



# Detention Review Panel into Women Activist Detainees in Saudi Arabia

Report

## Contents

Executive Summary.....	2
Summary of DRP Review.....	2
DRP Findings .....	5
DRP Recommendations .....	6
Panel Members.....	8
Scope of the Review.....	10
DRP Website .....	11
Letters to the Saudi Arabian Authorities .....	12
Response from the Saudi Arabian Government.....	14
Background .....	15
Saudi Vision 2030.....	15
Right to drive.....	15
Treatment of activists and dissidents in Saudi Arabia .....	16
The Detainees .....	21
Detainee Profiles.....	21
Treatment of the Detainees whilst in detention .....	25
Saudi government’s response.....	28
Sources of Evidence .....	29
Statement of AB.....	30
US State Department: Saudi Arabia 2017 Human Rights Report .....	32
United Nations communications .....	35
Law .....	37
International standards for treatment of women .....	37
International standards for prisons .....	37
International law provisions on torture.....	38
Saudi Arabia’s compliance with International law .....	39
Detention and due process.....	40
Conclusion.....	42

## Executive Summary

The Detention Review Panel (“DRP”) is a Panel of British Parliamentarians who have been mandated to review the detention conditions of women activists in Saudi Arabia. The Panel is chaired by former Foreign Affairs Select Committee Chair, Crispin Blunt MP. Its members include Liberal Democrat MP, Layla Moran, and Health and Social Care Committee member, Dr Paul Williams MP. Dr Tim Moloney QC of Doughty Street Chambers is Counsel to the DRP and Tayab Ali of ITN Solicitors is the Legal Secretariat.

Serious allegations have been made about the treatment of Saudi women activists currently in detention in Saudi Arabia. The profiles of eleven named detainees are listed in this report. For the purposes of this report, the detainees mentioned hereafter are collectively referred to as “the Detainees”.

The DRP considered primary and secondary open source evidence as part of its review into the detention conditions of the Detainees.

### Summary of DRP Review

The DRP has been commissioned by a Saudi Arabian citizen to review the detention conditions of the Detainees in Saudi Arabia, following allegations of torture made by credible and internationally respected human rights organisations, including Human Rights Watch and Amnesty International. The allegations also detail that the detainees were held in prison incommunicado without access to either legal advice or contact with their families for the first few months of their detention.

The Saudi Arabian citizen instructed leading, London-based, human rights law firm ITN Solicitors to convene the DRP. ITN Solicitors invited Crispin Blunt MP to chair the Panel and to select its members.

The DRP was mandated to:

- Determine the Detainees' detention conditions, including whether the Detainees have been subject to torture, threats of rape, assault or sexual harassment;
- Determine if the Detainees have been denied access to independent lawyers or their family members;
- Determine if the Detainees have been afforded adequate access to medical treatment whilst in detention;
- Establish if the Detainees' detention conditions are compliant with provisions under Saudi Arabian and International Law; and
- Prepare a report detailing the DRP's findings.

The DRP's findings were published on the dedicated DRP website: [www.detentionreview.com](http://www.detentionreview.com).

The Panel Chair, Mr. Crispin Blunt MP, wrote directly to His Excellency Prince Mohammed bin Nawwaf bin Abdulaziz, the Saudi Ambassador to the United Kingdom, requesting assistance with the facilitation of a visit to Saudi Arabia to see the Detainees. The letter explained the nature of the DRP, its constitution, mandate and that the DRP wished to meet with and take evidence directly from people responsible for the detention of the Detainees. The Panel Chair wrote a further letter to Saudi Arabia's recently appointed Foreign Minister, His Excellency Ibrahim Abdulaziz Al-Assaf, requesting the facilitation of a visit to the Detainees in Saudi Arabia.

There has been no official response from the Saudi Embassy or the Saudi Government addressed to the DRP, the Secretary of the Panel, or to any of the panel members.

The DRP has reviewed the following material:

- US State Department Country Reports;
- Opinions from the United Nations (“UN”) Working Group on Arbitrary Detention;
- UN expert joint statements;
- Concluding Observations by the Committee on the Elimination of Discrimination against Women;
- Reports from respected and credible human rights organisations;
- News sources;
- International and national legal instruments; and
- Evidence submitted to the DRP.

Due to the Kingdom of Saudi Arabia’s failure to grant the DRP access to the detainees, much of this report is based on secondary source material. However, many of the NGO reports that the DRP has relied on contain first-hand testimony. Human Rights Watch, for example, based its reports on interviews with affected individuals based within and outside Saudi Arabia. All participants were informed of the purpose of the interviews and the ways in which the data would be used, and were given assurances of anonymity where relevant.

Further information on the documents considered by the DRP can be found on [www.detentionreview.com](http://www.detentionreview.com).

## DRP Findings

The DRP made the following findings:

- The allegations made by family members of the Detainees are consistent with those recorded by human rights organisations including Human Rights Watch (“HRW”) and Amnesty International (“AI”), the United Nations, the United States State Department and news reports about the treatment of detained activists in Saudi Arabia.
- The allegations made by and on behalf of the Detainees as recorded in the various sources considered by the DRP are likely to be true.
- On the balance of probabilities, the detention of the Detainees is below the standard prescribed for the treatment of women under international law.
- The Detainees’ treatment constitutes cruel, inhuman and degrading treatment and could meet the threshold for torture under both Saudi Arabian and International law.
- The culpability for torture rests not only with the direct perpetrators but also with those responsible for it and those who acquiesce to it. The DRP finds that the conditions of the Detainees’ detention would be of such continuing interest to the entire chain of command that Saudi authorities at the highest levels could, in principle, be responsible for the crime of torture, which is a crime of universal jurisdiction.
- The Saudi Arabian government does not welcome oversight of the Detainees’ condition in detention;
- The Detainees’ incommunicado detention and the failure of the Saudi authorities to provide the Detainees with access to legal advice constitutes a violation of international law.
- If the Detainees are not provided with urgent access to medical assistance, they are at risk of suffering from long-term health conditions arising from their alleged torture.

The DRP is deeply concerned by the detention conditions of the Detainees. Further, the DRP is very disappointed with the stance the Saudi Arabian government has taken to date as the DRP has not yet been granted access to the Detainees. The DRP extends its invitation to the Saudi Arabian government to allow the DRP, or any other reputable independent body, to undertake a visit to the Detainees in Saudi Arabia.

### DRP Recommendations

Following its review of the available evidence, the DRP makes the following recommendations:

- The Saudi Arabian government should release the Detainees with immediate effect and allow them to return to their homes;
- Any criminal cases against the Detainees should be immediately reviewed by the senior prosecutor and, if a decision is made to prosecute, the Detainees should be afforded fair trial rights in accordance with international standards, and not be prosecuted in the Specialised Criminal Court.
- The DRP – and any other international organisations mandated to assess the Detainees – should be granted access to visit the Detainees in detention in Saudi Arabia;
- Any mistreatment of the Detainees should be stopped with immediate effect and the Detainees be treated in accordance with international law, in particular the Mandela Rules governing prison conditions;
- A suitably independent investigation should be undertaken into those individuals responsible for the mistreatment of the Detainees. The individuals found to be responsible for the mistreatment of the Detainees and those in authority over them should be prosecuted;

- The Detainees should be granted immediate access to medical care;
- The Detainees should be granted immediate access to independent legal advice; and
- The Detainees should be granted regular access to visits from family members and friends, with immediate effect;
- The governments of those nations that consider themselves liberal democracies with treaty obligations to uphold universal human rights and prohibit torture should consider appropriate measures to uphold these standards in so far as they are compromised in their current relations with the Kingdom of Saudi Arabia;
- The international community has an interest in the long-term stability of Saudi Arabia and governments should engage in any way they deem effective to advise and warn the Kingdom of the dangers of closing down the Kingdom's civil society space for freedom of expression.

## Panel Members

### **Crispin Blunt MP**

Chair

Crispin Blunt is the Conservative Party Member of Parliament for Reigate and was Chair of the Foreign Affairs Select Committee in the 2015-17 Parliament.

He was Parliamentary Under-Secretary in the Ministry of Justice with responsibility for Prisons and Probation 2010-12.

He is currently Vice- Chairman of both the All-Party Parliamentary Group for Saudi Arabia and the Conservative Middle East Council. Further relevant experience includes serving as Chairman of the Conservative Middle East Council (CMEC) from 2003 - 2008 and as co-chair of the Council for the Advancement of Arab British Understanding (CAABU).

### **Dr Paul Williams MP**

Panel Member

Dr Paul Williams MP is a Labour Party Member of Parliament and a member of the Health and Social Care Select Committee.

Dr Williams has acted as a Forensic Medical Examiner working with the Medical Foundation for the Care of Victims of Torture, documenting injuries from refugees who alleged mistreatment and torture.

### **Layla Moran MP**

Panel Member

Layla Moran MP is a Liberal Democrat Member of Parliament for Oxford West and Abingdon. Before entering Parliament, she was a Physics teacher. She is now the Liberal Democrat

spokesperson for Education and sits on the Public Accounts Committee. She is the first MP of Palestinian heritage.

**Dr Tim Moloney QC**

Legal Advisor to the Panel

Tim is the Deputy Head of Doughty Street Chambers. Tim's practice encompasses crime, extradition, international criminal law, public law and media law.

Tim is ranked in Band 1 of Crime QCs and is in the Spotlight Section for International Criminal Law in the current edition of 'Chambers and Partners' directory and is classed as a leading silk in crime in the current 'Legal 500'.

**Tayab Ali**

Legal Secretariat to the Panel

Tayab is a Solicitor Advocate and Partner at leading human rights law firm ITN Solicitors and heads the political, diplomatic and international law department.

Tayab is an internationally recognised and highly respected lawyer whose practice encompasses criminal and civil/public law in both domestic and international jurisdictions. Tayab was shortlisted as Human Rights Lawyer of the Year the Law Society's Excellence Awards in 2017.

## Scope of the Review

The Detention Review Panel (DRP)'s constitution, rationale and mandate is published on the DRP website, [www.detentionreview.com](http://www.detentionreview.com)

The DRP has been commissioned by a Saudi Arabian citizen, who is concerned about the conditions faced by the Detainees currently in detention in Saudi Arabia.

The Detainees were arrested between May and August 2018 and have been detained in Dhahban Prison before being moved to various other prisons. Since their detention, the Detainees have been effectively incommunicado, with little to no access to lawyers or their families.

Serious allegations have been made about the mistreatment of the Detainees whilst in detention. These include allegations of torture, sexual harassment, assault, threats of the death penalty or life imprisonment, and threats of rape.

The DRP has been constituted and mandated to:

- Determine the detention conditions of the Detainees;
- Determine the current state of health of the Detainees;
- Establish if the current detention conditions of the Detainees are compliant with the requirements of Saudi and International Law; and
- Prepare a report detailing the Panel's findings.

The mandate provided that members of the public or any other person or entity could submit evidence to the DRP through the DRP website.

## DRP Website

The DRP website allowed for individuals, groups and States to provide evidence. The website address is [www.detentionreview.com](http://www.detentionreview.com)

## Letters to the Saudi Arabian Authorities

In order to build confidence with the Saudi government, the Panel Chair, Crispin Blunt MP, wrote directly to His Excellency Prince Mohammed bin Nawwaf bin Abdulaziz, the Saudi Ambassador to the United Kingdom, requesting assistance with the facilitation of a visit to the Detainees in Saudi Arabia. The letter outlined the DRP's nature, constitution and mandate. It stated that the DRP wished to meet with and take evidence directly from the Detainees as well as the officials responsible for their detention.

In the letter, Crispin Blunt MP informed the Ambassador that he had been "invited by ITN solicitors, on behalf of a Saudi Arabian citizen (the Client), to convene together an independent panel of UK parliamentarians to review the conditions of these Women Activist Detainees (the Detainees) currently in detention in Saudi Arabia." Crispin Blunt MP confirmed that he had accepted the role of Chair and had convened panel members that he believed would collectively command confidence from the Saudi government and the families of the Detainees. He confirmed that he had constituted the panel with a mandate to review the detention conditions of the Detainees.

To reassure the Saudi government that the DRP acted in good faith, the letter stipulated that the mandate of the DRP was restricted to considering the Detainees' conditions of detention and their health, and that the DRP would act independently.

The letter outlined the fact that serious allegations have been made by various human rights organisations concerning the treatment of the Detainees in Saudi Arabia. These allegations include torture, sexual harassment, threats of rape, assault, threats of the death penalty or life imprisonment for "treason" and denial of access to family members and independent lawyers. These allegations have been dismissed as unfounded by the Saudi Arabian government.

The letter confirmed that the DRP are in the process of reviewing information and evidence provided to it. The letter highlighted the DRP's aim to gather direct testimony from the Detainees and the officials responsible for their detention, during its visit to Saudi Arabia.

The primary purpose of the letter to the Saudi Arabian Embassy was to request the facilitation of a visit for the DRP members to travel to Saudi Arabia and visit the Detainees in detention, with a view to reviewing the detention conditions.

In light of the urgent nature of the request, the DRP requested that the Embassy provide a written response to the letter by 9 January 2019. The DRP did not receive any response to its letter from the Embassy.

On 14 January 2019, the DRP sent a further letter to Saudi Arabia's recently appointed Foreign Minister, His Excellency Ibrahim Abdulaziz Al-Assaf, repeating its request for the facilitation of the DRP's visit to the Detainees in Saudi Arabia. The DRP requested a response by 29 January 2019, failing which it would conclude that the Kingdom of Saudi Arabia would not be responding to its request.

## Response from the Saudi Arabian Government

There has been no official response from the Saudi Arabian Embassy or the Saudi Arabian Government addressed to the DRP or its Secretary.

However, on 13 January 2019, it was reported that Saudi Arabia's public prosecutor is investigating the allegations and has visited the Detainees in prison to take their testimonies. Media outlets have reported that Saudi Arabia's Human Rights Commission has also opened an investigation.

## Background

### Saudi Vision 2030

Saudi Arabia's economic importance has rightly been attributed to its oil reserves, estimated at one-fifth of the world's total. Until recently, most working Saudis were employed by the state. The private sector was also heavily dependent on government spending as the state financed many private sector projects. This ensured that the government retained a firm fiscal control over the country. In recent years, however, a drop in oil prices globally has led to a significant reduction in Saudi Arabia's economic growth and a rapid increase in unemployment.

In September 2017, the Crown Prince Mohammed bin Salman unveiled an economic reform plan called the 'Saudi Vision 2030'<sup>ii</sup>, aimed at diversifying the Saudi economy away from oil and making Saudi society more progressive. Speaking at a conference in October 2017, the Crown Prince announced, "Today we have a people who are convinced that by working very strongly together, Saudi Arabia and all of its projects and programs can reach new horizons in the world".

The Crown Prince's reforms included increasing the number of Saudis in private employment, soliciting foreign investment and promising women the right to drive.

### Right to drive

For decades, the kingdom has operated under a male guardianship system, whereby women are required to obtain permission from their husbands, fathers, brothers and even their sons before they can undertake many tasks. Prior to June 2018, women were also prohibited from driving, meaning that families were required to hire private drivers to transport female relatives.

On 4 June 2018, the government abolished the ban on women driving cars, a move that was hailed internationally as a significant step forward in improving women's rights in Saudi Arabia.

However, immediately prior to the change in law, the government arrested more than a dozen women's rights activists, who had been campaigning for the right to drive and an end to the kingdom's male guardianship system. The individuals arrested were accused of having suspicious contacts with foreign entities and offering financial support to "enemies overseas". Eight of the activists have since been released from detention, however, there are still numerous detainees being held without charge or access to legal advice.

### Treatment of activists and dissidents in Saudi Arabia

The Detainees' arrests must be viewed against the backdrop of recent punishment of political dissidence and activism, imposed by the Saudi government.

In November 2015, the Saudi Arabian Council of Ministers approved the Law on Associations, which enables the authorities to disband any human rights groups if they are deemed to be "harming national unity". Since this date, several human rights activists have been put on trial for establishing human rights organisations. The only two human rights groups currently in operation are the Saudi Human Rights Commission and the National Society for Human Rights, both of which are government bodies.<sup>iii</sup>

The situation of human rights activist, Waleed Abulkhair, and fate of journalist, Jamal Khashoggi, illustrate the risks currently faced by the Detainees.

#### **Waleed Abulkhair**

Waleed Abulkhair is a lawyer and human rights activist who established the respected organization Monitor of Human Rights in Saudi Arabia, which documented human rights abuses in Saudi Arabia. He is an advocate for an elected parliament, independent judiciary, constitutional monarchy and the recognition of human rights. In 2012 he was awarded the

Olof Palme Prize and in 2015, he was awarded the Ludovic-Trarieux International Human Rights Prize, a highly prestigious award that was initially bestowed on Nelson Mandela.

In 2014, Abulhair was sentenced to 15 years in prison for terrorism-related crimes, although it has been widely reported by leading human rights organisations that the charges against him were baseless.<sup>iv</sup>

Abulhair's human rights activities had included holding discussions about human rights in his home, defending those who had been punished for speaking out and signing a letter that criticized the authorities for imprisoning activists who had peacefully advocated for democratic reform.

He was the first human rights activist to be tried and sentenced under Saudi Arabia's new anti-terrorism laws, which were brought into force halfway through his trial.

The UN Working Group on Arbitrary Detention prepared Opinion No. 10/2018 in relation to his detention and imprisonment.<sup>v</sup> The key paragraphs are as follows:

*22. [...] He was then subjected to incommunicado detention for 10 days, during which time he was subjected to forced sleep deprivation, and denied access to his lawyer and to required medication for diabetes. That treatment, coupled with failure of the authorities to undertake any investigation in that regard, and the absence of any evidence that his arrest had been necessary, supported the argument that the authorities had arrested Mr. Abulhair for the improper purpose of securing his agreement to stop his human rights advocacy.*

*30. Mr. Abulhair suffers from diabetes and a chronic condition that requires a special diet. The source further reports that, since his arrest, his weight has dropped by 15 kilograms. After the December 2015 transfer to Dhahban Central Prison, the authorities denied requests for a medical examination and access to the food required to control his condition. In March 2016, an additional request for examination of an injury to his hand was also refused.*

*The Working Group wrote to the Saudi Arabian government requesting a response to the allegations made against the government. The Working Group did not receive any response and made the following relevant determinations:*

*48. The Working Group also expresses its grave concern at Mr. Abulhair's incommunicado detention, solitary confinement and denial of access to a lawyer between 15 April 2014 and 6 July 2014, which prevented him from being brought promptly before a judge or from being afforded the right to take proceedings before a court to decide on the lawfulness of his detention. Articles 8, 10 and 11 of the Universal Declaration of Human Rights also confirm the impermissibility of incommunicado detention.*

*65. The Working Group is of the view that Mr. Abulhair has been arrested, convicted and sentenced for his exercise of the right to freedom of opinion and expression, which is protected by article 19 of the Universal Declaration of Human Rights.*

*75. The Working Group recognizes that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has defined solitary confinement in excess of 15 days as "prolonged", at which point some of the harmful psychological effects of isolation can become irreversible. Such prolonged solitary confinement may amount to cruel, inhuman or degrading treatment or punishment and, in certain instances, may amount to torture (see A/63/175, paras. 56 and 77). Prolonged incommunicado detention in a secret place may amount to torture as described in article 1 of the Convention against Torture (see A/56/156, para. 14). The prohibition of torture is expressly stated in article 5 of the Universal Declaration of Human Rights. The Working Group reminds the Government of Saudi Arabia of the legal obligations undertaken by it as a State party to the Convention against Torture.*

### **Jamal Khashoggi**

Jamal Khashoggi was a Saudi Arabian dissident and writer who fled Saudi Arabia and went into self-imposed exile in 2017. In October 2018, Khashoggi went to the Saudi Arabian consulate in Istanbul to obtain some marriage-related documents. When he did not re-

emerge from the consulate, he was declared a missing person. He was eventually found to have been murdered and dismembered whilst in the consulate.

Eighteen Saudi Arabians were arrested in relation to Khashoggi's murder and there is strong belief amongst the international community that Khashoggi was murdered on instructions from the Saudi Crown Prince, Mohammed Bin Salman.vi

The allegations regarding the authorization of Khashoggi's murder set an incredibly dangerous precedent for other Saudi human rights activists and political dissidents, both within and outside Saudi Arabia.

In addition, the Saudi investigation process into Khashoggi's murder was obviously flawed, painfully chaotic and deeply embarrassing to the Kingdom. Initially the Saudi government denied the death and claimed that Khashoggi had left the consulate alive. Over two weeks later, the Saudi government stated that Khashoggi had been killed inside the consulate during a fistfight. Five days later, the Saudi attorney general stated that the murder had been premeditated. Following a perfunctory investigation, it has been reported that the Saudi public prosecutor is seeking to issue the death penalty to several of the men arrested for Khashoggi's murder.vii The kingdom still claims not to know where Khashoggi's body is and has not provided any explanation as to why a bone saw was revealed in the security x-ray of the arrested Saudis' luggage.

On 29 January 2019, it was reported that a United Nations delegation including the special rapporteur on extrajudicial, summary or arbitrary killings, which was investigating Khashoggi's murder, was denied entry into the Saudi Consulate in Istanbul.viii

The lack of investigation or accountability for Khashoggi's murder sets a particularly alarming precedent for the Detainees currently held essentially incommunicado in Saudi Arabia.

However, the wider message to all of Saudi society is that dissent, criticism, or indeed any independent commentary is no longer tolerated and is punishable by detention, torture and

assassination. This amounts to a reign of terror over any public or indeed private discourse. The closing down of the space for any civil society activists is a painful disaster for all Saudi citizens and likely, in the long term, to be an incubator of revolution against an absolute monarchy, which may end in widespread bloodshed and a success of revolutionary administrations accompanied by even worse terror. The interest of the whole free world is absolutely engaged in reversing this awful cloud over Saudi Arabian civil society.

## The Detainees

### Detainee Profiles

HRW has identified the following women as amongst those currently in detention:

1. Loujain al-Hathloul
2. Eman al-Nafjan
3. Aziza al-Yousef
4. Samar Badawi
5. Nouf Abdul-Aziz al-Jerawi
6. Mayaa al-Zahrani
7. Nassima al-Sadah
8. Hatoon al-Fassi

According to HRW, government-aligned media outlets have carried out a smear campaign against those arrested. The women have been identified and labelled as “traitors”, contrary to the kingdom’s longstanding policy of not publishing the names of criminal suspects in pre-trial detention.

The Detainees were accused of violating Royal Decree 44/A, which followed the 2014 counter-terrorism law, due to their “suspicious contact with foreign entities”, “recruiting people working in sensitive government positions” and “providing financial support to hostile entities abroad with the aim of undermining the security and stability of the Kingdom, and shaking the country’s social fabric”.ix

The smear campaign against the women increases the probability that they will receive lengthy prison sentences.

Several male supporters of the women’s movement have also been detained. Amongst these are Dr. Ibrahim al-Modeimigh, Mohammed Saleh al-Bejadi and Mohammad al-Rabea. Dr. al-Modeimigh is a lawyer and advocate of women’s rights. Mohammed Saleh al-Bejadi is a co-

founder of the Saudi human rights organisation, Saudi Civil and Political Rights Association, campaigning for prisoners' rights since 2007. Mohammad al-Rabea is a youth activist who started a literary salon for young men and women in Riyadh.

It has been reported in the Saudi newspaper, Okaz, that the Detainees will be referred for trial to the Specialized Criminal Court ("SCC"), originally established to try detainees held in connection with terrorism offences.<sup>x</sup> If convicted, the Detainees face prison sentences of up to 20 years.

In October 2018, travel bans were imposed against the families of several of the Detainees, including Aziza al-Yousef, Loujain al-Hathloul and Eman Al-Nafjan.<sup>xi</sup>

Several other women have also been identified by NGOs as having been arrested. They include professors, doctors and activists. It is currently unclear whether they are still being held in detention.

### **Loujain al-Hathloul**

Loujain al-Hathloul is a well-known figure in the campaign for women's driving rights. On 1 December 2014, al-Hathloul was arrested and detained for 73 days, when she attempted to drive across the Saudi border from the United Arab Emirates.

In September 2016, she signed a petition to King Salman, asking for the male guardianship system to be abolished. On 4 June 2017, she was arrested at King Fahad International Airport in Dammam. She was detained for several days without access to a lawyer or her family, before being released.<sup>xii</sup>

On 15 May 2018, she was detained again at the Dhahban Central Prison. According to HRW she has since been moved to al-Ha'ir Prison in Riyadh.

## **Eman al-Nafjan**

Eman al-Nafjan is a blogger and women's rights activist. She began blogging in February 2008 under the name of 'Saudiwoman'. She wrote about the cultural and social issues facing women in Saudi Arabia.

On 17 June 2011, she drove a car in Riyadh as part of a demonstration and began publishing articles in Western media supporting the campaign to allow women to drive in Saudi Arabia. In September 2016, she signed the same petition as al-Hathloul, calling for an end to the male guardianship system.

She was detained alongside al-Hathloul in May 2018 and was held in Dhahban Central Prison. According to HRW she has since been moved to al-Ha'ir Prison in Riyadh.

## **Aziza al-Yousef**

In 2013, Aziza al-Yousef was arrested with Eman al-Nafjan for driving through Riyadh without a male guardian. She was forced to sign a pledge that she would not drive again.<sup>xiii</sup> In the same year, al-Yousef launched a global campaign following the rape of a five-year-old girl by her father, who was a Saudi cleric. In 2016, al-Yousef helped to lead the campaign against the male guardianship system.

She was detained alongside al-Hathloul in May 2018 and was held in Dhahban Central Prison. According to HRW she has since been moved to al-Ha'ir Prison in Riyadh.

## **Hatoon al-Fassi**

Dr al-Fassi is a well-known scholar and has worked at King Saud University since 1989. In 2013, she was promoted to the position of associate professor of women's history. She was active in the women's right to vote campaigns for the 2005 and 2011 municipal elections. She was one of the first women to acquire a Saudi driving license.

She was arrested just days before the government lifted the ban on women driving.

On 17 November 2018, whilst in jail, she was awarded the 2018 MENA Academic Freedom Award by the Middle East Studies Association of North America.

According to HRW she is in al-Ha'ir Prison in Riyadh.

### **Nouf Abdelaziz al-Jerawi**

Nouf Abdelaziz is a journalist who has advocated for equal rights and the end to the male guardianship system in the past. She has also been vocal about the arrests of women activists in May 2018, ahead of the Royal Decree allowing women to drive.

On 6 June 2018, Abdulaziz was arrested following a police raid of her home in Riyadh. According to HRW she is in al-Ha'ir Prison in Riyadh.

### **Mayaa al-Zahrani**

According to HRW, Mayaa al-Zahrani was arrested on 9 June 2018, following the posting of a letter written by Nouf Abdelaziz on al-Zahrani's blog. Abdelaziz's letter set out her position as a volunteer putting the oppressed in contact with lawyers and human rights groups. Abdelaziz had asked al-Zahrani to make the letter public in the event that she was arrested.<sup>xiv</sup>

Al-Zahrani is currently being detained in Dhahban Central Prison.

### **Samar Badawi**

Samar Badawi received the United States' International Women of Courage Award in 2012 for challenging the guardianship system. She was also one of the first women who signed a petition calling on the government to allow women to drive, vote and run in local elections.

Badawi's former husband is already in prison, serving a 15-year sentence for human rights activism. Her brother, Raif Badawi, is a prominent blogger who is serving a 10-year sentence for expressing controversial views online.

Since 2014, Badawi had been barred from travelling abroad.

In July 2018, Badawi was arrested and detained. This prompted the Canadian Minister of Foreign Affairs, Chrystia Freeland, to call for her release. In response, Saudi Arabia expelled Canada's ambassador and froze trade with Canada.<sup>xv</sup>

### **Nassima al-Sadah**

Nassima al-Sadah is a co-founding member of Al-Adalah Centre for Human Rights. She was barred from standing as a candidate in the 2015 local elections, the first year in which women were allowed to run. She has been an outspoken critic of the male guardianship system.

Al-Sadah was arrested at the same time as Badawi. According to HRW, she is being held in Damman Prison.

### [Treatment of the Detainees whilst in detention](#)

According to ALQST, Aziza al-Yousef, Eman al-Nafjan and Loujain al-Hathloul were arrested in Riyadh. Loujain al-Hathloul was snatched roughly from her bed in a bedroom in her father's house. Samar Badawi was arrested in Jeddah and was made to stand in the street holding her four-year-old daughter from 1am – 3am, with guards pointing weapons at her until her daughter's grandmother was allowed to take the child from her. Badawi was then detained.

According to HRW, AI and other respected NGOs, the Detainees faced sexual harassment, torture and other forms of ill-treatment during their interrogations.

AI has received information that several of the Detainees were detained incommunicado and placed in solitary confinement for the first three months of their detention. They remain in detention without charge or legal representation, and without any contact with their families.

AI obtained three separate testimonies which outlined that “the activists were repeatedly tortured by electrocution and flogging, leaving some unable to walk or stand properly. In one reported instance, one of the activists was made to hang from the ceiling, and according to another testimony, one of the detained women was reportedly subjected to sexual harassment, by interrogators wearing face masks.”<sup>xvi</sup>

According to the testimonies, as a result of the torture the Detainees were unable to walk or stand properly, experienced uncontrollable shaking of their hands and marks on their bodies. One of the Detainees has repeatedly attempted to commit suicide whilst in prison.

According to AI, the torture of the Detainees took place between May and August 2018. Sources informed AI that most of the torture took place at an unofficial detention facility prior to the relocation of the Detainees to Dhahban prison in August 2018.

On 28 November 2018, HRW received a report from a source that a detainee had been tortured, involving electric shocks, tying the detainee to a steel bed and whipping them with an “egal” (the black cord used in traditional Arab male dress). Detainees were also threatened with rape and asked if they preferred the death penalty to life imprisonment for “treason”.

According to the HRW source, the men responsible for mistreating the Detainees were from “cyber security”. This is believed to be a reference to the officers working under the authority of the former head of the royal court’s Centre for Studies and Media Affairs, Saud al-Qahtani, who was fired for his role in the Khashoggi murder plot. According to media reports, al-Qahtani directed online campaigns against Saudi critics and created a blacklist of critics to target.<sup>xvii</sup> Various testimonies have described Al-Qahtani as present during the torture of some of the Detainees.

The NGO, ALQST, has also documented the following abuses:

- At least one of the Detainees was photographed naked and the photograph was then placed on the table in front of the Detainee during their interrogation;
- At least one of the Detainees was subjected to physical sexual harassment by the female prison guards, and was beaten and groped in intimate places;
- At least one of the Detainees was stripped naked in front of several of the interrogators, touched in intimate places while handcuffed, and repeatedly taunted with phrases such as “Who’s there to protect you?”, “Where are the NGOs?” and “Where are the human rights defenders to help you?” Another Detainee was asked, “Where is your Lord to protect you?”;
- At least two of the Detainees saw Saud al-Qahtani in their torture chambers;
- Saud al-Qahtani told at least one of the Detainees whilst she was being tortured, “I’ll do whatever I like to you, and the dissolve you and flush you down the toilet.”
- The Detainees were beaten on their feet and subject to electric shocks; and
- Two of the Detainees were ordered to kiss each other on the lips and were whipped when they refused to do so.<sup>xviii</sup>

In an article written for the New York Times on 13 January 2019, Loujain al-Hathloul’s sister also confirmed that Loujain has suffered the following mistreatment:

- Between May – September 2018, she was held in solitary confinement;
- Between May – August 2018, she was tortured;
- Her abuse included being beaten, waterboarded, given electric shocks, sexually harassed and threatened with rape and murder; and
- She was forced to eat after sunrise during Ramadan.

Loujain’s sister has corroborated allegations that Saud al-Qahtani was present several times during Loujain’s torture, at times laughing at her or threatening to rape and kill her. She was also allegedly visited by a delegation from the Saudi Human Rights Commission. She informed them of her mistreatment, but they told her they could not assist her.<sup>xix</sup>

In January 2019, AI confirmed it has received further reports of torture and sexual abuse of the Detainees, which include the following:

- Two Detainees were reportedly forced to kiss each other in front of their interrogators;
- One Detainee was misinformed by an interrogator that her family members had died. She was allegedly made to believe this for a whole month; and
- One Detainee had water forced into her mouth as she was shouting whilst being tortured.xx

### [Saudi government's response](#)

On 23 November 2018, Saudi Arabia's media ministry denied evidence published by HRW and AI that Saudi authorities had tortured, assaulted and sexually harassed at least three detained activists.

In December 2018, it was reported that the Saudi Human Rights Commission, a government body, was investigating the allegations of torture.xxi This was corroborated by the testimony Loujain al-Hathloul passed on to her family that she had been visited by a delegation from the Saudi Human Rights Commission.

On 13 January 2019, it was reported that Saudi Arabia's public prosecutor is investigating the allegations and has visited the Detainees in prison to take their testimonies.xxii

However, the Saudi government's recent treatment of other women protestors sets a wretched precedent for its treatment of the Detainees going forward. On 6 August 2018, the Public Prosecutor called for the death penalty for Israa Al-Ghomgam, following her arrest for peaceful protest. She was charged under Article 6 of the Cybercrime Act 2007 in connection with social media activity and other protest-related charges. If sentenced to death, she will be the first woman to face the death penalty for charges relating to activism.xxiii

## Sources of Evidence

This report has been prepared using a variety of evidential sources. The DRP's mandate was to review information regarding:

1. The conditions facing the Detainees in detention
2. Family and lawyer access to the Detainees
3. International law
4. Saudi Arabian law

The DRP had requested that the Saudi Embassy facilitate a visit to Saudi Arabia to visit the Detainees in detention, in person. The DRP had hoped that that the visit would allow them to obtain primary evidence, through interviewing the Detainees and prison and government officials responsible for the detention of the Detainees. As the Kingdom of Saudi Arabia has not formally acknowledged or responded to the request, the DRP has not been able to obtain this form of evidence.

Accordingly, the DRP has relied on credible secondary sources of evidence to form its view. The DRP reviewed the following significant material, which included:

- Witness testimony from AB (son of Detainee "D1") (anonymized for reasons of security);
- US State Department Country Report;
- United Nations communications;
- Reports from credible and internationally leading human rights NGOs;
- News articles; and
- International and national legal instruments.

Information regarding the detention conditions of the Detainees has been obtained from sources contacted specifically for the purposes of this Review as well as sources already published and widely available.

In addition, the DRP document review includes reports and publications by the United Nations Working Group on Arbitrary Detention, the United Nations Committee on the Elimination of Discrimination against Women and various United Nations experts.

As the DRP's requests for access to the Detainees has been ignored by the Kingdom of Saudi Arabia, the DRP has been unable to obtain direct testimonies from the Detainees. Nevertheless, after the announcement of the formation of the DRP, important evidence has been provided by the adult-child of another detainee who has been held in detention since before the arrest and detention of the Detainees profiled in this report. When the DRP obtained this evidence, both the detainee and the detainee's child were prepared for the DRP to publish their names. However, in light of the continuing risks to the detainee and their family members in Saudi Arabia, the DRP has decided to anonymise the statement.

#### Statement of AB

Evidence has been taken from AB, the adult-child of a detainee imprisoned in Saudi Arabia and referred to as "D1" in the statement.

AB has provided evidence that D1 was held incommunicado for several months upon detention. AB confirms that D1 was handcuffed, shackled and subjected to sleep deprivation as well as interrogations lasting 24 hours at a time. Further, D1 was initially denied access to a lawyer or access to family members for nearly a year.

The DRP notes the following particularly relevant paragraphs from AB's statement:

4. *I understand that for the first few months of D1's detention, D1 was held incommunicado, in solitary confinement. D1 was handcuffed, shackled and subjected to interrogations lasting 24 hours at a time. D1 was subjected to sleep-deprivation and denied any access to medical treatment.*

5. *During the first few months of their detention, D1 was given food in bags, which they had to open with their teeth due to their hands being handcuffed. I understand that they have sustained damage to their teeth whilst attempting to open the bags of food.*
6. *Prior to their detention, D1 had no pre-existing medical conditions and has always been fit and healthy. However, I understand that D1's health has deteriorated rapidly whilst in prison. As a direct result of their treatment in prison, they now suffer from high blood pressure, cholesterol issues, and damage to their teeth.*
7. *In fact, whilst in prison, D1 was hospitalised as a result of their high blood pressure. However, we were not made aware that they had been hospitalised as we had not had any contact with them since their arrest. My family members only found out that D1 had been arrested through the family members of another detainee. The detainee had seen D1 in the prison hospital and had informed their family that D1 was suffering from very poor health. The detainee's family passed on the information regarding D1's health to our family.*
8. *I understand that in the initial stages of their detention, D1 did not receive any medical attention. This resulted in them needing to be hospitalised. When my family were first allowed access to visit D1, they were shocked at D1's appearance as D1 was pale and withdrawn, and generally in very bad shape.*
9. *Following D1's hospitalisation, D1 has continued to receive intermittent assessments from the doctors in prison. However, the medical care D1 is being provided with is inadequate. For example, on one occasion, although D1 was assessed by a prison doctor as needing medication for their high blood pressure, this medication was not provided to them for numerous weeks.*
10. *I understand that D1 continues to be interrogated, despite the fact that their trial is now ongoing. D1 is interrogated multiple times a week. These interrogations are understandably exhausting for D1 and especially stressful given that their trial has commenced. Although D1 is no longer handcuffed or shackled during these*

*interrogations, D1 is routinely blindfolded, leading D1 to suffer disorientation and a deep sense of powerlessness.*

*11. D1 has not been granted access to any external agencies, such as charities or other international organisations that are available and may be willing to assist us in securing their release from prison.*

*[...]*

*14. D1 was not allowed to contact our family for many months following their initial detention. This was very upsetting at first as our family had no idea whether D1 was still alive for many months. When D1 was first allowed to contact our family, the contact was initially very one-sided. D1 was not able to give notice of when they would contact our family and the telephone conversations lasted only a few minutes at a time.*

*[...]*

*21. Since the date of D1's arrest, several members of our family based in Saudi Arabia have also been barred from travelling outside of Saudi Arabia. They are effectively trapped in Saudi Arabia and at the continuous mercy of the authorities to arrest and detain them. This is understandably very stressful for our family, who live in daily fear of the Saudi authorities.*

This evidence has been included as it was provided to the DRP directly, the DRP is satisfied as to its bona fides, and it is consistent with the general and specific picture presented by all the other DRP sources of evidence.

[US State Department: Saudi Arabia 2017 Human Rights Report](#)

The DRP considered the United States State Department Report: Saudi Arabia 2017 Human Rights Report.xxiv

The report identifies the most significant human rights issues within Saudi Arabia, to include torture, arbitrary arrest and detention, including of lawyers, human rights activists, and anti-government reformists, political prisoners, restrictions on freedom of expression, including on the internet, and violence and official gender discrimination against women.

The Detainees are currently being detained indefinitely without charge or access to legal advisors. Media outlets have reported that they may face trial before the SCC. Accordingly, the DRP considered information in the report on detention, access to legal advice and treatment before the SCC.

With regards to arrest and detention in Saudi Arabia:

“The law provides that no entity may restrict a person’s actions or imprison a person, except under the provisions of the law. The law of criminal procedure provides that authorities may not detain a person for more than 24 hours, except pursuant to a written order from a public investigator. Authorities must inform the detained person of the reasons for detention. Regardless, the Ministry of Interior and the State Security Presidency (SSP), to which the majority of forces with arrest powers reported, maintained broad authority in law and in practice to arrest and detain persons indefinitely without judicial oversight, notification of charges against them, or effective access to legal counsel or family. Authorities held persons for months and sometimes years without charge or trial and reportedly failed to advise them promptly of their rights, including their legal right to be represented by an attorney. Under the law of criminal procedure, detentions can be extended administratively for up to six months at the discretion of the PPO.

Under the 2017 counterterrorism law, the PPO may order the detention of any person accused of a crime under that law for a period, or successive periods not exceeding 30 days each, and in total not more than 12 months. The SCC must authorize periods of detention of more than 12 months. In practice the United Nations and international human rights organizations documented numerous cases of detention that reportedly exceeded the maximum allowable period under the law.”

Under the law, authorities must file charges within 72 hours of arrest and generally hold a trial within six months. However, authorities reportedly often fail to observe this and did not allow detainees under investigation in pretrial detention access to legal advisers.

The State Department report identifies incommunicado detention as a problem:

“Authorities reportedly did not always respect a detainees’ right to contact family members following detention, and the counterterrorism law allows the investigatory body to hold a defendant for up to 90 days in detention without access to family members or legal counsel, and the SCC may extend such restrictions beyond this period. Security and some other types of prisoners sometimes remained in prolonged solitary detention before family members or associates received information of their whereabouts, particularly for detainees in Mabath-run facilities.”

The report further identifies that more than 2,000 individuals remained in detentions without charge or trial between 2014 and 2017.

With respect to due process before the courts, the State Department identifies that trials before the SCC lacked transparency, did not adhere to minimum fair trial standards and were subject to numerous due process violations. The report further states:

“Amnesty International, HRW, and other organizations also reported cases in which the SCC based its decisions on confessions allegedly obtained through torture and then admitted as evidence. In June 2016 the UN Committee against Torture noted that courts admitted coerced confessions as evidence. According to the committee, SCC judges “repeatedly refused to act on claims made by defendants facing terrorism charges that they were subjected to torture or mistreatment during interrogations for the purpose of compelling a confession.”

At the trial stage, the report states that SCC judges received implicit instructions to issue harsh sentences against human rights activists, journalists and non-violent dissidents.

With regards to detainees, the report identifies that it was impossible in many cases, to determine the legal basis for incarceration and whether the detention complied with international norms or standards. In May 2017, UN Special Rapporteur on human rights and countering terrorism, Ben Emmerson, stated he received numerous reports about prosecutions of human rights defenders, writers, bloggers and journalists for expression of their non-violent views, under counterterrorism law. The government was unable to give access to any individuals despite his repeated requests for interviews. The detainees were denied legal access or assistance from NGOs.

### [United Nations communications](#)

#### **Committee on the Elimination of Discrimination against Women (“CEDAW”)**

The DRP reviewed the Concluding Observations on the Combined 3rd and 4th Periodic Reports of Saudi Arabia by CEDAW, published in March 2018. xxv

The DRP noted that the Committee expressed particular concern that women human rights defenders have been subject to harassment, violence and intimidation by law enforcement officials, as well as detention and ill-treatment for their civic engagement.

The Committee recommended that Saudi Arabia:

- (a) Refrain from reprisals against women human rights defenders and their relatives;
- (b) Ensure that any sanctions imposed on women who peacefully exercise their right to freedom of expression and association are immediately discontinued and that the women are compensated and rehabilitated;
- (c) Ensure that women activists are able to exercise their right to freedom of expression and association and that the Counter-Terrorism Law (2014) , the Anti-Cybercrime Law (2007) and Executive Regulation for Electronic Publishing (2011) are not invoked abusively to criminalise women human rights defenders.

## **UN expert joint statements**

On 27 June 2018, nine independent UN experts expressed their concern over the detention of the Detainees. They stated:

“In stark contrast with this celebrated moment of liberation for Saudi women, women’s human rights defenders have been arrested and detained on a wide scale across the country, which is truly worrying and perhaps a better indication of the Government’s approach to women’s human rights.

[...]

We urge the Saudi Government to show a true commitment to improve its human rights record by taking a more progressive stance, especially with regards to women’s rights. The first step in demonstrating such commitment is to free the human rights defenders who remain in prison solely as a result of working to advance the enjoyment of rights for all,” the experts concluded.”xxvi

On 12 October 2018, UN experts called for the release of all detained women human rights activists in Saudi Arabia. In particular, they condemned the detention of several of the Detainees, and expressed concern regarding protester Al-Ghomgam’s trial before the SCC and the possibility of her receiving the death penalty. The UN experts stated, “Measures aimed at countering terrorism should never be used to suppress or curtail human rights work.”xxvii

## Law

The DRP were advised by Counsel to the Panel, Tim Moloney QC of Doughty Street Chambers, London. Tayab Ali, of ITN Solicitors, was the Legal Secretariat to the Panel. Shirin Marker of ITN Solicitors undertook research and collated evidence to assist in preparing the report.

The DRP reviewed numerous NGO reports which provided invaluable insight into the conditions facing women and detainees in Saudi Arabia. The NGO reports also provided reviews of local sources of law such as Saudi Arabia's Criminal Procedure Code, and the compliance of national legislation with international law.

### International standards for treatment of women

Numerous treaties and treaty bodies acknowledge women's equal right to freedom of movement without discrimination. Indeed, Article 15(4) of CEDAW obliges states to "accord to men and women the same rights with regard to the law relating to the movement of persons and freedom to choose their residence and domicile."

Article 13 of the Universal Declaration of Human Rights (which is considered customary international law) states that "Everyone has the right to freedom of movement and residence within the borders of each state".

Therefore, the driving ban and subsequent arrest of women for campaigning against the driving ban constitute a violation of CEDAW and the Universal Declaration of Human Rights.

### International standards for prisons

The UN Mandela Rules offer internationally recognised standards for prisons that most states accept.

Rule 1 of the Mandela Rules states:

“No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification.”

Rule 3 advocates against incommunicado detentions:

“Imprisonment and other measures that result in cutting off persons from the outside world are afflictive by the very fact of taking from these persons the right of self-determination by depriving them of their liberty. Therefore the prison system shall not, except as incidental to justifiable separation or the maintenance of discipline, aggravate the suffering inherent in such a situation.”

Rule 25 stipulates that “every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners” and rule 30 stipulates that every prisoner should be assessed by a physician or other qualified healthcare professional to identify their medical needs.

Rule 43 prohibits indefinite or prolonged solitary confinement.

The allegations made by the Detainees reflect breaches of the above Mandela Rules by the Kingdom of Saudi Arabia.

#### [International law provisions on torture](#)

As serious allegations of torture have been made regarding the Detainees, the DRP considered international law provisions on torture and whether the Saudi law complies with international law in this respect.

Article 5 of the Universal Declaration of Human Rights states that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Convention against Torture”) defines “torture” as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, 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.”

### Saudi Arabia’s compliance with International law

HRW states as follows:

Saudi Arabia acceded to the Convention Against Torture in September 1997, with reservations that it did not recognize the jurisdiction of the Committee in examining well-founded indications that torture is being systematically practiced (art. 20) or the arbitration procedure for when States Parties differ concerning the interpretation or application of the Convention (art. 30.1).

Saudi Arabia applies Sharia (Islamic law) as the law of the land. Judges decide many matters relating to criminal offenses pursuant to Sharia in accordance with established rules of Islamic jurisprudence and precedent. As such, Saudi Arabia lacks a written criminal penal code or any written regulation specifically defining crimes of torture or ill-treatment or establishing associated punishments.

While Saudi Arabia’s Criminal Procedure Code prohibits “torture” and “undignified treatment” (art. 2), it does not define these terms and it does not provide criminal sanctions for officials who torture or coerce detainees. The Criminal Procedure Code also does not make statements obtained through torture or ill-treatment inadmissible in court. Human Rights Watch has documented numerous cases in which individuals alleged abuse in court, but officials failed to investigate these claims and then based sentences on the allegedly coerced confessions.xxviii

Notably, therefore, Saudi Arabia's Criminal Procedure Code, in failing to make statements obtained through torture inadmissible in court, violates Sharia law, which prohibits judges from accepting confessions obtained under duress<sup>xxxix</sup>,

Human Rights Watch has documented allegations that officials at detention facilities sometimes subject detainees to torture and other ill-treatment, including at detention facilities run by Saudi Arabia's Public Security Department (police) and by the General Directorate of Investigation (al-Mabahith).

The governmental Human Rights Commission and nongovernmental National Society on Human Rights told Human Rights Watch in July 2013 that incidents of torture and ill-treatment in prison have decreased significantly since they began regular prison visits and established offices inside prisons to receive complaints beginning in 2004. Human Rights Watch continues to receive reports of torture and other ill-treatment in prisons and detention centers. Human rights activists, for example, have alleged torture and other ill-treatment during their detentions, including beatings, electrocution, and pouring chemicals into the mouth.

Waleed Abu al-Khair, a Jeddah-based human rights lawyer, was detained on order of the minister of interior in April 2014. A relative of Abu al-Khair told Human Rights Watch that during the first two weeks of his detention in al-Ha'ir prison, south of Riyadh, Abu al-Khair was held in solitary confinement, and authorities pointed a bright spotlight into his cell in order to deprive him of sleep. The relative said that on August 14, 2014, prison authorities in Jeddah's Bureiman prison beat Abu al-Khair on his back and dragged him from the prison with chains, leaving visible bruises on his ankles, after he refused to cooperate in his transfer to another prison the previous day.<sup>xxx</sup>

### [Detention and due process](#)

With regards to the Saudi authorities following due process during arrest and detention, HRW states:

Article 114 of Saudi Arabia's Criminal Procedure Code provides that a person may be held in detention without charge for a maximum of five days, renewable up to a total of six months by an order from the Bureau of Investigation and Prosecution, which sits under the ministry of interior. After six months, article 114 requires that a detainee "be directly transferred to the competent court, or be released." Saudi Arabia's Penal Law for Crimes of Terrorism and its Financing, promulgated in 2014, raises the legal limit on the time officials may hold a terrorism suspect in pretrial detention from 6 months to 12, with unlimited extension upon court order, and allows for incommunicado detention of terrorism suspects for 60 to 90 days from the date of arrest.

Human Rights Watch research indicates that officials frequently violate protections in the Criminal Procedure Code with impunity. In violation of Saudi law, police officers often carry out arrests without warrants, fail to inform suspects of the reasons for their arrest or of their rights to legal counsel, do not bring detainees promptly before a judge, and do not grant detainees the right to communicate with the outside world. Sometimes prosecutors hold suspects for lengthy periods without charging them with a crime. Saudi Arabia has held hundreds of individuals in pre-trial detention for lengthy periods of time.

Article 4 of Saudi Arabia's Criminal Procedure Code grants detainees the right to have a lawyer present during investigation and trial, but Human Rights Watch's research indicates that authorities routinely deny the right to a lawyer during interrogation. None of the trial judgments analyzed by Human Rights Watch indicates that a lawyer was present during interrogations of detainees, including during interrogations of children."

## Conclusion

The DRP was not permitted to visit the Detainees in Saudi Arabia, as initially requested. Further, no response was received to the correspondence sent to the Saudi Ambassador or the Saudi Arabian Foreign Minister. In addition, the DRP notes that requests made in 2018 by the UN Working Group on Arbitrary Detention to respond to allegations of the arbitrary detention of another detainee were also ignored.

In the circumstances, the DRP draws a conclusion that the Saudi government does not welcome independent oversight of the Detainees' conditions in detention.

The DRP has carefully considered the evidence available to it and measured the allegations of torture made the Detainees against the wealth of independent information available regarding the detention conditions of detainees in Saudi Arabia.

The DRP finds that the allegations made on behalf of the Detainees are consistent with those recorded by human rights organisations including Human Rights Watch ("HRW") and Amnesty International ("AI"), the United Nations, the United States State Department and news reports about the treatment of detained activists in Saudi Arabia.

The DRP finds that, on the balance of probabilities, the allegations made on behalf of the Detainees are likely to be true and are consistent with the findings of the general treatment of prisoners, particularly human rights activists in Saudi Arabia.

The DRP finds that, on the balance of probabilities, the Detainees' detention falls below the international standards for treatment of women and prisoners, and would constitute cruel, inhuman or degrading treatment. The DRP also finds that the allegations of torture could meet the threshold for torture under Saudi and international law.

The DRP finds that culpability for torture rests not only with the direct perpetrators but those who are responsible for or acquiesce to it. The DRP finds that the conditions of the Detainees'

detention would be of such continuing interest to the whole chain of command that Saudi authorities at the highest levels could, in principle, be responsible for the crime of torture, which is a crime of universal jurisdiction.

The DRP has concerns that, in light of the allegations of torture, if the Detainees are not provided with independent medical assessments, they may experience long-term, irreversible damage to their physical and mental health.

The DRP is deeply concerned by the conditions and detention of the Detainees and invites the Saudi government to allow the DRP, or any other reputable independent body, to visit the Detainees as soon as reasonably practicable.

**Crispin Blunt MP**  
**Layla Moran MP**  
**Dr Paul Williams MP**  
**The Detention Review Panel for the Detainees**

**Dr Tim Moloney QC**  
**Counsel to the DRP**

**Tayab Ali**  
**Legal Secretariat to the DRP**

**4 February 2019**

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<sup>i</sup> <https://www.bloomberg.com/news/articles/2019-01-13/saudis-said-to-probe-allegations-that-women-activists-tortured>

<sup>ii</sup> <https://vision2030.gov.sa/en/>

<sup>iii</sup> <https://www.amnesty.org/download/Documents/MDE2386732018ENGLISH.pdf>

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