

8 September 2008

Public

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# **Saudi Arabia**

## **Submission to the UN**

## **Universal Periodic Review**

**Fourth session of the UPR Working Group of  
the Human Rights Council**

**February 2009**



## **Executive summary**

In this submission, Amnesty International provides information under sections B, C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.<sup>1</sup>

Under section B, Amnesty International describes some of the factors which undermine the human rights framework in Saudi Arabia.

Section C highlights Amnesty International's concerns about human rights violations in Saudi Arabia, including arbitrary arrest and *incommunicado* detention, indefinite detention without charge or trial, imprisonment of prisoners of conscience, unfair trials, detention beyond expiry of sentence, torture and other ill-treatment, the death penalty and discrimination.

In section D, Amnesty International makes a number of recommendations for action by the government to address the areas of concern.

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<sup>1</sup> Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

# Saudi Arabia

## Amnesty International submission to the UN Universal Periodic Review

### Fourth session of the UPR Working Group, February 2009

#### **Introduction**

The Kingdom of Saudi Arabia has made some progress in the field of human rights in recent years, but this progress remains seriously undermined by a fragile human rights framework and deep-rooted patterns of human rights violations.

#### **B. Normative and institutional framework of the State: A fragile human rights framework**

The human rights framework in Saudi Arabia is undermined by a lack of unequivocal legal safeguards, weak adherence to international human rights obligations and a criminal justice process which fails to meet the most basic standards of fairness and prisoners' rights.

#### **Lack of unequivocal guarantees**

Saudi Arabia is a monarchy with all state powers invested in and confined to the king and the Al-Saud royal family. The king enjoys absolute powers in the running of the affairs of the state and government institutions, as detailed in the Basic Law of Government (BLG) of 1992.<sup>2</sup> No political parties or organizations or trade unions are tolerated. Political participation in public affairs is limited to partial elections of male-only local government councils.

The human rights framework remains seriously undermined by the government's political, legal and judicial structures. The only reference to human rights in the BLG is the very general statement that "The state shall protect human rights in accordance with Islamic Shari'a."<sup>3</sup>

Political dissent, freedoms of expression, religion, association and assembly are severely curtailed in law and practice. Such restrictions are reflected in Article 39 of the BLG which states that: "Mass media, publication facilities and other means of expression shall function in a manner that is courteous and fair and shall abide by State laws. They shall play their part in educating the masses and boosting national unity. All that may give rise to mischief and discord, or may compromise the security of the State and its public image, or may offend against man's dignity and rights shall be banned." Fundamental rights and freedoms enshrined in the Universal Declaration of Human Rights, and the treaties to which Saudi Arabia is a state party, remain largely unprotected by domestic legislation. Saudi Arabia has yet to ratify two key international human rights standards: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR).

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<sup>2</sup> See Article 44 of the BLG which states that: "The powers of the State shall comprise: The Judicial Power; The Executive Power; The Organizational Power. All these powers shall cooperate in performing their duties according to this Law and other regulations. The King is the ultimate source of all these authorities."

<sup>3</sup> See Article 26 of the BLG.

**Undermined international human rights obligations**

The provisions of the human rights conventions to which Saudi Arabia is a state party are undermined by significant reservations and declarations that limit the enjoyment of the rights enshrined in them. The language used by Saudi Arabia in its reservations, stating generally that it will implement provisions of international treaties in as much as they do not conflict with Islamic Shari'a, does not clearly define the extent to which Saudi Arabia accepts its obligations according to these treaties. Such reservations are too general and vague and calls into question the commitment of Saudi Arabia to the object and purpose of the treaties concerned.<sup>4</sup> In addition, the government continues to enforce laws and practices that allow for corporal punishment and severe discrimination against women and minority groups, in violation of the rights guaranteed in these conventions.

**A weak criminal justice system**

The weakness in human rights protection is further exacerbated by a criminal justice system which, despite recent reforms, continues to fall far short of international standards governing procedures for arrest, detention and trials, as well as prisoners' rights. Recent reforms have included the enactment of the Law on Criminal Procedure, the Code of Lawyers Practice, both introduced in 2001, and of the Judiciary Law and the Court of Grievances Law, both introduced in October 2007. However, all of them remain largely unimplemented. The criminal justice system continues to operate largely in secret and on a summary basis and fosters impunity for human rights perpetrators. It allows for prolonged incommunicado detention and detention of suspects without charge or trial for long periods of time. It provides no rights for suspects to challenge in court the legality of their detention or to lodge complaints about other abuses such as torture and other ill-treatment. The security forces have extensive powers to detain suspects, and deny them the most basic rights of prisoners with impunity. As a rule, trials are held in secret and the suspect is denied legal assistance and representation during court hearings. The appeal process takes the form of a review in secret exchanges between judges of the trial court and the courts of appeal with no direct involvement of the defendant. The death penalty may be imposed and executions carried out without prior warning given to the prisoner or their family.

**C. Promotion and protection of human rights on the ground: Positive changes undermined by gross human rights violations**

The government's human rights pledges prior to Saudi Arabia's election to the Human Rights Council in 2006 continue to be undermined by serious and deeply rooted patterns of human rights violations, exacerbated by government policies and actions, including those adopted on the pretext of fighting terrorism.

**Arbitrary arrest and prolonged detention without charge or trial**

Government critics and security suspects are commonly subjected to arbitrary arrest and detention for indefinite periods of time by the security forces under the direction of the Ministry of the Interior.

Among those targeted recently because of their peaceful criticism of government policies is Dr Matrouk al-Faleh, a well known academic and human rights activist in his 50s, who was arrested in Riyadh on 19 May 2008. Since his arrest, he has been held without charge or trial and without access to lawyers in al-Ha'ir political prison in Riyadh. The authorities have not disclosed the reason for his arrest, but it is believed to be connected with the publication on 17 May of an article he wrote following his visit to two detainees in al-Buraida Prison considered by Amnesty International to be prisoners of conscience, Dr Abdullah al-Hamid and his brother, Issa al-Hamid. The article contained a detailed account of the harsh conditions prevailing in al-Buraida Prison, apparently as relayed to him by Dr Abdullah al-Hamid. Specifically, the article referred to overcrowded conditions, describing the presence of 30-40 prisoners in a cell of a size appropriate for only eight to 10 prisoners and a lack of adequate medical attention. The article also claimed that one prisoner

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<sup>4</sup> These treaties are the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

had died as a result of medical neglect. Dr Matrouk al-Faleh was previously arrested in March 2004 after calling for political reform, and was sentenced to six years' imprisonment in May 2005 on charges that included "sowing the seeds of dissent and disobeying the ruler". He was released after being granted a royal pardon by King Abdullah on 8 August 2005, following an international campaign for his release.

The majority of political detainees in Saudi Arabia are held as security suspects, most of them for many years. Amnesty International does not know the exact number of such detainees, but they may run into the thousands. In July 2007, the Minister of Interior disclosed that security forces had detained 9,000 security suspects between 2003 and 2007, and that 3,106 of them remained in detention. Further mass arrests are reported to have been carried out since. The detainees are believed to be held in or near to Makkah and Jeddah in the west, Riyadh and al-Buraida in the centre and al-Dammam in Saudi Arabia's Eastern Province. None of the detainees are known to have been allowed legal assistance or the opportunity to challenge the legality of their detention.

#### **Unfair trials and detention beyond expiry of sentence**

The trials of political detainees are rare and invariably fall far short of the most basic standards for fair trial. Some security detainees are reported to have been tried, but the government has not divulged their identity or information about their trials. However, according to information available to Amnesty International none has had access to a lawyer and all are said to have been tried in secret and sentenced to flogging in addition to prison terms. In some cases the defendants are reported to have served their sentences, but have remained in detention apparently without further charges being brought against them.

#### **Torture and other ill-treatment**

Torture and other ill-treatment, including the corporal punishment of flogging, is systematically practised in Saudi Arabia. This pattern of gross human rights violations is facilitated and perpetuated by legal, judicial, and institutional failures inherent to the administration of justice. In addition to the secrecy and denial of prisoners' basic rights, Saudi Arabia's criminal justice process gives primacy to confession as evidence, which provides an incentive to interrogators to obtain it by any means, including torture and deception.

Flogging is mandatory in Saudi Arabia for a number of offences, including sexual offences, and can also be used at the discretion of judges as an alternative or in addition to other punishments. Sentences can range from dozens to thousands of lashes, and are usually carried out in instalments, at intervals ranging from two weeks to one month.

The most common methods of torture and other ill-treatment by the security forces reported to Amnesty International include severe beatings with sticks, punching, suspension from the ceiling, electric shocks, sleep deprivation and insults.

#### **The death penalty**

Saudi Arabia has one of the highest rates of executions in the world. The government retains the death penalty for a wide range of offences, including non-violent offences, and continues to use it extensively, even against children, in defiance of international standards. The death penalty is used disproportionately against the poor, women and foreign workers from poor countries in Asia and Africa. According to statistics compiled by Amnesty International, from January 1985 until May 2008, out of a total of 1,639 persons executed, 830, more than a half, were foreign workers, compared to 809 Saudi Arabian nationals.

This extensive and discriminatory use of the death penalty is a result of government failure to abide by international standards for fair trial and safeguards for defendants in capital cases. Trials of capital cases are often held in secret and the proceedings are summary with no legal assistance and representation through the various stages of detention and trial through to execution. Foreign nationals with no knowledge of Arabic, the language of interrogation and trial hearings, are often denied adequate interpretation facilities.

Every year scores of people are executed, including at least 71 in the first eight months of 2008, many for non-violent offences, including drug offences, homosexuality, blasphemy and apostasy.

### **Positive developments**

Amnesty International recognizes and welcomes positive changes made by Saudi Arabia in recent years in three particular areas: legal and judicial reforms, human rights structures, and discrimination against women.

The Law on Criminal Procedure limits the period of detention without trial to a maximum of six months, prohibits torture and other bodily or moral harm to those under arrest and provides that detainees may seek legal counsel and defence. The Code of Lawyers Practice explicitly recognizes the important role of lawyers in the criminal justice process and consolidates many of the safeguards introduced by the Law on Criminal Procedure. However, both the Law on Criminal Procedure and the Code of Lawyers Practice must be implemented and further reinforced if they are to conform to international human rights law and standards.

The Judiciary Law sets out the rules governing the profession of judges, including their recruitment, inspection, promotion and discipline. It proclaims the independence of judges, but effectively leaves them under the control of the executive branch of the government, prompting concern that the new structure may fail to overcome the deep-seated secrecy and unfairness of the criminal justice process, despite the introduction of the Law on Criminal Procedure and the Code of Lawyers Practice. Article 17 of the Judiciary Law provides that appeal judgments are to be issued after a hearing involving the parties concerned; if implemented in practice, this could help to challenge the current practice of secrecy that surrounds appeals, particularly in capital cases. The Court of Grievances could have a role in hearing complaints about alleged miscarriages of justice, including in death penalty cases and other cases of abuse of power by the government.

The establishment by the government of two human rights organizations, the National Human Rights Commission (NHRC) and the National Human Rights Society (NHRS), is beginning to give visibility to human rights in the country. The NHRC appears to have been instrumental in the government reporting to CEDAW in January 2008, which led to lengthy discussions on the many severe forms of discrimination faced by women in Saudi Arabia. This seems to indicate an emerging political will to pay some attention to discrimination against women, as reflected by the government's agreement to the UN Special Rapporteur on Violence against Women visiting Saudi Arabia in February 2008.

## **D. Recommendations for action by the State under review**

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

### **Amnesty International calls on the government to:**

#### *Human rights framework*

Implement without delay the new legal and judicial reforms and revise their weak provisions so that they are brought into line with international human rights standards;

#### *Detainees and prisoners of conscience*

Release all prisoners of conscience without delay;

Charge all other detainees with a recognizable criminal offence according to international law and bring them to trial in accordance with international standards or release them;

#### *Torture and other ill-treatment*

End the practice of *incommunicado* detention;

End the practice of corporal punishment;

Ensure that all allegations of torture and other ill-treatment are thoroughly and impartially investigated, that alleged perpetrators are prosecuted, and that any statement that may have been extracted under torture is not used as evidence in the criminal proceedings;

*Discrimination against women*

Speed up undertakings made to the CEDAW Committee in January 2008 to tackle discrimination against women, including the enactment and implementation of laws protecting women from violence;

Ensure the full implementation of recommendations issued by the CEDAW and CERD Committees;

*The death penalty*

Declare a moratorium on executions;

Review the cases of all prisoners currently under sentence of death with the aim of commuting their sentences or offering them a new and fair trial without resort to the death penalty;

Bring the law and judicial practices into line with fair trial guarantees in international standards;

*International human rights obligations*

Ratify without reservations the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights, and review all reservations and declarations that limit the enjoyment of rights enshrined in the Convention on the Rights of the Child, the International Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women, with a view to lifting them, especially those that are contrary to the objects and purposes of the treaties.

## **Appendix: Amnesty International documents for further reference<sup>5</sup>**

Saudi Arabia, *Amnesty International calls for end to arrests and expulsions of foreign migrant workers on discriminatory grounds* (AI Index: MDE 23/001/2007)

Gulf Cooperation Council (GCC) countries, *Women deserve dignity and respect* (AI Index: MDE 04/004/2005)

Amnesty International Report 2008, *The State of the World's Human Rights* (Index: POL 10/001/2008)

Amnesty International Report 2007, *The State of the World's Human Rights* (Index: POL 10/001/2007)

Amnesty International Report 2006, *The State of the World's Human Rights* (Index: POL 10/001/2006)

Amnesty International Report 2005, *The State of the World's Human Rights* (Index: POL 10/001/2005)

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<sup>5</sup> All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/middle-east-and-north-africa/west-gulf/saudi-arabia>