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SAUDI ARABIA: A secret state of suffering

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INTRODUCTION

[margin quotes]

“These [prisoners] have nowhere to go, nobody to turn to. If only the world knew what goes on in this country.”

“I am lost and don't know how to find someone who could restore justice to me and release me from this painful past... the nightmare which hangs over my life.”

Letters sent to Amnesty International in 1998 and 1999 from former prisoners in Saudi Arabia.

“I thank Allah, and all I need is to be with you... Regarding my problem, do not worry. Time will solve it and I will soon be with you God willing... I have asked the messenger of this letter to find me a house in Damascus and open a telephone line and PO Box address for me there. Please transfer for him the sum he needs... Also, I will need a large sum of money to buy all the furniture for the house and a car...”

Shortly after Abdul-Karim al-Naqshabandi wrote this letter, he was beheaded. He had no idea that he faced imminent execution, and neither his family nor apparently the Syrian Embassy even knew that he was under sentence of death.

[end margin quote]

Abdul-Karim al-Naqshabandi, a Syrian, was arrested, tortured into signing a confession and then convicted of “witchcraft” after a secret and summary trial.¹ He had no access to a lawyer and was given no opportunity to defend himself, even though he faced an offence punishable by death. In a letter to the court he protested his innocence:

“They did not give me a chance to defend myself... The investigation was carried out with me by one person only but they all... ratified what he had to say even though they had not heard what I said

to him... He threatened me with beating. They tied me up like an animal... I had no option but to accept and sign in order to protect myself. I signed in the hope that I would find someone in the police who would want to listen to the truth, but I was surprised with a more severe treatment... The officer put his shoe in my mouth, beat me up, put me in a cell, and did not allow any visits. He threatened me with worse treatment if I refused to agree to the confession in court. Under these circumstances I ratified my confession in the hope that someone would listen to me in court.”

Abdul-Karim al-Naqshabandi also pointed out facts, dates, names of witnesses and documents that threw considerable doubt on the accusation against him. He argued that he had been framed by his influential employer as revenge for refusing to help with a false testimony in a business deal. How the court dealt with his detailed written defence, if it looked at it at all, remains shrouded in secrecy. What is clear is that Abdul-Karim al-Naqshabandi was executed on 13 December 1996. Like many before and after him, he was simply made to sign his life away with a confession that was tortured out of him.

Every day the most fundamental human rights of people living in Saudi Arabia are violated, yet rarely is this fact publicized. The Saudi Arabian government spares no effort to keep its appalling human rights record a secret, and other governments have shown themselves more than willing to help maintain the secrecy.

Secrecy and fear permeate every aspect of the state structure in Saudi Arabia. There are no political parties, no elections, no independent legislature, no trades unions, no Bar Association, no independent judiciary, no independent human rights organizations. The government allows no international human rights organizations to carry out research in the country and it ignores requests by such organizations for information. It has effective control over all kinds of information: there is strict censorship of media within the country and strict control of access to the Internet, satellite television and other forms of communication with the outside world. Anyone living in Saudi Arabia who criticizes this system is harshly punished. After arrest, political and religious opponents of the government are detained indefinitely without trial or are imprisoned after grossly unfair trials. Torture is endemic. Executions, flogging and amputations are imposed and carried out with disregard for the most basic international fair trial standards.

The climate of fear and secrecy makes the monitoring of human rights in Saudi Arabia a difficult task. Amnesty International has persistently asked the government for information and clarification regarding reports of human rights abuses, individual cases, statistics and legislative provisions, and has repeatedly invited the government to engage in a constructive dialogue and to comment on its reports on the human rights situation in Saudi Arabia. It has yet to receive a satisfactory response, and in most cases receives no response at all.²

Despite this, Amnesty International has over the past 20 years documented patterns of systematic human rights violations by interviewing numerous victims from the Middle East, Africa, Asia and Europe about their experiences of torture and imprisonment in Saudi Arabia.³ It has interviewed Saudi Arabian nationals about the criminal justice system, but relatively few Saudi Arabian victims of human rights violations because those who have been imprisoned for their political and religious activities are rarely given a passport to travel abroad after their release. Amnesty International has also monitored the Saudi Arabian media and studied relevant legislation where possible.⁴

What this research clearly reveals is that people who are arrested in Saudi Arabia for whatever reason find themselves trapped in a criminal justice system that provides them with no information about their fate, allows them no prompt contact with their families or a doctor, and offers them no hope of contacting a lawyer. The system perpetuates a wide range of human rights violations — arbitrary arrest and indefinite detention, the incarceration of prisoners of conscience⁵, torture, secret and summary trials, cruel judicial punishments and executions — which are all facilitated by the state’s policy of secrecy and the prohibition of the right to express conscientiously held beliefs. Detainees also find themselves at the mercy of a system that offers little respect for human dignity and virtually no hope of redress.

Respect for human dignity and justice are values that are in principle intrinsic to the religious, social and cultural traditions of Saudi Arabia. They are also among the basic rights guaranteed by international human rights standards. In practice, however, these values and rights are consistently

violated with impunity in Saudi Arabia to protect the political status quo and the interests of the government. This report aims to expose the persistent patterns of human rights violations and show what steps need to be taken by the Saudi Arabian government and the international community to end the abuses.

Discriminatory treatment

Equal and fair treatment for all — irrespective of, among other things, gender, language, ethnic origin or religious or political belief — is a principle enshrined in international human rights standards. Yet in Saudi Arabia discriminatory practices are prevalent and are, on occasion, required by law. For example, members of the Shi'a Muslim community (estimated at between 7 and 10 per cent of Saudi Arabia's population of about 19 million) suffer systematic political, social, cultural as well as religious discrimination. Foreign workers (currently estimated to constitute at least 25 per cent of Saudi Arabia's population) enjoy the substantial economic benefits of their employment, but with no trades unions and few legal safeguards many suffer serious abuses. If arrested they may be tricked into signing confessions in Arabic, a language they may not understand, and be unable to contact anyone to intervene on their behalf, including consular staff. This is particularly true if they are nationals of developing countries who often have little money and know few people in Saudi Arabia.

Women, whether Saudi Arabian or foreign, emerge time and again as victims of discrimination because of the law, social mores and traditions. While women have gained some ground in terms of economic rights and have established companies and charitable institutions, their civil, political and social rights are systematically violated. For example, a woman may not travel abroad unless she has the written authorization of the appropriate male relative, usually her father or husband, and may have to be accompanied. Inside Saudi Arabia her freedom of movement is severely curtailed. A woman who fails to comply with strict dress codes risks detention and ill-treatment. Furthermore, women are forbidden from driving, a ban made official in 1990 by a Fatwa issued by the Council of Senior 'Ulama.⁶ To walk unaccompanied or to be in the company of a man who is neither her husband nor a close relative puts her at risk of arrest on suspicion of prostitution or other "moral" offences. Given these restrictions on their right to freedom of movement, the scope for women in Saudi Arabia to enjoy the spectrum of civil, political, social, economic and cultural rights is limited in the extreme.

Christians, Sikhs and members of other religious minorities have also been the subject of discrimination and are often targeted by the security forces, mainly for holding informal private worship groups in their homes or for possessing religious literature, despite guarantees in international human rights standards for freedom of religious belief.

States should not criminalize the lawful exercise of rights enshrined in international human rights standards, such as the right to freedom of religion and expression. Consequently, Amnesty International opposes — for example — the prosecution of people for renouncing their faith (apostasy) or for seeking to persuade others to accept one's own religion or other beliefs (proselytism).

Moreover, states should not discriminate against people because of their identity. Accordingly, Amnesty International opposes — for example — the imposition of evidentiary requirements weighted against women, the criminalization of same-sex consensual sexual relations in private⁷ and the criminalization of women for infringing rules banning them from driving. These state practices violate the right to freedom from discrimination as well as the right to privacy and to freedom of expression and association.

The international community's responsibility

Responsibility for the continuing pattern of systematic human rights violations in Saudi Arabia lies not just with the government, but also with the international community. The country's strategic position and vast oil reserves have led governments and businesses around the world to subordinate human rights to economic and strategic interests. Saudi Arabia's wealth has enabled it to become one of the world's largest spenders on defence, as well as a source of economic aid for countries plagued with poverty. Desire to benefit from Saudi Arabia's resources appears to be placed by other countries above the protection and promotion of human rights in Saudi Arabia.

In general, the international community's response to human rights violations in Saudi Arabia can best be summarized by one word — silence. Foreign governments rarely if ever condemn violations that are reported, and the country's human rights record has consistently escaped satisfactory scrutiny by the international community.

For example, the UN Commission on Human Rights (the Commission) has over the years publicly expressed concern about the human rights situation in a wide range of countries in all regions of the world, but it has never publicly addressed the serious human rights situation in Saudi Arabia.

Saudi Arabia's human rights record has been subject to some scrutiny under a confidential procedure for consideration of complaints of a "consistent pattern of gross human rights violations" by the Commission — the "1503" procedure.⁸ Such complaints are submitted not by governments, but by individuals and organizations concerned with human rights. In 1998 the Commission decided to discontinue its consideration of Saudi Arabia under this procedure. Amnesty International, which had provided the Commission with detailed reports on the consistent patterns of gross human rights violations in Saudi Arabia, expressed its deep disappointment at this development.⁹

The confidential nature of the procedure means that the Commission does not publicly explain the reasons for its decisions. However, the UK government, in its 1999 annual report on human rights, stated, "The Commission concluded that Saudi Arabia had responded adequately to the specific complaints received."¹⁰ Those specific complaints, some of which were submitted to the Commission by Amnesty International in April 1997, included the cases of Maitham al-Bahr who was arrested in 1996 and who died in al-Dammam Central Hospital in December that year, allegedly as a result of torture (see Chapter 3); Sheikh Salman bin Fahd al-'Awda and Sheikh Safr 'Abd al-Rahman al-Hawali (see Chapter 2), possible prisoners of conscience who were detained without charge from 1994 until June 1999 and declared as arbitrarily detained by the UN Working Group on Arbitrary Detention;¹¹ and Abdul-Karim al-Naqshabandi, who was executed in December 1996 (see above).

Amnesty International knows of no satisfactory investigation into the death of Maitham al-Bahr. Sheikh Salman bin Fahd al-'Awda and Sheikh Safr 'Abd al-Rahman al-Hawali were held for nearly five years, despite the findings of the Working Group, and no explanation has yet been given for their detention. In addition, executions after unfair trials continue with alarming frequency. In view of these and other continuing human rights violations, Amnesty International is mystified as to how Saudi Arabia could possibly have "responded adequately" to the Commission. It appears that Saudi Arabia's strategic and economic influence once again allowed the country to escape proper scrutiny of its human rights record.

The subordination by the international community of human rights to other interests can have serious implications for people who flee Saudi Arabia to seek asylum abroad. For example, Hani al-Sayegh, a 30-year-old Saudi Arabian who was seeking asylum in the USA, was forcibly returned to Saudi Arabia on 10 October 1999. He was detained immediately on arrival as a suspect in connection with the bombing of a US military complex at al-Khobar in 1996, an offence punishable by death. He may face execution after unfair trial. He continues to be held without access to lawyers and remains at risk of torture. It is unclear how the US government satisfied itself that Hani al-Sayegh's treatment would not cause the government to be in breach of its international obligation under Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), which states:

"No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

Saudi Arabia's international human rights obligations

Saudi Arabia has been a member of the UN since 1945 and is one of its founding members. In recent years it has chosen to accede to the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination — albeit with a sweeping reservation to both treaties that the provisions do not contradict Islamic law¹² — and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In so doing it has accepted that the rights enshrined in these treaties are to be guaranteed and that the international community is entitled to scrutinize its record of implementing these treaties in law and practice. There are also indications that Saudi Arabia is planning to ratify additional treaties such as the International

Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Economic, Social and Cultural Rights.¹³

Amnesty International has welcomed these moves. The challenge now facing the authorities in Saudi Arabia is to introduce the wide-ranging changes in law and practice that will make the rights in these treaties a reality and ensure both that all authorities in the country know and apply these laws, and that everyone living in the country is made aware of their rights and is able to seek redress for any violation of them. These changes, if and when implemented, should introduce concrete safeguards that would replace the climate of secrecy and fear with transparent and fair systems.

Amnesty International has over the years called on the Saudi Arabian government to address the dire human rights situation in the country, but has yet to receive a positive response. The organization is publishing this report to urge the international community and the general public to take action to redress human rights violations in Saudi Arabia.

1. Arbitrary arrest and detention

[margin quote]

"I... was in discussion with the shopkeeper... when a male dressed in traditional Saudi costume literally grabbed my shoulder and dragged me out onto the street. Once on the street, two or three other similarly dressed... grabbed me, twisted my arms behind my back and roughly manhandled me towards an American Chevrolet. One can imagine the utter shock at this physical abuse and I could only manage to repeat... 'what is the problem'. At no point did I receive any response from these people, and the next thing I knew they had attached leg shackles round my ankles. These secured my arms and were brought to my front whereupon my wrists were handcuffed. Now that I was completely shackled these nameless thugs started punching me around the head, chest and stomach..."

Patrick Foster (see photograph), a UK national, describing his arrest in October 1992 while shopping in Riyadh.

[end margin quote]

A Filipino returned to his home in Saudi Arabia in mid-1999.¹⁴ Shortly afterwards, a colleague of his entered his room accompanied by two mutawa'een (religious police¹⁵) and a policeman. His colleague, a Christian like himself, was in handcuffs and said, "Brother, I am sorry." Before he could say more, one of the mutawa'een hit him in the face and told him to be quiet. Without explanation the mutawa'een and policeman searched the room and found a Bible and other Christian literature.

The Filipino was then taken without explanation to the office of the mutawa'een, where he was accused of being a preacher. When he denied the allegation, one of the mutawa'een became angry, put one of his wrists in handcuffs and beat him in the ribs. "He shouted in Arabic, 'Refute your God', and spat in my face."

The accusation that he was a preacher turned out to be the nearest he ever came to knowing the reason for his detention.

Such testimonies, received all too frequently by Amnesty International, highlight that anyone not in a position of power or influence in Saudi Arabia is at risk of arbitrary arrest and detention. Particularly vulnerable are suspected political opponents of the government; members of religious minorities, especially Shi'a Muslims; people who contravene the strict moral codes; and migrant workers.

The practice of arbitrary arrest and detention is made possible by four factors: wide powers of arrest, vague laws, numerous arresting authorities acting with no judicial accountability, and denial of the basic rights of detainees.

The Statute of Principles of Arrest, Temporary Confinement and Preventive Detention (SPAD), issued on 11 November 1983, is the most detailed piece of legislation on the rules of arrest and detention and is the main law regulating this area of the criminal justice system. Much of it is inconsistent with international human rights standards. For example, it authorizes arrest on very broadly defined grounds. Article 1 states: "Patrol forces and other public order officials shall have the

right to arrest any person in [a] situation giving rise to suspicion.” The phrase “situation giving rise to suspicion” is unqualified and when combined with criminal laws, particularly those relating to political and religious dissent, which are equally vague on the grounds for arrest, gives the arresting authorities almost unlimited powers.

Written criminal laws as well as unwritten customary laws are often vague and open to wide interpretation. Unwritten laws include a ban on practising religious faiths other than the state sanctioned Sunni Islam. Written laws that are vague include Article 12 of the Constitution, which stipulates that, “the state shall foster national unity and preclude all that may lead to disunity, mischief and division”. Article 39 of the Constitution bans everything that may give rise to “mischief” and “discord”, or may compromise the security of the state and its public image, or may offend “man’s dignity and rights”.

Vague criminal laws include those covering sabotage and “corruption on earth” that are regulated by Fatwa No.148, issued by the Council of Senior ‘Ulama in August 1988, which made mandatory the death penalty for such offences. Again, the definition of the offences is vague. Deficiencies in the law are compounded by the fact that the main arresting authorities — al-Shurta (the public security police), al-Mabahith al-‘Amma (General Investigations) and religious police known as al-Mutawa‘een — are not subject to any judicial supervision.¹⁶ Moreover, the SPAD contains no provisions on how arrests should be carried out nor any obligation to inform the person arrested of his or her rights. There is no requirement for prior judicial authorization of arrests. Members of al-Mutawa‘een in particular often carry out arrests without warrants and with unwarranted violence.

Once in detention, detainees can be held under the SPAD for limitless periods by the General Investigations or the public security police and have no opportunity in practice to challenge the legality of their detention before a judicial authority as required by international human rights standards (Principles 11 and 37 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment — Body of Principles). The emphasis given to the powers of the detaining and investigating authority at the expense of the judiciary facilitates the indefinite detention of all prisoners, including prisoners of conscience. In many cases, prisoners are held incommunicado for long periods and to Amnesty International’s knowledge none has ever been made aware of a procedure to challenge the lawfulness of their detention.

2. Persecution of political opponents and religious minorities

Muhammad al-Farraj, a Saudi Arabian lecturer at the Imam Muhammad Ibn Sa‘ud Islamic University in Riyadh, was reportedly arrested at his home in Riyadh by al-Mabahith al-‘Amma in August 1999 and detained in al-Ha’ir Prison in Riyadh. Reports indicate that he was arrested because of a poem he wrote and publicized about a week before his arrest about two political prisoners, Sheikh Salman bin Fahd al-‘Awda and Sheikh Safr ‘Abd al-Rahman al-Hawali (see below). If so, Amnesty International would consider him to be a prisoner of conscience held solely for the peaceful exercise of his right to freedom of expression and would call for his immediate and unconditional release.¹⁷

Saudi Arabia does not permit any criticism of the state. All parties or political organizations in Saudi Arabia are illegal. The slightest challenge to official policies arouses the wrath of the government and invariably results in retaliatory action. In almost all cases, that action involves the violation of basic human rights.

The risks emanating from the vagueness of the laws and the unfettered powers of the arresting authorities are compounded by a pattern of persecution by the security forces of members and suspected sympathizers of political groups. During the 1980s Shi‘a-based organizations were the most frequently targeted. In the 1990s political opposition activities changed significantly. The Shi‘a-based groups entered into negotiations with the government to secure improved rights for the Shi‘a community. As part of the agreement that was reached, all Shi‘a Muslim prisoners of conscience and political prisoners connected with illegal groups were released. In addition, many Shi‘a political opponents of the government living abroad were allowed to return to Saudi Arabia. The agreement effectively ended the organized form of Shi‘a-based opposition, although it did not end the pattern of arbitrary arrest and detention of Shi‘a Muslims or political opponents of the government in general.

Security forces then increasingly targeted those suspected of having links with the Sunni Islamist opposition. The victims included religious preachers who criticized policies surrounding the Gulf war of 1991 and members of the Committee for the Defence of Legitimate Rights (CDLR), which was founded in May 1993 and whose stated aims were "...the alleviation of injustice... and the defence of human rights decided by Shari'a [Islamic law]". The Council of Senior 'Ulama immediately denounced the CDLR and shortly afterwards many of its members and sympathizers were arrested.

Other targeted political organizations have included the Hizb al-Tahrir al-Islami, Islamic Liberation Party (ILP), a pan-Islamic party which calls for the return to the caliphate system of government.¹⁸ About a dozen ILP members were arrested in 1995, seven of whom were sentenced after unfair trials to prison terms ranging from eight to 30 months. They included doctors, engineers and teachers from Arab countries, who were deported after serving their sentences. Among individuals targeted have been the so-called Arab Afghan veterans, who had returned to Saudi Arabia after fighting in the armed conflicts in Afghanistan.

Members of religious minorities continue to be detained arbitrarily with alarming frequency. Shi'a Muslims are prevented by fear of prosecution from practising freely their faith. For example, Shi'a jurisprudence books are forbidden and the traditional Shi'a mourning procession of 'Ashura is restricted to certain areas and subject to severe controls. Christians and members of other faiths are not permitted to practice their religions in public and risk arrest even if they do so in private.

Individuals suspected of political or religious dissent are at high risk of arbitrary arrest and indefinite detention without charge or trial. When they are charged and brought to trial, which is rare, the proceedings invariably fail to meet the most elementary standards of fairness.

Such individuals are arrested without a warrant, often on the pretext that they are threatening national security or Islam as defined by the state. They are usually held incommunicado for prolonged periods and denied any recourse to challenge the legality of their detention. Once launched, the process does not end until the authorities are satisfied that the suspect is no longer a threat, irrespective of whether there is any legal basis for the detention.

Sheikh Salman bin Fahd al-'Awda and Sheikh Safr 'Abd al-Rahman al-Hawali were arrested in September 1994 for their religious and political activities and were kept in al-Ha'ir Prison in Riyadh until June 1999. Following their arrest, the Interior Ministry stated:

"Security forces have arrested... [them] after about one year of attempts to convince... [them] to repent their extremist ideas... which threaten the unity of the Islamic society in the Kingdom, or to stop giving such speeches, holding conferences and distributing tapes..."¹⁹

The two men were reportedly visited during their detention by a representative of the Directorate of Investigation and Public Prosecution. During the first visit, the representative apparently asked them to write down their disagreements with government policies in exchange for release. When their criticisms were found to be too harsh, he withdrew the release offer. On the second visit, he is said to have urged them to tone down their criticism, which they reportedly did, and they were released, apparently without charge or trial.

The practice of detention without charge or trial is so systematic that it has over the years affected thousands of people.²⁰ The victims have included not only individual critics and members of illegal political and religious movements, but also the family and friends of such people.

Dr Muhammad al-Mas'ari, a former university professor, was arrested in May 1993 following the formation of the CDLR, for which he was a spokesperson. He was held without charge or trial until November or December 1993, then released untried. He left Saudi Arabia to continue his political activities abroad, but the government continues to vent its anger on his family. His son, Anmar al-Mas'ari, told Amnesty International in 1999 that he had been detained twice in connection with his father and the CDLR — for eight months in 1994 and for five months in 1996. In November 1998 Dr al-Mas'ari's sister, Suha, who had stayed with him in the UK, was arrested upon her return to Saudi Arabia and detained for about a week, again apparently for her kinship ties.

Those believed to have links with political and religious organizations can expect to be watched closely by the authorities and are frequently dragged into detention by security forces, particularly al-Mabahith al-'Amma. Sheikh Ja'far 'Ali al-Mubarak, a Shi'a political activist aged about 40, has been subjected to arbitrary arrest and long-term detention without trial at least four times since

1985. He was first detained between 1985 and 1987. He was rearrested in 1988 following explosions at oil installations in al-Jubail and held until 1993. In 1995 he was detained for a few months reportedly for refusing to undertake to cease his political activities. Following the bombing of the US military base in al-Khobar in 1996, he was arrested again and detained until the beginning of 1999. Each time he was reportedly held incommunicado for long periods, then released untried.

Due to the secrecy and the practice of short-term detention without trial, it is difficult to ascertain at any one time the number of political prisoners in Saudi Arabia. However, according to reports received by Amnesty International, the number is probably between 100 and 200. In a letter sent to the government in September 1999, Amnesty International submitted 89 names of people reportedly held and sought clarification of the reasons for their arrest and their legal status. According to Amnesty International's information, some of the detainees may be held as suspects in connection with violent activities such as the bombing of a US military base in 1996. Other political detainees are said to be held primarily for their political views and criticism of the state. They include Dr Sa'id bin Zua'ir, head of the Department of Information at Imam Muhammad Ibn Sa'ud University, who was arrested in early 1995 at his home in Riyadh by members of al-Mabahith al-'Ammah. He is believed to have been denied any visits by his relatives and to have been pressured to sign an undertaking to cease political activities in exchange for his release. He continues to be held in al-Ha'ir Prison.

To Amnesty International's knowledge, he and other political detainees have not been charged with any recognizably criminal offence and have been denied the right to challenge the legality of their detention. The evidence gathered by Amnesty International over the years strongly suggests that their release will be conditional on their repentance of alleged previous activities and an undertaking to refrain from them in the future.

The pattern that has emerged over the years is that the few political dissidents who do end up in court receive harsh sentences, sometimes including corporal punishments. Ibrahim 'Abd al-Rahman al-Hudhayf, for example, was sentenced in 1995 to 18 years' imprisonment and 300 lashes. He was among a group of political prisoners convicted of offences which included having links with the CDLR. His brother, 'Abdullah 'Abd al-Rahman al-Hudhayf, was additionally convicted of throwing acid at a police officer and executed. Details of the trial of the whole group remain secret to this day. Ibrahim 'Abd al-Rahman al-Hudhayf and other detainees were released in 1999 under an amnesty.

3. Torture and cruel, inhuman or degrading treatment or punishment

"I told my investigators... 'What crime do you have against me?' ... Their answer was nothing else but beating me... They tied my hands behind my back, then they shackled my legs, then tied my hands to my feet. After, they pulled me flat on the ground and then they started beating me."

This account, by a political prisoner held in a prison in al-Taif in 1996, is typical of many testimonies Amnesty International has documented from people who have been detained in Saudi Arabia. They illustrate a culture of police brutality, torture and ill-treatment in many police stations, prisons and detention centres across the country. Despite having acceded to the UN Convention against Torture in September 1997, the Saudi Arabian government allows the practice of torture to continue unabated.

Roger Cortez, a Filipino, was arrested in August 1997 in connection with murder. Throughout his interrogation he maintained his innocence even in the face of severe beatings and cruel treatment.

"The time when they are investigating me I am facing the wall with handcuffs at the back [and] with ankle chain... When they feel that my answer is not... connected to what they are asking me I received a lot of slapping on my ear and... pushing my face on the wall so sometimes I had bleeding in my nose and my mouth... When they are hitting me in my ribs sometimes I fall down and they used to kick me again with a steel toe... so I had to get up to receive a kicking... At the same time they are showing me a baseball bat... and they say 'if you don't tell us the truth tonight or today we are going to break your bones'. So I am very, very scared..."

It is not clear to Amnesty International what crime Roger Cortez was eventually tried for, nor the precise nature of his sentence. It is known that he received 250 lashes and was released in October 1999.

Torture methods that have been reported to Amnesty International over the years range from techniques involving sticks, electric shocks, cigarette burns and nail-pulling to beatings. Torture and

ill-treatment are used to extract confessions and to enforce discipline. They are also inflicted apparently without reason — simply because it is the culture of the prison. Sometimes, prisoners die as a result.

Maitham al-Bahr, a 21-year-old Saudi Arabian citizen, died in December 1996 in al-Dammam Central Hospital, allegedly as a result of torture. A university student from al-Qatif in the Eastern Province, he was reportedly detained during a wave of arrests after the June 1996 bombing of al-Khobar military complex. In November he was transferred from al-Mabahith al-‘Amma headquarters in al-Dammam, where he was being detained, to the hospital. A medical examination reportedly revealed that he had various ailments, including renal failure and swelling in various parts of his body, which were allegedly caused by torture. Amnesty International wrote to the Saudi Arabian authorities in December 1996 for clarification of the circumstances of his death, but received no response.

Ahmad bin Ahmad al-Mulablib, a prayer leader, was reported to have died in November 1998 while in the custody of al-Mutawa‘een. The reason for his arrest was said to have been that he did not heed a warning not to call to prayer in the Shi‘a way, which differs from the Sunni call to prayer. Amnesty International knows of no independent and impartial investigation into the cause of his death, and the authorities have not responded to the organization’s requests for information.

The Saudi Arabian authorities say that torture is banned under the Statute on Imprisonment and Detention of 28 May 1978. Although Article 28 states that no aggression of any sort is allowed against prisoners and that anyone who commits any such aggression will be punished, it does not provide a total prohibition of torture as required by the UN Convention against Torture. Moreover, Article 20(3) of the Statute allows for flogging of 10 lashes as a disciplinary punishment against prisoners. Flogging amounts to torture or cruel, inhuman or degrading punishment. The UN Special Rapporteur on torture stated that “corporal punishment is inconsistent with the prohibition of torture and other cruel, inhuman or degrading treatment or punishment enshrined, inter alia, in the Universal Declaration of Human Rights...”²¹

In practice, Saudi Arabia’s criminal justice system provides all the conditions that facilitate torture, such as lack of prompt access to lawyers, family and doctors, as well as lack of judicial supervision of arrest and detention. In many cases, detainees are tortured or ill-treated from the moment they are arrested. One possible reason is that the criminal justice system from the outset treats suspects as guilty. In the eyes of law enforcement officials, therefore, the rights of those who are caught in the system are seen as unworthy of respect.

Another reason for the continuing widespread practice of torture is the almost total reliance of the criminal justice system on confessions obtained by the police as the basis for securing convictions.

[margin quote]

“I said to the officer, ‘Can I ask you a question?... Where is it found in the Kitab [the Qur’an] that other people who are not Muslims (e.g. the Christians) are forced to pray?’ He replied, ‘It is found in Saudi Arabia.’”

From the prison diary of Osman Gedi Guled, a Somali business-person from Djibouti, describing what happened when he tried to intervene to stop guards beating non-Muslim prisoners for their refusal to take part in prayers.

[end margin quote]

[margin quote]

“The place was very overcrowded with ladies and children. It is very dirty, very smelly, air conditioners sometimes worked, other times not... There were plenty of cockroaches, they go all over the clothes, the food was not hygienic.”

A woman describing conditions in the Women’s Prison in Riyadh, where she was held in 1999.

[end margin quote]

In theory, judges do not accept a confession when it is disputed by the accused on the grounds of torture, coercion or deception. However, in practice this safeguard against improperly obtained confession is seriously undermined by the legal process by which a confession is obtained.

Following arrest, detainees are invariably held incommunicado and told nothing about their rights. In the absence of a voluntary admission, interrogators use different means to obtain confessions — torture, coercion or deception, or all these combined. The detainee has no access to a lawyer or any judicial authority that could act as a safeguard against these methods.

When interrogators have obtained a confession, they bring the detainee before a judge to sign it. If the person refuses to sign on the basis that the confession was not given freely, the judge may refuse to authenticate the confession and his role ends there. The judge does not end the proceedings, nor does he order a medical examination or other investigation to establish how the confession was obtained, as is required under the UN Convention against Torture. The detainee is returned immediately to the custody of the interrogator with no protection from the risk of further torture.

Former prisoners have told Amnesty International that when this happens the process of interrogation and, in some cases, torture, starts again until a confession is agreed and signed in front of a judge. With no legal assistance or access to the outside world, and no independent and impartial judicial supervision, the detainee is caught in a circle where the only exit is signing a confession before the judge, even if the “confession” bears no relation to the truth.

Once authenticated by the judge, the confession gains the force of sufficient evidence for conviction in trial. The role of the confession therefore determines almost the whole process of investigation and trial in ordinary criminal cases, even when the punishment can be long-term imprisonment, flogging, amputation or execution.

Obtaining a confession or statement, whether for use as evidence in court or to gain information or a statement of repentance from political activists, appears to be the main incentive for holding detainees incommunicado. Many are also held in solitary confinement for weeks or months, denied any contact with other inmates. These practices facilitate torture and it was for this reason that since 1995 the UN Special Rapporteur on torture has been calling for a worldwide ban on incommunicado detention:

“Torture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal and persons held incommunicado should be released without delay. Legal provisions should ensure that detainees be given access to legal counsel within 24 hours of detention.”²²

In some prisons and detention centres the conditions prisoners endure are so harsh that they amount to cruel, inhuman or degrading treatment or punishment. Saudi Arabia allows no independent organizations to visit prisons and detention centres. Amnesty International has received countless complaints from former prisoners describing overcrowding, lack of hygiene, ill-treatment and lack of human consideration for prisoners; conditions which, with few exceptions, have hardly changed in the past 20 years and which fail to meet minimum international standards for the treatment of prisoners.

Four former detainees from Nigeria described their experience when they were held for 41 days without charge in al-Ruwais Prison in 1994:

“We were detained in cell number 4... a stretch of about 40 by 100 feet. The cell had a capacity of 500 inmates but was congested with prisoners, many of whom slept in pairs under the bed or on the narrow pathways... Water supply to the cell was only about 30 minutes per day while the [small amount of] food made it compulsory for the inmates to scramble and fight for both food and water. All air-conditioning was switched off from 8am to about 5pm so that the cell is automatically turned into an oven during the day and a fridge during the night... As a result of the dehumanizing condition of the prison, many of the inmates had gone completely mad or displayed crazy tendencies by beating one another, shouting or roaming about naked...”

Judicial corporal punishments

Donato Lama, a Filipino employee of an airline company in Riyadh, told Amnesty International that he was arrested for preaching Christianity because a photograph showed him participating in a secret Roman Catholic service in Riyadh. He was tortured into signing a confession and sentenced to 18 months' imprisonment and 70 lashes. The lashes were administered in a single session a month before his release in May 1997. In 1999 he described the flogging to Amnesty International representatives. He was clearly still distressed by the experience.

"I was brought to the whipping area. They tied me to a post. My hands were handcuffed and they also shackled my legs. I was wearing a T-shirt and jogging pants... The whip was one and a half metres long... with a heavy lead piece attached to the tip. It was terrible. Some fell on my thighs and my back. I would fall when the whip reached my feet but the prison guard would raise me up to continue the whipping. It was terrible. I was amazed to find myself still alive after the 70th lash was given. It lasted about 15 minutes... my back was bleeding. I cried."

Like other victims of flogging Amnesty International has spoken to, Donato Lama received no medical treatment for his injuries.

Women also receive lashes as a judicial punishment. Nieves, a married Filipina mother of two children who worked in Riyadh, was sentenced in 1992 to 60 lashes and 25 days' imprisonment for prostitution after she was tricked into signing a "confession".²³ Her trial, she said, lasted "a matter of minutes". She described the flogging:

"I thought it will be fast but no, it was done one at a time... [The policeman] really takes his time before striking. I started counting and when it reached 40 I thought I could not make it... I prayed so hard... At last it reached 60... I could not explain the pain I experienced. The stick he used was like a bamboo, round but hard."

Flogging is regularly inflicted in prisons as well as in public squares throughout the country and is carried out on men, women and children. It has almost unlimited scope of application and there appears to be no upper limit on the number of lashes judges can impose despite the severe physical and psychological consequences. Flogging is prescribed under the Hudud²⁴ as a punishment for certain "sexual offences", such as fornication, and alcohol related offences. Judges are also free to use it at their discretion in addition to other punishments such as imprisonment.

With the exception of "sexual offences", such as fornication, and alcohol offences, which are punished by 100 and 80 lashes respectively, judges seem free to decide the number of lashes in each case. The most lashes in a single case recorded by Amnesty International is 4,000. These were imposed — in addition to imprisonment — on an Egyptian national, Muhammad 'Ali al-Sayyid, who was convicted of robbery in 1990.²⁵ Following public protests in Egypt and internationally, a security source in Saudi Arabia said that the sentence was a reduction of what otherwise would have been amputation, but was unable to provide further clarification.²⁶

Former prisoners held with Muhammad 'Ali al-Sayyid told Amnesty International representatives that the sentence was carried out at a rate of 50 lashes every two weeks. Each time he received the lashes he was left with bruised or bleeding buttocks, unable to sleep or sit for three or four days afterwards. Muhammad 'Ali al-Sayyid was released in 1997 or 1998.

Amputation is prescribed under both Qisas and Hudud.²⁷ Under Qisas it is prescribed for causing injury. Under Hudud it is prescribed for theft, which is punished by amputation of the right hand, and for highway robbery, which is punished by cross amputation (right hand and left foot). On 3 December 1999, for example, two men convicted of highway robbery each had a hand and a foot amputated in the city of Tabuk.²⁸

Amnesty International recorded 90 judicial amputations between 1981 and December 1999 in Saudi Arabia, including at least five cases of cross amputation, but the true number is probably much higher. It appears that in at least some cases, executioners carry out amputations. Amnesty International does not know if they receive medical training, or whether anaesthetics are administered to victims of judicial amputations, or if restraints are used. After the amputation has been carried out, the victim is taken away by ambulance to hospital for treatment.

According to Sa'id bin 'Abdullah bin Mabrouk al-Bishi, an experienced Saudi Arabian executioner, "purpose-made knives are used to cut off the hands of those who commit theft". He was reported to have told a journalist:

“...for me it is more difficult to cut off a hand than to carry out an execution, because executions are done momentarily by the sword and the person leaves this life. By contrast, severing a hand demands more courage, especially because you are cutting off the hand of someone who will remain alive afterwards, and also you have to cut it off at a specific joint and use your skill to make sure that cutting implement stays in position. As I said, it is much more difficult for me to cut off someone’s hand than to execute them, both in terms of carrying out the penalty itself and in terms of my own feelings.”²⁹

Very little information is available about victims of other forms of amputation. One reported case involved Muhammad Rajihi, a Yemeni national, who had his fingers amputated apparently in a Qisas case after he was convicted of causing similar injuries to his wife.³⁰

Although the Saudi Arabian authorities say that strict judicial criteria and safeguards are applied before amputations are carried out, in practice it appears that they are imposed with little judicial rigour. For example, 11 Yemenis who had their right hands amputated in 1989 on charges of theft were reportedly sentenced simply on the basis of their confessions.³¹ Whether or not these were freely given remains an unanswered question.

Amnesty International unconditionally opposes the judicial punishments of flogging and amputation. In line with international human rights law, Amnesty International considers judicial amputations a form of torture. It also considers that flogging amounts to torture or cruel, inhuman or degrading punishment.

Article 5 of the Universal Declaration of Human Rights states: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” The Convention against Torture requires states parties to prohibit torture and does not allow derogation from this prohibition at any time. Saudi Arabia, as a state party to the Convention against Torture, is obliged not to impose any punishments that amount to torture or cruel, inhuman or degrading treatment or punishment. Amputations and flogging inflict pain and suffering amounting to torture or cruel, inhuman and degrading punishment, prohibited under the Convention against Torture.

4. The death penalty

Saudi Arabia has one of the highest rates of executions in the world in both absolute numbers and per capita. Contrary to the UN’s call for a progressive reduction in the number of capital crimes³², Saudi Arabia has expanded the scope of the death penalty to cover a wide range of offences, including offences without lethal consequences such as apostasy, drug dealing, sodomy and “witchcraft”. The scores of people who are executed every year, many for non-violent crimes, are put to death after summary trials that offer them no opportunity to defend themselves and almost no protection against miscarriages of justice.

Execution is by public beheading for men and, according to reports, by firing squad or beheading for women, sometimes in public. The executioner Sa’id bin ‘Abdullah bin Mabrouk al-Bishi explained his methods:

“I use a sword to kill male criminals... and firearms, specifically pistols, to kill female criminals. I think firearms are used to spare the woman, as to be executed by sword would mean uncovering her head and exposing her neck and some of her back.”³³

Married people convicted of adultery may be executed by stoning to death. In what are deemed by the authorities as very serious criminal cases involving violence, the person executed may be crucified afterwards. Such cases include one reported in 1990, where the decapitated body of a man executed for murder and other crimes was crucified.³⁴

Often, the first warning the prisoner has of their imminent beheading is when they are taken out of their cell in handcuffs on a Friday, the day executions are normally carried out. The prisoner is taken to a public square and forced to kneel. The executioner raises a sword, then brings the blade down across the prisoner’s neck. Sometimes more than one stroke is needed to sever the head. A doctor certifies that the prisoner is dead, then the body and head are removed and buried on common land.

An Irish national who witnessed a public execution in 1997 said the prisoners were handcuffed behind at the wrists, were barefoot and dressed in grey knee-length shirts.³⁵ They were

blindfolded with white gauze bandage. The prisoners were made to kneel when their handcuffed wrists were tied to their feet. Then they were beheaded.

Amnesty International does not know whether condemned prisoners are offered anaesthetics. It does not know whether they are allowed to see a representative of their religious faith before they are executed, or whether an appropriate religious ceremony is conducted before, during or after death. What it does know, from testimonies given by former prisoners and relatives of the victims, is that foreign nationals are rarely if ever allowed to see their loved ones before they are executed. It is also clear that those facing execution are sometimes not even aware that they have been sentenced to death and neither they nor their families are warned in advance of the date of execution.

Such practices exacerbate the inherent cruelty of the death penalty. Ruel Janda, a Filipino, was executed in May 1997 for robbery. A fellow detainee, Rene Camahort, told Amnesty International what happened when officers came to collect Ruel early one morning. "I asked the sergeant, 'Where is he going?' And he said, 'To the court.' I said to Ruel, 'You see, it's OK, you're going to court.' He said, 'Rene, no one goes to court at this time in the morning'." Ruel Janda was executed that day.

For those in prison who fear they face execution, the psychological torment is extreme. A former prisoner released from a women's prison in 1999 described to Amnesty International the fear of a fellow woman prisoner accused of murder:

"Every time a guard opens her cell door she gets very scared [thinking] that they will come to take her out for execution."

Relatives of those executed in Saudi Arabia also suffer extreme psychological pain. In many cases, they only learn about the execution from a newspaper, sometimes after they have been told their loved one is to be released. A Filipina woman found out about her husband's execution in Saudi Arabia through a letter sent to her in the Philippines by the Office of the Undersecretary for Migrant Workers Affairs. The letter said:

"Despite our best efforts, the Department regrets to inform you that your husband, OFW Yolando Isnan, was reportedly executed in Jeddah on 22 July 1998 after he was found guilty by the Islamic court of deliberately causing fatal vehicular accident on 04 February 1994 killing four Saudis, injuring four people and damaging vehicles. For further inquiries you may call the Department at telephone number [...] Please accept our sincere condolences."

Relatives of foreign nationals who have been executed then face the additional trauma of not being able to perform burial rituals in accordance with their religious or cultural traditions as the bodies of foreign nationals executed in Saudi Arabia are not repatriated. An official in the Foreign Affairs Ministry of a country which requested the return of the body of an executed foreign national received the following reply from the Saudi Arabian Ministry of Foreign Affairs. "In reference to the Consulate's note... requesting shipment of remains of [...] who was executed in Jeddah city... the Ministry wishes to inform the Consulate that the concerned party has advised that shipment of human remains of said person is not possible... Turnover or shipment of human remains or part of those executed or amputated in the Kingdom is not allowed."

The secrecy surrounding the death penalty means that no one other than the Saudi Arabian authorities knows the number of people under sentence of death at any given point or the exact total of those who have been executed. The Interior Ministry usually announces executions the day they are carried out, but does not divulge sentences of death when passed by courts. Judging by statistics published by the Ministry of Justice in 1995, which stated there were 457 capital cases pending before courts, combined with the number of people executed since then, it would appear that there are probably many hundreds of prisoners under sentence of death.³⁶

Amnesty International recorded 1,163 executions in Saudi Arabia between 1980 and December 1999, but the real number may well be much higher.³⁷ The main reasons why so many people are executed are the wide scope of the death penalty, the vague laws that are used to impose it, and the defective criminal justice system which allows courts to impose such sentences with few procedural safeguards.³⁸

The figures also indicate a rising trend in the use of the death penalty (see Figure 1 below). The average annual number of executions between 1980 and 1986 was 29. The average between 1987 and December 1999 was 73. A strong contributory factor to the marked increase in executions was

March 1987 legislation that introduced the death penalty for drug smugglers, importers and recidivist distributors (see Figure 2 below).

Saudi Arabia's policy of expanding the scope of capital punishment is contrary to the worldwide trend towards restriction and abolition of this punishment. International human rights standards encourage abolition of the death penalty and set stringent safeguards for its imposition and use, restricting the offences punishable by death to the most serious crimes.³⁹ A resolution adopted by the UN Commission on Human Rights in 1999 called on states to ensure that the notion of "most serious crimes" does not go beyond "intentional crimes with lethal or extremely grave consequences and that the death penalty is not imposed for non-violent financial crimes or for non-violent religious practice or expressions of conscience".⁴⁰

In Saudi Arabia the scope of the death penalty is so wide that it can apply to any act deemed by the government and the courts to amount to "corruption on earth". In practice, the death penalty is applied to non-violent activities and offences with no lethal consequences, including apostasy, "witchcraft", "sexual offences" and crimes involving both "hard" and "soft" drugs.

Sa'ad Ibn Khuthaim Ibn Sulaiman al-Omeiri and Radah Ibn Abdul Rahim Abdullah al-Salemi were executed in Mecca in December 1992 after they were found guilty of sodomy.⁴¹ Ali Ibn Hadi 'Ateef was executed in March 1995 after he was convicted of practising "black magic". An Interior Ministry statement reportedly said that his activities "based on bewitchment and jugglery... caused harm to many families and created chaos and confusion in many houses."⁴² The same month 'Abdullah Ibn Sa'id Bajafar was executed after he was convicted of "repeatedly making, drinking and selling liquor and taking pills,"⁴³ and Fatimah Bint Abdullah was executed in Jizan after she was convicted of running a brothel and possession and use of Qat (a narcotic substance widely used in countries of the Horn of Africa).⁴⁴

Given the nature of the judicial system described above, it is almost certain that all these people were sentenced to death without having access to legal representation, on the basis of confessions extracted through coercion, and after secret and summary hearings. Executions which take place after unfair trials amount to an arbitrary deprivation of the right to life, a right recognized in Article 3 of the Universal Declaration of Human Rights (UDHR). International standards give a clear message as regards the minimum acceptable safeguards in trials of capital cases. For example:

"Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts."⁴⁵

In cases where political prisoners are charged with violent activities, the summary nature and secrecy of legal proceedings are made so extreme by the interference of the executive authority that those subsequently sentenced to death may be victims of arbitrary justice.

Although the secrecy and arbitrariness of the criminal justice system confronts all those accused of capital offences, Saudi Arabian nationals may have a better chance of escaping execution than foreign nationals. Amnesty International has kept records of prisoners sentenced to death on murder charges and subsequently pardoned by the heirs of the murder victims. Such pardons are possible as murder is a Qisas offence, which has two legal aspects, public and civil. The public aspect relates to the role of courts in deciding the guilt or innocence of the accused. The civil aspect relates to the right of victims or their nearest relatives or heirs to decide whether the convicted offender should be subjected to punishment equal to the physical harm caused by the crime, or ask for compensation instead, or pardon the offender. In cases of murder, the nearest relatives may ask for blood money instead of the execution.

Of the 12 cases of pardoned prisoners monitored by Amnesty International between 1991 and 1999, nine were Saudi Arabian nationals. In most of the nine cases the pardon seems to have been obtained following persistent lobbying by tribal leaders and officials. For example, in one case where a man and a woman were pardoned moments before they were to be executed in Ha'il in 1996, the chief of police in Ha'il was reported to have told the press that the pardon was obtained "thanks to efforts by the governor of Ha'il, Prince Muqrان ibn 'Abdul 'Aziz."⁴⁶ In another case the prisoner was pardoned following agreement by his family to pay 2.3 million riyals (US\$613,000) to the family of the murder victim.⁴⁷

It is clear that foreign nationals, particularly those from poorer countries in the Middle East, Africa and Asia, may not be able to pursue effectively this opportunity to gain a pardon in murder

cases, as both influence and money are usually beyond their reach. A woman currently held on murder charges and possibly under a sentence of death wrote in a letter to a former prisoner who was held with her in 1999:

“Madam... I ask you in the name of God and humanity... to help me because I have no one who could help me here in Saudi Arabia. My poor family has done everything they could but I believe they have lost hope... I beg you madam to understand my letter... In this prison...we cannot have contact with the outside world, we cannot defend ourselves...”

Moreover, it appears that for some crimes, such as drug-related offences, the only opportunity to obtain a pardon is to seek one from the King. Given the government’s hardline policy on drugs, it is unlikely that such appeals will be successful.

A further defect in Saudi Arabian law is the lack of safeguards to ensure that the death penalty is not imposed on anyone aged under 18 at the time of the offence. This defect remains despite Saudi Arabia’s accession to the UN Convention on the Rights of the Child in 1996, which explicitly prohibits capital punishment for anyone aged under 18.⁴⁸

Saudi Arabia’s position on the use of the death penalty against child offenders is stated in the “Report of the Kingdom of Saudi Arabia On The Measures Adopted For The Implementation Of The Convention On The Rights Of The Child”, submitted to the UN Committee on the Rights of the Child in 1998. Although the report states that children will not be sentenced to death, it fails to illustrate how the ban on imposing the death penalty on anyone aged under 18 is enshrined in law or is otherwise formalized to guarantee that no child is subjected to the death penalty. At one point it states, “It is noteworthy that the Islam-based regulations applicable in Saudi Arabia never impose capital punishment for offences committed by persons below the age of puberty,” but it does not define when puberty is reached. This statement indicates that the imposition of the death penalty on a child, over the age of puberty but still under 18, is a possibility.

The secrecy in Saudi Arabia and the government’s refusal to respond to Amnesty International’s requests for information means that it is not possible to ascertain if the death penalty has been imposed on anyone below the age of 18 and, if so, whether they were executed. However, Saudi Arabian newspaper reports indicate that children have been sentenced to death since Saudi Arabia’s accession to the Convention on the Rights of the Child.

Amnesty International unconditionally opposes the death penalty in all circumstances on the grounds that it is the ultimate cruel, inhuman and degrading punishment and violates the right to life. Amnesty International’s opposition to all executions is also based on the fact that such irreversible punishment is inflicted despite the risks of human fallibility. The risks inherent in capital cases are compounded in Saudi Arabia by the structural defects of the criminal justice system. It is Amnesty International’s belief that had basic safeguards for fair trial been implemented, the number of those executed over the years would be a fraction of the actual total reported.

Saudi Arabian officials have often claimed that the use of the death penalty has proved to be a unique deterrent to crime in their country, particularly with regard to drug offences. For example, Crown Prince ‘Abdullah bin ‘Abdul-‘Aziz was reported by the Saudi Arabian Press Agency as having told a cabinet meeting in August 1995 that crime rates in Saudi Arabia were “at their lowest, especially drug [crimes] thanks to the application of capital punishment to smugglers and traffickers”⁴⁹ Amnesty International has not seen any crime figures to support this claim, and its own statistics on executions seem to show that the trend is towards more executions in Saudi Arabia.

Amnesty International’s recommendations

The scale and gravity of human rights violations in Saudi Arabia is untenable by any legal or moral standard. However, the responsibility for the human rights situation in Saudi Arabia is not the government’s alone. It is also the responsibility of the international community, which has failed to hold Saudi Arabia to account for its persistent violations of human rights.

Amnesty International urges the Saudi Arabian government and the international community to implement the following recommendations.

To the Saudi Arabian government

Abolish discriminatory laws and practices

Under the Charter of the United Nations, of which Saudi Arabia is a member, states pledge to take action to promote observance of human rights without discrimination on the basis of race, sex, language or religion. Under the Universal Declaration of Human Rights, everyone is entitled to the rights in the Declaration without discrimination on these same grounds. In addition, the International Convention on the Elimination of All Forms of Racial Discrimination, to which Saudi Arabia has acceded, and other international human rights standards together prohibit discrimination. The government of Saudi Arabia should bring its laws and practices into line with these international standards. It should:

- take immediate steps to abolish all discriminatory laws and practices against women;
- take immediate steps to abolish all discriminatory laws and practices against members of the Shi'a community and all minorities and vulnerable groups.

Stop arbitrary arrest and detention

Both the law and practice of arrest and detention should be changed to ensure that they are consistent with international human rights standards as set out in the Universal Declaration of Human Rights and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Stop torture

As a state party to the Convention against Torture, the government should fulfil its international obligations by taking effective steps to eradicate torture, including from its police stations, detention centres and prisons. The steps should include:

- stopping the use of the judicial punishments of flogging and amputation;
- ensuring that no "confession" obtained by torture is allowed as evidence in trial;
- ensuring that all allegations of torture are investigated promptly by an independent body;
- ensuring that perpetrators of torture are brought to justice and the victims compensated.

Stop executions

The government of Saudi Arabia should take immediate measures to halt executions. It should reconsider its policy of the wide use of the death penalty and reverse the increasing trend of executions in line with Resolution 1999/61 adopted by the UN Commission on Human Rights on 28 April 1999. Specifically, Saudi Arabia should stop imposing the death penalty for non-violent offences, restrict the number of offences punishable by death, and establish a moratorium on executions pending total abolition of the death penalty. Moreover, the government should:

- ensure that prisoners facing trials for capital offences are unconditionally guaranteed the additional safeguards for fair trial provided under the UN Safeguards guaranteeing protection of the rights of those facing the death penalty;
- clarify the law and practice relating to the death penalty with regard to children and ensure that the death penalty is not imposed on anyone aged under 18 at the time of the offence.

Ratify international human rights treaties

Saudi Arabia should sign and accede to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Discrimination against Women, and incorporate their provisions into domestic law.

To the international community

Amnesty International calls on the international community to end its silence on human rights

violations in Saudi Arabia. Intergovernmental organizations, particularly the UN, have a responsibility to promote respect for human rights for all. To overcome their shortcomings with regard to the human rights situation in Saudi Arabia, intergovernmental organizations should:

- condemn human rights violations in Saudi Arabia;
- urge the Saudi Arabian authorities to implement the recommendations of this report;
- call on the Saudi Arabian authorities to grant access to the country to international human rights non-governmental organizations;
- ask the Saudi Arabian authorities to cooperate with thematic mechanisms of the UN Commission on Human Rights and to invite them to visit the country, in particular the Special Rapporteur on the independence of judges and lawyers.

Endnotes/footnotes

1 Abdul-Karim al-Naqshabandi was charged with “practising witchcraft and possession of a number of heretical books and fables”. The offence is punishable by death if the judges decide that it was so serious that it amounted to denouncing Islam or “corruption on earth”.

2 The government’s responses cited in this report are taken from statements reported by the media.

3 Most testimonies cited do not include the real name or other identifying features of the individuals concerned as those interviewed have expressed fear of reprisals if they are identified.

4 Some laws in Saudi Arabia are unwritten or are not available to the public.

5 According to Amnesty International’s Statute, a prisoner of conscience is anyone detained by reason of his or her political, religious or other conscientiously held beliefs or by reason of his or her ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, provided that he or she has not used or advocated violence.

6 A Fatwa is an edict passed by the Council of Senior ‘Ulama (religious scholars).

7 Consensual heterosexual sexual acts in private outside marriage are also criminalized in Saudi Arabia.

8 Established by Economic and Social Council (ECOSOC) resolutions 728F (XXVIII) and 1503 (XLVIII), known as the “1503” procedure.

9 See Amnesty International: 1999 UN Commission on Human Rights: Making human rights work — time to strengthen the special procedures, AI Index: IOR 41/01/99, January 1999.

10 Human Rights, Foreign and Commonwealth Office and Department for International Development annual report for 1999.

11 As long ago as 1995 the UN Working Group on Arbitrary Detention concluded that Sheikh Salman bin Fahd al-‘Awda, Sheikh Safr ‘Abd al-Rahman al-Hawali and others were victims of arbitrary detention who had been held on political grounds.

12 In General Comment 24, adopted by the Human Rights Committee at its 52nd session on 2 November 1994, the Human Rights Committee stated on the question of reservations made upon ratification or accession to the International Covenant on Civil and Political Rights that, “reservations must be specific and transparent, so that the Committee, those under the jurisdiction of the reserving State and other States parties may be clear as to what obligations of human rights compliance have or have not been undertaken. Reservations may thus not be general, but must refer to a particular provision of the Covenant and indicate in precise terms its scope in relation thereto.” Amnesty International considers that the reservations lodged by Saudi Arabia do not comply with the requirement that “reservations must be specific and transparent”.

13 This information is contained in a document entitled “Saudi Arabia’s Position on Human Rights” sent to Amnesty International on 17 September 1999 by the adviser to the Saudi Arabian Ambassador to London, Dr Ghazi A. Algosaihi.

14 Name withheld for fear of reprisals.

15 The religious police, known as al-Mutawa‘een or Hay’at al-‘Amr bil Ma‘ruf wan-Nahi ‘an al-Munkar, the Committee for the Propagation of Virtue and Prevention of Vice, are mandated to

ensure strict adherence to established codes of conduct. They are in theory a semi-autonomous agency, but in practice work closely with the police and the governors of the localities. They have powers of arrest but are required to hand suspects over to the public security police after questioning them.

16 See note 15.

17 Amnesty International wrote to the Saudi Arabian government on 1 November 1999 seeking clarification of his arrest and detention, but has not received a reply.

18 The political-religious state comprising the Muslim community and the lands and peoples under its dominion in the centuries following the death of the Prophet Muhammad.

19 See al-Hayat, 28 September 1994.

20 Amnesty International's reports on this area of human rights violations include Saudi Arabia: Detention without trial of suspected political opponents, 11 January 1990, AI Index: MDE 23/04/89.

21 UN Doc. E/CN.4/1997/7, report to the 1997 session of the UN Commission on Human Rights (para 6).

22 Report of the Special Rapporteur on torture, UN Doc. E/CN.4/1995/34, para 926(d).

23 For more details on this case, see Behind closed doors: unfair trials in Saudi Arabia, November 1997, AI Index: MDE 23/08/97, pp 20-22.

24 There are three categories of crimes and punishments under Shari'a (Islamic law) applied in Saudi Arabia: Hudud (fixed punishments), Qisas (retaliation or retribution) and Ta'zir (discretionary punishments for all other offences not covered by Hudud or Qisas).

25 See Amnesty International's Urgent Action: UA 190/95, Flogging, 1 August 1995, AI Index: MDE 23/04/95, and further information of 14 September 1995, AI Index: MDE 23/07/95.

26 See al-Sharq al-Awsat, 15 August 1995.

27 See note 24.

28 See Reuters, 3 December 1999.

29 The interview was published in al-Madina al-Munawwara, No. 8006, 30 Sha'ban 1409 (6 April 1989), under the title al-Qisas.

30 Arab News, 10 March 1984.

31 Al-Jazeera, 7 October 1989.

32 UN General Assembly resolution 32/61 of 8 December 1977 and UN Commission of Human Rights resolution 1999/61.

33 Interview published in al-Madina al-Munawwara, No. 8006, op. cit.

34 Al-Jazeera, 9 June 1990.

35 The Irish Times, 19 June 1997.

36 "The 19th Book of Statistics for 1995" published by the Saudi Arabian Ministry of Justice.

37 In almost all cases these were publicly announced by the government and reported by Saudi Arabian newspapers such as Al-Jazeera and Arab News and by international news agencies. Some additional cases were brought to Amnesty International's attention by relatives of those executed.

38 See Amnesty International's report, Saudi Arabia: An upsurge in public executions, May 1993, AI Index: MDE 23/04/93.

39 ECOSOC resolution 1984/50 of 25 May 1984, Safeguard 1 of the Safeguards guaranteeing the protection of the rights of those facing the death penalty.

40 UN Commission on Human Rights resolution 1999/61 of 28 April 1999.

41 Arab News, 12 December 1992.

42 Arab News, 10 March 1995.

43 Arab News, 14 March 1995.

44 Summary of World Broadcast of 25 March 1995 reporting on Saudi Arabian TV1, broadcast of 27 March 1995.

45 ECOSOC resolution 1984/50 of 25 May 1984.

46 See report by Agence France Presse dated 25 June 1996.

47 Arab News, 13 September 1997. All conversions to US dollars are approximate, based on exchange rates as of 8 October 1999

48 Article 37(a) of the Convention explicitly bans capital punishment for “offences committed by persons below eighteen years of age”. This is regardless of the age of the offender at trial or sentencing.

49“Saudi Says Will Continue Beheading Drug Smugglers”, Reuters, 21 August 1995.

Captions

abdul-karim al-naqshabandi was executed on 13 december 1996. © private

women face restrictions in many walks of life. they are forbidden from travelling alone or driving a car. © sipa/rex

hani al-sayegh, a saudi arabian, fled to the usa to seek asylum. on 10 october 1999 he was forcibly returned home. he was detained immediately on arrival in connection with the bombing of a us military complex at al-khobar in 1996. he continues to be held without access to lawyers and remains at risk of torture. © private

patrick foster, a uk national, was arrested in october 1992 in riyadh. in march 1993 he was sentenced to a total of 16 months’ imprisonment and 75 lashes for two alcohol-related offences. he was later informed by a representative of the uk embassy that he had been sentenced in absentia to a further five months’ imprisonment for a third offence. he was released in september 1993 under an amnesty. the lashes were not carried out. © private

sheikh safr al-hawali was arrested in september 1994 for his religious and political activities. he was held in al-ha’ir prison outside riyadh until june 1999, when he was released untried. © cdlr

sheikh salman bin fahd al-‘awda was arrested in 1994 for giving public lectures critical of the government. he was held in al-ha’ir prison without charge until june 1999 because he refused to sign an undertaking to cease his political activities. © cdlr

anmar al-mas‘ari has been detained twice in connection with the political activities of his father, dr muhammad al-mas‘ari. the government continues to vent its anger on the family of dr al-mas‘ari, a former university professor and spokesperson for the committee for the defence of legitimate rights in saudi arabia, who left saudi arabia to continue his political activities abroad. © private

donato lama, a filipino national, was arrested in 1995 for promoting christianity because a photograph showed him participating in a secret roman catholic service in riyadh. he was sentenced to 18 months’ imprisonment and 70 lashes, which were carried out in a single session. ©private

‘imad hashim was flogged on his bare back as a judicial punishment. the marks left by the lashes show the extent of physical damage that flogging can cause. © private

a man being flogged by police using long canes in the main square in riyadh. flogging as a judicial punishment is used regularly in saudi arabia. © camera press

nieves, a married filipina who worked in riyadh, was sentenced in 1992 to 60 lashes and 25 days’ imprisonment for prostitution after she was tricked into signing a “confession”. her trial, she said, lasted “a matter of minutes”. © private

muhammad 'ali al-sayyid, an egyptian national, was convicted of robbery in 1990 and sentenced to 4,000 lashes and a period of imprisonment. the sentence was reportedly carried out at a rate of 50 lashes every two weeks. © private

a photographer records a public execution in jeddah from behind the bars of a window. © rex features

muhsin al-shamrani, khalid al-sa'id, riyad al-hajri and 'abd al-'aziz al-mi'tham were executed in 1996. they were convicted after a summary and unfair trial of involvement in the bombing of a military compound in riyadh in 1995. © ap