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# Despite Recent Efforts, People with Disabilities in Iran are Still Unable to Live Independently

August 17, 2018  
by Marina Mekheil

Iran's laws and its societal stigma has left its [twelve million](#) disabled citizens dependent on family and unable to achieve a better quality of life. In [March 2018](#), the Iranian parliament adopted a "new disability law that increases disability pensions and extends insurance coverage to disability-related healthcare services." An Iranian national agency has also reportedly begun assessing the accessibility of public buildings. However, Iran still has a long way to go in meeting its obligations under the International Convention on the Rights of Persons with Disabilities (CRPD), which [Iran ratified in 2009](#), as well as its own law on the protection of the rights of persons with disabilities.

Persons with disabilities in Iran face a long and troubling [list of abuses and discrimination](#). The most devastating of these is the lack of access to public transportation, health centers, and government offices, keeping those with disabilities stranded and unable to participate in society. Additionally, those with disabilities are insulted and humiliated by government social workers within [Iran's State Welfare Organization](#), the agency tasked with providing them with services and equipment that can only be obtained after a lengthy and complex procedure. [Another alarming issue](#) is that medical professionals may give electroconvulsive therapy and other treatments to patients with disabilities without informed consent or without providing the patient with information on treatment options.

In addition to the stigma faced by persons with disabilities from government agencies and society, there is also discrimination within Iranian laws. The law uses derogatory language, such as "mentally retarded," "crippled," and "insane," and the law does not define discrimination. The government also completely disregards the law in practice. For example, [Iran's Education Ministry job application requirements](#) prevent people with disabilities from applying. On May 13, 2018, Iran's National Organization of Educational Testing published application requirements for prospective teachers to enroll for the qualifying test. Because of the medical requirements, the majority of the hearing impaired and blind would not be allowed to take the test. The requirements violate [Article 15](#) of Iran's Law for the Protection of the Rights of Persons with Disabilities, which states that "the government is required to allocate three percent of official and contractual employment opportunities in government agencies...that receive funding from the national budget to qualified persons with disabilities."

Iran's actions and laws are in violation of many Articles of the CRPD. In order "to enable persons with disabilities to live independently," [Article 9 of the CRPD](#) requires Iran to "take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services

open or provided to the public, both in urban and in rural areas.” [Article 27 of the CRPD](#) prohibits “discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions.” Access to transportation and services alongside employment opportunities would exponentially improve the quality of life for those living with disabilities in Iran.

[On May 10, 2017](#), the Committee on the Rights of Persons with Disabilities published its concluding observations on Iran’s [initial comprehensive report](#) on measures taken by Iran to fulfill its obligations under the Convention. The Committee had several concerns and recommendations. One recommendation was that Iran “develop a targeted strategy to raise awareness among society about the inherent dignity of persons with disabilities.” Another recommendation was to “adopt a strategy to sensitize families and communities about respect for the evolving capacities of children with disabilities, combat stereotypes against them and prevent isolation and neglect.” The overarching theme of the concerns and recommendations was the absence of several elements needed to create a strong and protective legal and policy framework—most importantly a definition of disability-based discrimination; policies aimed at children and women with disabilities; measures to protect against obligatory medical and scientific research; and remedies and redress for exploitation and violence. Iran’s next report is due to the committee by [June 19, 2022](#).

# Police Brutality in Sudan's Prisons

October 28, 2018  
by Yousra Elkhalfa

Sudan is a tribal nation that has been independent of British colonialism since 1955 and has since then fallen under the control of the Muslim Brotherhood after a military coup. This fundamentalist regime allows torture in Sudan's prisons and “[ghost houses](#).” Arbitrary arrests and incommunicado detentions are commonplace despite the [recommendations](#) to end these practices by Amnesty International that Sudan accepted. Sudan has signed the 1986 [UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (CAT). Although Sudan has not ratified CAT, it is bound by the agreements and must act in a way to further the goals of the Convention. Sudan has signed and ratified the [African Charter on Human and Peoples' Rights](#) and the [International Covenant on Civil and Political Rights \(ICCPR\)](#). The National Intelligence and Security Services, National Police Service, and the Sudan Armed Forces have [tortured protesters, human rights activists, and countless others](#) who politically dissent from the government.

There are numerous cases in Sudan of human rights activists being arbitrarily detained and tortured by the National Intelligence and Security Service (NISS). Victims are often kidnapped and taken to “ghost houses,” vacant properties in a discreet location, where government [officers torture their victims for months](#) at a time to intimidate detainees or to extract confessions. Moreover, certain tribes or ethnicities from regions [like Darfur, South Kordofan, and Blue Nile receive even harsher treatment](#) due to racial discrimination. A [civil war](#) has been ongoing for thirty years in Sudan, where a majority of the people are [poverty](#) stricken, and the [International Criminal Court](#) (ICC) has issued an arrest warrant for the President. In this political climate, political dissenters are quickly silenced.

In 2017, Human Rights Watch voiced its concern about arbitrary detention of activists within Sudan. These arrests continue despite recommendations and the government's apparent commitment to release detainees before the [U.S. lifts its sanctions](#). In December 2017, Human Rights Watch specifically voiced concerns regarding [Rudwan Dawod](#). Mr. Dawod is a Sudanese-American citizen who along with other activists participated in a protest in a suburb of Khartoum. They were subsequently arrested and transported to an undisclosed location without access to a lawyer, family contact, or medical care. Senior Africa Researcher at Human Rights Watch, Jehanne Henry, describes how Sudan detains human rights activists long-term, “holds them incommunicado, and subjects them to abuse, including torture.” This type of torture and detention “are still routine practice in Sudan, used as a means to stifle dissent and dialogue.”

In May 2016, the Sudanese government accepted recommendations—given by Amnesty International at the [Universal Periodic Review](#) of Sudan—to improve efforts to prevent torture and other cruel, inhuman or degrading treatment or punishment. However, Sudan has previously accepted similar recommendations before in the UN Human Rights Council's 2011 review of Sudan.

By signing the [CAT](#), Sudan has made a legal commitment to refrain from acts that “defeat the objects and purpose of [the] treaty.” Sudan is additionally bound by Article 5 of the [African Charter on Human and Peoples' Rights](#) and Article 7 of the [ICCPR](#), both of which prohibit torture and other ill-treatment. Article 10 of the ICCPR recognizes the right of all persons deprived of their liberty to humane treatment. Both Article 5 of the African Charter and Article 10 of the ICCPR provide for respect for the inherent dignity of human beings. Sudan continuously violates these protected rights by kidnapping and torturing those who dare to speak out against the government.

Citizens of Sudan are terrorized by the police forces and the Sudanese government does little to shield its citizens from brutality and torture. The UN Human Rights Council has given [recommendations](#) to ratify the [CAT](#). These recommendations were reached by [independent experts after independent fact-finding and monitoring mechanisms](#). These recommendations are an answer to the violations that are continuously committed by the government of Sudan. The UN Human Rights Council’s recommendations regarding technical cooperation and compliance with CAT should be implemented in a timely and effective manner. However, after repeated reviews, Sudan has yet to implement any meaningful changes. Instead Sudan has blatantly disregarded these recommendations and compliance measures since signing CAT. Disturbing reports of citizens from every part of Sudan being arbitrarily detained and tortured continuously come to light. In all parts of Sudan, all sorts of people ranging from [student protesters](#) to political activists have been tortured and killed by police officials.

Individuals in Sudan are arrested and tortured by police on a regular basis. ICC must ensure the arrest and prosecution of President Omar al-Bashir for his crimes against humanity. Lastly, Sudan must begin abiding by international human rights laws and treaties.

# Are There Any Legal Mechanisms Available for Justice in Syria?

November 1, 2018  
by Caylee Watson

In Syria, the situation on the ground is stabilizing, and it is becoming clear that the [seven-year war is likely ending](#). However, as President Bashar al-Assad calls refugees back to Syria, the international community is left to wonder whether those responsible for the mass atrocities will be held accountable. Since 2011, the [UN Commission of Inquiry on Syria](#) has produced thirteen [reports on alleged violations](#) of human rights, perpetrated war crimes, genocide, and crimes against humanity by multiple parties within the multifaceted conflict. The complexity of the conflict, the likely “victor,” and the unique position of the actors preclude most international criminal law mechanisms from achieving justice. [Universal jurisdiction](#) may be the only viable way to prosecute alleged criminal actors from Syria.

Under customary international law, and as codified in the [Rome Statute](#), war crimes, crimes against humanity, and the crime of genocide are unique because they create [individual criminal liability](#) in contrast to state responsibility. Individuals suspected of egregious crimes have been tried in domestic courts in the target state, ad hoc tribunals with international enforcement, hybrid ad hoc tribunals that possess qualities of both domestic and international courts, the [International Criminal Court \(ICC\)](#), and international domestic courts under universal jurisdiction statutes. The context of the conflict determines which mechanism is best suited; however, in the context of Syria, the question is not which mechanism is best, but instead, which mechanism is possible.

Syrian courts and ad hoc tribunals have issues of legitimacy and feasibility. First, despite overwhelming evidence, the Syrian government [denies that its forces have used chemical weapons or committed atrocities](#). Additionally, in September 2018, the Prime Minister for Foreign Affairs equated opposition in Syria to foreign-backed terrorism, suggesting an international [conspiracy to destroy the country](#). Therefore, the Syrian Government will likely only prosecute non-state actors, international opposition fighters, and terrorist groups. Second, because [Assad is the likely victor of the conflict](#), both ad hoc tribunals established in a national court system and an international tribunal would require his regime’s cooperation. It is [unrealistic to assume that Assad will sign any treaty](#) creating a tribunal or respect its independence if it was to judge him and his governments’ alleged crimes. Lastly, Syria is in ruins and [lacks resources and institutional functionality](#). Thus, domestic courts, hybrid ad hoc tribunals, and international ad hoc tribunals are problematic.

A UN Security Council referral to create an international tribunal or to send the case to the ICC is also improbable. [Russia is Assad’s strongest international ally](#) and Russia’s veto power on the Security Council is unwavering. Additionally, Syria is not party to the Rome Statute, and therefore – without a referral – the court lacks jurisdiction unless Syria voluntarily accepts the Court’s jurisdiction. As addressed above, both are impossible due to Assad’s likely victory and Russia’s permanent position on the Security Council. For example, after the chemical attack in

April 2018, Russia used its position to execute [its twelfth veto pertaining to resolutions in Syria](#). Moreover, Russia is [arguably responsible for war crimes in Syria](#) and will not vote to open an investigation onto itself.

The Geneva Conventions established that some offenses, such as war crimes, crimes against humanity, and genocide, are so serious that international law allows states to seek prosecution in their national courts through [universal jurisdiction statutes](#) even if they are not party to the conflict and its own citizens are not involved. Typically, universal jurisdiction is the least favorable instrument because there is [pushback that the mechanism interferes](#) with state sovereignty and lacks jurisdiction. Yet, Swedish prosecutor Kristina Lindoff Carleson argues that the mechanism is appropriate because the victims of the atrocities need access to courts, and [there is an international responsibility](#) to block impunity and [safe harbor](#) for accountable parties. Sweden and Germany are the first two countries where individuals have been [convicted for crimes committed in Syria](#).

[Laila Alodaat](#), a Syrian human rights lawyer at [Women's International League for Peace and Freedom](#) [explains](#), “[The Syrian conflict] is not some abstract human rights issue. . . hundreds of thousands of victims and their families need justice, remedy, and assurance that the future will be free from such violations.” Khaled Rawas, who was tortured by the Syrian Government and is now perusing justice in Germany, [explains that the Syrian people lost faith in civil society](#); however, the universal jurisdiction mechanism is a way to change that.

Despite the complexity, [sustainable peace](#) in the region requires that all parties, including the Assad regime, be prosecuted and that atrocities and victims not be ignored. Therefore, the previously contentious mechanism of universal jurisdiction will likely become the international community's preferred tool of justice.

# Rights of Lawyers and Suspects Threatened as Prosecutions Continue

November 2, 2018  
by Lucette Moran

In December 2017, Iraq declared an end to the armed conflict with Daesh (also known as ISIS or the Islamic State). The Iraqi government now continues its efforts to arrest and prosecute thousands of Daesh suspects and those suspected of other terrorism-related activities. However, [lawyers](#) attempting to provide legal aid to Daesh suspects and people perceived to be related to them are facing increasing [threats, harassment, and arrests](#) by Iraqi security forces. The government's interference with suspects' access to legal aid is a violation of international human rights standards, international law, and Iraqi law. Under the [International Covenant on Civil and Political Rights](#) (ICCPR), the [UN Basic Principles on the Role of Lawyers](#), and national [Iraqi law](#), the Iraqi government has a responsibility to ensure these suspects have access to effective and timely legal assistance.

[Over fifteen lawyers](#) have been arrested while representing Daesh suspects since July 2017, though Iraqi authorities have not formally confirmed the reasons for the arrests. Human Rights Watch (HRW) interviewed seventeen lawyers in July and August 2018 about [their experiences defending people from terrorism charges in Mosul](#). Officers from the National Security Service (NSS) and Ministry of Interior Intelligence and Counter Terrorism have verbally harassed each of these lawyers and detained several legal aid workers for months. Many legal workers have expressed their belief that the arrests and threats are an intimidation strategy to convince lawyers to drop clients who might be Daesh-affiliated. [Lawyers fear the retribution and stigma](#) so deeply that they have stopped taking any cases related to Daesh.

Four lawyers interviewed by HRW said they will now only accept clients if they are convinced that the client is innocent, but even taking innocent clients can be dangerous. One lawyer shared that the deputy head of the NSS in Mosul attended a meeting with the Mosul Bar Association and advised lawyers to avoid representing terror suspects. When a lawyer pressed that some clients might be innocent, the deputy head allegedly replied, "[It doesn't matter](#)." One Iraqi legal aid organization is in peril as lawyers quit citing "security reasons." Although Daesh suspects are still guaranteed the right to a lawyer during criminal proceedings under the [Iraqi constitution](#) and [Criminal Procedure Code](#), there is concern whether the state-appointed lawyers replacing independent lawyers are providing adequate defense representation. HRW observed as state-appointed lawyers refused to speak during hearings, allowing the judge to directly question their client. Decreasing access to adequate legal defense exacerbates an already harrowing judicial ordeal, where defendants face trials as short as eight minutes [with harsh consequences](#): fifteen years in prison, life imprisonment or execution by hanging. Between mid-2017 and mid-2018, nearly three thousand trials have concluded [with a conviction rate of ninety-eight percent](#).

Article 14 of the [ICCPR](#), [ratified](#) by Iraq, ensures all persons equal treatment before the courts and the right to accessible and effective legal counsel. Essential to these rights are the freedoms to access the legal assistance of one's choice and to have "adequate time and facilities" to



communicate and prepare their defense with their lawyer. The UN [Basic Principles on the Role of Lawyers](#) elaborates on the rights of defense lawyers and their clients, as well as the duties of governments to ensure those rights. Governments must make sure that all persons subject to their jurisdiction can access lawyers without discrimination of any kind, including for political beliefs; that lawyers will not be intimidated, threatened, harassed, prosecuted, or sanctioned for carrying out legitimate professional duties; that lawyers will not be “identified with their clients or their clients’ causes” by serving as counsel; and that lawyers may freely make relevant oral and written good faith statements through permissible professional engagements on behalf of a client. Finally, Article 24 of [Law No. 173](#), Iraq’s Law of Lawyers, has adopted the lawyer’s immunity for good faith pleadings and acts performed due to the necessity and in defense of their client. Thus, the Iraqi government has an obligation to ensure that Daesh suspects are not denied equal access to effective legal counsel, and that defense lawyers are not prevented from carrying out their lawful, professional functions.

By harassing and arresting defense lawyers, the Iraqi government is violating its obligations to ensure the freedom of lawyers to perform their professional duties without fear of prosecution and to protect the rights of detainees to access legal assistance. The government should make public their reasons for arresting these defense lawyers to guarantee that no lawyers are prosecuted contrary to international standards or its own national law. The government should also allow all detainees to choose and communicate with their own legal counsel to prepare a defense. The Iraqi government is violating its own laws and international law by interfering with these rights, ultimately undermining efforts to bring Daesh and its true affiliates to justice.

# Unlawful Burial of Nuclear Waste Violates Human Rights in Sudan

November 24, 2018  
by Yousra Elkhalfi

The Government of Sudan has been burying radioactive waste in close proximity to people and water sources where it poses a serious health risk. This burial of radioactive waste demonstrates the government's blatant disregard for the health and safety of Sudanese citizens. The waste has resulted in high contamination in the water sources that is harmful to the people and the livestock on which the people rely heavily for food and income.

After allegations of [the burial of nuclear waste](#) in the Northern Sudan desert, the Justice Minister of Sudan formed a fact-finding committee heading by the Chief Public Prosecutor in Khartoum and representatives from various government agencies such as the National Police and the Sudan Atomic Energy Commission. The committee had to determine whether there was a presence of chemical or radioactive materials in the area of the Merowe Dam and its environmental implications. After reviewing the claims regarding Chinese companies' burial of radioactive nuclear waste in the desert during the construction of the Merowe Dam, the committee found that there are [no radioactive substances](#) in the region [despite persistent conflicting evidence](#).

Media reports recently [quoted the former director of the Sudan Atomic Energy Commission](#) (SAEC), Mohamed Sidig, as saying that sixty containers of toxic waste were brought to Sudan together with construction materials and machinery for the building of the Merowe Dam. Sidiq claimed that forty containers were buried in the desert near the dam construction site while another twenty containers were left out in the open.

Environmental human rights include access to the “[unspoiled natural resources that enable survival](#)” such as land, shelter, food, water, and air. The Human Rights Council has established a mandate on human rights and the environment in order to study the human rights obligations concerning a “safe, clean, healthy and sustainable environment,” and the best practices related to the use of human rights in environmental policymaking.

Sudan is bound by the [Framework Principles on Human Rights and the Environment](#). The report emphasizes that all human rights can only be fully enjoyed in a sound environment. The right to an adequate environment is one of the “[so-called third-generation or solidarity rights](#),” which indicates that these rights are both declaratory and binding in nature. Article 24 of [The African Charter](#), for instance, states that “All peoples shall have the right to a general satisfactory environment favorable to their development.” In the [Report of the United Nations Conference on the Human Environment](#), environmental protection is described as an individual right. The Declaration states that “Man has the fundamental right to freedom, equality and adequate conditions of life in an environment of a quality that permits a life of dignity and well-being and he bears a solemn responsibility to protect and improve the environment for present and future generations.”

The [report](#) of the World Commission on Environment and Development describes environmental rights as an individual right: “All human beings have the fundamental right to an environment adequate for their health and well-being.” Finally, environmental rights are also mentioned in the [Universal Declaration of Human Rights](#).

Sudan must also consider the [recommendations and suggestions of the INIR \(Integrated Nuclear Infrastructure Review\) team](#) such as: finalizing national policies to support the nuclear power program; strengthening plans to join international legal instruments and assessing and developing the country’s legal and regulatory framework; implementing plans to support organizations and enhancing public awareness about the nuclear power program; and further analyzing the preparedness of radioactive waste management.

In order to improve the situation in Sudan, [scientists recommend](#) treating the water with chemicals, which is costly. They also advise the creation of an artificial lake in contaminated water sources, such as Lake Miri, to transfer water before it becomes contaminated by the high radioactivity in the soil. Finally, scientists recommended the evacuation of people from the Lake Miri area and refraining from the use of local water or foodstuffs.

Sudan has violated its human rights obligations by burying nuclear waste in populated areas which has resulted in food and water supplies becoming contaminated. Scientific findings indicate that locations near burial sites are hazardous and researchers recommend evacuating the people located in these areas. Sudanese officials must consider these scientific findings and cease the burial of dangerous, radioactive waste in populated sites. Sudan has an international obligation to ensure its people have access to healthy conditions and a clean environment. Consequently, Sudan must rectify its failure to meet these standards.

# Jamal Khashoggi and Saudi Arabian Legal Responsibility

November 29, 2018  
by Caylee Watson

Almost two months have passed since Saudi Arabian journalist [Jamal Khashoggi was killed](#) in Saudi Arabia's (SA) consulate in Turkey. Khashoggi [was a critic](#) of the SA government, lived in [self-exile](#) in the United States, and wrote for the *Washington Post* before he disappeared. SA could bear responsibility if evidence shows that the State affirmatively ordered or carried out Khashoggi's murder or failed to protect him from [torture and other cruel, inhuman, or degrading treatment or punishment](#). Additionally, if the Crown Prince, Mohammed bin Salman (MBS) [is linked to Khashoggi's torture and death](#), he and his associates could face [criminal charges](#) using different modes of criminal liability through the principle of universal jurisdiction under the [Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment](#) (CAT).

Currently, SA has charged [eleven individuals allegedly responsible](#) for Khashoggi's death, but the international community fears bias from a SA investigation due to the State's delay in acknowledging his killing and its [failure to produce his body](#). *CNN* reported that [Riyadh has maintained that neither MBS nor his father, King Salman, knew of the operation to target Khashoggi](#). However, Turkish investigators and the CIA allegedly have evidence that Khashoggi was [strangled and dismembered](#) by an assassination squad, including a part of MBS's own [security detail](#), that arrived [from SA shortly](#) before Khashoggi's death. Moreover, the *Washington Post* reported that CIA sources [concluded that MBS ordered](#) the assassination.

SA has signed CAT, in which Article 1 bans torture "[for any reason...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](#)." Additionally, under Articles 2, 4, 6, and 7, the State has [positive obligations](#) to prevent torture, investigate when violations occur, and punish whoever is involved in the violation. The [Committee Against Torture](#) will likely find that SA violated CAT under these articles if it failed to [define and criminalize torture](#) under its domestic laws, failed to protect Khashoggi from torture in its jurisdiction, and additionally, fails to adequately investigate and punish the individuals responsible.

Unfortunately, SA has not signed the CAT's [Optional Protocol](#). Therefore, the U.N. Committee Against Torture only has quasi-judicial authority to review the State and determine whether there was a violation. Review often has strong political consequences, but the administrative process only [occurs every four years](#). In this case, the review process is not the best enforcement mechanism because SA's [last report was in 2016](#), so the country will not be obligated to report again until 2020.

After the CIA's recent conclusions, international criminal accountability is becoming more feasible. Articles 5, 6, and 7 of CAT allows criminal prosecution through universal jurisdiction.

For example, Article 5 requires that state parties can “[take measures as may be necessary to establish its jurisdiction over \[acts of torture\]](#),” in cases where the alleged offender is present in any territory under its jurisdiction. Also, as exemplified in the famous *Pinochet case*, Article 8 of CAT establishes that [alleged perpetrators are extraditable](#) if found in a country that is party to the convention. The International Court of Justice (ICJ) determined that any state party to CAT, including the United States, [can invoke responsibility of another state](#) that has allegedly failed to comply with its obligations under the treaty. However, the United States has dismissed universal jurisdiction in the past, and [President Trump’s recent statements](#) rebuffing the CIA’s findings seem to support SA. Still, there are other countries with [more aggressive mechanisms](#) for prosecuting torture by universal jurisdiction. [Human Rights Watch has asked Argentina to investigate](#) MBS’s involvement in Khashoggi’s case because he plans to attend the [G20 Summit](#) in Buenos Aires on November 30, 2018. Argentina’s [constitution recognizes universal jurisdiction for torture](#) and therefore could be an avenue to hold MBS criminally liable.

Even if an investigation cannot prove that MBS ordered Khashoggi’s killing, he could still be [culpable under the principle of command responsibility](#). Stephen Rapp, the former U.S. State Department ambassador-at-large for war crimes issues, explained, “[Liability under the principle of ‘command responsibility’ requires showing of effective control, reason to know of conduct and failure to prevent the acts or punish those directly responsible](#).” According to CIA sources, due to the [structure of the SA government](#), Khashoggi’s death would not have happened without MBS’s [knowledge and authorization](#), and thus, he would likely be responsible.

Under the principle of head-of-state immunity, MBS might argue that he is immune from international crimes, but personal immunities only apply to [official acts](#). MBS has maintained that Khashoggi’s torture and killing was a “[rogue operation](#),” and additionally, in *Pinochet*, the [House of Lords](#) found that [torture, as defined by CAT, cannot be an official act](#). However, in *Congo v. Belgium*, the ICJ concluded that, according to customary international law, sitting heads-of-state [cannot be prosecuted](#) in national courts abroad. Therefore, unless King Salman [removes MBS from his post](#), prosecution of MBS through universal jurisdiction will be a challenge.

Under CAT, SA and its actors can face state and individual responsibility for the death of Jamal Khashoggi; however, the legal strategy will depend on the international community’s willingness to prosecute and the evidence uncovered in the coming weeks.

# U.S. Ally Facilitates Torture of Prisoners in Yemen

December 4, 2018  
by Lucette Moran

Detainees endure torture and abuse in Yemen amid a lengthy and volatile civil war, the [world's worst humanitarian crisis](#). Within a [veiled system of eighteen prisons](#) in southern Yemen, the United Arab Emirates ("UAE") and Yemeni officials are committing arbitrary detentions, torture, and forced disappearances. Various reports from Amnesty International, the *Associated Press*, *Al Jazeera*, and others reveal [UAE and Yemeni forces using torture tactics](#) such as electric shocks, beatings, waterboarding, and sexual violence that likely amount to war crimes. These reports also suggest the U.S. military is complicit in these violations of international law.

Local government forces operate these prisons under the authority of the UAE, a United States ally. Many detainees in these secret facilities were [arrested under claims of terrorist-related activities](#), but are often [critics of the Saudi-led coalition](#), community leaders, or journalists. Some people have been [detained for up to two years](#). Many families fear their loved ones have [died in custody](#). Others have been approached by individuals who claim their missing family members have died but, when questioned, UAE-backed Yemeni officers deny the deaths. According to Amnesty International, nineteen of the fifty-one men arrested earlier this year have not been confirmed alive or dead. The UAE has [publicly denied torturing detainees](#) as well as any connection to prisons in Yemen.

The existence of UAE-run detention centers has come to light in the past couple years, further increasing scrutiny of U.S. involvement in Yemen. Amnesty International has advised that the United States [investigate potential American involvement](#) in these detentions, including U.S. military personnel's [knowledge of the torture](#) and the possible use of intelligence gathered through these cruel and inhumane methods. In response to the Trump administration's unavailing support for Saudi Arabia in the wake of Jamal Khashoggi's assassination, the [U.S. Senate introduced a resolution](#) on November 28, 2018 that could [force the removal](#) of U.S. troops from Yemen. The resolution, approved by a vote of sixty-three to thirty-seven, is already facing pushback from Secretary of State [Mike Pompeo](#) and could meet future obstacles since it relies on the controversial [War Powers Resolution](#) of 1973. Nonetheless, humanitarian groups see this recent resolution as a [strong statement](#) in line with [public opinion](#) that U.S. military must leave Yemen.

Torture, forced disappearances, and arbitrary detainment are violations of international criminal and human rights law. Articles 2 and 4 of the [UN Convention Against Torture](#) (CAT) call for states to respect human dignity by refraining from committing or being complicit in acts of torture and inhumane treatment; Articles 10 and 11 specifically demand that states educate military and law enforcement personnel on the prohibition of torture in detention and interrogations. The UAE, the U.S., and Yemen have all [ratified](#) the CAT. Article 7 of the [Rome Statute of the International Criminal Court](#) (Rome Statute) recognizes torture, sexual violence,

and forced disappearances as crimes against humanity; under Article 8, torture is also recognized as a potential war crime in the context of an international armed conflict. The U.S., UAE, and Yemen have each [signed but not ratified](#) the Rome Statute; however, unlike the U.S., Yemen and the UAE are still bound to abstain from acts that “defeat the object and purpose of” the Statute because they have not announced their clear intent not to become a party pursuant to [Article 18 of the Vienna Convention](#) on the Law of Treaties. All three states have ratified the Fourth Geneva Convention, in which [Article 32](#) strictly prohibits the use of torture or corporal punishment by a state or its agents in times of war. Finally, the [International Convention for the Protection of All Persons from Enforced Disappearance](#) (ICPPED) affirms the need to protect people from forced disappearances, including by arrest or detention, and ensures all victims the right to seek and to know true information about the fate of disappeared persons. Unfortunately, [none of the states implicated in Yemen have signed the ICPED](#). At this time, any responses to the unjust treatment of prisoners must focus on claims of torture, sexual violence, or other inhumane treatment as prohibited by the CAT, Rome Statute, and Fourth Geneva Convention.

The UAE and Yemeni officials under its authority are violating international criminal law and human rights standards by torturing detainees in Yemen, and the U.S. is likely complicit in these prohibited acts. Failing to follow the rule of law in armed conflict threatens the rights of people in custody and furthers instability in Yemen. The UAE should stop torturing prisoners and release all arbitrarily detained persons or make their status known to their families. And the U.S. should cease its military participation in interrogations of detainees in Yemen and reconsider its partnerships with the UAE and Saudi Arabia; thus, the next vote on the resolution to remove U.S. armed forces from Yemen should continue without delay.