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Human Rights Implications of Over-Incarceration and Overcrowding

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registry@ohchr.org

OHCHR-UN Office in Geneva
CH-1211 Geneva 10
Switzerland

Overcrowding in the prisons of the GCC can be directly linked to government suppression of dissent in the region. Governments routinely imprison journalists, politicians, doctors, nurses, activists, professors and lawyers for voicing opposition to government actors and institutions, imposing harsh penalties upon persons that would exercise their internationally-guaranteed rights to freedom of expression and assembly. As human rights NGOs focused on the countries making up the Gulf Cooperation Council (GCC), we believe that the issue requires your urgent attention and engagement.

To legitimize their suppression of basic rights, governments are enacting newer and stricter legislation criminalizing certain actions relating to free expression, including the criticism of government institutions and monarchs. In Bahrain, the government recently passed a law making it a crime to insult government institutions. The government has recently used this law to sentence, Nabeel Rajab, a Bahraini human rights defender, to a six month prison term for a post he made on Twitter. He additionally faces another possible sentence of ten years for other posts that 'inciting hatred towards the regime'. In Kuwait, Human Rights Watch reports that at least 13 people were imprisoned in 2014 for criticizing the government on social media networks such as Twitter and Facebook. Similarly in Oman, bloggers and activists were arrested and imprisoned for criticizing the Government. In Saudi Arabia, Raif Badawi, a blogger, was sentenced to ten years imprisonment and 1,000 lashes for 'insulting Islam' in relation to his creation and maintenance of a blog called *Free Saudi Liberals*.

New anti-terror laws, which are ambiguous and give wide discretionary powers to the judiciary, were also enacted in the region, and have been used to target and imprison political opponents. Raif Badawi's lawyer, Waleed Abulkhair, was sentenced to 15 years imprisonment under terrorism laws in Saudi Arabia in relation to peaceful statements that he made in which he criticized the government. In 2014, Bahraini courts sentenced more than 200 defendants to lengthy prison terms, including at least 70 to life imprisonment, on charges related to terrorism and national security. Many of those convicted claim to have confessed to criminal activity under duress.

Incarceration is not enforced sparingly or as a last resort in these countries. Drug offences, adultery and thieving are sometimes punished with life imprisonment or even with execution. In the UAE, a man possessing 0.08 grams of Methamphetamines was sentenced to life imprisonment. In Qatar, migrant workers who seek to leave their abusive employers are imprisoned for desertion under the repressive "Kafala" system. In Saudi Arabia, women have been imprisoned for driving. In all of these countries,

individuals have been imprisoned for merely writing poems. The Working Group on Arbitrary Detention has repeatedly called for the release of several activists, but the practice perpetuates.

Lengthy pre-trial detention periods are common, as are prolonged trials and repeated postponements. Protracted trials and judicial harassment, often accompanied by torture, are used to intimidate political opposition members and human rights defenders. Torture is also used to extract false confessions, which in turn are used to secure convictions. A study by Reprieve in 2013 showed that 75 percent of prisoners in Dubai Central Jail allege that they have been tortured. The lack of provision of bail in such cases overburdens prisons and increases the risks of psychological “imprisonization”.

Gulf countries predominantly follow deterrent and punitive measures of criminal justice, basing successful convictions primarily on the extraction of confessions in many cases secured through the use of torture. Rehabilitation is rarely factored in when sentencing people. This results in a high number of habitual offenders. Moreover, as juveniles are not given the counsel they require, they often grow up to be repeat offenders.

Pregnant women and sole and primary caretakers of children are sometimes given lengthy sentences for peacefully protesting against their governments, in violation of the Bangkok Rules. Zainab Al Khawaja, a human rights activist in Bahrain, served a prison sentence for ripping up a picture of the King until days before she was due to deliver her baby. Children and newborns are often left incarcerated with their mothers in prison after birth. Further juveniles are also regularly arrested for participating in peaceful protests, and can many times be detained in the same cells as adults in violation of their internationally recognized rights as children.

Moreover, these countries rarely extradite offenders, leading to a large number of foreigners in their prisons. On 23 April 2015, an Iraqi was sentenced in Bahrain to three years imprisonment on charges of “attending an unauthorized rally”. His extradition will occur at the end of his sentence.

These practices have resulted in the over-incarceration and overcrowding of prisons in GCC countries. Bahrain, a small country with a population of 1.2 million, has over 4,000 political prisoners. As a result, Bahrain’s main prison facility is substantially overcrowded; a 2014 report by the Ministry of Interior Ombudsman in Bahrain illustrated that Jaw Prison in Bahrain was 34 percent above its maximum capacity.

Overcrowding in prisons results in the violation of prisoners’ basic human rights. Prisoners are often made to sleep on the floor, while access to toilets and supplies can be limited. Inevitably, unsanitary conditions result in the spread of contagious diseases; in Bahrain, the government’s denial of basic hygiene facilities to prisoners resulted in an outbreak of what appeared to be scabies in the prison. Medical attention is also restricted, as the numbers of prisoners increase.

The lack of space also causes tension and hostility. When prisoners complain about overcrowding, they may be punished with lengthy terms of solitary confinement. As tempers run high due to the lack of sleep, space, and hygiene in addition to the threat of solitary confinement and other physical punishment, malcontent eventually erupts into prison riots such as those seen during the disturbances in Jaw Prison in Bahrain on 10 March 2015. Prisoners protesting the overcrowding in Jaw prison were tear gassed, beaten, humiliated and tortured. Since these events, prison officials have engaged in the regular use of torture within Jaw facilities, while access to basic hygiene, medicine, and room and board have been further curtailed.

As human rights NGOs concerned with the treatment of prisoners in the GCC, we recommend that the United Nations:

- Consolidate international human rights prison standards into concrete international law in order to tackle the issues that lead to the overcrowding of prisons;
- Provide technical assistance to these countries in order to alleviate overcrowded in prisoners;

- Re-instate a Special Rapporteur on prison conditions and issue prison visits to priority Gulf countries;
- Mandate that governments submit a periodic report on prison standards in their respective countries;
- Pressure Gulf countries to allow visits from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Working Group on arbitrary detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on violence against women, its causes and consequences, the Working Group on the issue of discrimination against women in law and in practice, the Special Rapporteur on torture and other cruel, unusual, and degrading treatment or punishment, and the Special Rapporteur on the situation of human rights defenders;
- Pressure Gulf States to quickly ratify the First Optional Protocol to the Convention against Torture and the Optional Protocols to the International Covenant on Civil and Political Rights; and
- Encourage the establishment of independent oversight and monitoring mechanisms independent of government institutions.