



Saudi Arabia's Compliance with the International Convention on the Elimination of All Forms of Racial Discrimination

Suggested List of Themes Relating to:

The Death Penalty

Submitted by The Advocates for Human Rights
a non-governmental organization in special consultative status with ECOSOC since 1996

European Saudi Organisation for Human Rights

and

The World Coalition Against the Death Penalty

for the 114th Session of the Committee on the Elimination of Racial Discrimination
25 November–13 December 2024

Submitted 26 August 2024

The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The European Saudi Organization for Human Rights (ESOHR) is a nonprofit organization establishment, established by a group of activists aiming to strengthen the commitment of human rights principles in Saudi Arabia. ESOHR vision is to expand the area of human rights in all fields in full measure, by working to urge the concerned as legislative or executive to activate it, raise awareness and empower citizens of their rights through education.

The World Coalition Against the Death Penalty (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

EXECUTIVE SUMMARY

1. The Committee in its 2018 Concluding Observations expressed concern about “the disproportionately high representation of migrants in the prison population and among those sentenced to death” in Saudi Arabia.¹ The Committee recommended that Saudi Arabia “[c]onduct a study on the root causes of the overrepresentation of migrant workers in the criminal justice system with a view to addressing those causes,” and “[c]onsider abolishing the death penalty.”² Saudi authorities have not implemented these recommendations.
2. This report encourages the Committee to return to the issue of the death penalty in its upcoming review of Saudi Arabia and provides brief updates about relevant developments since 2018.

Saudi Arabia fails to uphold its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination

3. Saudi Arabia continues to retain the death penalty for a wide range of offenses across three categories of Islamic law: *al had* (mandatory), *qisas* (retributive), and *ta ’zir* (discretionary).³ Within these categories, judges in Saudi Arabia retain wide-ranging powers to determine what behavior may constitute a criminal offense and whether to sentence a person to death.⁴

I. Saudi authorities continue to sentence to death and execute foreign nationals and members of the *shia* minority group.

4. In a 2023 joint report, the European Saudi Organisation for Human Rights (ESOHR) and Reprieve reported that “Saudi Arabia disproportionately executes foreign nationals, including high numbers of female domestic workers and low-level drug offenders.”⁵
5. According to ESOHR, Saudi authorities in 2024 have stepped up executions, with the rate of executions from January 1 through July 15 representing a 42% increase compared to the same period in 2023.⁶ Of the 100 people executed in that period, two were women.⁷ By the end of July, the total number of people executed for the year had reached 126, with 14% sentenced to death for drug-related offenses.⁸ Foreign nationals made up 83% of all persons executed for

¹ Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined fourth to ninth periodic reports of Saudi Arabia* (8 June 2018), U.N. Doc. CERD/C/SAU/CO/4-9, ¶ 17.

² *Id.* ¶ 18(f)-(g).

³ Reprieve, *Saudi Arabia and the Death Penalty*, (United Kingdom Reprieve, January 2023). Available at <https://reprieve.org/uk/2023/01/31/saudi-arabia-and-the-death-penalty-everything-you-need-to-know-about-the-rise-in-executions-under-mohammed-bin-salman/>.

⁴ Reprieve, *Saudi Arabia and the Death Penalty*, (United Kingdom: Reprieve, January 2023). Available at <https://reprieve.org/uk/2023/01/31/saudi-arabia-and-the-death-penalty-everything-you-need-to-know-about-the-rise-in-executions-under-mohammed-bin-salman/>.

⁵ European Saudi Organisation for Human Rights and Reprieve, *Bloodshed and Lies; Mohammed bin Salman’s Kingdom of Executions* (Jan. 31, 2023), at 3, available at <https://reprieve.org/uk/2023/01/31/saudi-arabia-and-the-death-penalty-everything-you-need-to-know-about-the-rise-in-executions-under-mohammed-bin-salman/>.

⁶ European Saudi Organisation for Human Rights, *100 Executions since the Beginning of 2024 in Saudi Arabia*, 15 July 2024, <https://euh.global.ssl.fastly.net/en>.

⁷ *Ibid.*

⁸ European Saudi Organisation for Human Rights, *July the Deadliest Since the Beginning of 2024 in Saudi Arabia: Execution of Drug-Related Offenders*, 1 Aug. 2024, <https://euh.global.ssl.fastly.net/en/>

drug-related offenses.⁹ Of the 126 people executed in 2024 through the end of July, at least 32 (25%) were foreign nationals, including 8 from Yemen, 6 from Pakistan, 5 from Syria, 4 from Ethiopia, 3 from Nigeria, and one each from Egypt, India, Sri Lanka, and Sudan.¹⁰

6. As of this year, ESOHR has documented 70 cases in which people in detention are under sentence of death.¹¹ Saudi courts continue to hand down death sentences. In 2023, courts issued at least 3 death sentences.¹² Saudi courts sentenced at least 12 people to death in 2022, up from at least 8 in 2021.¹³ Saudi Arabia's death penalty practices lack transparency, however, so these figures likely underrepresent the number of people under sentence of death.¹⁴ For example, in 2024, Saudi authorities had not disclosed whether any women were under sentence of death, yet authorities executed two women in the first half of the year.¹⁵
7. On 12 March 2022, Saudi Arabia executed 82 men, including 9 foreign nationals. Eight of the foreign nationals (seven Yemenis and one Syrian) were executed in a mass execution,¹⁶ and the ninth was a Jordanian national named Hussein Abu al Khair (also written Abo al-Kheir) who had been on death row since 2015 for a drug-related offense.¹⁷
8. Foreign nationals sentenced to death for drug-related offenses such as Abu al Khair tend to be “foreign drug mules[,] rather than drug lords.”¹⁸ ESOHR and Reprieve report that these foreign nationals “are frequently vulnerable individuals from impoverished backgrounds who have been trafficked, coerced, threatened or deceived by criminal organisations into drug smuggling.”¹⁹
9. According to Human Rights Watch, 41 of the 81 men executed in the 2022 mass execution were from the Shia minority²⁰ who had been taking part in public demonstrations against the

⁹ *Ibid.*

¹⁰ *Id.*; European Saudi Organisation for Human Rights, *100 Executions since the Beginning of 2024 in Saudi Arabia*, 15 July 2024, <https://euh.global.ssl.fastly.net/en>.

¹¹ European Saudi Organisation for Human Rights, *ESOHR and Advocates Rights: UPR Is an Opportunity to Push Saudi Arabia to Adhere to Its Commitments*, July 2024, <https://euh.global.ssl.fastly.net/en/>.

¹² Amnesty International, *Death Sentences and Executions 2023* (2024), at 12, available at <https://www.amnesty.org/en/documents/act50/7952/2024/en/>.

¹³ Amnesty International, *Death Sentences and Executions 2022* (2023), at 12, 28, 32; Amnesty International, *Death Sentences and Executions 2023* (2024), at 29, available at <https://www.amnesty.org/en/documents/act50/7952/2024/en/>.

¹⁴ European Saudi Organisation for Human Rights, *ESOHR and Advocates Rights: UPR Is an Opportunity to Push Saudi Arabia to Adhere to Its Commitments*, July 2024, <https://euh.global.ssl.fastly.net/en/>.

¹⁵ *Ibid.*

¹⁶ Human Rights Watch, *Saudi Arabia: Mass Execution of 81 Men*, (Human Rights Watch: New York, March 2023), accessed on July 11, 2023. Available at: <https://www.hrw.org/news/2022/03/15/saudi-arabia-mass-execution-81-men>.

¹⁷ Amnesty International, *Death Sentences and Executions 2023* (2024), at 31, available at <https://www.amnesty.org/en/documents/act50/7952/2024/en/>.

¹⁸ European Saudi Organisation for Human Rights and Reprieve, *Bloodshed and Lies; Mohammed bin Salman's Kingdom of Executions* (Jan. 31, 2023), at 27, available at <https://reprieve.org/uk/2023/01/31/saudi-arabia-and-the-death-penalty-everything-you-need-to-know-about-the-rise-in-executions-under-mohammed-bin-salman/>.

¹⁹ *Ibid.*

²⁰ Human Rights Watch, *Saudi Arabia: Mass Execution of 81 Men*, (Human Rights Watch: New York, March 2023), accessed on July 11, 2023. Available at <https://www.hrw.org/news/2022/03/15/saudi-arabia-mass-execution-81-men>.

Saudi government.²¹ The government claimed that the men had been executed for a string of offenses including attempted murder, rape, robbery, and bomb-making, but the government provided no evidence to support these charges.²² According to ESOHR and Reprieve, 58 of the 81 men were executed for non-lethal offenses.²³

II. Women foreign nationals face compounded bias and discrimination within Saudi Arabia's criminal legal system

10. Saudi Arabia does not publish information about the number of women sentenced to death by Saudi courts,²⁴ but according to ESHOR, Saudi authorities have executed at least two women so far in 2024,²⁵ and according to Amnesty International, authorities executed at least six women in 2023.²⁶ According to a 2023 report published by ESHOR and Reprieve, from 2010 to 2021, Saudi authorities executed 31 women, including 23 foreign nationals, “of whom at least 13 were domestic workers.”²⁷ The report found that “female domestic workers have been denied access to a fair trial in capital cases, including where significant gender-specific mitigation was ignored by the courts.”²⁸ These patterns suggest that Saudi courts apply the death penalty “against female migrant domestic workers in a discriminatory way.”²⁹
11. According to a 2023 study published by Eleos Justice and the Cornell Center on the Death Penalty Worldwide, in countries like Saudi Arabia, “where migrant women are significantly overrepresented on death row, the structural violence of gendered migration contributed to these women facing the death penalty.”³⁰ The study provides as an example the case of Tuti Tursilawati, whom Saudi authorities executed in 2018. She was an Indonesian national who had been convicted of killing her employer. She had killed him in self-defense when he attempted to rape her.³¹ As the Cornell Center on the Death Penalty Worldwide observed in a

²¹ Human Rights Watch, *Saudi Arabia: Mass Execution of 81 Men*, (Human Rights Watch: New York, March 2023), accessed on July 11, 2023. Available at <https://www.hrw.org/news/2022/03/15/saudi-arabia-mass-execution-81-men>.

²² Human Rights Watch, *Saudi Arabia: Mass Execution of 81 Men*, (Human Rights Watch: New York, March 2023), accessed on July 11, 2023. Available at <https://www.hrw.org/news/2022/03/15/saudi-arabia-mass-execution-81-men>.

²³ European Saudi Organisation for Human Rights and Reprieve, *Bloodshed and Lies; Mohammed bin Salman's Kingdom of Executions* (Jan. 31, 2023), at 37, available at <https://reprieve.org/uk/2023/01/31/saudi-arabia-and-the-death-penalty-everything-you-need-to-know-about-the-rise-in-executions-under-mohammed-bin-salman/>.

²⁴ Cornell Center on the Death Penalty Worldwide, *Judged for More than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), at 10, available at <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

²⁵ European Saudi Organisation for Human Rights, *100 Executions since the Beginning of 2024 in Saudi Arabia*, 15 July 2024, <https://euh.global.ssl.fastly.net/en>.

²⁶ Amnesty International, *Death Sentences and Executions 2023* (2024), at 9, available at <https://www.amnesty.org/en/documents/act50/7952/2024/en/>.

²⁷ European Saudi Organisation for Human Rights and Reprieve, *Bloodshed and Lies; Mohammed bin Salman's Kingdom of Executions* (Jan. 31, 2023), at 4, available at <https://reprieve.org/uk/2023/01/31/saudi-arabia-and-the-death-penalty-everything-you-need-to-know-about-the-rise-in-executions-under-mohammed-bin-salman/>.

²⁸ *Id.* at 20.

²⁹ *Ibid.*

³⁰ Mai Sato and Sandra Babcock (eds.), Eleos Justice and Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women* (March 2023), at 33, available at <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

³¹ *Id.* n.47.

groundbreaking 2018 study, these women’s “status as foreigners, in tandem with unequal status of women in Saudi society, [has] subjected them to compounded bias in the criminal justice system.”³²

12. Saudi Arabia is one of few countries in the world to carry out executions for sorcery, and foreign nationals have been sentenced to death for this offense.³³ In 2019, authorities released two Indonesian women from death row after a Saudi court had previously sentenced them to death for witchcraft.³⁴

III. Suggested questions for the Government of Saudi Arabia

13. In the List of Themes, the Committee should pose the following questions to and request the following information from the Government of Saudi Arabia:

- Please provide data about people sentenced to death and executed since 2018, disaggregated by nationality, religious affiliation, sex/gender, crime(s) of conviction, sentencing authority, occupation at the time of the offense, familial or employment relationship to any victim or codefendant, and current location or date of execution.
- What assistance do foreign nationals in conflict with the law receive when they are charged with capital crimes or other crimes that could result in a sentence of death, including legal representation, interpretation, and other support? Who provides this assistance?
- What measures are in place to ensure that all foreign nationals in conflict with the law are afforded their rights under the Vienna Convention on Consular Relations?
- What training do sentencing judges, prosecutors, and defense counsel receive regarding gender-based discrimination, gender-based violence, and tactics of coercive control that may lead women to commit death-eligible offenses?
- Are judges authorized to consider gender-specific defenses and gender-specific mitigation in capital cases, encompassing women’s experiences of trauma, poverty, and gender-based violence? Are such defenses and mitigation codified?
- What measures has the State Party taken to consider abolishing the death penalty and to raise awareness among lawmakers and the general public about alternatives to the death penalty?
- What steps have authorities taken to ensure that no person is sentenced to death for a crime that is not among the “most serious” under international human rights standards? How are these standards applied in cases involving drug-related offenses and “sorcery”?

³² Cornell Center on the Death Penalty Worldwide, *Judged for More than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), at 18, available at <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

³³ Mai Sato and Sandra Babcock (eds.), Eleos Justice and Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-Sanctioned Killing of Women* (March 2023), at 22, available at <https://deathpenaltyworldwide.org/wp-content/uploads/2023/04/Silently-Silenced-final-30-March-2023-2.pdf>.

³⁴ Ibid.