in Saudi Arabia. Moreover, WHRDs reported that their torture was overseen by Saud Al-Qahtani, a close adviser to MBS, which suggests that torture operations are now being conducted by a special squad associated with MBS instead of, or as well as, the *Al-Mabahith* intelligence forces, which are already notorious for subjecting detainees to acts of torture.

Most recently, ALQST documented cases of individuals being detained in the basement of a royal palace, which is made up of makeshift wooden cells, temporary offices and a clinic where prisoners are sometimes able to identify and talk to each other. According to ALQST sources, the prison is personally run by Saud Al-Qahtani and Maher Al-Mutreb, who also reportedly participated directly in the torture of inmates. One such example is that of Suliaman Al-Dwaish, a man close to the former crown prince Mohamed bin Nayif, who was kidnapped in broad daylight for a critical tweet against MBS. He was handcuffed, shackled and flown to a royal palace, where he was interrogated and beaten by a high ranking Saudi official about his tweet.

## Lack of adequate definition, criminalisation and absolute prohibition of torture

### Inadequate definition and criminalisation of torture

The UNCAT requires States parties to include a definition of torture in their domestic legislation which should include, at least, all of the elements denounced in article 1 of the Convention. Saudi legislation does not explicitly define torture in accordance with article 1 of the Convention, creating a legal void that makes the elimination of this practice challenging. This is primarily because the State party does not have a criminal code defining crimes and their sanctions. The Saudi authorities have repeatedly promised to draft a criminal code over the years. However, they have failed to do so as of yet.

Presently, the only legislative provision prohibiting torture is article 2 of the Criminal Procedure Code (CCP), which states that “an arrested person shall not be subjected to any bodily or moral harm. Similarly, he shall not be subjected to any torture or degrading treatment.” This provision offers no adequate definition of torture, does not specify the applicable punishment for the offence, nor does it provide for the different modes of participation (i.e. complicity, instigation, order) in the crime. In addition to incriminating separately acts of torture, the law should provide adequate sanctions that reflect the gravity of these acts.<sup>10</sup> Therefore, this provision does not constitute an autonomous incrimination of torture as required under article 4 of the Convention.

The Saudi authorities may claim that torture is already defined and forbidden by Sharia law. However, there is no set definition of crimes under Sharia law, and it is left to the judges to determine which acts constitute torture, along with the punishments that should be exacted for such acts. When one also considers the lack of independent judiciary vis-à-vis the executive which may prevent further qualifications of acts of torture committed by states agents as such, this discretionary power is even more concerning.

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<sup>9</sup> ALQST for Human Rights, *ALQST Confirms New Details Of Torture Of Saudi Women Activists As British MPs Seek Access To Prisons To Investigate*, 3 January 2019, available at: <https://alqst.org/en/confirms-new-details-of-torture-of-saudi-women-activists-as-british-mps-see-access-to-prisons-to-investigate> (accessed on 22 November 2020).

<sup>10</sup> UN Committee against Torture (UNCAT), *General Comment No. 2, CAT/C/GC/CRP.1/Rev. 4*, paras. 3 and 10.

## Lack of absolute prohibition of torture

In adherence with the Convention against Torture, State parties are required to explicitly establish the absolute prohibition of torture and must exclude superior orders as a valid defense argument. Torture is never justified under the Convention: no state of war or emergency, internal political instability, or any other threats to the State can be used to justify acts of torture.<sup>11</sup>

Saudi domestic law does not adhere to international standards, as it does not contain provisions ensuring the absolute and non-derogable prohibition of torture and ill-treatment. Other fundamental legal safeguards to prevent torture are not enshrined in domestic law, including the exclusionary rule and the criminalisation of torture.

While the authorities might argue that “[t]he provisions of Islamic Sharia, from which the kingdom derives its laws, prohibit acts of torture and the use of cruel or degrading treatment, whether in ordinary, exceptional or emergency circumstances,<sup>12</sup>” there is no provision in domestic law explicitly outlining that exceptional circumstances cannot be invoked as justification for torture.

Article 82 of the Basic Law raises further concern as it states that: “No provision of this Law whatsoever may be suspended except on a temporary basis, such as in wartime or during the declaration of a state of emergency.” This choice of language seems to permit a general derogation to the Basic Law and does not explicitly stipulate that there is no derogation from articles which protect the right to life, prohibit the use of torture or cruel, inhuman or degrading punishment, or those related to the right to liberty and the protection of fundamental freedoms.

It is not only direct perpetrators of torture who go unpunished, but also those who order, instigate, consent or acquiesce to acts of torture, violating the authority’s obligation to investigate and bring charges against those responsible for these acts. There are no provisions in Saudi domestic law that state that an order from a superior officer or a public authority may not be invoked as a justification of torture. In practice, this creates a climate of impunity for perpetrators of torture.

## Violations of legal safeguards

The Concluding Observations of the UN Committee against Torture following the country’s review in 2016 state: “The failure of Saudi Arabia to provide minimum procedural safeguards during detention and interrogation, and its judicial practice of admitting coerced confessions into evidence, strongly suggests that the practice [of torture] is officially endorsed.”<sup>13</sup> Similarly, after his country visit to Saudi Arabia in 2017, the former UN Special Rapporteur on the promotion and protection of human rights while countering terrorism (SRCT) states that “the theoretical protections enshrined in law appear illusory in practice.”<sup>14</sup>

Individuals deprived of their liberty are regularly denied the legal safeguards set forth in the Convention and the insufficient guarantees enshrined in the CCP are usually disregarded by law enforcement officials and judges. Violations to legal safeguards are constant, repetitive and committed from the moment of arrest, through every step of the process to trial and imprisonment, creating an environment in which fundamental rights are routinely disregarded and torture and ill-treatment can be said to be actively encouraged.

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<sup>11</sup> OHCHR, *Convention against Torture (CAT)*, articles 2.2 and 2.3 & UNCAT, *General Comment N°2, CAT/C/GC/CRP.1/Rev. 4*, paras. 5 & 26.

<sup>12</sup> Kingdom of Saudi Arabia, *Consideration of reports submitted by States parties under article 19 of the Convention, Second Periodic Report, CAT/C/SAU/2*, 7 January 2015, para. 52.

<sup>13</sup> UN Committee against Torture, *Concluding observations on the second periodic report of Saudi Arabia*, 8 June 2016, UN Doc CAT/C/SAU/CO/2, para. 16.

<sup>14</sup> UN General Assembly, *Visit to Saudi Arabia: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 13 December 2018, UN doc. A/HRC/40/52/Add.2, para. 37.

Saudi Arabia has not codified its criminal offenses, and there is no clarification in the jurisprudence resulting in a lack of accessibility and foreseeability of the criminal law in this respect. The absence of a criminal code that clarifies what does and does not constitute a criminal offense and a lack of legal specificity makes arrests and prosecutions inherently arbitrary and means that the question of whether particular behaviour constitutes an offense is, in essence, a subjective assessment. This ambiguity allows prosecutors to issue punishments on a “discretionary basis” and to mould the crime to the act, rather than adhering to their obligation to prove that the defendant has committed clearly defined and specific crimes. This clearly constitutes a divergence of the Saudi criminal system from the rule of law.

### Arbitrary arrests that lack a legal basis

All cases presented in this report carry the same pattern whereby individuals are arrested without any legal basis. Article 36 of the CCP provides that: “Any detained person shall be treated decently and shall not be subjected to any bodily or moral harm. He shall also be advised of the reasons of his detention and shall be entitled to communicate with any person of his choice to inform him of his arrest.” This legal provision does not explicitly prohibit torture. Moreover, in practice arrests are conducted without warrants and there is often no explanation to the individual of the reasons behind the arrest.

The CCP states in its article 116 that any arrested person has the right to “be promptly notified of the reasons for his arrest or detention”. However, in practice, individuals are kept in detention without being informed of the reasons for time spans ranging from several weeks to several years.

It should be highlighted that the BIPP controls both investigation and prosecution meaning that it is most likely the same agents who issue the arrest order that will also carry out the arrest and questioning. As a result, these agents are unlikely to wait for a warrant to be issued to proceed with the arrest. Furthermore, without indicating what conditions or circumstances need to be met in order to carry out the arrest, the CCP gives the investigator the power to summon any person for investigation or to arrest any person if “investigation circumstances warrant it,”<sup>15</sup> leaving an open door to arbitrary arrests. Article 104 of the CCP outlines that a summons is not required to specify the reasons behind its issuance, but only needs to state the identity of the person summoned and the date at which they are requested to appear.

In addition, according to article 159 and 160 of the CCP, the Prosecutor can modify the charges at any time during the investigation or the trial without informing the defendant, making it practically impossible for the defendant to be certain of the charges against them, thus disabling any ability to accurately prepare their defence.

### The right to legal counsel

While article 4 of the CCP provides that “[a]ny 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,” this right is rarely upheld in practice.

Furthermore, the CCP fails to provide an exact timeframe for when the detainee can access legal counsel and does not specify that this should be granted from the onset of arrest. As such, it often takes several weeks or months for lawyers to be granted access to their defendants and the lawyer has to file a request with the BIPP to be allowed to represent a defendant.

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<sup>15</sup> Kingdom of Saudi Arabia, *Law of Criminal Procedures Royal Decree No. M/2*, 25 November 2013, para. 103.

Individuals' right to legal assistance of their choice is also severely inhibited with documented cases of individuals, held for national security charges, unable to find lawyers to represent them at trial as many fear reprisals for being perceived as "disloyal to the state". As a result, individuals are left choosing from a selection of lawyers with ties to the government, who are unlikely to act in the best interest of their clients.

It should be further noted that detainees and their lawyers are offered no privacy to discuss the case with all meetings and exchanges monitored by guards who stay in the meeting room, rendering it impossible for accused persons to divulge incidents of torture to lawyers or divulge any confession made under duress. This disregard of lawyer and client confidentiality is further compounded through telephone communications and consultations, which must be conducted under the supervision of the criminal investigation officer.<sup>16</sup>

### Absence of prompt and independent medical assistance

The CCP does not provide for the right to prompt access to independent medical assistance. Consequently, should detainees have suffered acts of torture, they cannot have this attested to by a doctor to support their claim to the judge. Moreover, detainees suffering from pre-existing medical conditions or who need medical treatment due to torture and poor conditions of detention are unlikely to receive the necessary medical care.

### Secret and incommunicado detention and solitary confinement

Customary international law entitles people held in custody to, promptly after their arrest, be permitted to notify a third person that they have been detained and where they are being held. Accordingly, detainees have the right to prompt access to families, lawyers, doctors, a judicial official and, if the detainee is a foreign national, to consular staff or a competent international organisation.<sup>17</sup>

In clear breach of customary international law, the Saudi authorities commonly place arrested individuals in *incommunicado* detention, whereby they are denied any contact with the outside world. In fact, the majority of people who are taken into custody undergo periods of *incommunicado* detention ranging from several days to many months or even years. They are also often, and for prolonged periods of time, placed into solitary confinement and denied any interaction with other prisoners. While *incommunicado* detention most prevalently occurs during the investigation phase, it is also, and similarly to solitary confinement, used as a form of punishment during detention.

Several UN human rights mechanisms have repeatedly voiced concern that: "the imposition of solitary confinement in excess of 15 days and prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment or even torture."<sup>18</sup>

While article 36(1) of the CCP stipulates that a detainee "shall be entitled to communicate with any person of his choice to inform him of his arrest," it is an insufficient procedural guarantee as it not only fails to define an exact timeframe for such communication, but also denies detainees the right to communicate where they are being held.

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<sup>16</sup> *Ibid.*, para. 116.

<sup>17</sup> UN General Assembly, *Resolution 43/173 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, 9 December 1988, para. 15 & 16.

<sup>18</sup> U.N. Commission on Human Rights, *Resolution 2003/32*, para. 14.

*Incommunicado* detention is further facilitated by dispositions such as article 119, which provides that “the investigator shall be entitled to stop the accused from communicating with any other accused or detainee, and to stop any visit to such accused for a period not exceeding sixty days whenever that is deemed necessary, without prejudice to the right of the accused to communicate with his representative or attorney.” Therefore, security forces are authorised to hold suspects in *incommunicado* detention for up to 60 days.

Even more concerning in this regard are the provisions of Saudi Arabia’s new Counter-terrorism law of 2017, with articles 19 and 20 of the Law granting the Specialised Criminal Court (SSC) the power to extend the period of custody – including *incommunicado* detention – indefinitely.

Despite the provisions of article 37 of the CCP stating that “no person may be detained or imprisoned except in places legally designated for such purpose,” recent waves of arrests ordered by Mohammed bin Salman have shown that many individuals have been held in unofficial places of detention known as “guest house” or “hotel” in the case of the WHRDs, the Ritz Carlton Hotel in Riyadh in the case of several members of the royal family and business moguls, and in heavily guarded villas where other high-profile prisoners remain detained to this day.

### The right to challenge the legality of one’s detention

Article 114 of the CCP allows for detainees to be held in custody, without any charges being brought against them, for a period up to six months “for interrogation or investigation.” While the initial detention shall not exceed five days, an extension can be ordered of up to 40 days. This extension is not however reviewed by an independent judicial authority, but rather by the BIPP, whose Chairman can order an extension for a maximum of six months without having to provide supporting evidence for such a decision.

This constitutes a violation of the fundamental rights of detainees to be promptly informed of the charges held against them; have the right to challenge the legality of the detention and to promptly be brought before a judge. Furthermore, the cases we have documented show that individuals are often kept in custody without receiving official charges for much longer than six months.

### Confessions extracted under torture and their admission at court

Article 102 of the CCP states that the interrogation shall be conducted in a manner not affecting the will of the accused in making his statements and that the accused may not be asked to take an oath nor subjected to any duress measures. This provision is insufficient as it fails to explicitly mention torture and other cruel, inhuman and degrading treatment or punishment.

What is even more concerning is that there is no reference to be found in the CCP specifying that statements obtained under duress are inadmissible in court. On the contrary, article 161 provides that: “If the accused at any time confesses to the offense 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.” This article underpins the Saudi criminal procedure, with both investigators and judges relying on confessions to hasten the process and sentencing of defendants.

The Saudi legal system places an inordinate amount of weight on confessions as the sole evidence in trial, despite numerous reported cases of confessions being extracted through torture. ALQST is not aware of any instances in which a judge has invalidated a confession found to have been made under duress.

This is further substantiated by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, who in his country visit report confirms that allegations of torture or other forms of ill-treatment did not appear to be taken seriously by trial judges. He noted that although more than 3,000 allegations of torture were formally recorded between 2009 and 2015, he was not aware of a single case in which an official had been prosecuted.<sup>19</sup>

In fact, human rights defender Khaled Al-Omair was re-arrested in 2018 after officially filing a complaint that he had been tortured during a previous prison sentence for his peaceful activism. In December 2019, Al-Omair went on a hunger strike to protest his unlawful detention, the fact that he was kept in custody for longer than the legal period without charge and without being brought to court, and that he was denied communication with members of the National Human Rights Commission. This illustrates the reprisals individuals may face when pursuing torture allegations, the lack of legal safeguards, as well as the culture of impunity that applies to public officials who commit acts of torture and other ill-treatment.<sup>20</sup>

What further creates an enabling environment for the commission of acts of torture and other cruel, inhuman and degrading treatment and punishment, is the fact that interrogations are still not filmed or audio recorded.

## Violations in the context of counter-terrorism

### A repressive legal framework

Saudi Arabia's updated Law on Combating Crimes of Terrorism and its Financing of 2017 offers an extremely vague definition of terrorism. The Law fails to uphold due process guarantees and allows for indefinite *incommunicado* detention. This constitutes a serious violation of due process, as it denies suspects contact with their families along with access to legal counsel. Individuals accused under the Counter-terrorism law are exceptionally vulnerable to practice of torture and ill treatment as the law places these individuals outside the protection of the law and facilitates the practice of such acts.

It is of particular concern that this law does not mention the resort to or intent of physical harm. This law gives the judicial authorities the discretion to punish any non-violent acts under the pretext of the fight against terrorism, often opening the door to the criminalisation of acts which fall under the right to freedom of opinion and expression. Consequently, critical statements made against the monarchy such as "disturbing public order" or "harming the reputation of the state" can be qualified as acts of terrorism and punished with heavy prison sentences.

### The Specialised Criminal Court (SCC)

The Specialised Criminal Court (SCC) is an exceptional jurisdiction set up in 2008 by the Supreme Judicial Council upon a decision of the Ministry of Interior to try cases of terrorism. The court is composed of a panel of judges directly nominated by the Ministry of Interior. The court has never made its rules and procedures public and, as a result, the scope of the SCC's jurisdiction is vague and those brought before it are not solely prosecuted under the Counter-terrorism law.

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<sup>19</sup> UN General Assembly, *Visit to Saudi Arabia: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 13 December 2018, UN doc. A/HRC/40/52/Add.2, para. 37.

<sup>20</sup> ALQST for Human Rights, *Khaled Al-Omair Joins #SaudiPOCsHungerStrike And Sends Message From Behind Bars*, 22 December 2019, available at: <https://alqst.org/en/khaled-al-omair-joins-saudipocshungerstrike-and-sends-message-from-behind-bars> (accessed 22 November 2020).

Procedures before this court are marked by systematic violations of fair trial rules. The SRCT confirmed receiving many reports about due process violations; trial proceedings held in secret; trials conducted in the absence of defence lawyers; and trials held *in absentia* with no effective defence. In addition, the SRCT received consistent reports concerning the use of torture and ill-treatment against detainees; arbitrary arrests and detention; violations of the right to independent legal counsel in detention; the absence of genuinely independent medical examinations of suspects alleging torture; the practice of holding suspects *incommunicado* or in secret detention; the admission of evidence obtained under torture at trial; and executions following manifestly unfair trials.<sup>21</sup>

Public information about cases before the SCC is scarce, yet the court appears to be very active: according to figures made available to the SRCT, by January 2016 the court had tried 2,225 cases involving 6,122 defendants. The Special Rapporteur was reliably informed that the court initially focused on allegations of political violence linked to Al Qaeda. However, this began to change in 2010, and for the past years, the court has been used increasingly to prosecute human rights defenders and political activists.<sup>22</sup>

After its review of Saudi Arabia in 2016, the CAT also expressed its concern regarding the lack of independence of the SCC as well as reports it received that claims made by defendants facing terrorism charges that they were subjected to torture or ill-treatment during interrogations for the purpose of compelling a confession were repeatedly ignored by judges.<sup>23</sup>

## Acts of cruel, inhuman and degrading treatment and punishment

Under article 16 of the Convention, state parties are obligated to ensure cruel, inhuman and degrading treatment or punishment is criminalised and prevented. In reality, domestic legislation fails to criminalise these acts and instead, certain cruel, inhuman and degrading punishments are even prescribed by law. Moreover, various forms of ill-treatment are commonly reported from detention facilities throughout the kingdom.

The conditions within many Saudi detention facilities fail to comply with the Standard Minimum Rules for the Treatment of Prisoners. Commonly reported issues include overcrowding of prison cells; deprivation of daylight; denial of access to basic sanitary amenities; and malnutrition. Prisoners further reported being beaten, insulted and threatened.

The right to access adequate medical care is also routinely denied to inmates, as is the right to see an independent doctor. This prevents individuals who have been subjected to acts of torture from being able to get their claims verified by a medical professional and to receive treatment. It also adversely affects prisoners with previous health conditions, whose health significantly deteriorates as the authorities fail to provide care for their medical conditions. As is illustrated by above-mentioned issues, the conditions within Saudi detention facilities amount to cruel, inhumane and degrading treatment.

### Corporal punishment

Article 1 of the Convention against Torture does not prohibit punishment resulting from lawful sanctions. However, the definition of what constitutes a lawful sanction should be interpreted narrowly and the sanctions must not be cruel, inhuman and degrading.

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<sup>21</sup> UN General Assembly, *Visit to Saudi Arabia: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 13 December 2018, UN doc. A/HRC/40/52/Add.2, para. 31.

<sup>22</sup> UN General Assembly, *Visit to Saudi Arabia: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 13 December 2018, UN doc. A/HRC/40/52/Add.2, para. 30.

<sup>23</sup> UN Committee against Torture, *Concluding observations on the second periodic report of Saudi Arabia*, 8 June 2016, UN Doc CAT/C/SAU/CO/2, para. 17.

The Saudi authorities maintain that corporal punishment as a penalty for offenses that warrant retributive justice (*qisas*) or specific punishments (*hudud*) as expressly prescribed by Sharia Law cannot be amended or abolished. Whereas, in reality, these sanctions are used as punishments for acts which are not outlined as crimes in Sharia Law. The fact that acts of corporal punishment have been administered as sanctions to criminalise acts which fall under rights and freedoms, such as the right to freedom of expression and opinion, is extremely worrisome.

In April 2020, the kingdom's government-sponsored National Human Rights Commission announced new royal decrees to end the death penalty for minors and eradicate discretionary floggings.<sup>24</sup> It portrayed this as a major step towards reform of the Saudi criminal justice system aimed at bringing it into line with international human rights standards. However, the Saudi authorities omitted to mention that these royal decrees contain notable exemptions that leave them empty of any real value. As such, the decree to eradicate flogging only applies to flogging prescribed by *ta'zir*, i.e. left to the discretionary power of the judge. While the majority of floggings are ordered under the legal principle of *ta'zir*, there are some crimes, such as consumption of alcohol and adultery, whose *hudud* punishment is flogging.

## Death penalty

Although the death penalty is not directly prohibited by international law, there are caveats imposed on its employment as a sentence that should be upheld by authorities in countries where it is in use, these include the right to a fair trial and the right to appeal for a pardon or a commutation of a sentence. Authorities should also ensure that it is only used in extreme cases to punish the most serious of crimes and that it should not be imposed retroactively. Furthermore, in the cases where an individual is under the age of 18, suffering from any psychosocial or intellectual disabilities or is pregnant the death penalty should not be employed as punishment.

In addition, certain methods of execution have been identified as cruel and contrary to human dignity and as a result are in violation of international law. This is especially the case if the method of execution that is applied as a sentence prolongs the suffering and death of the sentenced individual. Methods of execution in Saudi Arabia include beheadings by a swordsman, at times followed by public crucifixion; stoning to death; and execution by firing squad. The Special Rapporteur considers Saudi Arabia's use of the death penalty as "archaic, and inhuman and degrading, not only for the person who is executed but for all those who contribute to it or take part as spectators."<sup>25</sup>

Given the lack of independence of the judiciary, violations of legal safeguards and fair trial guarantees in Saudi Arabia, there are serious concerns regarding the fairness of trials in which individuals are sentenced to death. Moreover, the death penalty is routinely applied for non-violent drug-related charges and ALQST documented several cases in which individuals were executed, who were either below the age of 18 at the time they allegedly committed the crime or suffering from psychosocial and intellectual disabilities. What adds an additional layer of cruelty to executions is that the families of those on death row are neither given any prior notice to say goodbye to their family members nor, in many cases, handed back their bodies for a dignified burial.

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<sup>24</sup> ALQST, *An End To Discretionary Death Sentences For Minors In Saudi Arabia? Exceptions Render Royal Decree Meaningless*, 10 May 2020, available at: <https://alqst.org/en/post/death-sentences-for-minors> (accessed on 20 November 2020).

<sup>25</sup> UN General Assembly, *Visit to Saudi Arabia: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 13 December 2018, UN doc. A/HRC/40/52/Add.2, para. 54.

Saudi Arabia has for many years been among the countries carrying out the highest number of executions in the world. Yet, despite Mohammed bin Salman's pledge in 2018 to reduce use of the death penalty, 2019 witnessed the largest number of executions in recent Saudi history.<sup>26</sup> According to figures published by the official Saudi Press Agency, a total of 185 individuals were executed, the majority of them for non-violent drug offences, followed by murder and terrorism-related charges.

On 23 April 2019, the Saudi authorities announced the execution of 37 individuals in various parts of the country, six of whom were minors at the time of the alleged commission of their crimes. The majority were Shia men who had been convicted following unfair trials on charges including protest-related offences, espionage and terrorism.<sup>27</sup> In a communication sent to the Saudi authorities in July 2019, six UN Special Procedures mandate holders raised concerns that these individuals were reportedly subjected to acts of torture and ill-treatment including prolonged solitary confinement and confessions obtained under torture; denial of access to medical care in detention and lengthy pre-trial detention; denial of access to legal representation before and during trial; and denial of access to the charges brought against them.<sup>28</sup>

As mentioned above, the royal decree, announced in 2020, to prohibit the death penalty for minors contains several legal loopholes. Firstly, the decree appears to protect only child defendants sentenced to death by *ta'zir* (i.e. at the discretion of the judge). It therefore excludes death sentences for other categories of offences, known as *hudud* (fixed punishments for specific crimes prescribed under the country's interpretation of Islamic law) and *qisas* (retributive justice – usually for murder). Furthermore, the decree excludes those convicted by *ta'zir* when tried under the Counter-terrorism law. As such, there remain three ways in which minors can still be executed.

## Prevention and prosecution of torture

Saudi Arabia is not a party to the Optional Protocol to the Convention against Torture (OPCAT) and as such does not have a national preventative mechanism.

### Lack of independent monitoring mechanisms and complaint procedures

The BIPP is responsible for monitoring and handling complaints in places of detention. It is also in charge of the control and inspection of prisons and other places of detention. BIPP Prosecutors are obligated to inform the Minister of Interior of any illegal behaviour of their agents who may be sanctioned disciplinarily by their department.<sup>29</sup> However, it is extremely problematic that the same entity that investigates and prosecutes detainees is also the one in charge of inspection and monitoring. This responsibility should be undertaken by an independent third entity.

Due to fear of reprisals many detainees abstain from filing complaints altogether. Article 13 of the Convention clearly states that the State party should guarantee protection against any form of reprisals against victims who lodge complaints and positive measures should be taken to ensure their families are not subjected to reprisals.

Detainees can also report acts of torture and other ill-treatment to the National Human Rights Commission (NHRC) and the National Society for Human Rights (NSHR), both of which are government bodies and in turn direct cases to the BIPP for further prosecution.

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<sup>26</sup> The Australian, *Saudi death penalty soars despite royal pledge*, 15 April 2020, available at: [https://www.theaustralian.com.au/world/the-times/saudi-death-penalty-soars-despite-royal-pledge/news-story/0657cefd2a4669a5f23520559ced0637?from=htc\\_rss](https://www.theaustralian.com.au/world/the-times/saudi-death-penalty-soars-despite-royal-pledge/news-story/0657cefd2a4669a5f23520559ced0637?from=htc_rss) (accessed on 22 November 2020).

<sup>27</sup> Human Rights Watch, *Saudi Arabia: Mass Execution of 37 Men*, 24 April 2019, available at: <https://www.hrw.org/news/2019/04/24/saudi-arabia-mass-execution-37-men> (accessed on 20 November 2020).

<sup>28</sup> OHCHR, *Joint Urgent Appeal UA SAU 9/2019*, 15 July 2019, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24633> (accessed on 20 November 2020).

<sup>29</sup> Kingdom of Saudi Arabia, *Law of Criminal Procedures Royal Decree No. M/2*, 25 November 2013, para. 25.

In recent years, NHRC officials have been very active touring the west in an attempt to persuade foreign diplomats that the reform efforts introduced by Crown Prince Mohammed bin Salman are genuine and asking them to withhold harsh critique while the authorities implement such changes. However, for families of victims of torture and other human rights abuses they have been far less accessible. The NHRC has been described as unresponsive, with family members of detainees who have launched several appeals noting that they felt alone and ignored. There are several documented cases in which family members have had direct communication with members of the NHRC, yet due to the institution's lack of independence, actual assistance or effective cooperation was found to be impossible.

Prominent women's rights advocates in detention were interviewed by Saudi Arabia's NHRC who recorded their allegations of torture, which included electric shocks, whippings, sexual harassment, and sexual assault. Allegedly a member of the NHRC told one of the women that the Commission could not help them and it is unclear whether a public report or recommendations will be issued based on the women's allegations.

Overall, the NHRC and the NSHR seem to be able to raise general human rights concerns and to make soft generic recommendations to improve the overall situation. Yet, given their proximity to the authorities, they are in no position to call for the release of prisoners of conscience; thoroughly investigate cases of torture and ensure the prosecution of perpetrators; or challenge corrupt government agencies.

### Failure to investigate and prosecute

Article 12 of the Convention requires state parties, even if there is no complaint from the victim, to promptly and impartially investigate any allegation of torture brought to their attention. Subsequently, the perpetrators of those acts as well as those who are complicit of or order the torture should be prosecuted.

The NHRC and the NSHR usually do not open an investigation into allegations of torture, for which they have received complaints from detainees or their families. Rather, complaints to the NSHR are automatically sent to the BIPP which does not take any legal action, in clear breach of the state's obligation to launch an investigation when there are reasonable grounds to believe that an act of torture has been committed by state agents.

Medical professionals are not trained according to the Istanbul protocol in the detection of signs of torture, and they may only examine detainees subjected to acts of torture weeks or months after the event. The authorities routinely deny forensic doctors the ability to perform autopsies. Both medical professionals and forensic doctors lack independence and, as a result, often fail to attest to signs of torture. Consequently, this lack of independent medical expertise hinders thorough investigations of acts of torture and makes it almost impossible to establish facts after a complaint or a case of death in detention.

The combined lack of independent investigators and medical experts has helped to create a climate of impunity for the perpetrators of torture. ALQST knows of no case in which a Saudi state agent who has committed acts of torture has ever been held to account or prosecuted.

A recent high-profile case is illuminating. The family of Loujain Al-Hathloul, who was released on 10 February 2021 after being tortured, reported<sup>30</sup> that just prior to her release, the Court of Appeal refused to acknowledge the torture inflicted on Loujain Al-Hathloul during her detention, under the pretext that the burden of proof falls on the victim.<sup>31</sup>

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<sup>30</sup> Alia al-Hathloul's Twitter account, [https://twitter.com/alia\\_ww/status/1359130519263395843](https://twitter.com/alia_ww/status/1359130519263395843)

<sup>31</sup> Reuters, *Saudi appeals court rejects rights activist claim she was tortured in jail, family says*, 9 February 2021, available at: <https://www.reuters.com/article/saudi-rights-women-justice-int-idUSKBN2A91X0> (accessed on 11 February 2021).

## Right to redress

Under article 14 of the Convention against Torture, victims of torture and other cruel, inhumane or degrading treatment or punishment have the right to redress, which should be enacted in domestic legislation by the state parties. The term “redress” is considered by the Committee against Torture to include the right to effective remedy and the right to reparation in its five forms, namely restitution; compensation; rehabilitation; satisfaction; and guarantees of non-repetition.<sup>32</sup>

While there are provisions in the CCP that prescribe moral and material compensation for unlawful detention,<sup>33</sup> there is no mention of the right to compensation for victims of torture or other ill-treatment. Hence, it is not surprising that we have not been able to document any instances where the Saudi authorities have offered redress for victims of torture, therefore failing in their obligation under the Convention.

## Case studies

### Case No. 1 Loujain Al-Hathloul

Loujain Al-Hathloul is a 31-year-old women’s rights activist, who campaigned against the driving ban and the male guardianship system. In March 2018, she was arrested in Abu Dhabi, after her return from Geneva, where she was attending the review of Saudi Arabia by the UN Committee on the Elimination of Discrimination Against Women. She was taken to Riyadh, where she was interrogated for three days before being released and put on a travel ban. Two month later, on 15 May, the Saudi authorities rearrested her along with a number of prominent Saudi women’s human rights defenders and activists. In the first ten months of her detention, she was held without charges or trial, and during the first three months she was held in *incommunicado* detention without access to her family or a lawyer.

The charges against Al-Hathloul include “communicating with foreign journalists in Saudi Arabia”, “attending a digital privacy training” and “attempting to apply for a job at the United Nations”. While in detention, Al-Hathloul’s family members reported that she was subjected to a range of human rights violations, including torture and ill-treatment. At first, during interrogation, she was kept at an unofficial detention facility where she was subjected to acts of physically torture. She was waterboarded, force-fed, given electric shocks, sexually harassed, flogged, threatened with rape and murder.<sup>34</sup> Once Al-Hathloul was transferred to Al-Ha’ir Prison, she was placed in solitary confinement for prolonged periods of time. Al-Hathloul’s parents describe that on one of their first visits they saw Loujain shaking uncontrollably, her thighs blackened by bruises and her being unable to walk or sit normally.

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<sup>32</sup> Committee against Torture, *General Comment N°3*, 19 November 2012, CAT/C/GC/3, paras. 2 and 5.

<sup>33</sup> Kingdom of Saudi Arabia, *Law of Criminal Procedures Royal Decree No. M/2*, 25 November 2013, para. 207 & 215.

<sup>34</sup> ALQST, Gulf Centre for Human Rights, International Service for Human Rights and MENA Rights Group, *NGOs Submit Follow Up Report On Saudi Arabia To The UN Committee Against Torture*, 18 June 2019, available at: <https://alqst.org/en/post/ngos-submit-follow-up-report-on-saudi-arabia-to-the-un-committee-against-torture> (accessed 15 November 2020).

She was also exposed to a lot of psychological torture, by for example being told by the prison authorities that she will be allowed to have weekly visits, which were then stopped all of a sudden and without any reason. Again, and again, Al-Hathloul was denied access to regular communication or visits from her family. She was also initially denied access to medical care and when she was finally allowed to see a doctor, the prison guards forced her to speak Arabic with the physician, a language that he did not understand. During her last hunger strike, which started on 26 October 2020 and lasted for about two weeks, prison guards would deprive Al-Hathloul of sleep by waking her up every two hours during the night. Al-Hathloul's trial was transferred to the SCC, which began hearing her case on 10 December 2020, International Human Rights Day. Her case went back and forth between the SCC and the Criminal Court, which held a hearing on 17 December 2020, when Al-Hathloul and her father were briefed on a secret report about her torture. In its summary the Public Prosecution denied the torture charges brought by Al-Hathloul, and said that "prison cameras do not store photos for more than 40 days."<sup>35</sup> After several postponements, and 958 days in pre-trial detention, Al-Hathloul was sentenced on 28 December 2020 to five years and eight months in prison. The court suspended two years and 10 months of her sentence, and counted the time already served, therefore, Al-Hathloul was released on 10 February 2021. She still faces, however, three years' probation and a five-year travel ban.

## Case No. 2 Hussain Al-Ribh

On 13 November 2019, 38-year-old bodybuilder and entrepreneur Hussein Abdulaziz Al-Ribh died in *Al-Mabahith* General Prison in Dammam. According to ALQST's sources, Al-Ribh was subjected to brutal torture on multiple occasions since his arrest in August 2017.

Al-Ribh lived in the historic quarter of Awamiyah, which was stormed and destroyed by heavily armoured security forces in May 2017. He, with his wife and two children, had to flee for safety and sought refuge in another village in the Al-Qatif Governorate. Three months later, Saudi security forces surrounded his apartment and destroyed the door with explosive bullets, before arresting him. Al-Ribh was held in *incommunicado* and secret detention for three months. He was also placed in solitary confinement and was subjected to a wide range of physical and psychological torture methods, including eclectic shocks, sleep deprivation and standing for prolonged periods of time, which caused multiple health complications.

The reason for his arrest and detention remains unknown as Al-Ribh did not engage in any political or human rights activism. He was never officially charged or put on trial by the Saudi authorities. Since his arrest, Al-Ribh's family pleaded for his release with the leadership of *Al-Mabahith*, Ministry of Interior, Eastern Province Governorate and the Royal Court, but to no avail. On 13 November 2019, Al-Ribh, who was young and in good physical condition when he was first arrested, died in detention. The reason for his death remains unknown.

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<sup>35</sup> ALQST, GCHR and others, *Saudi Arabia: Activism is not terrorism: Free Saudi Activists Coalition condemns the sentencing of Saudi women's rights defender Loujain Al-Hathloul*, 28 December 2020, available at: <https://www.gc4hr.org/news/view/2557> (accessed 15 December 2020).

## Case No. 3 Migrant Workers

Thousands of migrant workers were arrested and detained in Saudi Arabia after fleeing to the country from neighboring Yemen. Horrifying details about the widespread abuses in Saudi detention facilities started to emerge after the death of at least three male adults, including an Ethiopian man, a Yemeni man and a Somali man in Al-Dayer Detention Centre. Human rights organisations reported that the migrant workers were being subjected to torture, including beatings and electrocutions; malnutrition; and unhygienic conditions of detention, causing the spread of several diseases. Information gathered by Amnesty International between 24 June 2020 and 31 July 2020, reveals that detainees were confined 24 hours a day in unbearably crowded cells while being chained together in pairs and were forced to use cell floors as toilets.<sup>36</sup> In October 2020, one of the detained workers explained to an Associated Press reporter: “We are detained in a very inhumane condition, sleeping on waste overflowing from a nearby toilet. We are beaten every day, and our only crime was seeking a better life in a foreign land.” While another 24-year-old detainee added: “Conditions are very difficult. Sometimes you feel you have no other choice but to commit suicide.”<sup>37</sup>

The inhuman conditions of detention faced by migrant workers in Saudi Arabia is not a new phenomenon. The Universal Periodic Review Working Group of the UN Human Rights Council has over the years repeatedly expressed concerns over these conditions and the International Labour Organization’s (ILO) Committee of Experts urged Saudi Arabia not to expose migrant workers to practices that can increase their vulnerability.<sup>38</sup>

The spread of COVID-19 increased the vulnerability of migrant workers in the kingdom’s detention centres, who are in urgent need of adequate protection. In April 2020, a coalition of 16 non-governmental organisations and trade unions sent a letter to the Saudi minister of labour and social development calling for the protection of migrant workers during the Covid-19 pandemic.<sup>39</sup> The organisations described in the letter how “low-paid migrant workers remain acutely vulnerable to human rights abuses that increase their risk of infection from COVID-19. These include crowded labour accommodations and inequitable access to medical care and health insurance and immigration detention centres and prisons that have often been found to hold detainees in cramped, dismal and unhygienic conditions.”

## Case No. 4 Abdulrahman Al-Sadhan

Abdulrahman Al-Sadhan is a 37-year-old humanitarian aid worker. He was forcibly disappeared in March 2018, after he was arrested by *Al-Mabahith* security forces from his office at the Red Crescent Authority in Riyadh. For nearly two years his family had no information about his whereabouts and well-being. Al-Sadhan’s disappearance and the uncertainty of knowing if he was even still alive subjected his family to psychological torment and adversely impacted their health, especially that of his mother who required additional medical attention as a result.

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<sup>36</sup> Amnesty International, *Ethiopian migrants describe “hell” of detention*, 2 October 2020, available at: <https://www.amnesty.org/en/latest/news/2020/10/ethiopian-migrants-hellish-detention-in-saudi-arabia/> (accessed on 20 November 2020).

<sup>37</sup> Elias Meseret, *Ethiopian migrants held in Saudi Arabia call it ‘hellish’*, 2 October 2020, available at: <https://apnews.com/article/virus-outbreak-africa-ethiopia-yemen-saudi-arabia-97aaf3ea856ca5458fa1c6fd12b695fd> (accessed on 20 November 2020).

<sup>38</sup> UN General Assembly, *A/HRC/WG.6/31/SAU/2 Compilation on Saudi Arabia*, 30 August 2018, available at: [https://www.upr-info.org/sites/default/files/document/saudi\\_arabia/session\\_31\\_-\\_november\\_2018/a\\_hrc\\_wg.6\\_31\\_sau\\_2\\_e.pdf](https://www.upr-info.org/sites/default/files/document/saudi_arabia/session_31_-_november_2018/a_hrc_wg.6_31_sau_2_e.pdf) (accessed on 22 November 2020).

<sup>39</sup> Human Rights Watch, *letter on situation of migrant workers in Saudi Arabia*, 10 April 2020, available at: [https://www.hrw.org/sites/default/files/supporting\\_resources/jointletter\\_saudigov\\_migrantworkers\\_covidprotections\\_eng\\_0.pdf](https://www.hrw.org/sites/default/files/supporting_resources/jointletter_saudigov_migrantworkers_covidprotections_eng_0.pdf) (accessed on 22 November 2020).

Al-Sadhan's family made numerous attempts to enquire about his whereabouts at different police stations and governmental institutions. In 2018, Al-Sadhan's family filed complaints with both the National Human Rights Commission (NHRC) and the National Society for Human Rights (NSHR). The NHRC merely acknowledged receipt of the complaint but offered no assistance in the matter. On 25 November 2018, the NSHR stated that the authorities had transferred Al-Sadhan to Al-Ha'ir Prison.

Almost two years after Al-Sadhan's disappearance, the family finally heard from him on 12 February 2020,<sup>40</sup> when he was allowed a one-minute phone call. According to his family, it was obvious that the call was monitored and that Al-Sadhan was practicing self-censorship in fear of retaliation. He only mentioned the prison he was held at, but did not give any details about his health or general conditions.

ALQST received information that during his detention Al-Sadhan has been subjected to severe torture and sexual harassment, which includes, but is not limited to electrical shocks, beatings that caused broken bones, flogging, suspension in stress-positions, threats of death, insults, verbal humiliation and solitary confinement. To this day, the authorities have not officially charged Al-Sadhan nor put him on trial. The State Security officials insist that he is under investigation and is not allowed any calls or visits, and that the family must wait until the investigation is completed.

ALQST's sources reported that Al-Sadhan went on a hunger strike at least twice to protest his prison conditions and be allowed to communicate with his family but was force-fed by prison authorities. The one-minute phone call on 12 February 2020 is the only time Al-Sadhan was allowed to have any contact with the outside world. Since then, he has again been placed in *incommunicado* detention.

## Case No. 5 Samar Badawi

Samar Badawi is a 39-year-old leading human rights defender who was involved in campaigns to end the ban on women driving. She also worked to repudiate the male guardianship laws that allow adult women's male relatives to restrict their freedom of movement and freedom to marry, among other things. In 2011, she was among the first to bring a lawsuit demanding that women be allowed to vote and stand as candidates in municipal elections. For her activism, Badawi had previously been arrested, interrogated and put on a travel ban.

On 30 July 2018 at one o'clock in the morning, the Saudi authorities raided the home of Samar Badawi. For two hours, she was kept standing in the street holding her four-year-old daughter Joud, under glaring lights and with weapons pointed at her, until her mother-in-law arrived to take her child. Badawi was then taken to a detention centre of the State Security Presidency. Her arrest was part of a wider crackdown on women human rights activists by the Saudi authorities.

Badawi was officially charged under the Anti-Cybercrime Law with "engaging in unlicensed human rights activism" and "communicating with foreign entities". She was detained at Dhahban Prison, but for interrogation the authorities moved her to a building nicknamed "the officers' guesthouse". There she was subjected to beatings, sexual assault, and placed in solitary confinement for prolonged periods of time. She was also subjected to severe psychological torture by the interrogators.<sup>41</sup>

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<sup>40</sup> ALQST, *Two Years Since Arrest And Disappearance Of Saudi Humanitarian Worker Abdulrahman AlSadhan*, 12 March 2020, available at: <https://alqst.org/en/post/two-years-since-arrest-disappearance-saudi-humanitarian-worker-abdulrahman-alsadhan> (accessed on 15 December 2020)

<sup>41</sup> ALQST, Gulf Centre for Human Rights, International Service for Human Rights and MENA Rights Group, *Joint follow up report on Saudi Arabia to the UN Committee against Torture*, 18 June 2019, available at: <https://www.gc4hr.org/report/view/101> (accessed on 24 November 2020).

## Case No. 6 Ibrahim Al-Shamsani

Ibrahim Al-Shamsani, was a 35-year-old First Lieutenant in the Yemeni Coastal Guard, who was involved in military operations against the Houthis, and took over a patrolling mission to protect the port of Hodeidah. The last phone conversation he had with his family was on 17 June 2019. Almost six weeks later, on 31 July 2019, the family received a letter stating that he committed suicide by hanging inside a prison in Saudi Arabia.

The family were shocked as they had not been notified by the Saudi authorities that Al-Shamsani was being held in their custody. His colleagues stated that he was arrested while serving on the island of Miyun, and that Saudi officers covered his face before taking him to a Saudi navy barge and eventually to Jizan Prison. The reason for his arrest remains unknown, but some of his colleagues speculated that the Saudi authorities might have suspected him of leaking information to the Houthis.

On 19 September 2019, and after several requests, negotiations and interventions by his relatives and Yemeni military leaders, Al-Shamsani's body was finally returned to his family. An examination by forensic experts concluded that Al-Shamsani died as a result of suffocation caused by severe pressure on his neck with the use of a tool. Additionally, the report attested to torture marks on the victim's limbs; bruising on his nails and the soles of his feet. Al-Shamsani's funeral was attended by hundreds in his village in Taiz governorate who protested and condemned his murder and asked that the responsible parties should be held accountable for his death. Despite the referral of his case to the UN Special Rapporteur on summary executions, no investigation has been opened into the death in detention of Al-Shamsani.<sup>42</sup>

## Case No. 7 Dr. Abdullah Al-Hamid

Abdullah Al-Hamid was an academic, reformer and pioneer of the human rights movement in Saudi Arabia. He advocated for human rights for over 25 years, authored several books on the question of reform and co-founded the Saudi Civil and Political Rights Association (ACPRA). Al-Hamid was imprisoned five times between 1993 and 2008, and was last arrested in March 2013 and sentenced by the Specialised Criminal Court in Riyadh to 11 years in prison, followed by a five-year travel ban. The charges against him included "promoting peaceful protests", "incitement against the ruler, the king and senior scholars"; "causing public disorder and unrest"; "giving false testimonies to foreign organisations"; and "establishing an unlicensed civil society organisation".

Al-Hamid was subjected to torture during previous periods in prison, resulting in a loss of hearing in one ear from repeated beatings during interrogation. Later, the authorities deliberately placed him in unsuitable prisons as a means of harassment, such as one where none of the other prisoners spoke Arabic, and a prison holding inmates convicted of major criminal offences. Recently, following the deterioration in his health, they have deliberately denied him visits and phone calls on a number of occasions, and failed to comply with medical recommendations regarding his health.

On 23 April 2020, Al-Hamid died after suffering a cerebral stroke on 9 April 2020. He had been in a critical state of health in prison for many months and was told by a doctor during a previous examination at the hospital that he needed to undergo an urgent heart surgery. The authorities, however, ignored the medical opinion and kept postponing his operation. Despite his deteriorating health, advanced age and the rapid spread of COVID-19, the Saudi authorities refused to release Al-Hamid or allow him to remain in hospital until the operation could be carried out. Instead, he was sent back to prison and was put under heavy psychological pressure by denying him phone calls and visits on a number of occasions and refusing to let him inform his family or anyone else about his state of health.

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<sup>42</sup> Alkarama, *SAUDI ARABIA: YEMENI OFFICER SHAMSANI TORTURED TO DEATH IN SAUDI PRISON*, 22 November 2019, available at: <https://www.alkarama.org/en/articles/saudi-arabia-yemeni-officer-shamsani-tortured-death-saudi-prison> (accessed on 20 November 2020).

On 9 April 2020 he lost consciousness but was only transferred to hospital four hours later to King Saud Medical City Hospital, where he was diagnosed with a severe cerebral stroke that had left him in a coma. He was kept in the hospital's intensive care unit and died there in the evening of 23 April 2020. ALQST and GCHR hold the Saudi authorities directly responsible for Dr Abdullah Al-Hamid's death, and condemns their reckless behaviour with regard to his health, safety and life, including deliberately denying him the urgent medical treatment he needed, and repeatedly subjecting him to torture and ill-treatment in prison.

## Recommendations to the Saudi authorities

In order to ensure that actions of torture and ill-treatment are monitored and eliminated, and to bring justice to torture victims in Saudi Arabia, ALQST for Human Rights and the Gulf Centre for Human Rights (GCHR) recommend the following to the Saudi authorities:

1. Codify criminal offenses in a penal law to ensure the principle of legal certainty;
2. Enshrine into domestic legislation a definition of torture in line with article 1 of the UN Convention against Torture (UNCAT);
3. Criminalise torture in full compliance with the UNCAT, ensuring that penalties reflect the gravity of the crime, including different levels of participation and that superior orders cannot constitute a defence for acts of torture;
4. Enshrine into domestic legislation that no exceptional circumstances can be invoked as a justification of torture;
5. Guarantee the right to legal counsel of choice, from the onset of arrest and without limitations, and ensure attorney-client privilege of confidential communication;
6. Prohibit secret and *incommunicado* detention and remove all legal provisions that allow for or facilitate these practices;
7. Ensure that any person deprived of his/her liberty is allowed to contact their family and that all foreign nationals are allowed to communicate with their embassy or consulate;
8. Enshrine into domestic legislation the inadmissibility of evidence obtained under torture and review all cases of convictions based solely on coerced confessions;
9. Introduce systematic video and audio monitoring and recording of all interrogations;
10. Amend domestic legislation to ensure that individuals deprived of their liberty can challenge the legality of their detention and are brought promptly before a judicial authority;
11. Ensure that no individual held in custody should be detained for any longer than the maximum legal provision allows before being transferred to the competent court or released.
12. Bring the definition of terrorism in line with international standards and ensure that legal safeguards equally apply to terrorism suspects;
13. Abolish the Specialised Criminal Court and refrain from subjecting peaceful activists and human rights defenders to reprisals under the pretext of counterterrorism;
14. Guarantee conditions of detention that comply with the Standard Minimum Rules for the Treatment of Prisoners;
15. Establish a moratorium on all corporal punishment with the aim of working towards its abolition;
16. Establish a moratorium on use of the death penalty with the aim of working towards its abolition; limit its application to the most serious crimes and prohibit the execution of minors and individuals with psychological or intellectual disabilities;

17. Accede to the Optional Protocol to the Convention against Torture (OPCAT) and establish a national preventative mechanism;
18. Request the accreditation of the NHRC by the International Coordinating Committee of National Institutions to review its independence and compliance with the Paris Principles.
19. Provide appropriate medical and forensic examinations to victims of torture by independent physicians;
20. Launch thorough, prompt and impartial investigations into all allegations of torture and ensure prosecution for the alleged perpetrators; and
21. Enshrine into domestic legislation the right to redress for acts of torture or other cruel inhuman or degrading treatment or punishment.