

TABLE OF CONTENTS

I. INTRODUCTION	1
II. DISREGARD FOR BASIC FAIR TRIAL STANDARDS.....	2
1. Arrest and Detention Irregularities	3
2. Summary and Secret Trial Hearings	7
III. GROSS HUMAN RIGHTS VIOLATIONS FACILITATED BY LACK OF FAIR TRIAL	10
1. Detention and Imprisonment of Suspected Political or Religious Activists	10
2. Torture and ill-treatment.....	13
3. Judicial punishments of flogging and amputation	16
4. Use of the death penalty.....	22
5. Discrimination against women and other disadvantaged groups	26
IV. CONCLUSION.....	29
V. RECOMMENDATIONS	30

SAUDI ARABIA

BEHIND CLOSED DOORS: Unfair Trials In Saudi Arabia

I. INTRODUCTION

Saudi Arabia plays an active role in many aspects of international affairs, but not in the field of human rights. As a consequence of this policy of human rights neglect, both internally and internationally, the inhabitants of Saudi Arabia remain denied the most basic human rights while the government spares no effort to conceal its appalling human rights record from public scrutiny.

Amnesty International welcomes as positive steps Saudi Arabia's accession to the UN Convention on the Rights of the Child in January 1996, albeit with a sweeping reservation, and a reported decision by the Council of Ministers in August 1997 to accede to or ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). However, these measures by themselves fall far short of what is required to redress the human rights situation in the country. Unless the government takes further steps to ratify, and more importantly, to implement the provisions of all the major human rights treaties, the human rights situation will remain dire. Among the issues requiring urgent attention are trial secrecy and unfairness. The right to fair trial is of paramount importance as it constitutes the pillar of justice and a basis for the enjoyment of other fundamental rights.

The basis of the unfair nature of trials in Saudi Arabia resides in the fact that its criminal justice system is designed to cater primarily for the might of the state at the expense of the rights of the individual. This imbalance is clearly visible throughout the process of arrest, detention and trial. Suspects are invariably arrested without a judicial warrant, held incommunicado beyond any judicial control, and detained for lengthy periods without trial while being denied adequate opportunity to challenge the legality of their detention. Court hearings are always held behind closed doors and follow summary procedures, where defendants are denied the opportunity to effectively exercise their right of defence and an adequate opportunity of appeal against conviction and sentence.

Disregard of the individual's right to fair trial has been a key factor in making Saudi Arabia a fertile ground for gross human rights violations. The lack of independent and impartial judicial control over arrest and detention carried out by security forces has, over the years, resulted in the deprivation of liberty of thousands of political and religious activists, including prisoners of conscience. It has also allowed the security forces to make torture an institutionalised practice with full impunity. Summary and secret trial hearings have made conviction and sentencing a very simple exercise irrespective of the gravity of the punishment, and facilitated the widespread use of flogging, amputation and

the death penalty. Most of the victims of such punishments have been people from vulnerable sectors of society; such as women, foreign workers, and the poor. The lack of fair trial safeguards appears to increase further their vulnerability to such punishments.

While Amnesty International opposes such punishments in all cases and anywhere in the world, it believes that most of the victims subjected to arbitrary deprivation of liberty, flogging, amputation, or execution would not have suffered such punishments if arrest was not allowed except under strict independent and impartial judicial control, and defendants were given effective opportunity to exercise their right of defence and appeal in accordance with international standards. Amnesty International has for many years urged the Government of Saudi Arabia to respect the right to fair trial, with the aim of both reducing the scale of other related human rights violations and as a policy objective to eradicate unfair trial violations. However, the government has consistently failed to respond to the organization's appeals in this regard.

As part of the secrecy of trials the government denies access to the country to human rights observers, including Amnesty International. The organization has repeatedly sought to build a constructive dialogue with the government and has specifically requested access to the country for talks with members of the judiciary in order to gain first hand experience and a deeper understanding of the judicial system, but its requests remain unanswered to date.

In light of the grave and widespread nature of the human rights violations in Saudi Arabia and the lack of cooperation from the government, Amnesty International finds itself compelled by its obligation to the victims of human rights violations in the country to put their case to the international community and public opinion, and reiterates its calls to the Saudi Arabian Government to take immediate steps to address this situation by respecting human rights standards and by implementing the recommendations contained in this document.

II. DISREGARD FOR BASIC FAIR TRIAL STANDARDS

When two British nurses in Saudi Arabia were charged in December 1996 with the murder of their colleague, Yvonne Gilford, an Australian nurse, the case dominated international media headlines. What made it such a newsworthy topic was the prospect that the defendants could face execution after unfair trial. In response to the publicity, the Saudi Arabian Government issued public statements giving assurance that the two nurses would be guaranteed a fair trial, and allowed them to appoint and have access to lawyers. While this may be seen as an unprecedented judicial step, the government, however, did not explain how it would ensure effective exercise of assistance by lawyers. Also, it did not explain if this right has been introduced as an exception or as a universal rule to be applied throughout the country to all those charged with criminal offences or held on

political or religious grounds whose cases rarely reach international public opinion. However, whatever the answers to these questions are, the issue of unfair trial in Saudi Arabia goes beyond access to and assistance by lawyers and pervades all aspects of the judicial process beginning with arrest and detention irregularities through to summary and secret trial hearings. A close analysis of the judicial practice in Saudi Arabia illustrates that it fails to protect the very basic right of fair trial such as the right to be presumed innocent until proven guilty following fair and equitable procedures as required by international human rights standards.

1. Arrest and Detention Irregularities

Arrest and detention of suspects, including political and religious activists, in Saudi Arabia are understood to be regulated by the “Statute of Principles of Arrest, Temporary Confinement and Preventive Detention”, but this statute is not consistent with international standards and even its limited provisions are not always respected.¹ In practice, arrest and detention of suspects are invariably carried out in breach of internationally accepted safeguards regulating such measures, particularly prohibition of arrest without a judicial warrant, prompt access to family and lawyers, and the right to challenge the legality of detention. The breaches of such safeguards appear to be facilitated and sustained by the power invested in the arresting authorities at this stage of the judicial process. This power is further enhanced by the absence of clearly written statutes of crimes and punishments which provides arresting authorities with discretion in deciding what constitutes an offence and warrants arrest and detention of the suspects.

The main authorities of arrest are *al-Shurta* (public security police), *al-Mabahith al-‘amma* (General Investigations), and religious police known as *al-Mutawa‘een*. The first two are accountable to the Minister of Interior. The third is a force of *Hay‘at al-‘Amr bil-Ma‘ruf Wan-Nahi ‘an al-Munkar*, the Committee for the Propagation of Virtue and Prevention of Vice (CPVPV), which is entrusted with the responsibility of ensuring strict adherence to established codes of conduct.² This authority is in theory required to hand over to the public security police the suspects it arrests after questioning them.

¹See Amnesty International’s analysis of this statute in Saudi Arabia: **Religious intolerance: The arrest, detention and torture of Christian worshippers and Shi’a Muslims**, 14 September 1993, AI Index: MDE 23/06/93.

²For more details on the authorities of arrest see Amnesty International’s report Saudi Arabia: **Religious intolerance: The arrest, detention and torture of Christian worshippers and Shi’a Muslims**. See footnote no.1

Each of these authorities carries out arrests without a judicial warrant and without explaining the reasons for the arrest.³ The pattern of such arrests can vary from a simple invitation to the suspect to accompany the arresting officers to more heavy-handed behaviour. Those subjected to the first form of arrest include **Muhammad al-Ja'bari**, an auditor in his 60s (see page 11). On 11 July 1995, four officers knocked on the front door of his house and entered. They searched the house and took a large number of books. When he asked if they had a warrant they apparently showed him their identity cards but no warrant. They then asked him to accompany them to the headquarters of *al-Mabahith al-'Ammah* in Riyadh and told his wife that they needed him for a few hours and that he would return later. In fact Muhammad al-Ja'bari did not return home that day, week or month, but 15 months later, some months after his acquittal. Those who arrested him reportedly confiscated many of his books, which apparently have not been returned to him despite his acquittal and release.

Among those subjected to heavy-handed behaviour was a political suspect⁴ held since June 1995, whose brother described his arrest to Amnesty International as follows:

“The family returned to their home at 1am to find four undercover intelligence officers (Mabahith) waiting inside the house. They wrestled (my brother) to the ground and took him outside. They then came back and searched the house...There were several cars and some police jeeps outside of the house, and about 20 men. ...they made no mention of charges or reason for arrest.”

As a rule, after arrest, suspects are kept in the custody of the arresting authorities without judicial supervision.⁵ A former political detainee told Amnesty International that when he asked the authorities at al-Ruwais Prison why he was being held, they apparently said to him: “*You are in the ‘care’ of al-Mabahith al-'Ammah*” which had arrested him a few months before. As a rule, detainees appear before a judge only when formally charged and brought to trial. A former victim of torture, who was acquitted after he had spent about six months in custody told Amnesty International:

³Principle 10 of the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (UN Body of Principles) adopted by the General Assembly states: “Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.”

⁴Name withheld at family's request.

⁵Principle 4 of the UN Body of Principles states: “Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.”

“When the judge ruled that I was innocent, I asked him why did you detain me for six months when I am innocent? He responded: I did not detain you, the police did.”

Donato Lama, who was detained on charges of preaching Christianity (see page 12), told Amnesty International: *“they just put me in prison without telling me what was going to happen to me. I was just waiting and waiting...”*. His wait came to an end over a year later when he was brought before a judge for the first time for trial.

During this period detainees are left totally at the mercy of their arresting authority and have to face their ordeal on their own. This is primarily so because, in addition to the absence of judicial supervision, they are not allowed direct access to lawyers or any other legal assistance; and they are invariably subjected to incommunicado detention and solitary confinement, which can last for weeks or months before they are allowed family visits or moved to communal cells. The aim of holding detainees under such conditions appears to be to subject them to repeated interrogation until they are forced to make a confession. One victim of this situation, a former detainee who may have been a prisoner of conscience, told Amnesty International that he was kept in solitary confinement and denied family visits for nine months. During this period he was subjected to repeated interrogation, sometimes from evening to dawn. He was moved to a communal cell and allowed family visits only after his interrogation was completed. In other cases relatives may not even have this opportunity, particularly when the detainees' whereabouts are unknown. A relative of one political detainee who was arrested in 1995 informed Amnesty International that he had to search for his relative for months and when he finally located the prison where he was being held, the guards did not allow him access to the prisoner. When he insisted on seeking information about his relative, he was allegedly beaten by the guards and forced to leave. A few days later he apparently returned with the wife and children of the prisoner to visit him but they were again turned away.

The impact of such conditions of detention is even more severe for foreign workers from poor families who live in distant countries. Relatives of such detainees are by virtue of their poverty unable to overcome all the hurdles to secure contact with their relatives. Their only avenue is to seek help from their embassies. But not all such embassies seem interested or able to assist their nationals who find themselves caught in the web of the Saudi Arabian detention system. Those who do try to help are not necessarily guaranteed cooperation from the Saudi Arabian arresting authorities. The only option left for the detainees is writing to the family, but even this is not always straightforward. One prisoner held on murder charges which carry the death penalty, and

who claims innocence, wrote in a letter smuggled out of the prison five months after arrest saying:

“Dear Mum, please don’t write to me yet because I have to ask the superintendent if I’m allowed to receive letters. I don’t think I’m allowed to receive letters from outside. ...As long as there’s a way for me to send letters, I’ll write to you as often as possible.”

In a subsequent letter the prisoner wrote:

“It’s already been six months and still nobody has arrived from the embassy. Please call the embassy and tell them to send someone here...I don’t think I can take it anymore... I think I can breathe easier if I have news that they are even taking care of my case. I don’t even have anyone I can talk to who can help me. It is very difficult living here, there are so many restrictions. Even writing letters is not allowed. Even if I was able to write a letter, they do not let it out...”

In another letter the prisoner wrote:

“...When you write to me, they won’t give me your letters. Whenever there’s a chance, I’ll keep on writing to you.”

The primary motive of the interrogation varies between political or religious cases on the one hand and ordinary criminal cases on the other. Interrogation of political or religious detainees is primarily aimed at obtaining information on political and religious activists and their activities, although any statement made may also be used as a “confession” if the suspect is brought to trial. In such cases torture and ill-treatment have frequently been reported to Amnesty International to have been used to obtain a “confession”.

Interrogation of detainees suspected of offences such as murder which carries the death penalty or other offences carrying judicial punishments such as amputation or flogging is primarily geared towards obtaining “confessions” to use as evidence in trial and conviction. In such cases “confessions” are often obtained by torture or deceit or both. Deceit is used mainly against non-Arabic speakers. Such suspects are asked to sign a statement on the understanding that it is a release form, when in fact it is a “confession”.

Until a “confession” is obtained detainees continue to be held with no opportunity of recourse to the judiciary to challenge the legality of their detention. This is particularly so in cases of suspected political or religious activists who, as a rule, may expect to be

released only if they undertake to cease all their activities and repent their past ones. In this context, the detainees appear to be presumed guilty from the outset and their detention seems to be considered a form of punishment.

In the final analysis, pre-trial detention in Saudi Arabia is a closed system with total disregard for the most basic international standards designed to protect the freedom, dignity and integrity of the individual. Individuals caught in the web of this pre-trial detention system cannot expect any form of justice other than what is dictated by their arresting authorities.

2. Summary and Secret Trial Hearings

Saudi Arabian Government Ministers and diplomats have frequently responded to international criticism of their judicial system by referring to the three hierarchical layers of their courts' system as evidence of the fairness and justice of the country's judicial system.⁶ Such court structure was explained by the Saudi Arabian Ambassador in London with reference to the trial of the two British nurses referred to above. He stated:

"...this is the first stage of the trial. If capital punishment were involved the case would automatically move to a higher appeal court composed of five senior judges. This court could disagree with the earlier court and then the case would be reviewed again. However, if the appeal court agrees with the finding of the first court, the matter would revert to the high judicial council which is the highest judicial authority in the Kingdom (equivalent to the Law Lords in England). This Supreme Judicial Council could overturn the judgement and the case will start being reviewed by a different court. If the Supreme Council endorsed the judgements of capital punishment reached by the two earlier courts, the matter will be referred to the Royal Court for the King to give permission to proceed with the implementation of the ruling. Such Royal order is only ever issued after intensive final review by judicial experts in the Royal Court. This lengthy process is designed to guarantee that no harsh

⁶See for example a statement made by the Delegation of the Kingdom of Saudi Arabia to the Commission on Human Rights, 52nd Session, Agenda 8, 18 March to 27 April 1996, which contained a reference to this as follows: "...As a first step, the suspect appears before the Lower Court, then before an Appeal Court composed of three magistrates. The suspect is entitled the right of recourse before the Court of Cassation, where the sentence is reviewed also by three magistrates and then by five magistrates in the Supreme Court. In the Kingdom of Saudi Arabia, nobody is incriminated unless proven guilty."

sentence is passed lightly and that process usually takes between a year and two years depending on the details of the case.

As the Saudi Arabian Ambassador, HE Dr Ghazi Algosaihi, has previously stated, the defendants in those proceedings have had and will at all times continue to have a fair trial.”⁷

Amnesty International does not dispute the fact that the judicial system in Saudi Arabia is based on three hierarchical layers of courts, but a close analysis of its inner working mechanisms reveals that it follows summary procedures and secretive practices with serious detriment to the fundamental rights of the accused.

⁷See statement issued by the Saudi Arabian Embassy in London dated 13 June 1997.

The conduct of trial hearings by lower courts may consist of one or several short court sessions. During the first session, the defendant or defendants are brought by police, often handcuffed and shackled, into the court room to face the judge or judges, police prosecutor and interpreter in cases of non-Arabic speakers. No trials are held in public, except in the case of foreign nationals, particularly from Europe and North America, where consular representatives may be allowed to attend as observers. Relatives and representatives of the media are banned in breach of Article 10 of the Universal Declaration of Human Rights (UDHR) and other international standards protecting the right to public hearing⁸. The Saudi Arabian Ambassador in London explained in the above-mentioned statement the rationale for the prohibition of public attendance as follows:

“The Embassy would like it known that trials in Saudi Arabia are not covered by the press. There is no precedent in our judicial history of journalists being allowed into a courtroom, and the Saudi Government does not intend to change this rule in this case. As far as the Saudi Government is concerned, this case is being treated like any other murder case and judicial proceedings will move in the manner prescribed by the Shari’a and Saudi law.”

During this first session the judge reads out the charges to defendants which are invariably based on confessions obtained from them as described above. Specifically, the judge asks if they agree, and whether they were forced into giving the confession. If the defendants agree then the confessions are taken as evidence and the verdict and sentence may be pronounced then and there. If the defendants disagree, the judge questions them about the content of the confession and notes their answers. In this situation the judge or judges go into recess to study the two statements. Subsequently, another court hearing is held where the judge or judges pronounce the verdict in light of their deliberation over the two statements.

Court sessions may last between five minutes and up to two hours. The accused are not defended by lawyers and are denied the opportunity to cross-examine witnesses for the prosecution or to bring defence witnesses. Their defence appears limited to answering the judge or judges’ questions in cases where they do not accept statements they are alleged to have made to police.

⁸Article 10 of the UDHR states that “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

When a guilty verdict is returned and a sentence passed, the defendants are asked by the judge if they accept the sentence. For those who accept the sentence, the latter is, as a rule, enforced with immediate effect. For those who challenge the sentence, and in all cases of capital punishment and amputation, the case is referred to the higher courts for “appeal” or judicial review as described by the Ambassador above. However, the exact workings of such “appeal” or judicial review are not clear as it takes place in total secrecy in the absence of the accused or any legal representative. Amnesty International does not consider such a process to fulfill the requirements of an independent judicial appeal which examines the facts of the cases as well as the proceedings in the presence of all concerned. Many former prisoners have told Amnesty International that they felt impelled to accept the sentence, even when severe, and even when they were innocent, because they feared that this could lead to delay of their cases and consequently longer imprisonment, or the imposition of a punishment considerably more severe. Donato Lama, whose case is detailed below, told Amnesty International that he had to accept his conviction and sentence because he knew prisoners held with him who ended up spending longer periods in prison than they would have if they had accepted the court’s sentence.

Former prisoners interviewed by Amnesty International indicated that they themselves had no knowledge of how the “appeal” or judicial review worked as they had never been kept informed of the progress of their cases through this stage or indeed earlier stages of the trial process. As a result, detainees in cases involving the death sentence live under constant fear of being called out at any moment to be executed. One prisoner who was accused of murder wrote to the family after seven months of detention and clearly with no idea about the progress of the case except that the charges carried the death penalty:

“...each day that I’m here in prison, I’m always scared, especially Fridays because that’s the day when they execute those who are on death row...I’m always scared thinking I may be executed next...(one prisoner here) was beheaded on the first Friday of May”.

In another letter written after almost one year in detention this same prisoner referred to having been taken to see a judge during the eleventh month in detention, and mentioning still having no clear idea about the progress of the case. Later, after almost five years in prison, the prisoner did not appear to be any clearer about the case and wrote:

“...I’m still not quite sure as they haven’t summoned me to court yet. I am still not able to speak with the judge and in a matter of months it will be five years that I have been here. My mind is tired from thinking all the

time...I'm always taking sleeping pills to help me sleep...Even though I am taking sleeping pills, I can only sleep from 4:00 a.m. to 7:00 a.m."

A former prisoner of conscience who had shared a cell with James Rebenito who was executed on 2 June 1996 testified to Amnesty International that the prisoner was not officially informed that he had been sentenced to death nor of the date of his execution (see page 22). This witness also testified that Arnel Beltran and Roel Janda, Filipino nationals, who shared a cell with him in Malaz Prison and were executed on 4 May 1997, had no idea that they were sentenced to death or informed of the date of their execution beforehand. The two were charged with assaulting a shopkeeper and attempted theft. According to the witness, during their detention, they were taken to court twice but each time the victim of assault failed to appear in court. As a result they apparently were under the impression that their trial was pending until the other party appeared in court, and therefore had no idea that they had been sentenced to death.

Like the practice of arrest and detention, trial proceedings are so secret that the detainees are kept in ignorance about the progress of their cases through the system.

III. GROSS HUMAN RIGHTS VIOLATIONS FACILITATED BY LACK OF FAIR TRIAL

The secrecy surrounding detention and court proceedings provides an environment which encourages human rights violations, and has, over the years, resulted in thousands of victims, ranging from those arbitrarily deprived of their liberty on grounds of their religious or political beliefs to those who have been subjected to irreversible penalties amounting to cruel punishment or to torture, such as flogging and amputation, or execution.

1. Detention and Imprisonment of Suspected Political or Religious Activists

Thousands of political and religious activists, including prisoners of conscience, have over the years been subjected to arbitrary deprivation of their liberty by security forces acting beyond any judicial control. Others have been subjected to cruel punishments imposed after summary and secret trials.

There are currently hundreds of possible prisoners of conscience held mainly on political or religious grounds by *al-Mabahith al-'Ammah* without trial and denied any opportunity to challenge the legal basis of their detention. They include Sheikh Salman bin Fahd al-'Awda, a Sunni religious scholar and critic of the government, who was arrested in September 1994. He was held incommunicado for months before he was allowed family visits. Now, three years later, he remains held in al-Ha'ir Prison still without trial and still without any opportunity to challenge his continued detention. Other

detainees include members of the Shi'a community, such as 'Abdullah 'Abbas al-Ahmad, an employee of ARAMCO (the Saudi Arabian national oil company) aged 40, and Kamil 'Abbas al-Ahmad, a student aged 25, who were arrested in July 1996 and detained in the headquarters of *al-Mabahith al-'Ammah* in al-Dammam. Both were held incommunicado for months and have to date only been allowed three short family visits. They remain held without trial and their family have not been informed of the reasons of their arrest or detention. Like Sheikh Salman bin Fahd al-'Awda and hundreds of others, they too are denied any opportunity to challenge their continued detention.

As mentioned earlier members of the *Mutawa'een* and public security police are also invested with the authority to arrest and detain, particularly with regard to Christian worshippers. For example, **Jacob Jeyaseelan**, an Indian national, worked in Saudi Arabia from 1978 until 1996, when he was deported to his country. On 22 December 1995, Jacob took part in a Christmas prayer meeting in a private house in al-Khobar attended by between 60 and 70 Indian Christians. When the *Mutawa'een* discovered this, they went to the house at about 11.40 a.m. They tried to break down the door but they were let in before they did so. They arrested Jacob and six others, apparently identified as leaders of the prayer meeting. They were taken to the headquarters of the *Mutawa'een* in al-Khobar and detained until 9:30 p.m. when they were handed over to the police. The six were released on 18 January 1996, but Jacob Jeyaseelan remained in detention without trial until April 1996 when he was deported to India. He was not brought before a judge or allowed access to a lawyer to defend himself. Jacob Jeyaseelan's belongings which were confiscated by police following his arrest have not been returned to him.⁹

Once detained, political and religious suspects are, as a rule, released only after having given undertakings not to carry out any political or religious activities and repenting their past acts, or after agreeing to refrain from criticising the government. However, in some cases the suspects are eventually brought to trial after a lengthy period of detention. This is what happened to **Muhammad al-Ja'bari**, an auditor of Palestinian origin who worked in Saudi Arabia for over 30 years (see page 4). He was arrested in July 1995 by *al-Mabahith al-'Ammah* and detained until May 1996 when, together with six others, he was charged with membership of *Hizb al-Tahrir al-Islami*, the Islamic Liberation Party and brought to trial before the Grand Shari'a Court in Ta'if. He appeared alone in court. Three judges and two officers from *al-Mabahith al-'Ammah* were the only others present. The court hearing lasted two hours and he was subsequently acquitted. The court ordered his release but he remained held by *al-Mabahith al-'Ammah* until October 1996 when he was finally released.

⁹Jacob Jeyaseelan's confiscated belongings include bibles and religious books.

However, Muhammad al-Ja'bari can be considered fortunate because the six people who were tried with him on the same charges were convicted and sentenced to prison terms ranging from eight months to two and a half years. They appealed against their conviction and sentence, but none was permitted to appear before the court of appeal. They included **Dr 'Abdul Rahim Turan Gari Bai**, a consultant haematologist aged 38, and **'Uthman Muhammad Bakhsh**, an engineer at King Fahd Hospital, aged 37, who were both sentenced to two and a half years' imprisonment. Dr 'Abdul Rahim Turan Gari Bai was released in December 1996, but the current status of 'Uthman Muhammad Bakhsh is not known to Amnesty International.

In other cases the defendants were detained and tried in a similar fashion and sentenced to flogging and/or death.

- The ordeal of **Donato Lama** (see page 5), a Filipino national who worked in Saudi Arabia for 15 years, began on 11 October 1995 in Riyadh when five plain clothes policemen came to his home and told him that he was wanted for questioning about a murder case. He told them that he knew nothing about it, but they started to search his house without a warrant, and found a photograph of him attending a Christian prayer meeting with others and a pamphlet about Islam. They then took him, without any arrest warrant, to al-Suleymania Police Station in Riyadh, where they held him incommunicado for two weeks. During this period, they interrogated him regularly, while shackled and handcuffed, and beat him to confess to being a Christian preacher. He admitted being Christian but denied the preaching charge. They then asked him to sign a statement written in Arabic and said he would be released. But the statement he thought was a "release clearance", was in fact a "confession" to being a Christian preacher. He was transferred to Malaz Prison and left there waiting without explanation. Donato Lama's waiting came to an end over a year later, on 26 November 1996 when, suddenly, his jailers chained his legs, handcuffed him and took him to a court in Riyadh. His trial hearing lasted between 15 and 20 minutes, during which he stood shackled and handcuffed in front of the judge who questioned him about preaching Christianity. On 16 December 1996, he was returned to the court where he was told he was sentenced to one and a half year's imprisonment and 70 lashes. The judge told him he could appeal if he did not accept the sentence. Aware that he had only about four more months left to serve in view of the time he had already spent in detention, and that other prisoners who had opposed court verdicts had ended up serving longer sentences, he accepted the sentence even though he did not accept the guilty verdict. He served his prison term and the lashes were carried out in one single session, leaving him with bleeding and badly bruised back and legs. Donato Lama told Amnesty International:

“I was examined by a doctor before the flogging who certified that I was fit to receive the lashes, but I had no medical examination after the lashing.”

- **‘Abdullah ‘Abd al-Rahman al-Hudhayf**, a Saudi Arabian national, was arrested in about November 1994 as a suspected political opponent and subsequently charged with attacking a security officer with acid and of having links with the leaders of the Committee for the Defence of Legitimate Rights (CDLR), an organization based abroad. In June 1995, Amnesty International received reports that he had been sentenced to 20 years’ imprisonment. However, on 12 August 1995 he was executed in Riyadh. A Ministry of Interior statement issued in connection with his execution warned that: *“...such will be the fate of anyone who breaches any aspect of our religion...or endangers the security enjoyed by this country...”* He was held incommunicado since his arrest and the process by which he was convicted, sentenced and executed remains unknown to Amnesty International.¹⁰

2. Torture and ill-treatment

The power of the authorities to arrest and hold suspects incommunicado and without judicial control, coupled with the importance given to confessions in leading to further arrests and in securing conviction, have been primary facilitators of torture in prisons and police stations throughout the country. The importance of judicial supervision as a preventive measure against torture has been highlighted by the UN Special Rapporteur on torture, who stated in his 1992 report that *“The judiciary should play an active role in guaranteeing to detainees the rights they have according to international and national standards...”*¹¹

Each of the three arresting authorities detailed above may practice different methods of torture, including *falaqa* (beatings on the soles of the feet), beatings all over the body using canes and other implements, and use of electric shocks. However, the outcome of torture practices, based on the catalogue of victims’ accounts documented by Amnesty International over the years, is the same for all three authorities. Each authority has been responsible for many such violations, ranging from victims who have been subjected to humiliation and beatings to other who lost their lives.

¹⁰See Amnesty International’s Urgent Action: Execution/ Flogging/ Legal concern, 15 August 1995, AI Index: MDE 23/05/95.

¹¹Report of the Special Rapporteur, Mr. P. Kooijmans, pursuant to Commission on Human Rights resolution 1991/38, UN Doc. E/CN.4/1992/17, Para. 294 (b), 27 December 1992.

The *al-Mabahith al-'Amma* is the main arresting authority for political and religious activists.¹² As a rule torture is practised to obtain information leading to the arrest of other suspects, although such information is also used to secure conviction when the detainee is brought to trial. This is why torture is generally practised during pre-trial detention when the suspects are interrogated while held incommunicado. Among recent victims of torture at the hands of this arresting authority are **Fahd al-Zu'bi** and **Maitham al-Bahr**.

- **Fahd al-Zu'bi**, a 41-year-old Saudi Arabian teacher, was arrested in September 1996, reportedly on suspicion of having connections with the Islamic Liberation Party and detained in *al-Mabahith al-'Amma* prison in Riyadh. In December 1996, Amnesty International received reports that he was subjected to various forms of ill-treatment and torture including beatings, food deprivation, and electric shocks. He was allegedly tortured in order to force him to confess to being a member of the party. Amnesty International does not know whether he is still being held.
- **Maitham al-Bahr**, a 21-year-old Saudi Arabian student, is reported to have died in al-Dammam Central Prison in December 1996, allegedly as a result of torture. He had been detained incommunicado in the headquarters of *al-Mabahith al-'Amma* in al-Dammam following his arrest in the summer of 1996, and transferred in November to a hospital. A post-mortem medical examination reportedly revealed that he was suffering from various ailments, including renal failure and swellings in various parts of the body which were allegedly sustained as a result of torture. Amnesty International called for an immediate investigation into the circumstances of his death but has received no response.

The prisoners who fell victim to ill-treatment and torture at the hands of the public security police include more than **40 Indian children, Osman Gedi Guled**, and **Gulam Mustafa**.

- The Indian children, all aged between six and 14, were reportedly beaten and deprived of food following their detention for over two months by the public security police in Jeddah before they were deported to India in February 1997. They had been arrested for overstaying their visas and for begging.

¹²See Amnesty International Reports, “**Saudi Arabia: Detention Without trial of Suspected Political Opponents**”, 11 January 1990, AI Index: MDE 23/04/89; and “**Saudi Arabia: Religious intolerance: The arrest, detention and torture of Christian worshippers and Shi’a Muslims**”. See footnote no 1.

- Osman Gedi Guled, a businessman from Djibouti, was reportedly subjected to severe beatings during his detention in Priman Prison from May to October 1994. During one session he reportedly lost consciousness. Osman Gedi Guled told Amnesty International that during his detention he witnessed the torture of many detainees, and the death of one on 28 August 1994, apparently as a result of medical neglect of severe injuries caused by torture. Osman Gedi Guled was arrested at Jeddah Airport while in transit on his way from Djibouti to Rome. Police at Jeddah Airport found him in possession of 100 grammes of Qat (a mild narcotic plant chewed in Yemen and other countries in the Horn of Africa), which apparently was the reason for his arrest and detention. Following his arrest, police took all his belongings including US\$120,100. The belongings were returned to him upon release but not the money. He appeared before a judge in October 1994 and was acquitted.
- Gulam Mustafa, a Pakistani national, was reportedly tortured while in detention in a centre for drug offenders in Jeddah in May 1994 before he was transferred to Priman Prison. The torture he was subjected to included insertion of a metal stick or rod into his anus and electric shocks, which apparently left him bleeding and unable to walk.

Similarly, Amnesty International has over the years received consistent complaints of torture and ill-treatment carried out by members of the *Mutawa'een*. In a letter sent to the organization in 1994, a member of the Sikh community in Saudi Arabia wrote:

"...The people called al-Mutawa'een take us forcibly from the market to say 'ma'z' (goats). They remove our turbans, remove our beard and the hair of our heads. Sometimes in anger they even shave our eyebrows. They insult us in the maximum possible manner. If anyone tries to stop them they take help of the police. This is an everyday affair in Saudi Arabia...Today, a Sikh named B..was caught and his turban was removed. They were ready to shave his hair but he ran away... We complained to our company manager but he did not take any bold steps because no one has any right to question the Mutawa'een..."

In a separate case involving seven people who were arrested by members of the *Mutawa'een* in May 1994 after they were stopped while driving in two cars on a major

road in Riyadh, their torture and ill-treatment were described to Amnesty International as follows:

“...The Mutawa’een began banging on Khaled and Michelle’s windows. Within seconds both windows were broken and Khaled was being hit in the face. No questions were asked; they just began to beat him. The Mutawa’ tried to pull Michelle out of the car...Michelle got out of the car...and four Mutawa’ threw her around like a beach ball. Each one pulled at her clothes and pushed her among them...”

While Michelle was being pushed around, Tony, in the first car, had been dragged out of his vehicle and was being beaten by another group of Mutawa’. Khaled was removed from the vehicle and was being repeatedly hit in the face....

Meanwhile, ...Michelle...After they got tired of throwing her around, they dropped the back door of one of (their vans) and picked Michelle up like a battering ram and tried to throw her into the back. The back seat was up, so her head was bashed into the back seat a few times. They finally threw her half in and half out of the back of the (van). One Mutawa’ kicked her as she was lying there...After she was kicked, another Mutawa’ climbed into the back of the (van) and with a closed fist hit her in the left eye. This blow caused a fracture to the left orbit and a sub-conjunctival haemorrhage of her left eye...”

Like *al-Mabahith al-‘Amma* and the general security police, the *Mutawa’een* have also been accused of causing death under torture. **Sa’id Farash**, a Saudi Arabian national, who was arrested in November 1990 by members of the *Mutawa’een* in Mecca, reportedly died ten hours later while still in their custody as a result of a fractured skull. Following protests by the victim’s family, a committee composed of members of the *Mutawa’een* was set up by the Ministry of the Interior to look into the circumstances surrounding the death. However, the committee reportedly refused to accept doctors’ findings that the victim’s death was caused by beatings, and concluded that he had died of natural causes. Amnesty International does not have details justifying the committee’s findings as they were not made public, but the victim’s family were reportedly not satisfied with this. They were reported to have subsequently brought the case to the attention of King Fahd bin ‘Abdul-‘Aziz, but Amnesty International does not know the outcome of this complaint. Clearly the investigation failed to meet international requirements of thoroughness, independence and impartiality.

Amnesty International is not aware of any investigations having been carried out in the other incidents of ill-treatment and torture detailed above. International human rights standards require that all allegations of torture be investigated, particularly Article 9 of the UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which requires such investigation when there are grounds to believe that an act of torture has been committed even if there is no complaint from the victims or their relatives.

3. Judicial punishments of flogging and amputation

Punishment by flogging and amputation is enforced in Saudi Arabia for a variety of offences. Flogging is used for sexual offences and can also be used discretionally by judges as a substitute or addition to other punishments. Amputations are mainly limited to cases of theft, for which the punishment is amputation of the right hand, and highway robbery, which is punished by amputation of right hand and left foot. Under international human rights standards the use of these punishments is contrary to the prohibition of torture and other cruel punishments.¹³

¹³The UN Special Rapporteur on torture, Nigel Rodley, stated in his 1997 report to the Commission on Human Rights: "corporal punishment is inconsistent with the prohibition of torture and other cruel, inhuman or degrading treatment or punishment."(E/CN.4/1997/7 at page 5, Para.6). This has also been affirmed by the Human Rights Committee. In 1997 the UN Commission on Human Rights "remind(ed) governments that corporal punishment can amount to cruel, inhuman or degrading treatment or punishment or even torture." 1997 CHR Res. 1997/38 on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by consensus 11 April 1997.

Flogging is a regular and widespread practice throughout the Kingdom and is applied even to children despite the fact that Saudi Arabia is a state party to the Convention on the Rights of the Child which under its Article 37 prohibits torture or cruel, inhuman or degrading treatment or punishment of children.¹⁴ For example, **Nasir al-Shibani** and **Muhammad Majed al-Shibani**, both secondary school students, were respectively sentenced to 210 and 150 lashes. They were also sentenced to three and two months imprisonment, respectively. The sentences were passed in March 1996 by a court in Ta'if which convicted the two children on charges of assault against a teacher at their school, al-Thaqeef School in Ta'if. Some of the lashes were apparently carried out in front of the pupils and teachers of the school.

The number of lashes handed down by courts in each case is not clearly prescribed by law and can range from dozens to thousands of lashes. For example, **Muhammad 'Ali al-Sayyid**,¹⁵ an Egyptian national convicted of robbery in 1990, was sentenced to 4,000 lashes in addition to imprisonment.

Amnesty International has recorded 82 cases of victims of amputation between 1981 and 1995, including four instances of cross amputation. However, the actual total is probably much higher.

Amnesty International unconditionally opposes such use of corporal punishment and believes that its widespread use in Saudi Arabia is facilitated by lack of fair trial. While information about trials of defendants charged with offences punishable by amputation is scant, these are believed to be conducted in a similar manner to those described in different cases in the preceding sections. Despite the severity and cruelty of both punishments, defendants are not provided with the most basic requirements such as defence lawyers, adequate opportunity to challenge the evidence against them, or

¹⁴In reviewing state party reports, the Committee on the Rights of the Child has noted the "incompatibility of corporal punishment, as well as other forms of violence...with the provisions of the convention...in particular Article...37." (Concluding Observations on the Initial Report of Zimbabwe, Add. 55, para. 3)

¹⁵For more details on this case, see Amnesty International's Urgent Actions: Flogging, 1 August 1995, AI Index: MDE 23/04/95 and further information of 14 September 1995, AI Index: MDE 23/06/95.

effective exercise of the right of appeal. Non-Arabic speakers can further be disadvantaged as they are not always provided with adequate interpretation facilities. The different aspects of procedural unfairness which facilitate and perpetuate the widespread practice of such punishments are clearly mirrored in ordeals suffered by **‘Emad ‘Abd al-Raouf Mohamed Said, Nieves, and Maria.**

‘Emad ‘Abd al-Raouf Mohamed Said, an Egyptian teacher aged 34, was arrested on 15 March 1996 and charged with theft. He was initially held at Abha police station where he was reportedly beaten with sticks and deprived of food by his interrogators in order to force him to make a confession. On 20 April he was moved to Alma Prison in Abha. Two months later, in May 1996, he was tried, convicted, and sentenced to 120 lashes in addition to five months’ imprisonment. His appeal was turned down in the same month and his lashes were carried out shortly before the end of his five month prison term. ‘Emad ‘Abd al-Raouf Mohamed Said tried very hard from the beginning to defend himself, but found himself caught in a judicial system where the doors of fairness remained firmly closed. He had no legal representation before or during the trial hearing. He was appointed a lawyer, apparently by the Egyptian Embassy, after the trial, but the lawyer was not allowed access to the case dossier. Secondly, ‘Emad ‘Abd al-Raouf Mohamed Said was reportedly not allowed to make any statements before the judge during the hearing. Thirdly, the theft with which ‘Emad ‘Abd al-Raouf Mohamed Said was charged apparently related to lost or stolen money belonging to a guest of his or his friend with whom he shared the house. The money was lost or stolen following a burglary of ‘Emad ‘Abd al-Raouf Mohamed Said’s house apparently while he, his friend and their guest were out together. He had witnesses who testified that he was elsewhere at the time of the burglary. These witnesses were reportedly questioned by police but were not allowed to testify in court before the judge. ‘Emad ‘Abd al-Raouf Mohamed Said is said to have provided character witnesses, one of them a teacher with whom he worked for eight years, but their testimonies were disregarded too. Fourthly, ‘Emad ‘Abd al-Raouf Mohamed Said requested to appeal against his conviction and sentence and was asked to submit an appeal in writing. His written submission was turned down by the court of appeal and he did not know why as he was not present, nor was he informed of how the appeal was conducted. Amnesty International took up his case and appealed to the authorities for commutation of the sentence of lashes and an investigation of the allegation of his torture during pre-trial detention. ‘Emad ‘Abd al-Raouf Mohamed Said was flogged, no investigation of the allegation of torture is known to have been carried out, and to date Amnesty International has not received any response.

The story of **Nieves**, a Filipino married mother of two children, begins with a festive event and ends in a nightmare. It goes back to November 1992, when she was working as a secretary at King Fahd National Guard Hospital. On the evening of 9 November she was invited by a married couple, both friends of hers, to celebrate the wife's birthday. She and a female friend joined the couple at a pizza restaurant in Riyadh.

While there they met a male colleague of the married couple, whom they invited to join them. All five sat in the family section of the restaurant, ordered their meal and sat down to eat. Before they finished their meal, four men described by Nieves as having long beards and short Thawb (robe) walked in. They were *Mutawa'een*. They surrounded Nieves and her friends' table and asked them for their residence cards (*Iqamas*). All five were ordered outside, put into a small van and driven to the headquarters of the *Mutawa'een*.

At the headquarters, the *Mutawa'een* separated the men from the women. They searched the bags of the women and found more than 1,000 Riyals (about US\$260) in the bag of Nieves' friend who was celebrating her birthday. They accused her of receiving the money from the male colleague who joined them for the meal in exchange for introducing him to Nieves and her friend. They suspected the whole group of prostitution and questioned them on this ground. The three women tried to explain that Nieves' friend had the money with her because she was paid that day and had intended to pay for their meal in celebration of her birthday. The *Mutawa'een* rejected this explanation and continued to press for their confession. During the questioning Nieves asked to be allowed to contact the security department at her hospital and was told 'later'.

When the *Mutawa'een* could not convince the women to confess freely to the accusation, they apparently resorted to deceitful tactics. They asked them to sign a three-page report, written in Arabic, on the understanding that they would then be driven to their residence at the hospital. All three were non-Arabic speakers and communicated through one of the *Mutawa'een* who spoke fluent English. However, they were apparently not informed of the content of the report. Nieves told Amnesty International that the way the request for signatures was put to them had sounded as though it was a release order. She recounted that the *Mutawa'een* told them: "*Khalas (finished), mafih mushkila (there is no problem), sign the report and we will take you to the hospital*". On this understanding they signed the report. Afterwards they were taken into a van believing that they were going to their residence, but instead found themselves in Malaz Prison. Nieves told Amnesty International "*when we mentioned to them '...you said to us you were taking us to hospital'...they laughed at us.*" They were kept in the prison for

two days until, with the help of another prisoner, they managed to inform the security department at the hospital which secured their release shortly after.

All three returned to their work and thought that the matter was closed. However, one week later Nieves and her female friends were summoned to the police station where they were fingerprinted and were led to understand that the case was closed. They went back to work as normal, until the second week of the following month, December, when they were summoned to court. They did not know why they were being summoned to court and neither did the security department at the hospital. Nieves and one of her friends were escorted to court by a staff member of the security department, but he was not allowed to enter the courtroom. Nieves appeared in court with the other four defendants. The court consisted of one judge who communicated with the defendant through a Filipino interpreter. The interpreter apparently read out the charges against each defendant, which were as formulated by the *Mutawa'een*, i.e. introducing the male colleague to Nieves and her friend, together with the sentence. They each received 25 days imprisonment and lashes ranging from 60 to 75. Nieves was sentenced to 25 days imprisonment and 60 lashes. When she complained that she had done nothing wrong, she was told that she had signed a confession to the charges by the *Mutawa'een*. Only then did she realize that what she had signed at the *Mutawa'een* was a confession and not a release order. She wished to challenge the verdict and sentence but was advised that the alternative would be worse. On this advice she accepted the sentence even though she knew the accusation against her was false. The whole trial hearing for all five defendants lasted between 20 and 25 minutes.

Nieves served her sentence and was deported back to the Philippines during 1993. She subsequently wrote to one of her friends, who was concerned about her case. On hearing the verdict she wrote:

"I was really so shocked to hear the verdict that I could not say anything. It was only a matter of minutes and right there they were able to give a verdict..."

After the verdict Nieves was advised to keep a low profile and not disseminate the information in the hope that the sentence could be dropped. She followed this advice to the letter, but the inevitable came nine months later when she was summoned to go to prison to serve her sentence. She wrote:

"...September 4, 1993 was the final blow when our Director called us in his office to tell us the bad news that the court sentence was final and it was our last day in the office. You can just imagine the shock we experienced so was everybody else at the hospital. They all told us that it is so unfair...which (is)... true. I kept telling myself that it was only a bad

dream but it wasn't. So I prayed hard to be able to accept the inevitable which I did..”

After she went into prison Nieves witnessed the lashing of her friend before her. She wrote:

“Then it was my turn that is when the next nightmare came...The Mutawa'(m) was sitting on the table, there was one Saudi (m) who I think was just observing and a policeman who was doing the lashing...I thought it will be fast but no it was done one at a time.... he really takes his time before striking. I started counting and when it reached 40 I thought I could not make it....there was a policewoman holding me...I prayed so hard... At last it reached 60...I could not explain the pain experienced. The stick he used was like a bamboo (cane), round but hard...(my) roommates were ...shocked to (see) my buttocks...so violet in colour and with haematoma. (I) cried all day..”

Nieves was deported to the Philippines immediately after serving her sentence.

It goes without saying that Nieves, like 'Emad 'Abd al-Raouf Mohamed Said, had no opportunity to defend herself, but at least she had the support of the security department and her work colleagues which her compatriot Maria did not have. Maria arrived in Saudi Arabia in April 1994 to work as a domestic helper “...because I wanted to achieve the dream of my children”, but it did not take long for her dream to turn sour. On 16 July 1994 at 5am, Maria was seen by her employer apparently giving breakfast to their driver, which angered him. That was the beginning of the end of Maria's dream in Saudi Arabia. She wrote:

“...my employer got angry. In fear, I hid behind the door of the room. I was afraid to get shot because Mr...held a gun to me. I went out of the room and when I left he slapped me. I cried and they tied my hands. I ran to the kitchen and there I cried....Then I was brought to the room and I was locked up. The police came and they investigated the man (the driver) but they did not ask me anything...They made me wear an Abaya (robe) and brought me to the precinct (police station). They made an investigation (then) we left. I thought we were going home but they brought me to al-Malaz jail. There they kept me for a “love case” which is what they called it. I was sentenced to 10 months and punished with 200 lashes.”

Maria was released from prison and deported to the Philippines in January 1995. No further information is available to Amnesty International about how Maria was tried

and sentenced, but her trial is not likely to have been any fairer than ‘Emad ‘Abd al-Raouf Mohamed Said’s and Nieves’s.

4. Use of the death penalty

Among the countries which retain the death penalty, Saudi Arabia has one of the highest rates of execution in both absolute numbers and per capita. Contrary to the UN General Assembly Resolution 32/61 of 8 December 1977 calling for progressive reduction of the number of capital offences, Saudi Arabia has in recent years expanded the scope of the death penalty to a wide range of offences, including offences without lethal consequences.¹⁶ The use of the death penalty is facilitated by the summary and secretive nature of trials in capital cases, as in other cases, in further violation of the UN Safeguards guaranteeing protection of the rights of those facing the death penalty.

a. Executions

Amnesty International recorded at least 560 executions in Saudi Arabia between January 1990 and July 1997, (the true figure is probably much higher). The majority of the victims were foreign workers from countries in Asia and Africa. All were believed to have been detained and convicted under the procedures described above. Each case represents a legal and judicial travesty in its own right, as illustrated by the following cases.

¹⁶See Amnesty International Report, **Saudi Arabia: An upsurge in public executions**, May 1993, AI Index: MDE 23/04/93.

James Rebenito, a Filipino national aged 37, was arrested in September 1994 and charged with murder. Following his arrest, his wife Marina Rebenito in Manila, Philippines, received a communication from a private person in Saudi Arabia informing her of his arrest without explaining the reasons. Marina Rebenito approached the Philippines Foreign Affairs Ministry for information, but found that they were not aware of the case. In October 1994, the Philippines Embassy in Riyadh wrote to the Saudi Arabian Ministry of Foreign Affairs seeking clarification. In November 1994, the police handed James Rebenito's residence card, a wallet containing 46 Saudi Arabian Rials (about US\$12) and a photograph album over to his employer. The employer in turn handed the three items to the Philippines Embassy in Riyadh. This raised fears that the prisoner may have been executed, until January 1995, when the Philippines Embassy received a response to its October communication to the Saudi Arabian Foreign Ministry informing it that James Rebenito was detained and had confessed to murder.

He was held incommunicado, and requests by the Philippines Embassy to visit him, have access to his file and attend any trial proceedings were all turned down. Similarly, requests by Amnesty International to the Saudi Arabian Government for clarification of the fate of the prisoner remained unanswered.¹⁷ The Philippines Embassy tried to appoint a lawyer for him but found that a lawyer would not be allowed to attend the trial or do anything to change whatever verdict was to be delivered by the court. In the meantime the prisoner remained held incommunicado until 6 May 1996 when he was visited for the first time by his wife, Marina Rebenito, in al-Ha'ir Prison in Riyadh. She apparently met him once for about 30 minutes. She returned to the Philippines shortly after and at about the same time, in mid-May, James Rebenito was transferred to Malaz Prison.

About two weeks later, on 2 June 1996, he was beheaded. Marina Rebenito told Amnesty International that she was never informed by her husband or Saudi Arabian officials of the date of execution or even that he was facing execution. Marina Rebenito

¹⁷Amnesty International's requests were made in a letter dated 16 November 1995 and addressed to the Minister of Justice, Dr 'Abdullah bin Muhammad bin Ibrahim al-Sheikh.

did not know whether her husband was informed of the date of his execution but withheld this from her, but she does not believe this to be the case. She believes that James Rebenito was not aware of the date of his execution. This view is supported by a former prisoner of conscience who was held in the same cell as James Rebenito in Malaz Prison. He told Amnesty International that not only was James Rebenito not informed of the date of his execution, but he was not even aware that he was under sentence of death. Apparently all that James knew was that the charge against him carried the death penalty. The former prisoner of conscience described to Amnesty International James Rebenito's behaviour on the eve and morning of his execution. About the eve of the execution he said:

“The night before James's execution, he was in the cell with me. We spent our evening in the usual way, talking. James had no idea that he was going to be executed next day.”

About the morning of the execution day, the former prisoner of conscience told Amnesty International:

“In the morning of 2 June 1996, James woke up at about 7:00 or 7:30 a.m and went to the Quranic school in the prison because he had converted to Islam. He had no idea that he was going to be executed that day...at about 8:30 a.m. five police officers in uniform came into the cell...uttered some words in Arabic and left...then I saw them with James. They took him out...James was expecting a visit from his wife any day and probably thought that his wife had arrived to visit him not knowing that that was his last moment...At 3:00 p.m. we heard of the execution of James from TV news in Arabic in the cell...There was a great tension in the cell, everybody was scared, particularly those held on a murder charge.”

James Rebenito's trial remains shrouded in secrecy, but according to his wife and the former prisoner of conscience who met him, he protested his innocence but had no opportunity of defending himself. His wife informed Amnesty International that James Rebenito emphatically told her : *“I did not do it, and there is no motive or evidence that I did it”*. The former prisoner of conscience, who had spent about three weeks in the cell with James Rebenito, told Amnesty International that *“James was framed, he did not commit the crime”*.

James Rebenito was deprived of the opportunity to prove his protested innocence not only because his trial was secret and he was not defended by a lawyer, but also because he was not allowed to cross examine witnesses or bring witnesses in his defence. There were apparently three witnesses in the case. Two were Filipino nationals. One of

them was a co-worker with James Rebenito and was apparently with him on the day of the murder with which he was charged. The other was a Filipino maid who was near the scene of the crime. Both were arrested around the same time as James Rebenito. They were held for a few months, reportedly questioned in connection with the murder then deported to the Philippines. Neither of them is understood to have appeared in court as police witnesses or defence witnesses for the accused. The third witness was apparently a boy aged about six who was at the scene of the crime. Police reportedly questioned him as a witness. Amnesty International does not know whether the boy appeared in court as witness. Similarly, the organization does not know if the testimonies of the three witnesses were used in court. In any case, the defendant was denied the opportunity to at least cross examine the two witnesses, who were deported, or to have them testify on his behalf.

This procedure can even be cruder as happened in the case of **Muslih al-Shamrani, Khalid al-Sa'id, Riyad al-Hajri** and **'Abd al-'Aziz al-Mi'tham**. All four, Saudi Arabian nationals, were arrested at the beginning of 1996 and on 22 April that year, the Minister of Interior, Prince Naif bin 'Abd al-'Aziz, made televised announcement that the four had confessed to having carried out the bombing of the Saudi Arabian National Guard training centre in Riyadh in November 1995 which resulted in the death of seven people. Shortly after the Minister's announcement the four were shown on television "confessing" to having been responsible for the said offence. The Minister added in his announcement that investigation with the four had been completed and that they would be tried and punished in accordance with the law, thereby suggesting that they had not yet been tried. Alerted to the impact of such publicity on the defendants' right to fair trial and fearing that they were

From left to right: Muslih al-Shamrani, Khalid al-Sa'id, Riyad al-Hajri and 'Abd al-'Aziz al-Mi'tham

at risk of summary trial and execution, Amnesty International called for the withdrawal of the televised "confessions" seeking assurances that the trial would be fair and urging that the death penalty not be invoked. However, just 40 days later the four were beheaded. Details of how they were tried, convicted and sentenced to death remain unknown to Amnesty International.

The imposition of the death penalty after secret and summary trials is also practised in cases where the offence carries no lethal consequence. **‘Abd al-Karim Mir‘i al-Nakshabandi**, a Syrian national, was executed in December 1996 after he was sentenced to death on charges of practising “magic and witchcraft”. Again, his case was shrouded in secrecy and apparently neither he nor his family were aware of the sentence having been passed until he was executed and his execution publicly announced by the Ministry of Interior.

b) Prisoners under sentence of death

The exact number of prisoners currently under sentence of death is not known to Amnesty International. However, judging by the total of people executed over the last seven years and those executed so far this year (about 73 executions carried out between January and July 1997) the number of those on death row could easily run into hundreds. They include **Sarah Jane Dematera**, a 24-year-old Filipino who was reportedly sentenced to death in February 1996. Her legal ordeal began five years ago. On 11 November 1992 she arrived in Saudi Arabia from the Philippines and joined a Saudi Arabian family to work as a domestic helper. Four days later she was arrested and charged with the murder of her female employer. She is reported to have appeared before a judge or a court twice. Sarah’s mother has told Amnesty International that she had received a message from Sarah saying:

“ ..I have done nothing wrong here. I have been with (the family) for only four days, and they have no evidence against me. ...You know me ...and I am incapable of such wrongdoing, which is a sin against God.”

It remains unclear whether she was able to claim her innocence before the judge or scrutinize any evidence produced against her, because like those tried before her on capital charges, she had no access to legal assistance or other opportunities to enable her effective exercise of the right of defence. The exact status of her sentence is not clear to Amnesty International, but reports suggest that the sentence will remain pending until the eldest child of the murdered victim, who is about five, reaches the age of 18 and decides whether to accept compensation instead of execution. Saudi Arabia's legal system gives relatives of murder victims the right to ask for compensation or the execution of those found guilty of the murder.

5. Discrimination against women and other disadvantaged groups

The impact of arrest and detention irregularities coupled with the summary and secret nature of trials is even more severe when the victims are women or members of other vulnerable groups or sectors of society. In this context, it seems to reflect discriminatory aspects perpetuated against such groups on the basis of gender, national, economic or social status of the victims.

a) Women

In addition to the general human rights violations detailed in the preceding sections, women are also subjected to other violations that are based on their gender. Some gender-biased violations are based on explicitly discriminatory laws while others are simply perpetuated by virtue of discriminatory attitudes and practices. The existence of such laws and practices clearly violate the principle of equality of rights and respect for human dignity enshrined in international standards

Among the restrictions imposed on women but not on men is the prohibition against women driving cars. This prohibition began as a customary rule then following a women's protest against it in 1990 the government changed it into explicitly written rule. The protest was staged by a group of women who on 6 November 1990 took to the highway in Riyadh driving in a convoy of cars. They were arrested immediately and detained for hours. They were released only after their male relatives signed undertakings that the women would not violate the ban. They were also dismissed from their jobs.

They had no opportunity of recourse to justice to challenge the arresting authorities or the government over such ban which it continues to enforce as a criminal offence.

Violations against women perpetuated by virtue of discriminatory attitudes and practices include offences such as *Khilwa* (being alone with a male who is not an immediate relative). While this offence is punishable for both male and female, it seems to be more frequently enforced against women. The prohibition on women driving cars places women at risk of prosecution for being driven by males under the offence of *Khilwa*. Among the victims were three Irish nurses who worked in Saudi Arabia in 1992. Their case was described to Amnesty International by a former detainee as follows:

“..three Irish nurses were driven home from dinner at a friends’(home) on another compound by an elderly man. The car was blocked at traffic lights by two Mutawa’een vans and they were forced into the van and taken to the Mutawa’een station for several hours, bullied and shouted at and jailed for two days. The male driver was taken to jail but was allowed ... phone calls, was not put into a cell and ... was released within hours.”

Women are also at risk of being detained and accused of immoral behaviour merely for walking alone or not wearing a headscarf. This is what happened, for example, to Margaret Madil, a Canadian nurse who worked in Saudi Arabia in 1993. After a shopping trip to Kuwait Souq in Riyadh with her female friend they got into a taxi to go home. They sat in the rear seats when suddenly a *Mutawa’* jumped into the front seat and forced the taxi to drive to the *Mutawa’een* headquarters, followed by a van of other *Mutawa’een*. When they arrived outside the headquarters, Margaret told Amnesty International, they were locked in the taxi and left to wait in extreme heat for up to six hours. When they could no longer sustain the heat and started screaming they were subjected to beatings which left her friend with a black eye. They were accused of indecent dress and public intoxication. Subsequently they were transferred to Malaz Prison where they were held for two days in the women’s section. There they met many women who had been arrested on similar grounds. They included a group of Kuwaiti and Saudi Arabian women who had been arrested in a restaurant having a meal without being accompanied by any immediate male relatives.

b) Other disadvantaged groups

Amnesty International has in the past documented arrest, detention and torture of members of the minority Shi’a community and Christian worshippers on the basis of their beliefs.¹⁸ In addition, a pattern appears to be emerging with regard to the use of the

¹⁸See Amnesty International’s report, **Saudi Arabia: Religious intolerance: The arrest,**

judicial punishment of amputation and the death penalty selectively against vulnerable groups or sectors of society. This is apparent at least in Amnesty International's statistics regarding the victims of these punishments.

Amnesty International has recorded at least 82 amputations carried out in the Kingdom between 1981 and 1995. Out of the 82 victims, 23 were Saudi Arabian nationals while the remaining 59 were all foreign nationals from countries in Africa and Asia working in the Kingdom, including 25 Yemeni nationals. Similarly, the number of executions recorded by Amnesty International between 1990 and July 1997 is at least 560. They break down into 204 Saudi Arabian nationals; and 332 foreign nationals from African and Asian countries, including 143 Pakistani nationals; and 24 whose nationalities are unknown to the organization.

Amnesty International opposes the execution of any human being irrespective of their ethnic origin, religion, colour, sex or language (or of the nature of the offence). The comparison is made to try and understand what, if any, safeguards are in place that result in fewer executions and amputations of Saudi Arabian nationals in comparison with foreign nationals and how can these be extended to foreign nationals.

Amnesty International is in no doubt that trial unfairness is a major contributory factor facilitating execution and limb amputation of both Saudi Arabians and foreign nationals and hopes that the government will address this issue as elaborated under recommendations at the end of this paper in order to reduce and eventually stop the use of such punishments in all cases. In the meantime, it would be constructive for the government to take immediate steps to look into any particular safeguards available to Saudi Arabian nationals and extend them to foreign nationals at risk of limb amputation and the death penalty. This would require looking at a wide range of factors which place migrant workers and other foreign nationals at particular risk. These could include the following:

- the percentage of convicted Saudi Arabian nationals who are executed compared to non-nationals convicted for the same offences;
- role of tribal and family structure in settlement of cases for compensation instead of execution;
- availability of recourse such as pardons or settlement for payment in cases of migrant workers such as petitioning influential members of society;

detention and torture of Christian worshippers and Shi'a Muslims. See footnote no.1.

- factors explaining the very high number of Pakistani and Yemeni nationals executed or victims of amputation.

IV. CONCLUSION

The preceding analysis illustrates very clearly how the lack of fair trial played and continues to play a major role in facilitating widespread and gross human rights violations in Saudi Arabia. Each and every case cited as a sample throughout this report demonstrates that the overwhelming majority of thousands of people who have fallen victims to human rights violations over the years have suffered this fate because they were held behind closed doors by security forces with no judicial accountability, or tried behind closed doors following summary hearings, or both, with complete disregard for international standards regulating arrest and trial. Discrimination against women and other disadvantaged groups like migrant workers exacerbates their vulnerability to human rights violations in the criminal justice system.

Amnesty International strongly believes that if international standards for arrest, detention and trial were strictly observed the fate of the overwhelming majority of the victims of gross human rights violations detailed in this report would have been very different. For example, if the right of Salman bin Fahd al-‘Awda to challenge the legal basis of his detention was respected would he and others like him be still held today after years of detention without trial? If Muhammad al-Ja‘bari’s arrest and detention was from the outset supervised by the judiciary or had he been promptly brought to trial would he still have spent 15 months of his life behind closed doors? If the right to fair trial were strictly observed would Donato Lama and Nieves have still been subjected to flogging and imprisonment, and would ‘Abdullah ‘Abd al-Rahman al-Hudhayf, James Rebenito and others still have been executed? If suspects were not arrested except by a judicial warrant, given prompt access to lawyers, families, doctors and judges thereafter would torture still be an institutionalized practice by security forces? The answer to these questions is a resounding no. The remedy is simply the Saudi Arabian Government must bring its arrest and trial procedures into line with international standards.

V. RECOMMENDATIONS

Amnesty International calls on the Saudi Arabian Government to take immediate steps to bring its arrest and trial procedures in line with international standards and remedy the patterns of human rights violations detailed in this report. To achieve this objective the government should, as a minimum, implement the following recommendations designed to address the patterns of human rights violations prevailing in the country.

1. Stop arrest and detention irregularities by ensuring that:

- *arrests are not allowed except under strict independent judicial supervision;*
- *those arrested and their families are informed immediately of the reasons for their arrest;*
- *non-Arabic speakers are informed of the reasons of arrest in a language which they understand and that they are not asked to sign any documents written in a language which they do not understand;*
- *anyone arrested is allowed prompt access to family, lawyers and doctors;*
- *any detained persons are allowed to take judicial proceedings to challenge the legality of detention;*
- *any person currently held solely for the non-violent expression of his or her belief is released immediately and unconditionally;*
- *anyone charged with a criminal offence is presumed innocent until proven guilty in a fair and equitable trial as detailed under recommendations (2) below.*

2. Provide prompt and fair trial for anyone suspected of a criminal offence by implementing the recommendations under (1) above and further ensuring that:

- *those charged are fully informed of their rights and given full opportunity to exercise them;*
- *defendants are kept informed of the progress of the case against them;*
- *all trials are as a rule held in public;*
- *defendants are always, and irrespective of the nature of the offence, given full opportunity of defence and allowed to challenge the evidence brought by the prosecution, including cross examination of witnesses and use of defence witnesses;*
- *confessions obtained under torture are not used as evidence;*

- *confessions in Arabic which non-Arabic speakers are deceived into signing in the absence of thorough and accurate translation are not used as evidence;*
- *those convicted are given full opportunity for effective exercise of the right of appeal before a higher tribunal;*
- *independent observers are allowed to attend trial sessions.*

3. Stop torture by implementing the recommendations under (1) and (2) above and further ensuring that:

- *no one is subjected to prolonged incommunicado detention and solitary confinement;*
- *all allegations of torture and ill-treatment are promptly, independently and thoroughly investigated;*
- *the findings of torture investigations are made public;*
- *perpetrators of torture are brought to justice;*
- *victims of torture are compensated.*

4. Halt executions, flogging and amputations by:

- *reviewing the judicial procedures by which all such pending sentences have been imposed with the aim of commuting them;*
- *ensuring that in trials on charges carrying such punishments, defendants' rights are scrupulously respected. Such rights should include, as a minimum, the UN Safeguards guaranteeing protection of the rights of those facing the death penalty in accordance with ECOSOC Resolution 1984/50;*
- *taking steps to abolish these punishments.*

5. End discriminatory laws and practices which facilitate human rights violations against women and other members of vulnerable groups and sectors of society.

6. The government should allow access to trials by international observers. As a first step in this direction the government should immediately invite the UN Special Rapporteur on the Independence of Judges and Lawyers to visit Saudi Arabia.

7. The organization urges the government to take similar steps to ratify without limiting reservations other international standards such as the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women. The organization also urges the government to lift its sweeping reservation to the UN Convention on the Rights of the Child.

Amnesty International once again calls on the Saudi Arabian Government to take immediate steps to carry forward these measures and respect human rights. The organization also calls on the international community to assume its responsibility towards victims in Saudi Arabia to ensure that the government opens its closed doors to allow investigation of such violations by the United Nations human rights mechanisms as well as non-governmental organizations, and to take immediate steps to introduce legal safeguards applicable to all, without discrimination.