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Joint follow up report on Saudi Arabia to the UN Committee against Torture

Submitted March 2019

This joint report addresses the recommendation mentioned in para. 20 of the Committee's concluding observations (CAT/C/SAU/CO/2) on reprisals against and harassment, intimidation and arrest of human rights defenders and journalists. The report is submitted pursuant to the Committee's request for further clarification adopted by the Committee on 11 December 2018 and available at:

https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/SAU/INT_CAT_FUL_SAU_33228_E.pdf

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II. The practice of torture in Saudi Arabia

Torture is practiced systematically in Saudi Arabia to extract confessions during interrogations and through-out detention. While detainees have reported informing courts of the torture they have endured, investigations are virtually never conducted into their allegations and coerced confessions are routinely admitted as evidence against them. Techniques of torture and ill treatment typically used include, beatings, flogging, electric shocks, sleep deprivation, solitary confinement, secret detention and threats of raping or killing victims' relatives.

In this regard, we also wish to point out that the UN Working Group on Arbitrary Detention has noted:

that it has heard numerous complaints about prolonged incommunicado detention, as well as torture, for months if not years, of Saudi citizens and foreign nationals by the Directorate of General Investigation [...] which has been nearly ubiquitous in the cases referred to the Working Group from Saudi Arabia for over two decades, since the first appearance in a decision by the Working Group in its eighth session, in 1993.¹

Furthermore, in its Concluding Observations on the second periodic report of Saudi Arabia, the Committee against Torture raised its 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".² Moreover, domestic Saudi law is not in-line with international standards, as it does not define the crime of torture as required by the Convention against Torture, nor does it contain provisions which ensure the absolute and non-derogable prohibition of torture and ill-treatment.³

In a report published following his country visit to Saudi Arabia in 2017, the Special Rapporteur on the promotion and protection of human rights while countering terrorism concluded with regards to the practice of torture that: "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 is officially endorsed."⁴

Since November 2018, reports have emerged that women human rights defenders (WHRDs) are being systematically subjected to torture in Saudi Arabia. This is a particularly worrying development given that the torture of women detainees was previously unheard of in the state.

¹ UN Working Group on Arbitrary Detention, "Opinion No. 93/2017 concerning Muhammed Al Saqr (Saudi Arabia)", 19 January 2018, UN Doc. A/HRC/WGAD/2017/93, para.40.

² 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.

³ *Ibid*, para.5.

⁴ Human Rights Council, *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.41.

watched”¹⁶ and “when they refused, they were harshly whipped.”¹⁷ Meanwhile, another WHRD “reported that interrogators had forced water into her mouth as she was shouting while being tortured.”¹⁸

GCHR sources as well as reports from ALQST¹⁹ confirmed that the WHRDs reported seeing Saud Al-Qahtani, an advisor to Crown Prince Mohammed Bin Salman, present while being tortured.

IV. Reaction of Saudi authorities to reports of torture of WHRDs

The Saudi Ministry of Media denied initial reports about the torture of WHRDs, released in November 2018, and called them “baseless”²⁰. In its public statement, the Ministry stated: “(t)he government of the Kingdom of Saudi Arabia categorically and strongly denies the allegations... The wild claims made, quoting anonymous ‘testimonies’ or ‘informed sources’, are simply wrong”²¹. Shortly after, in December 2018, Saudi authorities “hinted that the Saudi Human Rights Commission was investigating the torture claims.”²² However, it must be noted that this institution cannot be considered an effective and independent monitoring mechanisms for the prevention of torture, because it reports directly to the King.

The Saudi authorities have refused all attempts to allow visits to the detained WHRDs by international independent bodies. This included an ad hoc panel consisting of UK MPs who had “sought access to eight jailed women to assess their welfare but received no response from the Saudi ambassador Prince Mohammed bin Nawwaf bin Abdulaziz.”²³

On 1 March 2019, a family member of one of the WHRDs confirmed that new bedding, beds and dressers were provided to the WHRDs, and that this was because they were expecting a visit from an official delegation.²⁴ The same source confirmed that the WHRDs were forced to sign Royal Amnesty requests on 23 February 2019.²⁵

The authors of this report were among over 50 signatory organisations who submitted a joint letter²⁶ to over 30 Ministers of Foreign Affairs of States calling on UN Member States to adopt a resolution at the 40th session of the UN Human Rights Council “calling explicitly for the immediate and unconditional release of the detained Saudi women human rights defenders and establishing a monitoring mechanism over the human rights violations in the country.”

¹⁶ <https://www.amnesty.org.uk/press-releases/saudi-arabia-new-reports-women-activists-being-tortured-detention>

¹⁷ <https://alqst.org/eng/confirm-new-details-of-torture-of-saudi-women-activists-as-british-mps-seek-access-to-prisons-to-investigate/>

¹⁸ <https://www.amnesty.org.uk/press-releases/saudi-arabia-new-reports-women-activists-being-tortured-detention>

¹⁹ <https://alqst.org/eng/confirm-new-details-of-torture-of-saudi-women-activists-as-british-mps-seek-access-to-prisons-to-investigate/>

²⁰ <https://uk.reuters.com/article/uk-saudi-rights/saudi-arabia-says-reports-about-torture-by-amnesty-hrw-are-baseless-idUKKCN1NS1IC>

²¹ <https://alqst.org/eng/confirm-new-details-of-torture-of-saudi-women-activists-as-british-mps-seek-access-to-prisons-to-investigate/>

²² Ibid

²³ <https://www.theguardian.com/world/2019/feb/04/saudi-arabia-holding-women-in-torture-conditions-say-uk-mps>

²⁴ https://twitter.com/alia_ww/status/1101599843703799809

²⁵ https://twitter.com/alia_ww/status/1101597098913476608

²⁶ <https://www.gc4hr.org/news/view/2072>

On 1 March 2019, on the very same day that the joint letter was published, the Saudi public prosecutor announced the completion of the related investigations in the case, and the indictment and referral of the “suspects” (referring to the human rights defenders) to the Specialised Criminal Court²⁷.

On 7 March 2019, Iceland read a statement at the UN Human Rights Council (HRC), supported by 35 member states, calling on Saudi Arabia to immediately release the detained WHRDs, as well as to cooperate with the UN-led probe into the extrajudicial killing of journalist Jamal Khashoggi.²⁸

On 13 March 2019, the trials of at least 11 WHRDs commenced in Riyadh. While the women were initially informed that they would be brought before the Specialised Criminal Court (SCC), which has jurisdiction over terrorist crimes, their families were told on 12 March that their cases had been moved to the Criminal Court.²⁹ During the session, defendants were denied access to legal counsel and independent monitors were not allowed to observe the trial. The WHRDs were charged with a number of “crimes” that directly fall under their right to freedom of expression on the basis of article 6 of the Cybercrime Law, including cooperating with “enemy groups” (presumably in reference to their contact with UN human rights mechanisms). Their next hearing is scheduled to be held on 27 March 2018.³⁰

V. Update on the situation of the individuals mentioned in the CAT letter

- **Abdulkareem al-Khodr**

In October 2015 the Specialised Criminal Court (SCC) set up in 2008 by the Supreme Judicial Council to try cases of terrorism sentenced al-Khodr to nine years in prison and a fine of 50,000 Saudi Riyals (≈ \$13,332). al-Khodr continues to be arbitrarily detained in Malazz Prison in Riyadh to date.

- **Waleed Abu al-Khair**

On 6 July 2014, Abu al-Khair was sentenced to 15 years in prison with a suspension of the last five years. He was further sentenced to an equivalent travel ban and a fine of 200,000 Saudi Riyals (≈ \$133,325) for charges related to his peaceful human rights activism. Following an appeal by the prosecutor, on 12 January 2015 the SCC increased Abu al-Khair’s sentence to 15 years imprisonment. On 7 June 2016, Abu al-Khair went on hunger strike to protest the Saudi authorities’ refusal to give him access to medical treatment, as well as the ill treatment that he endured. Abu al-Khair continues to be arbitrarily detained in Jeddah prison to date.

- **Omar al-Sa'id**

On 12 December 2013, al-Sa'id was sentenced to four years in prison, 300 lashes and a four-year travel ban by the criminal court in Buraydah for his peaceful activism as a member of ACPRA (Saudi Civil and Political Rights Association). However, his sentence was overturned. He was later retried before the SCC and on 5 November 2015, he was sentenced to two-and-a-half-years in prison and a two-and-a-half-year travel ban upon release. He was released on 22 December 2015. Al-Sa'id has since been forced to remove his name from ACPRA and to sign a pledge stating that he would no longer partake in the organisation’s activities. Despite this, al-Sa'id was re-arrested on 23 June 2018 and continues to be arbitrarily detained in Buraydah prison in Al Qassim province to date.

²⁷ <https://www.spa.gov.sa/1894007>

²⁸ <https://www.aljazeera.com/news/2019/03/eu-rebukes-saudi-arabia-human-rights-forum-190307114443284.html>

²⁹ https://twitter.com/ALQST_ORG/status/1105818154691903488

³⁰ Ibid.

- **Abdulaziz al-Shubaily**

On 30 May 2016, al-Shubaily was sentenced to eight years in prison and was required to sign a pledge promising not to “reoffend” on the basis of his peaceful human rights activism as a member of ACPRA. On 24 July 2016, al-Shubaily lodged an appeal against his sentence before the Saudi Court of Appeal. In a final decision, that cannot be further appealed, al-Shubaily’s sentence was upheld on 31 July 2017. Despite issuing a verdict against him, al-Shubaily was not immediately taken into custody. This is a tactic used frequently by Saudi authorities to ensure that activists and human rights defenders are prevented from carrying out their work for the longest period of time possible. On 17 September 2017, al-Shubaily was arrested in the province of Al Qassim. He is currently arbitrarily detained in Onayza prison.

- **Mohammed Saleh al-Bajadi**

In April 2012, al-Bajadi was sentenced to four years in prison and a five-year travel ban for “publicly impairing the reputation of the state” and “co-founding a human rights organisation”. In March 2015, al-Bajadi appealed his sentence before the SCC, which issued a ruling increasing his sentence to ten years in prison. The court ordered that he serve the first five years of the sentence and suspended the last five. In November 2015 he was transferred to the Mohammed bin Nayef Center for Counselling and Care and subsequently released in April 2016. On 24 May 2018, al-Bajadi was re-arrested from his home by Mabath officers, without a warrant and without being given any reason for his arrest. He was then taken to an unknown location. Al-Bajadi has been subjected to torture and is currently being arbitrarily detained in Al Ha’ir Prison in Riyadh.

- **Ra’if Badawi**

In May 2014, Badawi was sentenced to 10 years in prison, 1,000 lashes and a fine of one million Saudi riyals together with a subsequent ban on travel and on the use of multimedia devices for a period of 10 years for “crimes” that fall within his right to freedom of expression and opinion. In January 2015, Badawi received the first 50 lashes of his punishment. He remains arbitrarily detained in Dhahban prison to date.

- **Loujain al-Hathloul**

Al-Hathloul was detained by Saudi authorities, along with Eman al-Nafjan, Aziza al-Yousef, Aisha al-Manae, Madeha al-Ajrourh and two men involved in women's rights campaigning in May 2018³¹. During her detention, it is alleged that she was submitted to torture and sexual harassment³². She was taken to court “for destabilising national security and dealing with foreign entities” on 13 March 2019, and the case was moved from the Specialised Security Court to criminal court, and postponed to 27 March 2019.

- **Eman al-Nafjan & Aziza al-Yousef**

Al-Nafjan and Al-Yousef are both part of the group of five female human rights defenders arrested in May 2018, and who have allegedly been subjected to torture and sexual harassment in detention. According to Amnesty International, they remain arbitrarily detained in Dhahban prison to date³³. They were taken to court “for destabilising national security and dealing with foreign entities” on 13 March 2019, and the case was moved from the Specialised Security Court to criminal court, and postponed to 27 March 2019.

³¹ <https://www.aljazeera.com/news/2018/05/saudi-arabia-arrests-women-rights-activists-180519075533018.html>

³² <https://www.theguardian.com/commentisfree/2019/mar/07/saudi-arabia-womens-rights-jail>

³³ <https://www.amnesty.org/en/latest/news/2018/11/saudi-arabia-reports-of-torture-and-sexual-harassment-of-detained-activists/>

- **Samar Badawi**

On 30 July 2018, Mabath officers arrived at Badawi's house in Jeddah. After searching the house and confiscating electronic devices, they forced her to contact her mother-in-law to ask her to pick up her infant daughter. The security forces then arrested Badawi and took her to an unknown location. Badawi was forcibly disappeared for around a month and a half. She is currently arbitrarily detained in Dhabhan prison and receives family visits on a weekly basis.

- **Nassima al-Sada**

On 30 July 2018, Mabath officers stormed al-Sada's house in the Eastern Province of Saudi Arabia. They arrested her and took her to an unknown location. al-Sada was forcibly disappeared for around a month and a half. She is currently arbitrarily detained in n Al-Mabath Prison at the General Intelligence in Al Dammam city, which is under the control of the State Security Presidency³⁴. She was moved to solitary confinement in mid-February. She was last permitted a family visit at the beginning of February. The reasons for her solitary confinement are unclear, but Saudi authorities are known to use it as a method of torture to pressure detainees.

- **Mohammad al-Rabe'a & Ibrahim al-Modaimeegh**

Both activists were also arrested in May 2018. It is believed that Mohammad al-Rabea remains arbitrarily detained in Dhabhan prison. Ibrahim al-Modaimeegh was released in December 2018 according to Amnesty International³⁵. The conditions of his release remain unknown.

VI. Assessment of the State Party's compliance with the Committee's recommendations

The authors welcome the Committee's appreciation that the information provided by Saudi Arabia in its response dated 11 May 2017 is unsatisfactory, and that the recommendation in para. 20 of the concluding observations has not been implemented (1/c).

Nonetheless, in light of the information provided above, the authors strongly believe that the Committee ought to adopt a grade E, which is an appropriate reflection of the fact that "the State party adopted measures that are contrary or have results contrary to the recommendations of the Committee"³⁶.

³⁴ <https://www.gc4hr.org/news/view/2059>.

³⁵ <https://www.amnesty.org/en/latest/news/2019/01/saudi-arabia-access-for-independent-monitors-urgently-needed-amid-more-reports-of-torture-of-activists/>.

³⁶ "Guidelines for follow-up to concluding observations" CAT/C/55/3