



# SAUDI ARABIA

## AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 17<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, OCTOBER/NOVEMBER 2013

### FOLLOW-UP TO THE PREVIOUS REVIEW

During its first UPR in 2009, Saudi Arabia accepted 50 recommendations,<sup>1</sup> rejected 18, and gave no clear position on a further two.<sup>2</sup>

Amnesty International regrets that Saudi Arabia rejected recommendations to become a party to the Rome Statute of the International Criminal Court;<sup>3</sup> to abolish corporal punishment and the application of torture and other cruel, inhuman or degrading treatment, such as flogging, amputations and eye-gouging in accordance with international human rights treaties to which it is a party;<sup>4</sup> to withdraw its two reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);<sup>5</sup> to establish a moratorium on the death penalty or restrict its scope in line with international minimum standards;<sup>6</sup> and to end the practice of incarcerating, mistreating, and applying travel bans against individuals on the basis of their political or religious beliefs.<sup>7</sup>

Amnesty International further regrets that Saudi Arabia appears to have implemented none of the central recommendations that it accepted, including to consider becoming a party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR), and to modify its domestic legislation accordingly;<sup>8</sup> to consider ratification of the International Convention for the Protection of All Persons From Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, conventions related to refugees and statelessness and the Optional Protocol to CAT;<sup>9</sup> and to implement the 2008 recommendations by the CEDAW Committee, in particular by guaranteeing women and girls their rights to education, employment, freedom of movement, marriage with their free and full consent, and health, including protection from and redress for family violence, abolishing the system of male guardianship over women and enacting comprehensive and effective legislation to abolish all practices that discriminate against women including the prohibition on women driving and restrictions on access by women to public places and commercial facilities.<sup>10</sup> The only reforms in this area that Amnesty International is aware of are the removal of a limited number of restrictions on women's access to particular jobs and roles.

### THE NATIONAL HUMAN RIGHTS FRAMEWORK

As an absolute monarchy, Saudi Arabia enjoys no clear separation of powers. All powers of the state are concentrated in the hands of the King. The absolute powers of the King are further delineated in the Basic Law of Government issued in 1992. There is no freely elected legislative body in the Kingdom. The Shura Council, which was also initially formalized in 1992, is an advisory body with no real power. Its 160 members are appointed by the King. Together with the Council of Ministers they can initiate legislation, recommend ratifying international treaties or lodging reservations to specific articles, but ultimately the King has to ratify any new laws.

Saudi Arabia has lodged prohibitive reservations to those international conventions that it has ratified, stating that it is not under obligation to observe those terms that it finds contradictory with Islamic law. Such reservations do not clearly

define the extent to which Saudi Arabia accepts its international obligations and render them vulnerable to systematic violation.

The national human rights framework is further threatened by a flawed criminal justice system which falls far short of international standards governing procedures for arrest, detention and trials, as well as prisoners' rights. Textual reforms of legal procedures in 2001 and 2007 have brought no discernible improvement as systematic violations by the security forces, prison authorities and courts have continued with impunity, as set out below. The authorities created a Specialized Criminal Court in 2008 to deal with security and terrorism cases, but have since used it to persecute human rights activists.

No human rights organizations are tolerated in Saudi Arabia other than the Saudi Human Rights Commission, a governmental body, and the National Society for Human Rights, which, while having a less formal role, was also formed by a governmental decree. Some local human rights NGOs have attempted to register themselves but have not been permitted to do so and are forced to operate without a licence. Several have had their members arrested and detained under different pretexts; one example is the Saudi Civil and Political Rights Association, whose founders are currently on trial for disobeying the ruler.

Amnesty International welcomes the memorandum of understanding that was signed between Saudi Arabia and the OHCHR in June 2012, but is concerned that the authorities have not allowed any UN bodies or international human rights organizations to visit Saudi Arabia to conduct human rights research during the past four years. Amnesty International has not been allowed access to Saudi Arabia for human rights research on the country despite repeated requests over decades.

## THE HUMAN RIGHTS SITUATION ON THE GROUND

### **Arbitrary and incommunicado detentions, unfair trials, and travel bans**

Security forces in Saudi Arabia continue to practice with impunity the arbitrary and incommunicado detention of Saudi Arabian and foreign nationals, many of whom are detained solely for peacefully exercising their rights to freedom of expression, association and assembly, including for criticizing the government and its policies. Such activists are often held incommunicado without charge, sometimes in solitary confinement, and denied access to lawyers or the courts to challenge the lawfulness of their detention. Torture or other ill-treatment is frequently used to extract "confessions" from detainees, to punish them for refusing to "repent", or to force them to make undertakings not to criticize the government. Incommunicado detention often lasts until a "confession" is obtained, which can take months and occasionally years.

If a person is charged, it is sometimes with vague security-related offences such as "disobeying the ruler". Legal proceedings fall far short of international standards for fair trial. Defendants are generally denied legal counsel and, in many cases, they and their families are not informed of the progress of legal proceedings against them. Court hearings are often held behind closed doors.

Travel bans are also imposed on critics and human rights activists. In January 2013, the authorities prevented Waleed Abu al-Khair, head of Saudi Arabian Human Rights Monitor, from travelling to Sweden to receive the Olof Palme Prize for his human rights activism.

Another case illustrating these violations is that of Dr Suliaman al-Rashudi and eight other men who were detained in February 2007 in the cities of Jeddah and Medina after they circulated a petition calling for political reform and discussed a proposal to establish an independent human rights organization in Saudi Arabia. Seven other men connected to one of the reformists, Dr Saud al-Hashimi, were arrested subsequently. All 16 were held without charge until August 2010 when they were formally charged. Dr al-Rashudi was released on bail on 23 June 2011 after two people provided personal guarantees. On 22 November 2011, the 16 men were sentenced to lengthy prison sentences followed by travel bans by the Specialized Criminal Court. On 12 December 2012, Dr al-Rashudi, who had been sentenced to 15 years' imprisonment and a 15-year travel ban, but was at liberty pending appeal, was rearrested two days after he had given a lecture at an

informal social gathering on the legality of holding demonstrations in Shari'a. In January 2013, the 16 men were offered a royal "pardon" if they signed a pledge not to repeat their offences or engage in public activism and thanked the King. Dr al-Rashudi and six others refused to sign such a pledge and consequently continue to be detained. Amnesty International considers them to be prisoners of conscience and has called for their immediate and unconditional release.

### **The death penalty**

Saudi Arabia has one of the highest rates of executions in the world. The average number of executions in Saudi Arabia has increased from at least 68 a year between 1985 and 2007 to at least 72 a year between 2008 and 2012. Rates of executions are feared to be higher than declared, as reports of secret executions have lately emerged. The authorities apply the death penalty to a wide range of non-violent offences such as drug smuggling, as well as to "offences" such as apostasy that should not even be criminalized under international standards. Saudi Arabia has also continued to sentence to death and execute individuals for crimes they allegedly committed while under 18, in breach of international law. The death penalty is used disproportionately against foreign nationals. According to data compiled by Amnesty International, between 1985 and 2012 Saudi Arabia executed at least 1,938 persons, 954 of whom were foreign nationals, mostly workers from Asia and Africa.

The authorities generally fail to abide by international standards for fair trial and safeguards for defendants in capital cases. Often trials of capital cases are held in secret and their proceedings are summary with no legal assistance or representation through the various stages of detention and trial. Foreign nationals with no knowledge of Arabic, the language of interrogation and trial hearings, are often denied adequate interpretation facilities.

In 2013, a Sri Lankan domestic worker who was 17 at the time when she allegedly killed an infant in her care, was beheaded after seven years in detention. Rizana Nafeek had no access to lawyers either during her pre-trial interrogation or at her trial in 2007. She claimed that she was forced to make a "confession" under duress. The man who translated her statement may not have been able to adequately translate between Tamil and Arabic. He left Saudi Arabia soon after.

### **Torture and other cruel, inhuman or degrading treatment or punishment**

Corporal punishment is used extensively in Saudi Arabia despite it being a state party to CAT. Flogging, amputation and eye-gouging are mandatory for a number of offences and can also be used at the discretion of the judge as an alternative or in addition to other punishments. Sentences can range from dozens to tens of thousands of lashes, and are usually carried out in instalments, at intervals ranging from two weeks to one month. The highest number of lashes imposed in a single case recorded by Amnesty International was 40,000 lashes in the case of a defendant convicted on murder charges in 2009.

Punishment by amputation is also enforced in Saudi Arabia for certain offences, including "theft", for which the sentence is amputation of the right hand, and "highway robbery", which is punished by "cross amputation" (amputation of the right hand and left foot). On 21 November 2012, a Nigerian man had his right hand amputated for theft.

Torture and other ill-treatment during detention and interrogation are also common. Some of the commonly practiced methods include sleep deprivation, punching, beating with sticks, suspension from the ceiling and electric shocks.

### **Discrimination against women**

There have been a few limited developments in women's rights over the past two years. In 2011, the King announced that women would have the right to vote and to stand in the 2015 municipal elections, the Kingdom's only public poll. In 2012, new public and private posts were promised to women and, for the first time, two Saudi Arabian women were permitted to participate in the Olympic Games with the presence of male guardians. In 2013, 30 women were assigned seats in the Shura Council.

However, women continue to face severe discrimination in law and practice and are inadequately protected against domestic and other gender-based violence. Discriminatory laws relating to marriage and divorce cause some women to remain trapped in violent and abusive relationships. Women are required by law to obtain the permission of a male guardian before getting married, travelling, undergoing certain surgical interventions, undertaking paid employment or enrolling in higher education. Saudi Arabian women with foreign spouses, unlike their male counterparts, cannot pass on

their nationality to their children.

Women continue to be prohibited from driving. When an online campaign called "Women2Drive" encouraged women who hold international driving licences to start driving on Saudi Arabian roads from 17 June 2011 onwards, scores of women took to the roads and some were arrested. Most were released without charge after pledging not to drive again, but several were charged. At least one woman was sentenced to 10 lashes, although the sentence was later overturned.

### **Discrimination against migrant workers**

Migrant workers, who comprise around a third of the population, are inadequately protected by labour laws and are vulnerable to exploitation and abuse by employers. Women domestic workers are at particular risk of sexual violence and other abuses. The sponsorship system governing employment of foreign nationals exposes them to exploitation and abuse by private and government employers and allows them little or no redress. Typical abuses include long working hours, non-payment of salaries and refusal of permission to return home after completing contracts.

In 2011, L P Ariyawathie, a Sri Lankan employed as a domestic worker, was found to have 24 nails and a needle driven into her hands, leg and forehead when she returned to Sri Lanka. She said that the injuries had been inflicted by her employer when she complained about her heavy workload. It is unclear whether the Saudi Arabian authorities investigated the matter.

### **Discrimination against minorities**

Since February 2011, hundreds of members of the minority Shi'a community have been arrested and detained on suspicion of taking part in or supporting demonstrations in the Eastern Province or of expressing views critical of the state. The protests have focused on long-standing concerns about discrimination against the Shi'a. Most have been held without charge or trial, but a few were brought to trial; several men were reportedly sentenced to flogging and others banned from travelling abroad. There have also been allegations of excessive use of force by the security forces; at least a dozen protesters have reportedly been shot dead and others injured.

## **RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW**

While welcoming some encouraging developments in the last few years, Amnesty International urges the government to follow these up with more courageous steps to foster a better human rights environment by acting on the recommendations below.

### **Amnesty International calls on the government of Saudi Arabia:**

#### *International human rights obligations*

- To ratify without reservations the ICCPR, the ICESCR, and review all reservations and declarations that limit the enjoyment of rights enshrined in the CRC, the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) and CEDAW, with a view to lifting them, especially those that are contrary to the objects and purposes of the treaties.

#### *Human rights framework*

- To implement without delay all the accepted recommendations from the 2009 Universal Periodic Review concerning reform of the judicial system and its practices and revision of weak legal provisions so that they are brought into line with international human rights standards.

#### *Detainees and prisoners of conscience*

- To release all prisoners of conscience immediately and unconditionally;
- To charge all other detainees with a recognizable criminal offence according to international law and bring them to trial in accordance with international standards or release them.

### *The death penalty*

- To declare a moratorium on executions;
- To review the cases of all prisoners currently under sentence of death with the aim of commuting their sentences or offering them a new and fair trial without resort to the death penalty;
- To bring the law and judicial practices into line with fair trial guarantees in international standards;
- To stop imposing the death penalty on anyone under the age of 18 at the time of their alleged offence, in accordance with Saudi Arabia's obligations under the CRC.

### *Torture and other ill-treatment*

- To end the practice of incommunicado detention;
- To end the practice of corporal punishment;
- To ensure that all allegations of torture and other ill-treatment are thoroughly and impartially investigated, that alleged perpetrators are prosecuted, and that any statement that may have been extracted under torture is not used as evidence in criminal proceedings.

### *Discrimination against women*

- To give effect to undertakings made to the CEDAW Committee in January 2008 and in the 2009 review to tackle discrimination against women, including the enactment and implementation of laws protecting women from violence;
- To establish equality before the law for all and to provide equal citizenship rights between men and women;
- To provide and protect women's rights to freedom of movement, education, employment, marriage, and redress for family violence.

### *Discrimination against migrant workers*

- To reform national labour laws to ensure that migrant workers have adequate protection against abuses by employers and the state.

### *Discrimination against minorities*

- To put an end to discrimination, intimidation, harassment and detention without charge or trial of members of the Shi'a community and to uphold their right to peaceful assembly.

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<sup>1</sup> Report of the Working Group on the Universal Periodic Review, Addendum (A/HRC/11/23Add.1).

<sup>2</sup> Ibid, Recommendations 33 (made by Italy, Finland, Belgium) and 37 (South Africa).

<sup>3</sup> Ibid, Recommendation 4 (made by France and Mexico).

<sup>4</sup> Including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child (CRC). Report of the Working Group on the Universal Periodic Review (A/HRC/11/23), Recommendations 27c (Israel), 44c (Canada), 65a (Switzerland), and 74c (New Zealand).

<sup>5</sup> Report of the Working Group on the Universal Periodic Review (A/HRC/11/23), Recommendations 65d (Switzerland) and 75b (Republic of Korea).

<sup>6</sup> Ibid, Recommendations 46a (Italy), 48d (Mexico), 65b (Switzerland), and 71b (Sweden).

<sup>7</sup> Ibid, Recommendation 74b (New Zealand).

<sup>8</sup> Ibid, Recommendations 44b (Canada) and 47a (Chile).

<sup>9</sup> Ibid, Recommendations 48b (Mexico).

<sup>10</sup> Ibid, Recommendations 44d and 44e (Canada), 49a and 49b (Germany), 54a (Finland), and 74e (New Zealand).