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Unable to Pay Compensation, Man Faces Indefinite Detention

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(Beirut) Judicial authorities in [Saudi Arabia](#) should take urgent steps to end the indefinite detention of a man who can't raise the money to compensate an attack victim.

Ali al-Khawahar, 31, completed a six-year criminal sentence in 2010 as punishment for a January 14, 2004 incident in which he stabbed a childhood friend in the back near his spinal cord. The stabbing left the friend permanently paralyzed. In addition to the criminal sentence, he also faced a *Qisas*, or equal retaliation judgment, which under Saudi law stipulates a direct eye-for-an-eye physical punishment or payment of compensation to the victim. The Justice Ministry stated on April 8, 2013, that the court would not apply a paralysis retribution punishment in this case, leaving payment of compensation as the only avenue for al-Khawahar to obtain his freedom.

Ali al-Khawahar has served his sentence, and should not remain imprisoned just because he and his family are too poor to pay compensation said [Sarah Leah Whitson](#), Middle East director at Human Rights Watch. What kind of justice system lets rich people out of prison but keeps poor people jailed forever if they don't have money to pay a fine.

A source with direct knowledge about the situation told Human Rights Watch that in 2004 the al-Ahsa Criminal Court sentenced al-Khawahar, who was 21 at the time of the crime, to six years in prison in a criminal trial. The court did not permit him to have a lawyer represent him in court, and al-Khawahar did not dispute the charges, the source said.

In May 2006, the victim of al-Khawahar's attack petitioned the al-Ahsa Public Court, which has jurisdiction over matters outside the purview of criminal courts, to apply *Qisas*, an Islamic law principle meaning equal retaliation, by which courts can impose direct eye-for-an-eye punishments on people who cause physical harm unless they agree to pay the aggrieved party a stipulated sum. The source said that the victim initially requested two million Saudi Riyals (US\$533,000) but later lowered his request to one million Riyals (US\$266,000).

A copy of the July 17, 2007, Public Court decision obtained by Human Rights Watch states that, The two parties have voluntarily agreed without compulsion or force from one [party] or other that the accused, Ali al-Khawahar, will pay the accuser two million Riyals within a period of a year as a result of which the accuser will drop his request for *Qisas* the accused will not leave prison until the agreed upon sum is paid.

Though *Qisas* rulings allow for monetary compensation in lieu of physical punishment, in practice they create a discriminatory system under which wealthy offenders are able to resolve the matter through payment while the poor face the possibility of enduring physical punishment equal to the alleged crime or remaining in prison indefinitely. The source told Human Rights Watch that the family has been unable to gather the money and that as a result al-Khawahar has remained in prison for at least three years after his criminal sentence ended. A lawyer with knowledge of the case told Human Rights Watch the 2007 decision is final and not subject to appeal.

The source said that al-Khawahar, who is being held in the General Prison of al-Ahsa, has been able to speak with his family on a regular basis and that he has attempted suicide several times in prison.

Saudi Arabia, without a penal code, applies Sharia (Islamic law) as the law of the land, leaving judges free to issue sentences based on their own interpretations of the Quran and teachings of the Prophet Muhammad. Courts routinely deny defendants the most basic fair trial guarantees, including the right to be represented by a lawyer.

Human Rights Watch has documented numerous eye-for-an-eye sentences in Saudi Arabia over the years, but has not documented any cases in which the court ordered the physical punishment to be carried out. In 2010, a court in the northwestern city of Tabuk [ruled](#) that a

convicted mans spinal cord should be severed as punishment for an incident in which he stabbed another man with a meat cleaver. The court was unable to apply this sentence, however, after several medical professionals refused to carry it out, and it eventually reversed its decision.

In 2005, a court in the eastern city of Dammam [sentenced](#) Puthan Veettil `Abd ul-Latif Noushad, an Indian citizen, to the punishment of gouging out his right eye for his role in a brawl in April 2003 in which a Saudi citizen was injured. The Saudi man eventually forgave Noushad and dropped his claim for retribution.

Indefinite detentions stemming from failure to pay compensation leave detainees in a vague and uncertain legal status and should be considered arbitrary. The Arab Charter on Human Rights prohibits arbitrary detention under article 14.1.

The victim of a criminal attack is certainly entitled to receive compensation, but leaving the perpetrator wasting away in a prison cell is a form of court ordered debt-bondage, Whitson said. If King Abdullah wants to truly show his commitment to reforming justice in the kingdom, banning eye-for-an-eye punishments would be a good place to start.

Bahrain Death Sentences Follow Torture, Sham Trials

Suspicious Killings and Extrajudicial Executions by Egyptian Security Forces

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