

The Basis of Brutality

A report on the implementation of
Saudi Arabia's recommendations
from the committee against torture



Americans for Democracy



& Human Rights in Bahrain

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RIGHTS & DEMOCRACY





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1001 Connecticut Avenue
Northwest, Suite 205
Washington, D.C. 20036

202.621.6141

www.adhrb.org

@ADHRB

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Americans for Democracy & Human Rights in Bahrain (ADHRB) fosters awareness of and support for democracy and human rights in Bahrain and the Middle East.

The Bahrain Institute for Rights and Democracy is a London, UK based non-profit organization focusing on advocacy, education and awareness for the calls of democracy and human rights in Bahrain.

Americans for Democracy & Human Rights in Bahrain
1001 Connecticut Ave. Northwest, Suite 205
Washington, DC 20036
202.621.6141
www.adhrb.org

Bahrain Institute for Rights and Democracy
www.birdbh.org

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FOREWORD

In 2000, Saudi security officials engaged in a campaign of repression and torture against the nation's minority Ismaili community. After a short-lived standoff between government troops and a small number of armed Ismaili demonstrators, the government rounded up scores of men, many of them innocent of any wrongdoing, for interrogation. Witnesses described enduring an unsparing regimen of torture. Sleep deprivation, stress positioning, electric shocks, cold water baths, and beatings were the techniques wielded against hundreds, with the aim of coercing the many into admitting the transgressions of a few. As one interrogator told a detainee, "I've been doing this for five years and every single one has confessed."¹

By the year 2000, the commission of such violations should have been inconceivable. In 1997, the Saudi government acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, binding itself to those international statutes that mandate that the State Party "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."²

In 2015, 18 years after its accession to the Convention, these measures have yet to materialize, and the interrogator who has never failed to wring a confession is still the norm. In the following pages, Americans for Democracy & Human Rights in Bahrain (ADHRB) and the Bahrain Institute for Rights and Democracy (BIRD) outline a regime of torture so embedded in the current Saudi administration of criminal justice as to seem inseparable from it. The report does more, however, than simply list inhumane interrogation methods. It demonstrates how the entire system of Saudi criminal justice, from prison guards to appellate judges, enables acts of torture and violent degradation.

To complete this report, staff at ADHRB and BIRD structured their research around a set of conclusions and recommendations delivered by the UN Committee against Torture to the Kingdom of Saudi Arabia in 2002. The Committee produced a strong report, coupled with an actionable set of recommendations for reforms that would raise accountability for government torturers and reduce the prevalence of degrading treatment within the Saudi legal system. 13 years later, in January 2015, the Saudi Arabia submitted its belated response to these reform proposals in the form of its second periodic report to the Committee. As *The Basis of Brutality* demonstrates, these recommendations have not neared even partial implementation, and the Saudi government's replies to the Committee's concerns range from incomplete to evasive.

1 Ismailis of Najran: Second Class Citizens, Human Rights Watch, September 2008, accessed July 15, 2015, <http://www.hrw.org/sites/default/files/reports/saudiArabia0908web.pdf>, 32.

2 "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," United Nations Human Rights, June 26, 1987, (ratified December 10, 1984), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>.

Stalled progress, however, is no invitation to inaction. The Committee's recommendations are as sound for 2015 as they would be for 1997 or 2002. The international community cannot accept torture in Saudi Arabia as a given, must not allow it to become normalized in the minds of the global public. By submitting this report, ADHRB and BIRD hope to, in our own limited capacity, shake the international community from its complacency and bring effective pressure to bear on the Saudi government.

Husain Abdulla

Executive Director, ADHRB

A NOTE ON SHARIA

Any critique of the legal system in Saudi Arabia necessitates discussion of the Sharia; before getting into any discussion of what the report is, we must first address what the report is not. This report is not intended to level criticism towards the Sharia, and a straightforward reading of its pages negates any such interpretation. The Sharia, as employed by many contemporary States and as espoused by many contemporary Muslim scholars around the globe, is a legitimate and justiciable source of law, and several interpretations of the Sharia are employed positively throughout the world.

The Saudi Arabian government espouses Wahhabi Islam based on an offshoot of the Hanbali school's interpretation of the Sharia. The Wahhabi interpretation of the Sharia entails the abandonment of precedent and jurisprudence, providing individual Saudi judges with wide discretion in making judicial decisions. These broad interpretive powers have generated an ad hoc system of justice that presumes against its accused, a system that forgives corruption while criminalizing dissent. Any criticism directed at the Sharia by this report is aimed at a specific system born of a narrow governmental interpretation, and not at the Sharia as a whole.

METHODOLOGY

This report is the product of significant research performed by interlocutors on the ground as well as an extensive literature review of sources, including news articles, governmental and NGO reporting, and scholarly contributions. Due to the danger of reporting on human rights abuses in Saudi Arabia, this report does not provide the identities of its sources on the ground. Anonymized information concerning our sources is available upon request.

ACRONYMS

| | |
|--------------|--|
| ACHR | The Adala Center for Human Rights |
| ACPRA | Saudi Civil and Political Rights Association |
| ADHRB | Americans for Democracy & Human Rights in Bahrain |
| BIP | Saudi Bureau of Investigation and Prosecution |
| BIRD | Bahrain Institute for Rights and Democracy |
| BOG | Saudi Board of Grievances |
| CAT | The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| CPVPV | Commission for the Promotion of Virtue and the Prevention of Vice |
| ESOHR | European-Saudi Organisation for Human Rights |
| MOFA | The Saudi Ministry of Foreign Affairs |
| MOI | Saudi Ministry of Interior |
| MSA | Saudi Ministry of Social Affairs |
| NGO | Non-Governmental Organization |
| NSHR | Saudi National Society for Human Rights |
| SCC | Specialized Criminal Court |
| UN | United Nations |

1. INTRODUCTION

In February 2001, three and a half years after acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Government of Saudi Arabia submitted its initial periodic report as a State Party of that treaty to the Committee Against Torture. The CAT empowered the Committee, a UN body formed of independent experts that evaluate the implementation of the treaty's provisions,³ to assess and comment upon progress reports from member states.⁴ The Saudi submission was over two years late, as Article 19 (1) of the CAT requires states to submit their initial report "within one year after entry into force of the Convention."⁵

The Committee Against Torture published its commentary on the Saudi initial periodic report in June 2002.⁶ The Committee's report, though brief, served as the body's most extended commentary on the Saudi government's progress in aligning its laws and practices with the CAT. In 2002, Saudi Arabia's halting engagement prompted the Committee to express its regret over "the delay in submission and the paucity of information on the practical enjoyment in Saudi Arabia of the rights conferred by the Convention."⁷ Saudi Arabia repeatedly justified this regret. The Saudi government proceeded to ignore three visit requests from the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.⁸ It only submitted its follow-up periodic report to the Committee in January 2015, and an English-language copy of the document remains unavailable.⁹

Despite these obstacles, the Committee produced a report that not only addressed practices of torture in Saudi Arabia, but also reviewed those statutes and procedures that inhibit compliance with the CAT. The report found that, between September 1997 (the date of accession) and May 2002, the Saudi government largely maintained laws and practices that preclude such compliance. While the Committee welcomed the promulgation of the 2001 Law of Criminal Procedure and recognized the government's insistence that Sharia law prohibits torture, its concerns doubled its positive notes. The imposition of corporal punishments, discriminatory practices against non-nationals, and procedural abuses such as incommunicado detention

3 "Committee Against Torture," United Nations Human Rights, accessed August 2, 2015, <http://www.ohchr.org/en/hrbodies/cat/pages/catindex.aspx>.

4 "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," United Nations Human Rights, Article 19.

5 Ibid.

6 "Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Saudi Arabia," United Nations Committee Against Torture, June 12, 2002, accessed August 2, 2015, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhshvVcmWTuI6%2fu%2bWI9YGTvqBSj5YgB0zGixPad4yoJVuCi%2f6M3bVPgQMuhxmR%2fyLGWC7aa8Wnh3fyIwQ4QtJ%2bzgaqHerZgGqNnr6Kv6kfk8QV>.

7 "Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Saudi Arabia," United Nations Committee Against Torture, par. 2.

8 "Country and other visits by Special Procedures Mandate Holders since 1998," United Nations Human Rights, July 30, 2015, August 2, 2015, <http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx>.

9 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture, received January 7, 2015, distributed February 12, 2015, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/023/83/PDF/G1502383.pdf?OpenElement>.

and the denial of access to medical, legal, and consular services all drew the Committee's negative attention.

To conclude its report, the Committee put forward 14 recommendations to both formalize the prohibition of torture in Saudi law and reduce or eliminate loopholes that allow for continued violations of the CAT. The recommendations focused on ameliorating a wide range of concerns and included calls for pressing legal reforms, the implementation of practical anti-torture measures, and more transparent interaction with the Committee. Not until January of this year did the Committee have an opportunity to assess Saudi Arabia's progress in implementing these reforms.

This report seeks to provide background for the Committee as it makes its assessment, examining the conclusions and recommendations of the Committee's 2002 report in the 2015 context of Saudi Arabia. It also, prudently but fairly, offers a preliminary response to the Saudi government's own self-generated progress report. In limited instances, ADHRB and BIRD find that Saudi Arabia has made moderate progress in instituting reforms; overall, however, this report concludes that the government maintains a criminal justice system which facilitates the use of torture, discriminates against non-nationals and minority groups, and fails to consistently compensate victims or prosecute violators. The report ends with a list of recommendations for the international community, in addition to calling for the Committee to press for further periodic reports and for the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to pursue a country visit so that he may conduct his own investigations into the implementation of the Committee's recommendations.

A final word on the report's organization is required. In its original submission, the Committee lists its fourteen recommendations under one heading. In order to make this report more digestible, ADHRB and BIRD have divided the recommendations into three separate categories: those concerning legal reforms, those concerning procedural reforms, and those concerning an increase in transparency, accountability, and greater interaction with the Convention. The authors have, therefore, rearranged these recommendations from their initial sequence. To ensure easy comparison with the original document, each recommendation remains coupled with its designating letter.

2. RECOMMENDATIONS

i. The Committee's Recommendations Concerning Legal Reforms

INTRODUCTION

As part of its 2002 report, the Committee Against Torture issued a series of recommendations to the Kingdom of Saudi Arabia on reforms that its government should implement to align its laws with the Convention's requirements. The Committee expressed concern that the absence of a codified crime of torture, the unequal application of criminal justice, and a compromised judiciary were aiding the perpetuation of torture and degrading treatment. In the years since, however, the government has failed to promulgate these reforms or enforce them in practice. Additionally, the responses contained in Saudi Arabia's 2015 periodic report neglect to fully address the scope of the Committee's recommendations for legal reform or provide tangible evidence of improvement.

RECOMMENDATIONS

a. Expressly incorporate within its domestic law a crime of torture in terms that are consistent with Article 1 of the Convention;

In its 2002 report, the Committee stated, "express incorporation in the State party's domestic law of the crime of torture, as defined in Article 1 of the Convention, is necessary to signal the cardinal importance of its prohibition."¹⁰

In its 2015 report, Saudi Arabia claimed that it had already met this recommendation per Article 70 of its Basic Law of Governance.¹¹ According to this article, "Laws, international agreements, treaties and concessions shall be approved and amended by Royal Decrees."¹² A Royal Decree concerning the Convention appears to have passed into law following Saudi Arabia's September 1997 accession. The 2015 periodic report referenced multiple articles from this decree,¹³ though ADHRB and BIRD could not locate a recorded copy. Furthermore, at the Committee Against Torture's 28th session, held in May 2002, the Saudi interlocutor

10 "Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Saudi Arabia," United Nations Committee Against Torture, par. 4(a).

11 Examen des rapports soumis par les États parties en application de l'article 19 de la Convention, Deuxièmes rapports périodiques des États parties attendus en 2010, Arabie saoudite. January 7, 2015. CAT/C/SAU/2. Par. 24.

12 The Basic Law of Governance: Royal Decree No. (A/90). Kingdom of Saudi Arabia, 1992. Retrieved from: https://www.saudiembassy.net/about/country-information/laws/The_Basic_Law_Of_Governance.aspx.

13 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture, received January 7, 2015, par. 24.

informed the Committee that “Saudi Arabia’s ratification of the Convention meant that it had been automatically incorporated into domestic law and could be invoked in the courts.”¹⁴

Despite this professed incorporation, it remains clear that the Saudi government’s interpretation of Article 1 of the Convention differs radically from the interpretation maintained by the Committee. Saudi authorities, for example, have repeatedly defended the implementation of corporal punishments, including flogging and amputation, despite the Committee’s insistence that such sanctions be abandoned.¹⁵ Additionally, though multiple Saudi codes nominally prohibit the use of torture by government officials, none—including Article 2 of 1958’s Royal Decree No. 43¹⁶ and Article 2 of the Law of Criminal Procedure¹⁷—formally define which acts do and do not constitute torture.¹⁸

In light of this ambiguity, failure to formally codify a crime of torture contravenes Article 4 of the CAT, which provides that “each State Party shall ensure that all acts of torture are offences under its criminal law.”¹⁹

b. Re-examine its imposition of corporal punishments, which are in breach of the Convention;

In 2002, the Committee noted its concern over the “sentencing to and imposition of corporal punishments by judicial and administrative authorities...that are not in conformity with the Convention.”²⁰ In its 2015 periodic report to the Committee, the Saudi government defended the imposition of corporal punishment, invoking Article 1 of the Convention to state that its use falls under “pain or suffering arising only from, inherent in or incidental to lawful sanctions.”²¹ According to the government, because the use of corporal punishment stems from the precepts of Sharia and is therefore a lawful sanction, it cannot count as torture or cruel and degrading punishment.²²

Concomitant with this defense, ADHRB and BIRD have been unable to identify any areas in which Saudi Arabia has re-examined its imposition of corporal punishments or otherwise taken seriously the Committee’s recommendation. Judges continue to routinely prescribe corporal punishments that violate the Convention. This is illustrated by Articles 10, 11, and 12 of the Saudi Law of Criminal Procedure, which provide rules by

14 “SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 519th MEETING,” Committee against Torture, May 10, 2002, CAT/C/SR.519.

15 Elizabeth Olson, “Fair Penalties or Torture? U.N. at Odds With Saudis,” The New York Times, May 19, 2002, accessed July 20, 2015, <http://www.nytimes.com/2002/05/19/world/fair-penalties-or-torture-un-at-odds-with-saudis.html>.

16 Royal Decree No. 43, 1377 AH (1958 CE), Article 2, par. 8. Retrieved from: <http://www.cib.gov.sa/mrsum.pdf>.

17 “Law of Criminal Procedure – Saudi Arabia,” University of Minnesota Human Rights Library. 2013. Retrieved from: http://www1.umn.edu/humanrts/research/saudi-arabia/criminal_procedure.html.

18 For further discussion, see Section II(iii)(f)

19 “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” United Nations Human Rights, Article 4.

20 “Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Saudi Arabia,” United Nations Committee Against Torture, *supra*, note 1, at 1(b).

21 “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” United Nations Human Rights, Article 1.

22 Examen des rapports soumis par les États parties en application de l’article 19 de la Convention, Deuxièmes rapports périodiques des États parties attendus en 2010, Arabie saoudite. January 7, 2015. CAT/C/SAU/2. Par. 166.

which authorities arbitrate sentences of death, stoning, amputation, or retaliatory punishment.²³

For example, on 29 July 2013, a Jeddah court sentenced blogger Raif Badawi to 600 lashes, 50 of which were to be administered “very harshly.”²⁴ Authorities had charged Mr. Badawi with cybercrime for cofounding a website that criticized Saudi Arabia’s religious establishment.²⁵ Prosecutors determined that the penalty was not sufficient and appealed the decision.²⁶ On 7 May 2014, the Jeddah Criminal Court agreed with the prosecutors and sentenced Badawi to 20 sessions of 50 lashes each, for a total of 1,000 lashes, in addition to a fine of one million Saudi riyals (roughly \$266,600).²⁷ On 9 January 2015, while a final appeal was pending, Saudi officials administered the first part of Mr. Badawi’s sentence by giving him 50 lashes. Saudi Arabia’s Supreme Court affirmed the ruling on 7 June 2015. The sentence called for the lashings to be carried out every Friday. However, Saudi authorities suspended subsequent sessions after a medical committee ruled that Mr. Badawi should not undergo a second round of lashings.²⁸ As of 4 August 2015, the Saudi government has made no indication that it will revoke Mr. Badawi’s punishment.

Saudi courts also maintain the ability to apply corporal punishments to children. According to the 1975 Juvenile Justice Act, judges can legally sentence children under the age of 18 to amputation, stoning, and flogging.²⁹ There are conflicting reports concerning the age at which a court can determine that an adolescent bears criminal responsibility, with some reporting the age to be 7, and others putting it at 12.³⁰ Determination of criminal responsibility, and therefore the allotment of corporal punishment, can even depend upon the judge’s perception of a child’s physical development.³¹

Although there are no reports of courts sentencing minors to amputation, authorities have subjected adolescents to flogging as a form of punishment. ‘Ali bin Hassan al-‘Ajami, the director of a juvenile prison in Riyadh, informed Human Rights Watch in 2008 that prison officials flogged “boys ages 15 and older, and that they carry out the floggings in front of other detainees.” At the time of the interview, the detention center was implementing roughly 15 floggings per week.³²

23 “Law of Criminal Procedure – Saudi Arabia,” University of Minnesota Human Rights Library.

24 The Editorial Board, “Clemency for Raif Badawi,” *The New York Times*, June 10, 2015, accessed June 25, 2015, http://www.nytimes.com/2015/06/11/opinion/clemency-for-raif-badawi.html?_r=0; “Saudi Arabia: 600 Lashes, 7 Years for Activist,” Human Rights Watch, July 30, 2013, accessed July 1, 2015, <http://www.hrw.org/news/2013/07/30/saudi-arabia-600-lashes-7-years-activist>.

25 Ibid.

26 Ibid.

27 “Saudi Arabia: Supreme Court sentences Mr. Raif Badawi,” FIDH, June 9, 2015, accessed July 1, 2015, <https://www.fidh.org/International-Federation-for-Human-Rights/north-africa-middle-east/saudi-arabia/saudi-arabia-supreme-court-sentences-mr-raif-badawi>.

28 Ian Black, “Planned Flogging of Saudi Blogger Raif Badawi Postponed Again,” *The Guardian*, January 23, 2015, accessed July 1, 2015, <http://www.theguardian.com/world/2015/jan/22/flogging-saudi-blogger-raif-badawi-postponed>.

29 “Country Report for Saudi Arabia,” Global Initiative to End All Corporal Punishment of Children, February 2015, accessed July 1, 2015, <http://endcorporalpunishment.org/progress/country-reports/Saudi-arabia.html>.

30 Ibid.

31 “Adults before their Time: Children in Saudi Arabia’s Criminal Justice System,” Human Rights Watch, March 24, 2008, accessed August 4, 2015, <https://www.hrw.org/report/2008/03/24/adults-their-time/children-saudi-arabias-criminal-justice-system>, at sec. IV.

32 Ibid., sec. VII.

Therefore, regardless of its broad interpretation of suffering caused in the course of lawful sanctions, Saudi Arabia continues to impose corporal punishment in a manner that violates the Convention. The UN General Assembly has found, “corporal punishment could amount to cruel, inhuman, or degrading punishment or even to torture.”³³ Article 1 of the Convention defines torture as:

*[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as... punishing him for an act he or a third person has committed... when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.*³⁴

Saudi Arabia’s use of corporal punishment, as illustrated in the examples above, violates the convention because (1) floggings cause severe pain and suffering, (2) they are inflicted to punish the individual for an act he or she has committed, and (3) they are carried out at the instigation of public officials. Additionally, Saudi Arabia frequently carries out the lashings publicly, which add to the cruel, inhuman, and degrading nature of these punishments.

c. Ensure that its laws are in practice applied to all persons, regardless of nationality, gender, religious affiliation, insofar as issues arising under the convention are concerned;

In its comments, the Committee reiterated, “The Convention and its protections are applicable to all acts in violation of the Convention that occur within its jurisdiction, from which it follows that all persons are entitled, in equal measure and without discrimination, to the rights contained therein.”³⁵ In 2015, the Saudi government affirmatively responded that it applied laws to all individuals without distinction.³⁶

In this case, the Committee’s concerns are well-grounded, and the Saudi government’s response to them is inadequate. Saudi authorities, insofar as issues arising under the convention are concerned, fail to apply laws equally (or do so discriminatorily) to members of religious minorities, non-nationals, and women.

The Saudi justice system regularly denies its Shia citizens the full range of protections offered under its criminal law, based on their status as Shia. The Saudi courts have consistently tried Shia persons on religiously-motivated charges, including “cursing God, the Prophet, or his companions.” For these charges, Saudi courts have sentenced Shia men to hundreds of lashes and prison terms of up to eight months.³⁷ Authorities

33 UNGA Res., Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UNGA Res. (17 August 1998), A/53/253.

34 “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” United Nations Human Rights, Article 1.

35 “Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Saudi Arabia,” United Nations Committee Against Torture, *supra*, note 1, at 4(c).

36 “Examen des rapports soumis par les États parties en application de l’article 19 de la Convention: Arabie saoudite,” United Nations Committee Against Torture, par. 167.

37 “Denied Dignity: Systematic Discrimination and Hostility toward Saudi Shia Citizens,” Human Rights Watch, September 3, 2009, accessed August

have also failed to accord to Shia their due process rights in a manner that violates the convention. In December 2014, over 100 members of Saudi Arabia's Special Security Forces raided the Shia-majority town of al-Awamiyah in pursuit of a single subject. The forces killed five men extrajudicially, and their indiscriminate use of live fire caused injuries and significant damage to local homes and storefronts. The European-Saudi Organisation for Human Rights (ESOHR) reported that two of the five killed, Hassan Ali al-Mslab and Reza Abdullah al-Bandari, died under unknown circumstances after being taken into custody.³⁸

The Saudi government also disproportionately implements cruel and degrading treatment against practitioners of minority religions and foreign nationals in the form of corporal punishment and wrongful execution. The Commission for the Promotion of Virtue and the Prevention of Vice (CPVPV) investigates, public prosecutors arraign, and courts sentence men and women on charges of "sorcery" and "apostasy,"³⁹ for which punishments range from lengthy prisons sentences and lashings⁴⁰ to death.⁴¹ These sorcerers and apostates are frequently migrant laborers practicing customs and folk traditions from their countries of origin.⁴²

Due to discriminatory gender codes, women also suffer disproportionately in ways that violate the convention. Female victims of rape, for example, are also vulnerable to corporal punishment. In Saudi Arabia, rape is punishable by lashings and death under Sharia law.⁴³ However, judges have broad discretion to interpret what constitutes rape. In instances where a woman alleges rape, a judge, through his interpretation of Sharia law, can find that the rape was a result of the victim breaking the law by "mingling with men."⁴⁴ Consequently, victims who report their rapes to authorities risk receiving corporal punishment. For example, in 2006, seven men raped a 19-year-old woman from Qatif.⁴⁵ When the woman and her husband reported the assault, police initially resisted the family's requests to investigate.⁴⁶ When prosecutors finally began the trial, the judges allegedly shouted at the victim and accused her of lying.⁴⁷ After sentencing the men who raped her,

4, 2015, <https://www.hrw.org/report/2009/09/03/denied-dignity/systematic-discrimination-and-hostility-toward-saudi-shia-citizens>, at sec. III.

38 "The Saudi Government Extrajudicial Executed [sic] 5 Citizens Based on Unproven Allegations," The European-Saudi Organisation for Human Rights, January 6, 2015, accessed August 4, 2015, <http://www.esohr.org/en/the-saudi-government-extrajudicial-executed-5-citizens-based-on-unproven-allegations/>.

39 "Saudi Arabia: 2012 Report on International Religious Freedom," U.S. Department of State, May 20, 2013, accessed August 4, 2015, <http://www.state.gov/j/drl/rls/irf/2012/nea/208410.htm>.

40 "Two maids get 10 years, 1,000 lashes for sorcery," Emirates 24/7, May 20, 2013, accessed August 4, 2015, <http://www.emirates247.com/crime/region/two-maids-get-10-years-1-000-lashes-for-sorcery-2013-05-20-1.507147>.

41 Ryan Jacobs, "Saudi Arabia's War on Witchcraft," The Atlantic, August 19, 2013, accessed August 4, 2015, <http://www.theatlantic.com/international/archive/2013/08/saudi-arabias-war-on-witchcraft/278701/>.

42 Ibid.

43 "Saudi Arabia: Criminal Justice Strengthened," Human Rights Watch, January 14, 2010, accessed July 1, 2015, <http://www.hrw.org/news/2010/01/14/saudi-arabia-criminal-justice-strengthened>.

44 "Saudi Arabia: Rape Victim Punished for Speaking Out," Human Rights Watch, November 16, 2007, accessed July 1, 2015, <http://www.hrw.org/news/2007/11/15/saudi-arabia-rape-victim-punished-speaking-out>.

45 Donna Abu Nasr, "Rape Case Roils Saudi Legal System," The Washington Post, November 21, 2006, accessed July 1, 2015, <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/21/AR2006112100967.html>.

46 Daniel Howden, "In the Name of God: the Saudi Rape Victim's Tale," The Independent, November 29, 2007, accessed July 1, 2015, www.independent.co.uk/news/world/middle-east/in-the-name-of-god-the-saudi-rape-victims-tale-760847.html.

47 Ibid.

the judges sentenced the victim to 90 lashes for mingling with men.⁴⁸ In December 2007, the Saudi king pardoned the woman.⁴⁹ The Saudi justice minister stated that the king fully supported the verdicts against her but had decided that a pardon was in the interests of the people.⁵⁰

The Kingdom of Saudi Arabia therefore commits acts of cruel, inhuman, and degrading treatment against women, minority religious groups, and migrants. As the Government itself engages in torture, it also encourages and sanctions torture and cruel inhuman and degrading treatment based on gender, religion, and national origin within civil society.

e. Ensure that its laws and practice reflect the obligations imposed by article 3 of the Convention;

In its 2002 report, the Committee stated its concern over “[c]ases of deportation of foreigners that have been drawn to the Committee’s attention that seem to have been in breach of the obligations imposed by Article 3 of the Convention.”⁵¹ In its response to the Committee, the Saudi government cited a series of domestic laws it has promulgated, and international treaties to which it is a party, that broadly govern processes of extradition and alien residence. It further highlighted the responsibility of the Bureau of Investigation and Prosecution (BIP), the government agency charged with overseeing the investigation of crimes and with serving as public prosecutor, to ensure that the rights of a detainee subject to an extradition request or deportation proceeding are not violated.⁵² The government’s response, however, failed to fully address the substance of Article 3, which provides:

*(1) 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. (2) For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.*⁵³

The government has deported foreign nationals where doing so amounts to refoulement. In 2010, the UN Refugee Agency requested that Saudi Arabia stop deporting Somali refugees back to their conflict-affected home state of Somalia.⁵⁴ Beginning in late 2013, the Saudi government increased the rate at which

48 Ibid.

49 Katherine Zoepf, “Saudi King Pardons Rape Victim Sentenced to Be Lashed, Saudi Paper Reports,” *The New York Times*, December 18, 2007, July 2, 2015, www.nytimes.com/2007/12/18/world/middleeast/18saudi.html.

50 Ibid.

51 “Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Saudi Arabia,” *United Nations Committee Against Torture*, *supra*, note 1, at 4(g).

52 “Examen des rapports soumis par les États parties en application de l’article 19 de la Convention: Arabie saoudite,” *United Nations Committee Against Torture*, par. 55-56.

53 “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” *United Nations Human Rights*, Article 3.

54 “UN Refugee Agency Calls on Saudi Arabia to Stop Deporting Somalis,” *UN News Centre*, July 30, 2010, accessed June 30, 2015, <http://www.unhcr.org/>.

it conducted deportation raids; it now deports thousands of individuals each year.⁵⁵ These new raids have led to new claims that Saudi Arabia is deporting refugees to Somalia,⁵⁶ an indication that the government has ignored the UN Refugee Agency's request. The practice of refoulement, prohibited by Article 3, is a well-defined prohibition under customary international law⁵⁷ and arguably a *jus cogens* norm of international law, from which no derogation is permitted.⁵⁸ Saudi Arabia's failure to adopt legislation that allows refugees to apply for asylum and its current deportation practices indicate that it has not complied with the Committee's recommendation to refrain from refoulement.

i. Ensure that the composition of the judiciary fully conforms to the standards imposed by the Basic Principles on the Independence of the Judiciary;

One of the central purposes of the Basic Principles is to "assist member states in their task of securing and promoting the independence of the judiciary."⁵⁹ Although Saudi Arabia has implemented some reforms consistent with the Basic Principles, its judicial system does not comply with many of its precepts.

The first principle provides, "The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country."⁶⁰ The Basic Principles also provide that there "shall not be any inappropriate or unwarranted interference with the judicial process."⁶¹ For its part, the Saudi government, in paragraph 38 of its 2015 periodic report to the Committee, highlights legal reforms enacted in the preceding decade to ensure the judiciary's independence.⁶² Primary among these is Article 1 of the 2007 update to the Law of the Judiciary, which states, "Judges are independent and, in the administration of justice, they shall be subject to no authority other than the provisions of Sharia and laws in force. No one may interfere with the judiciary."⁶³

Several of the law's subsequent articles, however, directly undermine this opening statute. The king has

un.org/apps/news/story.asp?NewsID=35483#.VZLH-flViko.

55 Ludovica Iaccino, "Saudi Arabia to Deport One Million People in Anti-Immigration Crackdown," *International Business Times*, October 21, 2014, accessed June 30, 2015, <http://www.ibtimes.co.uk/saudi-arabia-deport-one-million-people-anti-immigration-crackdown-1471035>.

56 "Saudi Arabia: 12,000 Somalis Expelled," *Human Rights Watch*, February 18, 2014, accessed June 30, 2015, <http://www.hrw.org/news/2014/02/18/saudi-arabia-12000-somalis-expelled>.

57 UN High Commissioner for Refugees (UNHCR), *The Principle of Nonrefoulement as a Norm of Customary International Law*. Response to the Question Posed to UNHCR by the Federal Constitutional Court of the Federal Republic of Germany in Cases 2 BvR 1938/93, 2 BvR 1953/93, 2 BvR 1954/93, January 31, 1994, <http://www.refworld.org/docid/437b6db64.html> (last visited 1 July 2015).

58 Jean, Allain, *The jus cogens Nature of Non-Refoulement*, 13 *Int'l J. Refugee L.* 533 (2001).

59 *The Basic Principles on the Independence of the Judiciary*, Adopted by the 7th United Nations Congress on the Prevention of Crime and the Treatment of Offenders from 26 August to 6 September 1985 (1985), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx> (last visited 1 July 2015) [hereinafter *Basic Principles*].

60 *Ibid.*, at princ. 1.

61 *Ibid.*, at princ. 4.

62 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," *United Nations Committee Against Torture*, par. 38.

63 *Law of the Judiciary: Royal Decree No. (M/78)*, first ed. Kingdom of Saudi Arabia, 2007.

the power to appoint and terminate judges by fiat,⁶⁴ which compromises their independence. The king can even dismiss the Chief Judge of the Supreme Court, the highest-ranking justice in a three-tier legal system nominally designed to guarantee judicial independence,⁶⁵ by royal decree.

The establishment of specialized courts has further undermined the overall independence of the judiciary. In December 2008, the Supreme Judicial Council, in response to a backlog of terrorist cases, created the Specialized Criminal Court (SCC).⁶⁶ The court's sole purpose is to hear terrorism-related cases.⁶⁷ The Ministry of Interior (MOI), which manages both law enforcement and prosecutorial duties within the kingdom, exercises substantial influence over the operations of the SCC, leaving only a narrow jurisdiction for the court's judges. In 2014, the late King Abdullah decreed the Law of Terrorism and Its Financing, which codified the MOI's influence over the activities of the court.

The MOI, and not the courts, issues arrest warrants,⁶⁸ orders searches of houses and offices,⁶⁹ and mandates the confiscation of "letters, correspondence, publication, parcels, and other kinds of communications."⁷⁰ The MOI also has the authority to make decisions that undermine judicial oversight, including the authority to prevent the SCC from considering a complaint made by the suspect until the completion of the investigation,⁷¹ the authority to order the provisional release of a detainee,⁷² and the authority to secure the release of a convicted person.⁷³ Additionally, the SCC has tried many human rights defenders under Saudi Arabia's broad definition of "terrorism."⁷⁴ The extent to which the MOI impacts the SCC's functioning substantially undermines the court's independence and thus violates the first of the basic principles of the independence of the judiciary.

Furthermore, the Basic Principles state, "A charge or complaint made against a judge in his/her judicial and professional capacity shall be processed expeditiously and fairly under an appropriate procedure."⁷⁵ The king, however, can interfere in the administration of the judiciary's disciplinary procedures. Article 55 of the 2007 Law

64 The Basic Law of Governance: Royal Decree No. (A/90), Kingdom of Saudi Arabia, 1992, https://www.saudiembassy.net/about/country-information/laws/The_Basic_Law_Of_Governance.aspx, Article 52; See also: Law of the Judiciary: Royal Decree No. (M/78), first ed. Kingdom of Saudi Arabia, 2007, Article 67.

65 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture, par. 38.

66 "Saudi Arabia: Abolish Terrorism Court," Human Rights Watch, April 27, 2012, accessed August 3, 2015, <https://www.hrw.org/news/2012/04/27/saudi-arabia-abolish-terrorism-court>.

67 See e.g., "Country Reports on Terrorism 2013: Middle East and North Africa," U.S. Department of State, accessed July 6, 2015, <http://www.state.gov/j/ct/rls/crt/2013/224823.htm>.

68 Law of Terrorism and its Financing: Royal Decree No. 44, Kingdom of Saudi Arabia, 2014, Article 4.

69 Ibid., at Article 16.

70 Ibid., at Article 17.

71 Ibid., at Article 15.

72 Ibid., at Article 7.

73 Ibid., at Article 24.

74 "Country Reports on Terrorism 2014: Middle East and North Africa," U.S. Department of State, accessed July 6, 2015, <http://www.state.gov/j/ct/rls/crt/2014/239407.htm>.

75 Basic Principles, *supra* note 64, at princ. 17.

of the Judiciary establishes the Judicial Inspection Department, which inspects the performance of judges and investigates complaints submitted by and against them.⁷⁶ The Supreme Judicial Council is responsible for staffing this department.⁷⁷ Although the Judicial Inspection Department investigates complaints, a panel formed by the Supreme Judicial Council implements disciplinary actions.⁷⁸ This procedure compromises judicial independence because the king appoints all members of the council by royal order.⁷⁹

Finally, the Basic Principles provide, “Persons selected for judicial office shall be individuals of integrity and ability... In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political, or other opinion...”⁸⁰ Notably, the Special Rapporteur on the independence of judges and lawyers, during his visit in 2002, recommended that the government ensure the appointment of women judges.⁸¹ The government implemented some changes in 2006 and 2010 to advance the position of women within the broader legal system. Women are allowed to attend law school and are now permitted to represent other women in certain legal cases.⁸² Despite these developments, Saudi law still prohibits women from becoming judges.⁸³

Therefore, Saudi Arabia's judicial system does not comply with the Basic Principles in many key areas. This is illustrated by the lack of meaningful judicial independence, especially within the Specialized Criminalized Court, and the continued ban on the appointment of female judges.

CONCLUSION

Saudi Arabia has not made meaningful progress in the implementation of legal reforms recommended by the Committee Against Torture. Despite having acceded to the Convention, the Saudi government has not formally codified a law of torture that is consistent with the Committee's understanding of Article 1 of the CAT. This, in turn, has paved the way for the discriminatory application of corporal punishment and the practice of refoulement, issues further exacerbated by the lack of an independent judiciary. Furthermore, the recent passage of the Law of Terrorism and Its Financing demonstrates that the Kingdom of Saudi Arabia is moving away from the spirit of the Committee's recommendations.

76 Law of the Judiciary: Royal Decree No. (M/78), first ed. Kingdom of Saudi Arabia, 2007, Art. 55.

77 Ibid.

78 Ibid., Article 59.

79 Ibid., Article 5; See also Law and Regulations of the Bureau of Investigation and Public Prosecution: Royal Decree No. (M/56), Kingdom of Saudi Arabia, 1989, Article 10. Retrieved from: https://www.saudiembassy.net/about/country-information/laws/Bureau_of_investigation_and_prosecution.aspx.

80 Basic Principles, *supra*, note 64, at princ. 10.

81 Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002), UN Economic and Social Council, E/CN.4/2003/65/Add.3, para. 87, January 14, 2003, accessed June 30, 2015, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/102/64/PDF/G0310264.pdf?OpenElement>.

82 Buys & Macuiba, *supra*, note 36.

83 “Saudi Arabia: Women not Allowed to Perform Notary Duties,” The Law Library of Congress, accessed June 30, 2015, http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205404200_text.

ii. The Committee's Recommendations Concerning Legal Procedures

INTRODUCTION

Based on their analysis of Saudi Arabia's report submitted under Article 19, the Committee found grave violations of legal procedures by Saudi authorities and security forces. The Committee's report cited irregularities regarding the prolonged pre-trial detentions of inmates, vaguely defined powers of certain law enforcement personnel, and denial of access to sought-after legal counsel and medical treatment as factors contributing to violations of the Convention. Despite the issuance of recommendations in 2002, the government has done little to mitigate these violations of both the Convention and basic human rights.

RECOMMENDATIONS

d. Ensure that all places of detention or imprisonment conform to standards sufficient to guarantee that no person is thereby subjected to torture or cruel, inhuman or degrading treatment or punishment.

In its most recent periodic report, the Saudi government responded to this recommendation by stating that prisons are constructed in accordance with Sharia law and conform to international standards.⁸⁴ Moreover, the government alleged that its prisons are open to inspection from the judiciary, BIP officials, embassies and consulates, and employees of government-sponsored human rights organizations such as the Human Rights Commission and the National Society of Human Rights (NSHR). Despite these assurances, since 2002 conditions within Saudi prisons have not conformed to basic international norms, and detention centers continue to be administered in a way that promotes cruel and degrading treatment.

Saudi detention centers are overcrowded and under-resourced,⁸⁵ creating conditions that are cruel, inhuman, and degrading. In May 2013, for example, the head of the MOI's General Directorate of Prisons, Maj. Gen. Ali al-Harhi, admitted that central jails in Riyadh, Mecca, and Jeddah had exceeded their capacity three times over.⁸⁶ This overcrowding adversely affects the basic health and well-being of detainees. In a profile of Saudi prison conditions released in February 2014, the Gulf Center for Human Rights reported, based on information obtained from imprisoned human rights defenders, that detainees in Jeddah's Buraiman prison

84 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture, par. 119.

85 "Saudi Arabia 2013 Human Rights Report," U.S. Department of State, <http://www.state.gov/documents/organization/220586.pdf>, 1, 5.

86 Irfan Mohammed, "Prisons overcrowded," Arab News, May 17, 2013, accessed 5 August, 2015, <http://www.arabnews.com/news/451896>.

must use malfunctioning bathrooms, eat contaminated food, and take turns sleeping on the floor.⁸⁷ This tracks with the information supplied to ADHRB and BIRD by interlocutors within Saudi Arabia, who state that detainees in Riyadh's al-Malaz prison have resorted to sleeping in the jail's corridors, as there is not enough room in their cells.

Such overcrowding is not limited to central jails, however, and it engenders conditions that amount to cruel and degrading treatment for imprisoned foreign nationals. In 2009, former Saudi detainee Syed Neaz Ahmad submitted two reports to *The Guardian* on his treatment in a series of smaller Saudi detention centers during deportation proceedings. In Mecca, Ahmad "was thrown into a prison room barely large enough to accommodate 100 but some 500 persons had been locked in there."⁸⁸ After being transferred to a detention facility in Jeddah, he joined 1,500 other people "in warehouse-like halls with no air conditioning, no fans and temperatures rising to 50 [degrees Celsius]."⁸⁹ In June 2015, the Middle East Monitor reported that officials at another, unnamed immigration detention center in Riyadh were holding 396 migrant workers in one 40x40 foot room.⁹⁰ Many of the men were unable to change their clothes for the duration of their detention drinking water was unsanitary, and access to showers and basins was severely limited.⁹¹

In addition to the adverse conditions resulting from overcrowding, allegations of direct acts of torture have emerged from within prisons. Human rights defender Mikhlif al-Shammari maintains that, on 27 July 2011, guards removed him from his cell and transferred him to a room without video surveillance. There, they beat him and poured antiseptic fluid down his throat, which led to his hospitalization.⁹² Amnesty International reports that Saudi authorities arrested al-Shammari in June 2010 "after he published an article criticizing what he said was prejudice by Sunni religious scholars against members of the Shi'a community and their beliefs."⁹³ He also maintains that prison officials repeatedly "suspended [him] from the walls by his arms with his feet barely touching the floor."⁹⁴ He is currently serving a five-year prison sentence.

Saudi prisons have also perpetuated the ill-treatment of children. In December 2010, Saudi security forces arrested Hanane Abdurrahman Samkari and her three young children after they protested her husband's

87 "Saudi Arabia: The ill-treatment of detained human rights defenders in the Kingdom," Gulf Center for Human Rights, February 27, 2014, accessed August 3, 2015, <http://www.gc4hr.org/news/view/594>.

88 Ahmad Syed Neaz, "Corruption rules in Saudi jails," *The Guardian*, September 6, 2009, accessed August 5, 2015, <http://www.theguardian.com/commentisfree/2009/sep/06/saudi-prison>.

89 Syed Neaz Ahmad, "Eleven days in Saudi Gitmo," *The Guardian*, July 14, 2009, accessed August 5, 2015, <http://www.theguardian.com/commentisfree/2009/jul/14/saudi-mecca-islam-deported-muslim>.

90 Alastair Sloan, "A cry for help from inside a Saudi detention center," *Middle East Monitor*, June 15, 2015, accessed August 5, 2015, <https://www.middleeastmonitor.com/articles/middle-east/19243-a-cry-for-help-from-inside-a-saudi-detention-centre>.

91 Ibid.

92 "2011 Human Rights Report: Saudi Arabia." U.S. Department of State. <http://www.state.gov/documents/organization/186659.pdf>, 3

93 "Urgent Action: Human Rights Defender Sentenced Again," Amnesty International, UA: 169/13, Index: MDE 23/031/2014 Saudi Arabia.

94 Ibid.

arbitrary detention.⁹⁵ At the time of arrest, her children's ages ranged from 4 to 13.⁹⁶ During their lengthy pre-trial detention, prison officials subjected Hanane and her children to verbal and psychological abuse and held them in a permanently-lit cell.⁹⁷ In May 2012, after more than a year in arbitrary detention, authorities brought Hanane before the court, and she and her children were subsequently released from prison.⁹⁸

To the government's credit, it does appear that the government-approved human rights institutions have conducted visits and filed complaints on behalf of prisoners with some consistency. The national Human Rights Commission states that it conducted 260 prison visits in 1435AH (from November 2013 to October 2014), and that it raised over 1,000 complaints on behalf of detainees in that same span.⁹⁹ Similarly, the NSHR states that, over the last several years, it has received thousands of complaints concerning substandard prison conditions.¹⁰⁰ In particular, the NSHR has documented "shortages of, and improperly trained, wardens; lack of access to prompt medical treatment when requested; holding prisoners beyond the end of their sentences; and failure to inform prisoners of their legal rights."¹⁰¹ These conditions facilitate an environment in which government officials can violate the provisions of the CAT with impunity. Contrary to the government's response to the Committee's recommendation, the issues facing Saudi detention centers are not related to mechanisms of inspection. They concern the implementation of reforms based upon these examinations.

In regards to the Convention, Saudi authorities' negligent prison administration directly contravenes Article 11, which states that security personnel must "keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture."¹⁰² The lack of livable standards, in addition to repeated acts of torture and ill-treatment, exemplify the Saudi government's disregard for international norms governing the conditions of detention facilities. Finally, the arbitrary imprisonment and ill-treatment of children expressly violates Article 37 of the Convention on the Rights of the Child, to which Saudi Arabia acceded in 1996.¹⁰³

g. Ensure that its Mutawe'en officials exercise a clear and precise jurisdiction, in conformity with the Convention and other applicable rules of nondiscrimination, in a manner regulated by law and subject to review by ordinary judicial authority;

95 "Arbitrary Detention in Saudi Arabia: A Crime against Humanity?" Alkarama Foundation, November 29, 2012, accessed August 3, 2015, http://en.alkarama.org/documents/ALK_KSA_ADCrimeAgainstHumanity_Final_EN.pdf, 12.

96 "أطفال خلف القضبان", Adala Center for Human Rights, accessed August 3, 2015, <http://www.adalacenter.net/?act=art&id=687>.

97 "Arbitrary Detention in Saudi Arabia: A Crime against Humanity?" Alkarama Foundation, 12.

98 Ibid.

99 "هيئة حقوق الإنسان ترفع تقرير رقابة السجون إلى الملك.. وتؤكد معالجة <<الداخلية>> لملاحظاتها" Al-Riyadh, June 2, 2015, August 3, 2015, <http://www.alriyadh.com/1053321>.

100 "Saudi Arabia 2014 Human Rights Report," U.S. Department of State, <http://www.state.gov/documents/organization/236832.pdf>, 7.

101 Ibid., 5.

102 "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," United Nations Human Rights.

103 "Convention on the Rights of the Child," United Nations Human Rights, September 2, 1990, (ratified November 20, 1989). Retrieved from: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

In its analysis of the initial report submitted by Saudi Arabia, the Committee found that the jurisdiction of the “Mutawe’en” is “vaguely defined by law, and that their activities may violate the Convention.”¹⁰⁴ In its eventual response to the Committee, the Saudi government correctly noted that there is no formal Saudi force with the title of “Mutawe’en” (meaning, “the pious”); it is, however, one of the colloquial names of the men of the Commission for the Promotion of Virtue and the Prevention of Vice (CPVPV), whose daily functions involve the enforcement of public morality codes.¹⁰⁵ Since the publication of the Committee’s report, and especially over the course of the last three years, the Saudi government has made non-negligible progress in clarifying and limiting the CPVPV’s jurisdiction, although its members still overstep these bounds and are disciplined irregularly.

During the years immediately following the Committee’s report, the CPVPV operated within a loosely defined jurisdiction and acted with relative impunity. According to the Law of the Commission for the Promotion of Virtue and Prevention of Vice, first promulgated in 1980 (1400 AH), CPVPV members exercised significant police powers with little oversight. Article 9 of the law defined the Commission’s primary duty as guiding and advising the people on the proper observance of their religious duties vis-à-vis Sharia law, while failing to explicitly outline what those duties may be.¹⁰⁶ Articles 11, 12, and 13 empowered the CPVPV to investigate individuals, seize contraband, and interrogate them at CPVPV centers, as determined by agreement (and seemingly without any stricter oversight) between the interior minister and the CPVPV president.¹⁰⁷

The Saudi government correctly noted that the 2001 Law of Criminal Procedure legally constrained these rules of investigation and enforcement, stressing that the BIP supervise their investigations.¹⁰⁸ Further, a 2006 regulation prohibited the CPVPV from conducting arrests in the absence of standard law enforcement officers.¹⁰⁹ CPVPV members, however, frequently ignored these constraints and continued to carry out investigations as if the articles of the 1980 law remained in effect. Authorities often neglected to sanction CPVPV officers that acted outside their jurisdiction, particularly in ways that violate the Convention.

Though any number of cases could be highlighted, two separate instances from the summer of 2007 concisely illustrate this impunity. On 23 May of that year, CPVPV officers beat Saudi citizen Suleiman al-Huraisi to death for possessing alcohol. Though MOI investigators charged the two officers, a court acquitted them later that

104 “Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Saudi Arabia,” United Nations Committee Against Torture, at 4(h).

105 “Commission for the Promotion of Virtue and the Prevention of Vice,” Americans for Democracy & Human Rights in Bahrain, April 2015, accessed August 5, 2015, http://adhrb.org/wp-content/uploads/2015/04/2015.03.31_Ch.-1-CPVPV.pdf.

106 نظام هيئة الأمر بالمعروف والنهي عن المنكر Royal Decree No. (M/37). 7 September 1980 (27 Shawwal 1400).

107 Ibid.

108 “Examen des rapports soumis par les États parties en application de l’article 19 de la Convention: Arabie saoudite,” United Nations Committee Against Torture, par. 174

109 “Precarious Justice: Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia,” Human Rights Watch, March 24, 2008, accessed August 5, 2015, <https://www.hrw.org/report/2008/03/24/precious-justice/arbitrary-detention-and-unfair-trials-deficient-criminal>, at Summary.

year.¹¹⁰ In June, Saudi citizen Ahmad al-Bulawi died in CPVPV custody in the city of Tabuk for secluding himself with an unrelated woman. Though an autopsy revealed that he had received blows to his face prior to expiring, the Tabuk branch of the BIP declined to press charges.¹¹¹

In recent years, the Saudi government has made greater efforts to delimit the CPVPV's jurisdiction. In January 2013, then-King Abdullah passed a decree that specifically limited the scope of the CPVPV's investigative powers, affirmatively mandating that its members coordinate policing activity with other MOI forces and charging them with following the provisions contained within the Law of Criminal Procedure.¹¹² That same month, Sheikh Abdullatif Al al-Sheikh, then-president of the CPVPV, announced, "CPVPV agents have authority to investigate only certain categories of offenses, including harassment of women, alcohol and drug related offenses, witchcraft, and sorcery."¹¹³ Authorities have coupled these new rules with a greater willingness to sanction law-breaking CPVPV officials. In July 2013, the Medina District Court sentenced a CPVPV member to two months in prison for assaulting a man wrongfully accused of "being alone with an unrelated female."¹¹⁴ Additionally, after video surfaced of CPVPV agents assaulting a British man in August 2014, the CPVPV conducted an investigation and "found the four CPVPV employees guilty of abusing authority," a ruling that the employees were appealing as of the end of 2014.¹¹⁵

Still, this increased willingness to prosecute certain CPVPV violations is limited by the Commission's inherent role as the enforcer of socially conservative norms and practices. CPVPV agents, by the nature of their work, enforce discriminatory laws against women, violate the religious freedoms of non-Sunni Muslims, and censor independent media.¹¹⁶ Even when conducting their investigations within the existing regulations of Saudi law, the CPVPV enters violators of ill-defined morality codes into a criminal justice system that subjects them to arbitrary detention, lengthy prison terms, and corporal punishment.¹¹⁷

h. Ensure, in practice, that persons detained in custody are able to exercise prompt access to legal and medical expertise of choice, to family members and, in the case of foreign nationals, to consular personnel;

The Committee's analysis found that Saudi authorities frequently hold accused individuals in "prolonged pre-

110 "Saudi Arabia 2007 Human Rights Report," U.S. Department of State, March 11, 2008, accessed August 5, 2015, <http://www.state.gov/j/drl/rls/hrrpt/2007/100605.htm>.

111 Ibid.

112 تنظيم هيئة الأمر بالمعروف والنهي عن المنكر Royal Decree No. 73, January 2013, <http://www.assakina.com/center/systems/47985.html>, Article 8 (last accessed 5 August 2015).

113 "Saudi Arabia 2013 Human Rights Report," U.S. Department of State, 7-8.

114 "Saudi Arabia religious police officer sentenced to two months in prison for assault," Gulf News, July 28, 2013, accessed August 5, 2015, <http://gulfnews.com/news/gulf/saudi-arabia/saudi-arabia-religious-police-officer-sentenced-to-two-months-in-prison-for-assault-1.1214234>.

115 "Saudi Arabia 2014 Human Rights Report," U.S. Department of State, 8.

116 "Commission for the Promotion of Virtue and the Prevention of Vice" Americans for Democracy & Human Rights in Bahrain; See also "Mapping the Saudi State, Chapter 4: Media Censorship," Americans for Democracy & Human Rights in Bahrain, July 2015, accessed August 5, 2015, http://adhrb.org/wp-content/uploads/2015/07/2015.06.30_MSS-Ch.-4_Media-Censorship_Final.pdf, 5-6.

117 See Section II(i)(c)

trial detention,”¹¹⁸ extending “beyond the statutory limits prescribed by law.”¹¹⁹ Periods of incommunicado detention often accompanied these prolonged detentions, during which detainees were unable to contact both their lawyers and family members.¹²⁰ The Committee also expressed concern over the denial of medical assistance for all detainees, in addition to the denial of access to consular personnel for foreign detainees.

In response to these concerns, the Saudi government cited a series of domestic laws it has promulgated, and international treaties to which it is party, which mandate that detainees have access to legal counsel and medical assistance, and that foreign nationals be allowed contact with consular personnel.¹²¹ This response, however, ignores the Committee’s concern over how these mandates are implemented “in practice.” Saudi authorities have repeatedly failed to ensure that arrested persons can secure legal representation, medical assistance, and steady lines of communication with family members. Furthermore, they have repeatedly denied detained foreign nationals access to consular aid.

In a 2015 report on due process violations within the Saudi system of criminal justice, ADHRB and BIRD found that the government failed to apply its own domestic law by consistently denying the accused access to legal representation.¹²² This conclusion matched those of both international human rights organizations¹²³ and the U.S. Department of State, the latter of which recently stated that defendants within the Saudi legal system “generally did not have the right to obtain a lawyer of their choice.”¹²⁴

The Saudi government exacerbated this systemic failure of due process by decreeing the Law of Terrorism and Its Financing in 2014. Article 6 of the law permits criminal authorities to hold an accused terrorist incommunicado for up to 90 days (a 30-day increase over the Law of Criminal Procedure’s 60-day limit).¹²⁵ While the article states that such detention does not prejudice the accused’s right to contact his or her relatives, it says nothing of their ability to access an attorney. The law also extends the period in which

118 “Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Saudi Arabia,” United Nations Committee Against Torture, at 4(d).

119 *Ibid.*, at 4(e).

120 “Saudi Arabia: Torture and incommunicado detention of human rights defenders Waleed Abu al-Khair and Dr. Abdulrahman Al-Hamed,” Gulf Center for Human Rights, April 25, 2014, accessed August 5, 2015, <http://www.gc4hr.org/news/view/645>.

121 “Examen des rapports soumis par les États parties en application de l’article 19 de la Convention: Arabie saoudite,” United Nations Committee Against Torture, par. 175-176.

122 *The Pretense of Progress: A report on the implementation of Saudi Arabia’s recommendations from the special rapporteur on the independence of judges and lawyers*, Americans for Democracy & Human Rights in Bahrain and the Bahrain Institute for Rights and Democracy, March 2015, accessed August 5, 2015, http://adhrb.org/wp-content/uploads/2015/03/ADHRB_Pretense-of-Progress_v1_web.pdf, 21.

123 “Precarious Justice: Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia,” Human Rights Watch, at section V; see also “Saudi Arabia: Scheduled beheading reflects authorities’ callous disregard to human rights,” Amnesty International, August 22, 2014, accessed August 5, 2015, <https://www.amnesty.org/en/latest/news/2014/08/saudi-arabia-scheduled-beheading-reflects-authorities-callous-disregard-human-rights/>.

124 “Saudi Arabia 2014 Human Rights Report,” U.S. Department of State, 10.

125 *The Pretense of Progress: A report on the implementation of Saudi Arabia’s recommendations from the special rapporteur on the independence of judges and lawyers*, Americans for Democracy & Human Rights in Bahrain and the Bahrain Institute for Rights and Democracy, Appendix; see also “Law of Criminal Procedure – Saudi Arabia,” University of Minnesota Human Rights Library, Article 119.

officials can detain a terrorist suspect without judicial review from six months to one full year.¹²⁶

The arrests and interrogations of political dissidents, real or suspected, best exemplify this procedural failing. On 15 February 2012, Saudi police arrested 21-year-old Ali Abdullah al-Utal on suspicion of participating in protests in the Eastern Province. Al-Utal, who maintained that he had not involved himself in the demonstrations, voluntarily turned himself in to the local police in order to clear his name. Instead, the *Mabahith*, Saudi Arabia's internal intelligence service operating within the MOI, detained him at their detention facility in the city of Dammam. The *Mabahith* prevented him from contacting an attorney; according to the European-Saudi Organisation for Human Rights (ESOHR), al-Utal did not receive any form of legal representation until the latter stages of his trial, and none during the period of his interrogation. Additionally, *Mabahith* officials prevented his family from visiting him.¹²⁷

In the absence of legal assistance, and with no significant oversight from the judiciary or the BIP, *Mabahith* officials subjected al-Utal to extreme forms of torture and degrading treatment, including electric shocks, beatings administered with hoses and rubber sticks, and stress positioning. This regimen of abuse coerced al-Utal into confessing to a number of crimes, for which the Specialized Criminal Court sentenced him to death on 8 June 2014.¹²⁸

Saudi prison officials have proven equally negligent in permitting access to necessary medical care for ill and injured inmates. Nowhere is this problem better illustrated than in the case of religious scholar and political dissident Sheikh Nimr Baqir al-Nimr. On 8 July 2012, Saudi police violently arrested Sheikh al-Nimr, shooting him four times.¹²⁹ During confinement, he was "denied surgery to remove the bullet in his back," and authorities also refused to secure treatment for an injured right leg, which remains paralyzed due to the arrest.¹³⁰ As reported by Amnesty International, throughout his trial, the Specialized Criminal Court consistently violated Sheikh al-Nimr's rights by denying his legal counsel access to preliminary charge information, case details, and a proper schedule of hearings.¹³¹ The court sentenced him to death in October 2014.

Additionally, Saudi officials often prevent detained non-citizens access to consular personnel. This due process violation particularly affects migrant workers. In a 2008 Human Rights Watch report on the status

126 *The Pretense of Progress: A report on the implementation of Saudi Arabia's recommendations from the special rapporteur on the independence of judges and lawyers*, Americans for Democracy & Human Rights in Bahrain and the Bahrain Institute for Rights and Democracy, Appendix.

127 بعد التعذيب وتأخير المحامي، القضاء السعودي يحكم (العطل) بالإعدام, European-Saudi Organisation for Human Rights, June 23, 2014, accessed August 5, 2015, <http://www.esohr.org/%D8%A8%D8%B9%D8%AF-%D8%A7%D9%84%D8%AA%D8%B9%D8%B0%D9%8A%D8%A8-%D9%88%D8%AA%D8%A3%D8%AE%D9%8A%D8%B1-%D8%A7%D9%84%D9%85%D8%AD%D8%A7%D9%85%D9%8A%D8%8C%D8%A7%D9%84%D9%82%D8%B6%D8%A7%D8%A1-%D8%A7%D9%84/>.

128 Ibid.

129 Mandates of the Working Group on Arbitrary Detention, et. al., UA SAU 9/2014, August 28, 2014, [https://spdb.ohchr.org/hrdb/28th/public_-_UA_Saudi_Arabia_28.08.14_\(9.2014\).pdf](https://spdb.ohchr.org/hrdb/28th/public_-_UA_Saudi_Arabia_28.08.14_(9.2014).pdf) (last accessed 5 August 2015); see also "Saudi Shia cleric Nimr al-Nimr 'sentenced to death,'" BBC News, October 15, 2014, accessed August 5, 2015, <http://www.bbc.com/news/world-middle-east-29627766>.

130 "Saudi Arabia: Appalling death sentence against Shi'a cleric must be quashed," Amnesty International, October 15, 2014, accessed August 5, 2015, <https://www.amnesty.org/en/latest/news/2014/10/saudi-arabia-appalling-death-sentence-against-shi-cleric-must-be-quashed/>.

131 Mandates of the Working Group on Arbitrary Detention, et. al., UA SAU 9/2014, August 28, 2014.

of migrant labor in Saudi Arabia, consular officials from Asian “labor-sending” countries “all reported that it often takes several months to learn about arrests, criminal proceedings, convictions, and deportation of their nationals.”¹³² This failure to inform consular personnel of their nationals’ cases is due to the Saudi government’s inefficient protocols; instead of criminal investigators contacting embassy officials after the arrest of a non-Saudi national, all contact concerning these cases must pass through the Ministry of Foreign Affairs (MOFA). In the time it takes the MOFA to process these cases, the migrant worker in question may have already undergone investigation, trial, and sentencing without legal assistance or consular contact.¹³³

Such practices stand in stark violation of Saudi domestic law and international obligations. Articles 4, 64, 119, and 140 of the Law of Criminal Procedure guarantee the right of the detained to access legal representation during investigation and trial.¹³⁴ Additionally, as the Saudi government itself notes, officials are obligated to adhere to the Vienna Convention on Consular Relations of 1963, to which Saudi Arabia is a party.¹³⁵ The failure of Saudi agents to inform consular officials of the detention and court proceedings of their nationals in a timely manner, especially if this information is not delivered while said officials have an opportunity to intervene and provide support, contravenes the Convention. Finally, the lack of all third-party intervention into the cases of the accused, whether in the form legal representation, medical assistance, or consular support, provides leeway for Saudi agents to inflict torture and other degrading, extrajudicial penalties with impunity.

j. Ensure that its training of law enforcement personnel includes education and information on the recognition of the physical consequences of torture consistent with that provided to a number of its medical personnel, in accordance with article 10 of the convention;

Article 10 of the Convention states that “education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.”¹³⁶ Disregard for this article results in a tacit violation of the subsequent one, which calls for a “systematic review [of] interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”¹³⁷

Since the Committee released its 2002 report, the Saudi government has made noticeable strides in

132 “‘As If I Am Not Human’: Abuses against Asian Domestic Workers in Saudi Arabia,” Human Rights Watch, July 2008, accessed August 5, 2015, http://www.hrw.org/sites/default/files/reports/saudiArabia0708_1.pdf, 84.

133 Ibid.

134 “Law of Criminal Procedure – Saudi Arabia,” University of Minnesota Human Rights Library.

135 “Examen des rapports soumis par les États parties en application de l’article 19 de la Convention: Arabie saoudite,” United Nations Committee Against Torture, par. 176.

136 “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” United Nations Human Rights, Article 10.

137 Ibid., Article 11

implementing programs designed to train and educate its law enforcement officials concerning the protection of human rights. The Saudi government's response to this Committee recommendation enumerates, with particular detail, the number of steps it has taken to bring its practices in line with Article 10 of the Convention. According to the Saudi government, these include, but are not limited to, onboarding training for BIP members that emphasize the Law of Criminal Procedure's prohibition against torture;¹³⁸ training programs for MOI officers at King Fahad Security College that touch upon the prohibition against torture and consequences for officers who break this prohibition;¹³⁹ the creation of a training program at King Fahad Security College entitled "Criminal Justice and Human Rights";¹⁴⁰ and the work of the national Human Rights Commission (a government entity) to host workshops and trainings on human rights protections for the BIP, members of the judiciary, and various law enforcement agencies.¹⁴¹

Considering that a number of these programs are relatively new (the government did not establish the Human Rights Commission, for example, until 2005),¹⁴² it does appear that the overall effort to promote human rights awareness among law enforcement officials has increased since the release of the Committee's report. The exact content of this training and education, however, remains unclear, and therefore the extent to which it covers "recognition of the physical consequences of torture" remains difficult to determine from what sources are publicly available.

King Fahad Security College does, in fact, offer a Graduate Degree in Criminal Justice and Human Rights. The program lasts for two semesters and is open to security officers that are candidates for the rank of captain. Courses taught during these semesters include a study of Saudi criminal procedure, a study of human rights in Sharia law, and a class that comments on international human rights law and the extent to which the Saudi government has acceded to its various treaties. It is possible, but not clearly explicit, that torture is covered in one of these courses.¹⁴³ Similarly, in 2013 the Saudi newspaper Al-Eqtisadiah published a summary of the Human Rights Commission's annual report on the status of human rights in Saudi Arabia.¹⁴⁴ Within its summary, the paper noted a Human Rights Commission claim that incidences of torture had

138 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture, par. 74.

139 Ibid., par. 75.

140 Ibid., par. 77.

141 Ibid., par. 80.

142 Human Rights Commission Regulation, Council of Ministers Resolution No. 207, September 12, 2005. Retrieved from: <http://www1.umn.edu/humanrts/research/saudi-arabia/HRC-regulation.html>.

143 "برامج الدبلومات العليا بالمعهد العالي للدراسات الأمنية", The Higher Institute for Security Studies at King Fahad Security College, Curriculum for 1436-1457 AH (2015-2016), http://www.kfsc.edu.sa/HigherInstitute/Documents/%D8%A8%D8%B1%D8%A7%D9%85%D8%AC_%D8%A7%D9%84%D8%AF%D8%A8%D9%84%D9%88%D9%85%D8%A7%D8%AA_%D8%A7%D9%84%D8%B9%D9%84%D9%8A%D8%A7_%D8%A8%D8%A7%D9%84%D9%85%D8%B9%D9%87%D8%AF_%D8%A7%D9%84%D8%B9%D8%A7%D9%84%D9%8A_%D9%84%D9%84%D8%AF%D8%B1%D8%A7%D8%B3%D8%A7%D8%AA_%D8%A7%D9%84%D8%A3%D9%85%D9%86%D9%8A%D8%A9_%D9%84%D9%84%D8%B9%D8%A7%D9%85_%D8%A7%D9%84%D8%AF%D8%B1%D8%A7%D8%B3%D9%8A_1436-1437.pdf, 13-16.

144 At the time that this report was written, the Human Rights Commission's website was undergoing restructuring, and its annual reports were not publicly available.

lessened due to the training of security forces in the fields of human rights and criminal justice.¹⁴⁵ Without commenting more broadly upon this claim, it at least reflects the Human Rights Commission's impression that its training materials address the prevalence of torture within the Saudi legal system. Once again, however, in the absence of greater documentation, it is unclear whether or not this training remarks upon torture's lasting physical consequences.

CONCLUSION

Over a decade after the issuance of the Committee's analysis of legal procedures, Saudi Arabia has done little to rectify its violations of the Convention and basic human rights. Significant evidence details the practical transgressions and due process violations that Saudi authorities, from police to prison guards to courts, commit on a consistent basis. Such practices allow Saudi authorities to detain individuals in unlivable conditions for prolonged periods without access to legal and medical counsel and to restrict contact with their families. These violations of the Convention against Torture depict a Saudi government that purports to uphold human rights in its willingness to ratify such conventions but subsequently disregards these obligations in its unjust application of the laws. While there is evidence that some Saudi officials have prioritized the training of these authorities in basic human rights norms, at this point, such training has not yielded noticeable improvements.

145 "هيئة حقوق الإنسان تصدر تقريراً عن حالة حقوق الإنسان في المملكة" Al-Eqtisadiyah, July 3, 2013, August 5, 2015, http://www.aleqt.com/2013/07/03/article_767548.html.

iii. The Committee's Recommendations Concerning Accountability and Transparency

INTRODUCTION

As part of its 2002 consideration of Saudi Arabia's report under Article 19 of the Convention, the United Nations Committee Against Torture cited significant concerns over the lack of transparency and accountability within the Kingdom of Saudi Arabia.¹⁴⁶ Specifically, the vaguely-defined powers of Saudi Arabia's criminal justice officials troubled the Committee, as well as the Saudi government's failure to provide an actionable investigative mechanism for alleged violations against the CAT.¹⁴⁷ As such, the Committee issued recommendations that Saudi Arabia is obligated to uphold in order to ensure the protection of the basic rights of its people due to its ratification of the Convention.¹⁴⁸ However, as this section outlines, the Saudi government has taken minimal steps, if any, towards implementing the Committee's recommendations to increase governing transparency or bring torturers to justice.

RECOMMENDATIONS

f. Ensure that all persons who have been victims of a violation of their rights under the Convention have access, in law as well as in practice, to the means of obtaining full redress, including compensation, and that the persons who may be responsible for such violations are promptly and impartially investigated, and thereupon punished;

The Committee expressed its concerns with Saudi government's apparent failure "to provide effective mechanisms to investigate complaints of breaches of the Convention."¹⁴⁹ Additionally, the Committee noted that Saudi Arabia's mechanism to provide compensation for the government's conduct in violating the Convention "appears to be rarely obtained, and full enjoyment of the rights guaranteed by the Convention is consequently limited."¹⁵⁰ In its 2015 periodic report to the Committee, the Saudi government offered a lengthy rebuttal to this recommendation, citing a host of laws it has promulgated to both sanction officials who commit torture and offer avenues for redress to their victims.¹⁵¹ Despite the length and detail of this response to the

146 "Conclusions and recommendations of the Committee against Torture: Saudi Arabia," United Nations (12 June 2002), accessed 12 June 2015. [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/a1d3cd6a1c89d294c1256bd00055bac6?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/a1d3cd6a1c89d294c1256bd00055bac6?Opendocument).

147 Ibid.

148 "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," United Nations Human Rights.

149 "Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Saudi Arabia," United Nations Committee Against Torture, at 4(i).

150 Ibid., at 4(j).

151 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture, par. 116-139.

Committee, ADHRB and BIRD find that, in both law and practice, the government's mechanisms to ensure redress and punish violators remain inadequate and irregularly applied.

Saudi law, as currently developed, offers only vaguely-defined sanctions for government officials found to have committed torture. One obscure code, Royal Decree No. 43 (enacted in 1958), does stipulate a punishment of imprisonment not exceeding 10 years, or a fine not exceeding 20,000 riyals, to every government employee that commits a host of official transgressions, torture and coercion being among them.¹⁵² The law, however, fails to offer a definition of what constitutes "torture" or "coercion." Article 2 of the Law of Criminal Procedure, which prohibits officials from subjecting arrested individuals to torture or degrading treatment, also suffers from this ambiguity.¹⁵³ The Saudi government's insistence that its accession to the CAT serves as a domestically-enforceable law of torture does not clarify these concerns, as its interpretation of what acts constitute torture has clashed with that of the Committee's.¹⁵⁴

The Saudi government has promulgated two other codes that institute potential sanctions for law enforcement officials found to have committed torture. Articles 14 through 26 of the Law and Regulations of the Bureau of Investigation and Public Prosecution provide for a disciplinary board, answerable to the interior minister, which can investigate and punish BIP officials that have committed criminal acts. Such punishments include suspension and dismissal, and do not otherwise prejudice criminal proceedings that may be brought against the violator.¹⁵⁵ Additionally, Article 121 of the Law of Internal Security Forces stipulates that an officer under investigation for committing a crime may be suspended or even detained "if the interest of the investigation so requires."¹⁵⁶ In its 2015 periodic report, the Saudi government states that, for both codes, "crime" includes acts of torture.¹⁵⁷ That being the case, the understanding of "torture" retroactively ascribed to these statutes still suffers from the same uncertainty discussed in the previous paragraph.

This ambiguity augments a second legal failing: the lack of independent processing and adjudication of complaints of torture. Articles 27, 38, and 39 of the Law of Criminal Procedure stipulate that officials within the BIP's jurisdiction ultimately investigate all complaints of torture and ill-treatment from detainees.¹⁵⁸ Though the Saudi government insists that the BIP is an independent agency,¹⁵⁹ it answers directly to the interior minister, and the MOI oversees its budget.¹⁶⁰ As the MOI manages all law enforcement and prison administration

152 Royal Decree No. 43, Kingdom of Saudi Arabia, 1377 AH (1958 CE), Article 2, par. 8. Retrieved from: <http://www.cib.gov.sa/mrsum.pdf>.

153 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library.

154 See Section II(i)(a)

155 Law and Regulations of the Bureau of Investigation and Public Prosecution: Royal Decree No. (M/56), Kingdom of Saudi Arabia, May 29, 1989. Retrieved from: https://www.saudiembassy.net/about/country-information/laws/Bureau_of_investigation_and_prosecution.aspx.

156 نظام قوات الأمن الداخلي. Royal Decree No. 30, 1384 AH (1965 CE), Article 121. Retrieved from: <http://www.mshba.com/Procedure.htm>.

157 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture, par. 123-124.

158 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library

159 Law and Regulations of the Bureau of Investigation and Public Prosecution, Article 5.

160 Ibid., Article 1.

within the kingdom, its employees are frequently implicated in violations of the Convention.¹⁶¹ Therefore, as the BIP is a *de facto* compartment of the MOI, it does not act as an independent, third-party investigator of complaints of torture and other degrading treatment. Rather, as the Saudi government's public prosecution, it is responsible for charging members of its parent ministry, and even its own agency, with crimes related to the Convention; this arrangement engenders a clear conflict of interest.

An ambiguous legal definition of torture, coupled with a dependent investigatory apparatus, severely hampers efforts to promptly and impartially investigate officials responsible for violations of the Convention. In circumstances where torture causes international scandal, MOI officials have occasionally acted to punish the perpetrators. In March 2015, two police officers at Jeddah International Airport reportedly sexually assaulted two Iranian pilgrims.¹⁶² After the Iranian government suspended minor pilgrimages to Saudi Arabia, the MOI brought legal proceedings against the officers, who were each sentenced to four years in prison.¹⁶³ The government, however, does not always act in these circumstances, as evidenced by four former British detainees who have gone uncompensated for wrongful detention and torture that they suffered in the early 2000s.¹⁶⁴

Saudi law does enable victims of due process violations to access third-party courts in order to file civil suits, per Article 148 of the Law of Criminal Procedure and Article 47 of the Basic Law of Governance.¹⁶⁵ Restitution-seekers can most readily engage either a series of administrative courts collectively known as the Board of Grievances (BOG) or, if their case relates to national security, the SCC. The BOG operates as an administrative judicial institution supplementing Sharia courts; Article 13 of the 2007 update to the Law of the Board of Grievances empowers it to adjudicate on governmental "abuse of power."¹⁶⁶ The SCC and BOG may rule that "Individuals or organizations" who "petition directly for damages or government action to end human rights violations" receive monetary compensation.¹⁶⁷ In 2012, the MOI "reportedly paid compensation of 32 million riyals (\$8.5 million) to 486 detainees for being held longer in detention than their jail sentences."¹⁶⁸ As noted by the U.S. Department of State, however, the MOI does not always respect or respond to compensation

161 "Mapping the Saudi State, Chapter 2: The Ministry of Interior (Part 1)," Americans for Democracy & Human Rights in Bahrain, May 2015, accessed August 5, 2015, http://adhrb.org/wp-content/uploads/2015/05/2015.04.24_MSSCh.2_The-MOI-Pt.-1.pdf; see also "Mapping the Saudi State, Chapter 3: The Ministry of Interior (Part 2)," Americans for Democracy & Human Rights in Bahrain, June 2015, accessed August 5, 2015, http://adhrb.org/wp-content/uploads/2015/06/2015.05.21_MSSCh.3_Final.pdf.

162 "Saudi airport staff sentenced for abusing Iranian pilgrims," DAWN, June 11, 2015, accessed July 7, 2015, <http://www.dawn.com/news/1187563>.

163 "Saudi Airport Staff Sentenced for Abusing Iranian Pilgrims," The Washington Post, June 10, 2015, accessed July 7, 2015, http://www.washingtonpost.com/world/middle_east/saudi-airport-staff-sentenced-for-abusing-iranian-pilgrims/2015/06/10/1a69918a-0f88-11e5-a0fe-dccfea4653ee_story.html.

164 Owen Bowcott, "Britons told they cannot sue Saudi Arabia in torture case," The Guardian, January 14, 2014, accessed July 7, 2015, <http://www.theguardian.com/law/2014/jan/14/saudi-arabia-torture-human-rights-britons>.

165 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library; see also The Basic Law of Governance, Kingdom of Saudi Arabia, 1992.

166 Law of the Board of Grievances: Royal Decree No. (M/78), Kingdom of Saudi Arabia, 2007.

167 "Saudi Arabia 2013 Human Rights Report," U.S. Department of State, 14.

168 *Ibid.*, 12.

rulings.¹⁶⁹ The BOG, furthermore, “lacks the power to enforce its decisions.”¹⁷⁰

In August 2008, the BOG issued a verdict in favor of Imad Muhammad al-Matrudi, a prisoner detained by the Saudi *Mabahith*.¹⁷¹ The BOG ordered the *Mabahith* to release Imad, whom it had detained without trial for longer than the six-month period permitted by the Law of Criminal Procedure.¹⁷² As of May 2009, the *Mabahith* had refused to comply with the BOG’s order, and Imad remained in custody.¹⁷³ In June 2009, the BOG ordered the *Mabahith* to release Majid al-Husaini, a Saudi citizen arrested at the age of 17 in 2002.¹⁷⁴ An appellate court affirmed the BOG’s orders; however, the *Mabahith* refused to obey both orders and continued to imprison Majid, who remained in prison as of August 2009.¹⁷⁵ ADHRB was unable to confirm the current whereabouts of either person.

While the BOG and the SCC have ordered Saudi officials to compensate victims of arbitrary detention with varying degrees of success, it remains unclear whether or not they compensate Saudi residents who accuse the government of torture. In 2012, the BOG mandated that government officials compensate Mihklif al-Shammari,¹⁷⁶ not for the act of torture he suffered in 2011, but for his wrongful detention. An appellate court later decided that the BOG was not eligible to rule on al-Shammari’s case.¹⁷⁷ The SCC, for its part, has refused to acknowledge allegations of torture in the past. Between December 2013 and May 2014, the SCC sentenced seven Saudi men from the nation’s minority Shia community to stringent sentences in four separate trials; punishments included lengthy prison terms and even capital punishment. Though six of the men alleged to the court that interrogators had violently coerced them into confessing, judges refused to process their complaints. The court did, however, accept the confessions as evidence.¹⁷⁸

Additionally, Saudi men and women who utilize the BOG to seek compensation or bring charges against MOI officials have faced government reprisal, discouraging others from seeking restitution through the same channels. In June 2009, human rights lawyer Waleed Abu al-Khair filed a case against the MOI on behalf of Abdulrahman al-Shumairy, a political prisoner whom Saudi authorities had subjected to 30 months of solitary confinement without trial, conditions of imprisonment that violate the CAT. Subsequently, government officials approached Abu al-Khair’s father and brother, relaying that they would arrest him if he did not stop

169 “Saudi Arabia 2014 Human Rights Report,” U.S. Department of State, 18.

170 “Human Rights and Saudi Arabia’s Counterterrorism Response,” Human Rights Watch, August 2009, accessed August 5, 2015, <http://www.hrw.org/sites/default/files/reports/saudi-arabia0809web.pdf>, 16.

171 Cordesman, Anthony. *Saudi Arabia: National Security in a Troubled Region*. Santa Barbara: ABC-CLIO, 2009. Pg. 126.

172 “Law of Criminal Procedure – Saudi Arabia,” University of Minnesota Human Rights Library, Article 114.

173 “Human Rights and Saudi Arabia’s Counterterrorism Response,” Human Rights Watch, 16-17.

174 *Ibid.*

175 *Ibid.*

176 See Section II(ii)(d)

177 “Saudi Arabia 2013 Human Rights Report,” U.S. Department of State, 4.

178 “Saudi Arabia: Protest Convictions Flawed, Unfair,” Human Rights Watch, September 10, 2014, accessed August 5, 2015, <http://www.hrw.org/news/2014/09/10/saudi-arabia-protest-convictions-flawed-unfair>.

his activities.¹⁷⁹ After several further years of legal activism, the SCC sentenced Abu al-Khair to a 15-year prison term in July 2014.¹⁸⁰ Furthermore, Saudi interlocutors have informed ADHRB and BIRD that the Saudi government moved to dissolve the Saudi Arabian Civil and Political Rights Association (ACPRA),¹⁸¹ only after its members attempted to submit complaints of torture and arbitrary detention to the BOG and Royal Court.

Under international law, Saudi Arabia is legally bound by the Convention and is obligated to carry out the provisions therein.¹⁸² Article 13 of the Convention provides that state parties, such as Saudi Arabia, must promptly investigate any allegations of torture.¹⁸³ Article 14 of the Convention provides that victims of torture must have an enforceable right to compensation.¹⁸⁴ The Saudi government's failure to implement the Committee's recommendations is a direct violation of both Article 13 and Article 14 of the Convention which Saudi Arabia is legally obligated to uphold.

k. Adopt adequate measures to permit the creation of independent non-governmental organizations and the development of their activities in the area of the defense of human rights;

In its 2015 report to the Committee, Saudi Arabia stated that its law guarantees the right to association in "all areas."¹⁸⁵ This statement, however, does not stand up to scrutiny. Current Saudi law and practice effectively preclude the development of independent human rights associations. In the years since the publication of the Committee's recommendations, the Saudi government has consistently apprehended human rights defenders, ordered the closing of independent non-governmental organizations, and prevented the establishment of new non-charitable organizations.¹⁸⁶

Saudi Arabia lacks a law of association that regulates the establishment and operation of non-governmental human rights organizations.¹⁸⁷ Instead, the Ministry of Social Affairs (MSA) is the government body authorized to oversee the registration of all potential organizations, including human rights organizations and civil associations.¹⁸⁸ In practice, the MSA does not provide independent human rights organizations with a license to operate.

179 "Saudi Arabia – Increasing threats and harassment against human rights defender, Mr Waleed Sami Abu-Alkhair," Front Line Defenders, July 14, 2009, accessed August 5, 2015, <https://www.frontlinedefenders.org/node/2095>.

180 Mohammed Jamjoom, "Saudi activist gets 15-year sentence for 'inciting public opinion,'" CNN, July 7, 2014, accessed August 5, 2015, <http://www.cnn.com/2014/07/06/world/meast/saudi-lawyer-sentence/>.

181 See Section II(iii)(k)

182 "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," United Nations Human Rights.

183 Ibid.

184 Ibid.

185 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture, par. 179

186 "Saudi Arabia: Systematic targeting of members of ACPRA in addition to other human rights defenders," Gulf Center for Human Rights, September 21, 2014, accessed July 1, 2015, <http://www.gc4hr.org/news/view/752>.

187 "Saudi Arabia's ACRPA: How the Kingdom Silences Its Human Rights Activists," Amnesty International, October 2014, accessed June 23, 2015, <https://www.amnesty.org/download/Documents/8000/mde230252014en.pdf>.

188 "Saudi Arabia: Rights Groups Blocked From Operating," Human Rights Watch, August 29, 2013, accessed June 23, 2015, <http://www.hrw.org/news/2013/08/29/saudi-arabia-rights-groups-blocked-operating>.

Absent an association law that grants organizations licenses to operate, the Saudi government makes it nearly impossible for human rights defenders who wish to establish organizations within the country to legally function without exposing themselves to arbitrary detention, imprisonment, and torture. The aforementioned ACPRA, for example, is a nongovernmental human rights organization that aims to document human rights violations in Saudi Arabia, particularly abuses against political prisoners and detainees.¹⁸⁹ Fearing that the MSA would reject their request to have the organization licensed, the ACPRA applied for registration directly with the Royal Court. However, the Royal Court never responded and the ACPRA remained active.¹⁹⁰ Since 2011, the Saudi government has prosecuted ACPRA's 11 founders.¹⁹¹ As of 5 August 2015, 9 of the 11 are in prison, and two are on trial before the SCC.

The Saudi government has also forced a number of other human rights organizations into closing in recent years. In March 2014, the Adala Center for Human Rights (ACHR)¹⁹² suspended its activities after the MSA denied its application¹⁹³ for a license to operate. Without a license, Adala members feared that they would be prosecuted subject to the broad provisions of the Law of Terrorism Crime and Its Financing. The MSA reported that the ACHR was incompatible with Saudi law for grounding their work in international law, including the Universal Declaration of Human Rights.¹⁹⁴

Similarly, in April 2013 a group of activists living in Riyadh tried to form an organization called the Union for Human Rights. They applied to register their human rights organizations with the MSA as well, but the ministry rejected their application.¹⁹⁵ MOI officials threatened to bring charges against the group "if they did not halt their activities"; the group has since remained inactive.¹⁹⁶

Finally, the MSA rejected the application of the Monitor for Human Rights in Saudi Arabia (MHRSA) and blocked its website and Facebook page.¹⁹⁷ In 2014, Saudi authorities arrested Waleed Abu al-Khair, its founder, on charges of "undermining the regime and officials" and "founding an unlicensed organization."¹⁹⁸ On 6 July 2014, the SCC sentenced Waleed to 15 years in prison, banned him from traveling for 15 years, and fined him the equivalent of \$53,000.¹⁹⁹

189 "End Saudi Arabia's relentless crackdown on ACPRA activists," Amnesty International UK, November 19, 2014, accessed July 1, 2015, <http://www.amnesty.org.uk/groups/bloxxham/end-saudi-arabia%E2%80%99s-relentless-crackdown-acpra-activists>.

190 "Saudi Arabia: Rights Groups Blocked From Operating," Human Rights Watch.

191 "Persecution of founders of Saudi human rights watchdog ACPRA continues," IFEX, July 4, 2014, accessed July 2, 2015, https://www.ifex.org/saudi_arabia/2014/07/04/activist_sentenced_to_seven_years_in_prison/.

192 مركز العدالة لحقوق الإنسان <http://www.adalacenter.net/?act=artc&id=662>.

193 "Rejection Judgment to Register Adala Center," Adala Center for Human Rights, accessed August 5, 2015, <http://www.adalacenter.net/?act=artc&id=737>.

194 "Saudi Arabia 2014 Human Rights Report," U.S. State Department, 29.

195 "Saudi Arabia: Rights Groups Blocked From Operating," Human Rights Watch.

196 Ibid.

197 Ibid.

198 "Saudi activist Waleed Abu al-Khair sentenced to prison," BBC News, July 7, 2014, accessed July 2, 2015, <http://www.bbc.com/news/world-middle-east-28200195>.

199 Ibid.

The Saudi government, for its part, maintains that it has adhered to recommendation (k) by permitting the licensing and establishment of the National Society for Human Rights (NSHR) in 2004.²⁰⁰ While the NSHR does issue human rights reports, its independence is questionable; a royal decree brought it into existence, and it receives substantial funding from a trust of the late King Fahad.²⁰¹

The Saudi government is evading implementation of the Committee's recommendation. It apprehends and sentences human rights defenders for their activism, shuts down existing human rights organizations, and denies the creation of new human rights associations.

I. Provide data in the next periodic report disaggregated, inter alia, by age, gender, ethnicity, nationality, geography and other status, on persons who are deprived of their liberty in breach of the convention, and the results of any cases of prosecution or sanction of police or other officials for acts prohibited by the Convention;

In its report, the Committee recommended that Saudi Arabia's subsequent periodic report, due to the body in October 2002, should provide detailed and categorized data regarding the personal information of victims as well as the outcome of the violations against the Convention. In its 2015 periodic report, published over 12 years after its initial October 2002 due date,²⁰² the Saudi government failed to respond directly to recommendation (l), as it did to recommendations (a) through (k).²⁰³

Saudi Arabia does, at the end of its report, list ten tables with broad data concerning the official visits to prisons and courts and the prosecution of certain crimes. One of these tables, Appendix 9, specifically lists the number of BOG decisions handed down in cases of ill treatment in the performance of duties, abuses of power, influence peddling, and use of violence; between 2002 and 2011, the government states that the BOG either fined or sentenced to prison 1,533 officials.²⁰⁴ Beyond this statement of data in bulk, the Appendix neglects to supply specific examples of the application of such punishments or further describe the nature of the crimes committed. Furthermore, given the BOG's inability to execute its sentences, the extent to which the Saudi government actually implemented the 1,533 rulings is unknown.

While providing limited insight into the "results of any cases of prosecution or sanction of police or other officials for acts prohibited by the Convention," this table does not supply any information about the victims of these official violations, nor does it delineate these victims by age, gender, ethnicity, nationality, or geography. ADHRB and BIRD conclude that the Saudi government failed to engage sufficiently with this recommendation.

200 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture, par. 179.

201 "Saudi Arabia 2014 Human Rights Report," U.S. State Department, 3.

202 Ibid.

203 "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture.

204 Ibid., Appendix 9.

m. Consider making the declaration under article 22 of the Convention;

Article 22 of the Convention allows state parties to declare their recognition of the Committee's competence in hearing complaints from individuals that claim to be victims of a violation of the Convention.²⁰⁵ As of August 2015, the Saudi government has not made this declaration. Additionally, in its 2015 periodic report, the government does not respond to recommendation (m). In light of this shortfall, ADHRB and BIRD conclude that the Saudi government failed entirely to engage with the Committee concerning this recommendation.

n. Widely disseminate the Committee's conclusions and recommendations, in all appropriate languages, in the country;

In its 2015 periodic report, Saudi Arabia does not respond to recommendation (n). ADHRB and BIRD could not locate any evidence that the Saudi government implemented the Committee's recommendation by disseminating their conclusions and recommendations in all appropriate languages throughout the country.

In the public domain, Arabic versions of the Saudi government's initial report to the Committee, submitted on 27 February 2001,²⁰⁶ and of its subsequent report submitted in January 2015,²⁰⁷ do exist. As such, there is reason to believe the Saudi government is capable of fully implementing the Committee's recommendations.

CONCLUSION

In the 13 years since the Committee published its recommendations, the Saudi government has failed to deal transparently with the special procedure or enact the proper mechanisms to ensure that public officials are accountable for their actions. Not only do victims of torture and other cruel and degrading treatment lack access to compensation and justice, but they also face the prospect of reprisal from the MOI if they pursue these cases. The Saudi government has forcefully precluded the operation of truly independent human rights organizations that could monitor and publicize violations of the CAT. Additionally, the government's engagement with the Committee remains as regrettably sparse as it did in 2002.

²⁰⁵ "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," United Nations Human Rights.

²⁰⁶ "Convention Against Torture: Consideration of Reports submitted by States Parties under Article 19 of the Convention," United Nations, February 27, 2001, accessed July 1, 2015, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsrUL716pLQDmVAn%2b-MEBJOASWo4wUR5Mm2uDcnBZhbkwKnXZjkBL43LI4NHVdtqcfM9Q5aAqs28Wp1Mx83PkZopph86tdcVXjrj1dybTGvKG2>.

²⁰⁷ "Examen des rapports soumis par les États parties en application de l'article 19 de la Convention: Arabie saoudite," United Nations Committee Against Torture.

3. CONCLUSION

In the 13 years since the Committee issued its report, the Kingdom of Saudi Arabia has made negligible progress in implementing its recommendations. Officials have pursued several minor, though notable, reforms. The Mutawe'en operate with less impunity than they did a decade ago, and law enforcement officials undergo some semblance of human rights training, even if the content of the instruction remains opaque.

This slight progress, however, has done little to rectify the systemic deficiencies that facilitate violations of the CAT. Saudi Arabia has failed to enact legal reforms that would diminish the recurrence of torture and other cruel, inhuman or degrading treatment or punishment, as recommended by the Committee and mandated by Article 2 of the Convention. The government has failed to draft and codify a law that criminalizes torture, end its use of corporal punishments, fully guarantee the independence of the judiciary, or ensure that its laws are evenly applied to all persons regardless of national, social, or religious divisions.

Saudi Arabia has also neglected to ensure that its legal procedures and practices are compatible with the CAT. Authorities regularly subject detainees to torture and other forms of cruel and degrading treatment during pre- and post-trial detention periods. Prisons are overcrowded, producing dangerous living conditions for inmates. These problems are exacerbated by the ongoing and legally-sanctioned use of incommunicado and lengthy pre-trial detention, by erratic access to legal representation and medical and consular assistance, and by law enforcement agents that operate within vaguely-defined and expansive jurisdictions.

Finally, Saudi Arabia has disregarded calls to further engage with the Committee and the mandates of the Convention. In disregard of the Committee's request, there is no evidence that the government has considered making a declaration under Article 22 or that it has widely disseminated the Committee's recommendations. Yet there is abundant evidence that the Saudi government has stringently repressed the development of an independent civil society, particularly targeting those organizations that report on governmental human rights violations. Even when the government does engage, it does so at great delay, taking 13 years to submit an incomplete response to the Committee's first set of recommendations.

Despite its failure to fully act on its international obligations, Saudi Arabia remains a State Party to the Convention, one that has submitted to the Committee's review in the past. A decade following the entrance of the Committee's conclusions and recommendations into the public domain, it is now the responsibility of those State Parties following the Convention in good faith to hold the Kingdom of Saudi Arabia responsible for its violations. These transgressions will not end unless an organized and concerted international effort forces Saudi Arabia to, one by one, remove those systemic supports bolstering torture's use. Nothing short of reconfiguring criminal law, overhauling prison administration, and demanding full accountability for torturers, will do.

RECOMMENDATIONS

To the Government of Saudi Arabia:

1. Codify and enforce legislation that will address the Committee's recommendations and ensure that Saudi law does not directly or indirectly abet the use of torture and other cruel, inhuman or degrading treatment or punishment:

a. **Pass** a law that formally bans the use of torture by Saudi government officials. This law must provide a detailed definition of acts constituting torture, prohibit its use in facilities operated by any government agencies, and outline clear and actionable criminal penalties for officials found guilty of committing torture;

b. **Reform** the Law of Terrorism and Its Financing to reduce the influence wielded by the Ministry of Interior over judges of the Specialized Criminal Court. The power to review an inmate's detention, release a detainee before his or her sentence has ended, and hear allegations of human rights abuses from a detainee—regardless of whether or not his investigation is ongoing—must remain the sole function of the court, and not the Ministry of Interior;

c. **Reform** the Law of Criminal Procedure to stipulate that the detained has the right to immediately access legal counsel and medical and consular assistance, regardless of the imperatives of the investigation;

d. **Pass** a law of association that permits independent civil society organizations, including human rights organizations, to operate freely;

e. **Mitigate** the influence of the king on the judiciary by reforming the 2007 Law of the Judiciary. Any such update should provide for the creation of a system wherein judges are appointed by an independent body of legal experts and cannot be dismissed by royal decree;

f. **Pass** a law which prevents immigration officials from refouling migrants;

2. Reform criminal justice institutions so as to prevent the commission of acts which constitute torture:

a. **Enforce** rulings made by the Board of Grievances to compensate victims of governmental abuses;

b. **Reconfigure** the Bureau of Investigation and Prosecution as a separate office totally divorced from the MOI, thereby ensuring its independence in practice;

c. **Reduce** prison overcrowding by undertaking a thorough review of the status of detainees in all detention facilities, releasing those who have stayed in prison past the expiration of their sentences or who have not been arraigned before a court within six months following their arrest;

- d. **Subject** all prisons to strict, impartial, and frequent civilian oversight;
- e. **Prevent** the Commission for the Promotion of Virtue and Prevention of Vice from acting to publicly segregate genders or investigate crimes of blasphemy and witchcraft. Continue to reduce the autonomy of its officers, and to fully prosecute all employees who commit an act in violation of the Convention.
- 3. Engage** in transparent dealings over issues concerning torture, both with the UN and with the international community at large:
- a. **Publish** in Arabic and English the materials supplied to police officers, security forces, and religious police to protect human rights. Publicize the number, location, and topics of human rights-focused trainings made each year;
- b. **Make** a declaration that formally recognizes the Committee Against Torture's competency in processing communications from individuals claiming that the Government of Saudi Arabia has violated the rights accorded to them by the Convention Against Torture, per Article 22 of the treaty;
- c. **Widely disseminate** the government's communications with the Committee and the Committee's responses in state-run media outlets;
- d. **Create** an independent Ombudsman responsible for overseeing the Ministry of Interior.
- 4. Consider** reconciling progressive interpretations of the Sharia with the current Saudi legal framework. Examine the interpretations of the Sharia adopted by other, more progressive Muslim societies and states.
- 5. Further develop** the role of human rights in Saudi society by ratifying and implementing international human rights conventions, including the International Convention on Civil and Political Rights and the International Convention on Economic, Social, and Cultural Rights.
- 6. Vacate** the seat at the Human Rights Council until such time as Saudi Arabia complies with established international human rights norms.
- 7. Issue** a standing invitation to all Special Procedures of the Human Rights Council to visit the country and perform human rights assessments.

To the United Nations:

1. **Consider** issuing a resolution formally condemning the human rights situation in Saudi Arabia, making specific mention of the failure to engage with the Committee Against Torture and failure to implement key provisions of the Convention Against Torture.
2. **Further enable** the Special Procedures of the United Nations to perform their duties as they relate to the Kingdom of Saudi Arabia:
 - a. **Insist** that the Kingdom of Saudi Arabia permit the Special Rapporteur on torture and other cruel, unusual, or degrading treatment or punishment to visit the country to perform an assessment of the government's compliance with the CAT;
 - b. **Issue** recommendations based on the Committee Against Torture's findings in Saudi Arabia's next cycle of its Universal Periodic Review;
 - c. **Hold accountable** the Kingdom of Saudi Arabia by publicly commenting on the implementation of recommendations made by the Rapporteurs on the independence of judges and lawyers and violence against women and its causes.
3. **Request** that the Kingdom of Saudi Arabia allow the United Nations Office of the High Commissioner for Human Rights to establish a permanent mission in Riyadh, complete with a full reporting mandate.
4. **Consider** requesting that the Kingdom of Saudi Arabia vacate its seat on the Human Rights Council until such time as it complies with established international human rights standards.

To the International Community, the European Union, and the United States of America:

1. **Hold accountable** the Kingdom of Saudi Arabia by publicly commenting on the implementation of the recommendations made by the Committee Against Torture, especially in the kingdom's next Universal Periodic Review cycle.
2. **Condemn** the lack of progress made by the Kingdom of Saudi Arabia in aligning its laws and practices with the precepts of the CAT in national and international parliaments and legislatures, including in the National Parliament of the United Kingdom, the Congress of the United States of America, and the European Parliament:
 - a. **Cease** all sales of any arms or weapons that may be used by the Kingdom of Saudi Arabia to commit acts that would violate the CAT;

b. **End** any foreign aid programs benefitting Saudi Arabia until such time as the government complies with the articles of the CAT;

c. **Issue** recommendations based on the Committee Against Torture's findings in Saudi Arabia's next cycle of its Universal Periodic Review.

3. Consider addressing concerns regarding ongoing human rights abuses in Saudi Arabia by passing a resolution at the Human Rights Council publicly condemning the human rights issues in the country and calling for concrete steps towards their resolution.

4. Call for the release of imprisoned members of the ACPRA, the MHRSA, and other civil society organizations that have attempted to peacefully call attention to the human rights abuses of the Kingdom of Saudi Arabia.

Americans for Democracy



& Human Rights in Bahrain