

THE KINGDOM OF SAUDI ARABIA

Stakeholder Report for the Universal Periodic Review

For the 45th Session of the Working Group on the Universal Periodic Review

Submitted by:

Reprieve

The European Saudi Organization for Human Rights (ESOHR)

MENA Rights Group

ECPM (Together Against the Death Penalty)

The Freedom Initiative

ALQST for Human Rights

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ABOUT THE SUBMITTING ORGANIZATIONS

Reprive is a charitable organization registered in the United Kingdom (No. 1114900), and in special consultative status with the United Nations Economic and Social Council (ECOSOC). Reprive provides free legal and investigative support to those who have been subjected to state-sponsored human rights abuses. Our clients belong to some of the most vulnerable populations in the world, as it is in their cases that human rights are most swiftly jettisoned and the rule of law is cast aside. In particular, we protect the rights of those facing the death penalty and deliver justice to victims of arbitrary detention, torture, and extrajudicial execution.

Webpage: <https://reprive.org/uk/>

Email: info@reprive.org.uk

European Saudi Organization for Human Rights (ESOHR) is a non-profit organization established by a group of activists aiming to strengthen commitment to human rights principles in Saudi Arabia. ESOHR's vision is to expand the area of human rights in all fields, by working to urge the legislature and executive to uphold human rights, to raise awareness and to empower citizens through education.

Webpage: <https://www.esohr.org/en/>

MENA Rights Group is a Geneva-based legal advocacy NGO defending and promoting fundamental rights and freedoms in the Middle East and North Africa (MENA) region. Adopting a holistic approach, we work at both the individual and structural level. We represent victims of human rights violations before international law mechanisms. In order to ensure the non-repetition of these violations, we identify patterns and root causes of violations on the ground and bring key issues to the attention of relevant stakeholders to call for legal and policy reform.

Webpage: www.menarights.org

The Freedom Initiative is a Washington, DC-based non-profit organization dedicated to advocating for prisoners wrongfully detained in the Middle East and North Africa. The Freedom Initiative believes in a region in which all may be free to enjoy their rights, and that citizens and leaders in the United States and around the world have a role to play in achieving this vision.

Webpage: <https://thefreedomi.org/>

ECPM (Together Against the Death Penalty) is a French non-governmental organization that fights against the death penalty worldwide and in all circumstances by uniting and rallying abolitionist forces across the world. The organization advocates with international bodies and encourages universal abolition through education, information, local partnerships and public awareness campaigns. ECPM earned its legitimacy as a unifying group of the abolitionist movement because of its strong sense of ethics and values. ECPM is the organiser of the World Congresses Against the Death Penalty and a founding member of the World Coalition Against the Death Penalty. In 2016, ECPM was granted consultative status with ECOSOC.

Webpage: <http://www.ecpm.org/>

ALQST for Human Rights is an independent NGO founded in 2014 with the purpose of defending and promoting human rights in Saudi Arabia. 'Al-qist' means 'justice' in Arabic, and a passion for justice lies at the heart of all our work. Through its extensive network of sources within the country, ALQST monitors and documents human rights violations on the ground and brings them to the attention of the international community through legal and public advocacy, media work, and campaigns on behalf of victims.

Webpage: <https://www.alqst.org/en>

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INTRODUCTION

1. This submission provides an overview of Saudi Arabia's failure to implement recommendations on the death penalty and torture supported during the Universal Periodic Review (UPR) process.
2. This submission presents data collected through the submitting organizations' empirical and investigative research on the death penalty in Saudi Arabia, as well as findings from our ongoing monitoring of executions in Saudi Arabia and casework.
3. In 2018, Saudi Arabia agreed to continue implementing supported recommendations from its last two cycles, many of which included compliance with international standards on the death penalty.¹
4. Despite promises of reform, Saudi Arabia's application of the death penalty continues to fall short of its regional and international obligations arising out of the Arab Charter on Human Rights, the Convention on the Rights of the Child and the Convention Against Torture.²
5. Data gathered and analysed spanning all three UPR cycles demonstrate the following:
 - The rate of executions increased 82%³ from the time that Mohammed bin Salman came to power in 2017 until 2022;
 - 2022 showed the highest number of executions on record, with 2019 being the second;
 - Despite promises to abolish the application of the death penalty for persons under 18 at the time of the alleged offence, Saudi Arabia continues to sentence child defendants to death. At least 15 child defendants have been executed since

¹ UPR of Saudi Arabia (3rd Cycle – 31st Session), 122.17 Continue implementing the recommendations accepted in the universal periodic reviews of 2009 and 2013, and in particular, ratify the two International Covenants on Human Rights (Spain).

² Arab Charter on Human Rights, adopted on May 2004, entered into force in March 2008; UN Convention Against Torture 1465 UNTS 85, entered into force in 1987, acceded to by Saudi Arabia on 23 September 1997; UN Convention on the Rights of the Child 1577 UNTS 3, entered into force in 1990, acceded to by Saudi Arabia on 26 June 1996.

³ Reprieve and ESOHR, *"Bloodshed and Lies: Mohammad bin Salman's Kingdom of Executions"*, 31 January 2023, available at: <https://reprieve.org/wp-content/uploads/sites/3/2023/01/Bloodshed-and-Lies-Mohammed-bin-Salmans-Kingdom-of-Executions.pdf>;

2013;

- 43% of all executions in Saudi Arabia from 2010 to 2021 were for non-lethal offences;
 - 39% of those executed in Saudi Arabia between 2010 and 2021 were foreign nationals;
 - At least 386 executions for drug-related offences were carried out between 2010 and 2021, which constitutes 71% of executions for non-lethal offences;
 - 46 individuals were executed for exercising their fundamental rights including attending protests and freedom of expression.
 - The use of confessions extracted through torture during investigations and later used as evidence to sentence individuals to death is prevalent.
6. Since Saudi Arabia's last UPR in 2018, Crown Prince Mohammad bin Salman and his officials have repeatedly suggested to the international community that Saudi Arabia intends to abolish the death penalty for non-lethal offences, as well as for child defendants.⁴ In April 2020, the Saudi Human Rights Commission ("SHRC") announced that a Royal Decree expanding the scope of the Juvenile Law had come into force with immediate effect.⁵ In 2021, the Crown Prince announced the codification of a penal code.⁶
7. To date, the Royal Decree has not been made public, nor has the penal code been promulgated and executions for drug related crimes and child defendants continue.
8. Although the submitting organizations continuously monitor death sentences in Saudi Arabia, the failure to make publicly available any disaggregated data on the death penalty means that the real number of Saudi Arabia's death row population may be much higher. Similarly, executions in Saudi Arabia are often carried out in secrecy, without prior notice to the condemned or to their families.
9. As a result, it is impossible to know the true number of people executed or on death row in Saudi Arabia at any given time.

⁴ Time Magazine, "Crown Prince Mohammed Bin Salman Talks to Time About Saudi Arabia, The Middle East and President Trump", 5 April 2018, available at: <https://time.com/5228006/mohammed-bin-salman-interview-transcript-full/>

⁵ Human Rights Commission (@HRCSaudi), Twitter, 28 April 2020, available at: <https://twitter.com/HRCSaudi/status/1255236606124068866>

⁶ Reuters, "Saudi Arabia announces new judicial reforms in a move towards codified law", 8 February 2021, available at: <https://www.reuters.com/article/us-saudi-judiciary-idUSKBN2A82E6>

I. RISE IN EXECUTIONS DESPITE UPR COMMITMENTS

10. Saudi Arabia has failed to implement recommendations on improving transparency in its application of the death penalty.⁷ To date, Saudi Arabia has not made public the number of persons on death row or executed.
11. The submitting organizations estimate that at least 1243 persons have been executed between 2010 and 2021, including at least 31 women and 15 persons who were children at the time of the alleged offence.⁸ However, as Saudi Arabia refuses to publish official statistics, the true scale of Saudi Arabia's application of the death penalty remains unknown.
12. There remains serious concern that individuals executed in Saudi Arabia were sentenced to death based on torture-tainted confessions, where fair-trial rights were not adhered to, for offences that cannot be subject to capital punishment and, in some cases, for offences committed when they were children. Failing to comply with the stringent international and regional standards on the death penalty results in an arbitrary deprivation of life.
13. Further, we have documented an 82% increase in executions since 2017, when Mohammed bin Salman came to power, compared to the preceding five years.⁹ Since the last UPR in 2018, Saudi Arabia has carried out a record number of executions:
 - From 2018 until June 2023, Saudi Arabia carried out 618 executions;¹⁰
 - In 2019, Saudi Arabia executed more individuals than at any other time on record;¹¹
 - On 23 April 2019, Saudi Arabia executed 37 in a mass execution, six of whom were children at the time of the alleged offence;¹²

⁷ UPR of Saudi Arabia (2nd Cycle – 17th Session) 138.123. Carry out further efforts to increase the transparency and openness of legal proceedings contemplating death sentences (Italy).

⁸ Reprieve and ESOHR (n 3), p5.

⁹ Reprieve and ESOHR (n 3), p6.

¹⁰ Reprieve and ESOHR (n 3), p5. Please note that the Report covers the period 2018 to 2022. Therefore, this figure is also based on Reprieve and ESOHR's monitoring, which is up to date.

¹¹ Reprieve and ESOHR (n 3), p6.

¹² Reprieve and ESOHR (n 3), p10.

- On 12 March 2022, Saudi Arabia executed 81 individuals in a single day, the largest mass execution in its history.¹³

14. These figures demonstrate that Saudi Arabia has failed to take any substantive steps to implement recommendations on the death penalty.

Recommendations

- Immediately establish an official moratorium on the use of the death penalty.
- Make information relating to its death row population public and available. This information should include sex, age, nationality, ethnicity and the number of persons sentenced to death, the number of persons on death row, the number of executions carried out, the number of death sentences reversed or commuted on appeal, and the number of cases in which amnesty or pardon has been granted, as well as information on any scheduled executions.
- Conduct a public inquiry into all executions carried out to date and provide appropriate redress to the families of victims who have been arbitrarily executed.

II. THE DEATH PENALTY FOR NON-LETHAL OFFENCES

15. Saudi Arabia has failed to implement recommendations on limiting the number of offences that carry the death penalty to the most serious crimes only and to promulgate a penal code.¹⁴ No steps have been taken by Saudi Arabia to review or amend legislation in place with a view to restrict the application of the death penalty to the most serious offences, in line with its regional obligations.¹⁵ The death penalty was applied to non-lethal offences in both the normal criminal courts and the Specialised Criminal Courts despite these recommendations.

16. By definition, non-lethal offences do not meet the threshold of “most serious crimes” under international law. The death penalty for non-lethal offences is prohibited under

¹³ Human Rights Watch, “Saudi Arabia: Mass Execution of 81 Men”, 15 March 2022, available at <https://www.hrw.org/news/2022/03/15/saudi-arabia-mass-execution-81-men>.

¹⁴ UPR of Saudi Arabia (3rd Cycle – 31st Session) 122.107 Forgo the application of the death penalty or at least restrict it to the most serious crimes (Germany).

¹⁵ Arab Charter on Human Rights, Article 6.

the Arab Charter, rendering any death sentence and execution a breach of the right to life.¹⁶ According to international human rights bodies, the term “most serious crimes” must be “read restrictively and appertain only to crimes of extreme gravity involving intentional killing.”¹⁷ The UN Human Rights Committee has explained that “[c]rimes not resulting directly and intentionally in death ... although serious in nature, can never serve as the basis ... for the imposition of the death penalty”.¹⁸ Any execution for such an offence will amount to an arbitrary deprivation of life.

17. Between 2010 to 2021, 542 executions were carried out for non-lethal offences in Saudi Arabia, 386 of which were for drug-related offences.¹⁹ In 2019, the number of executions for non-lethal offences exceeded those for lethal offences, and accounted for around 66% of the overall executions carried out that year.²⁰ In Saudi Arabia’s mass execution on 12 March 2022, 58 men were executed for non-lethal offences (67%).

18. Unlike several countries in the region, Saudi Arabia has not codified a substantive penal code. Over the past 20 years, Saudi Arabia has taken several steps to codify criminal law, including the Law of Criminal Procedure; however, substantial legislative gaps remain. The absence of a clearly defined criminal law creates legal uncertainty, arbitrary sentencing, and makes it impossible for Saudi Arabia’s population to know what acts may amount to a criminal offence resulting in the death penalty.²¹

19. The following offences resulted in execution between 2010-2021, despite the offences not crossing the most serious crimes threshold:

- Drug offences,
- Sedition, treason, or other state security offences,
- Sexual offences,

¹⁶ UN Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, para. 35, available at: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf.

¹⁷ *Ibid.*

¹⁸ *Ibid*; see also OHCHR, Death Penalty Disproportionately Affects the Poor, Rights Experts Warn, 6 October 2017, available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22208&LangID=E>.

¹⁹ Reprieve and ESOHR (n 3), p31-34.

²⁰ Reprieve and ESOHR (n 3), p31-34.

²¹ UN Working Group on Arbitrary Detention, Opinion No. 26/2019 concerning Abdelkarim Mohamed Al Hawaj and Mounir Abdullah Ahmad Aal Adam (Saudi Arabia), A/HRC/WGAD/2019/26, 9 October 2019, available at: https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session84/A_HRC_WGAD_2019_26_AdvanceEditedVersion.pdf

- Directing or being a member of a banned organization or an organised criminal group, offences against the person not resulting in death, such a kidnapping or false imprisonment with assault, robbery or burglary,
- Sorcery and witchcraft,
- Adultery.²²

20. Except for drug offences and some state security offences, none of the non-lethal crimes resulting in execution between 2010-2021 are codified in Saudi Arabia.

Disproportionate executions of foreign nationals for drug offences

21. The UN Committee on the Elimination of Racial Discrimination has raised concerns that a disproportionate number of foreign nationals face the death penalty in Saudi Arabia.²³

22. From 2010 to 2021, Saudi Arabia executed 490 foreign nationals, representing 39% of total executions, which is slightly greater than the percentage of foreign nationals in the population of Saudi Arabia as a whole (36%).²⁴ Yemeni, Jordanian and Pakistani nationals were overrepresented among those executed when compared to their proportional representation in Saudi Arabia's population.²⁵

23. Between 2010 and 2021, 284 of the 386 (74%) executions carried out for drug offences were of foreign nationals.²⁶ Saudi Arabia therefore executed nearly three times more foreign nationals for drug offences than it did Saudi nationals, despite foreign nationals making up only 36% of the population.²⁷

24. The disproportionate number of foreign nationals executed supports well-documented concerns that foreign nationals, particularly migrant workers, face systemic discrimination within the criminal justice system. Foreign nationals facing the death penalty suffer significant due process violations during their trials and hearings. Foreign nationals are often denied access to interpreters and consular assistance from their

²² Reprieve and ESOHR (n 3), p31-34.

²³ UN Committee on the Elimination of Racial Discrimination, UN Committee on the Elimination of Racial Discrimination: Concluding Observations, Saudi Arabia, 2 June 2003, CERD/C/62/CO/8, para. 18, available at: <https://www.refworld.org/docid/3f2736a34.html>.

²⁴ Reprieve and ESOHR (n 3), p25-30.

²⁵ Reprieve and ESOHR (n 3), p25-30.

²⁶ Reprieve and ESOHR (n 3), p25-30.

²⁷ Reprieve and ESOHR (n 3), p25-30.

respective diplomatic entities, to which they are legally entitled.²⁸

25. In March 2023, Hussein Abo al-Kheir, a Jordanian taxi driver and father of eight, was executed for drug crimes despite the UN Working Group on Arbitrary Detention calling for his release; no official warning of the execution was provided to his family.²⁹ Hussein was convicted for smuggling drugs across the border, which he denied during the investigation and trial process.³⁰

Repression of fundamental rights and the death penalty

26. Despite supporting recommendations on de-criminalising the exercise of fundamental rights,³¹ Saudi Arabia continues to misuse counterterrorism legislation to issue death sentences and carry out executions following convictions before the Specialised Criminal Court (SCC).

27. Since Mohammed bin Salman's rise to power in 2017, Saudi Arabia has ramped up death sentences for acts related to the exercise of the right to freedom of expression and assembly, such as protesting, tweeting, and owning books.³²

28. Between 2010 and 2021, the following executions were carried out following convictions in the SCC:³³

- 46 individuals (45%) were executed for exercising their fundamental rights, including attending pro-democracy protests and peacefully exercising freedom of expression;

²⁸ Reprieve and ESOHR (n 3), p25-30.

²⁹ BBC News, "Saudi Arabia executes Jordanian man after allegedly giving forced confession", 12 March 2023, available at: <https://www.bbc.co.uk/news/world-middle-east-64935217>

³⁰ Reprieve and ESOHR (n 3), p25-30.

³¹ UPR of Saudi Arabia (3rd Cycle – 31st Session), 122.91 Amend the legal definition of terrorism to ensure that it does not lead to the prosecution of women's rights defenders, non-violent human rights activists, political dissenters and other persons merely for exercising their human rights (Austria); 122.151 Bring national legislation into line with international human rights standards with regard to freedom of expression and freedom of the press, and protect journalists and human rights defenders from intimidation, threats and arbitrary arrest (Germany); 122.148 Revise all legislation that restricts the right to freedom of association and peaceful assembly as well as freedom of expression, and ensure these laws are in line with international standards (Czechia).

³² Reprieve and ESOHR (n 3), p35.

³³ Reprieve and ESOHR (n 3), p35.

- 89 individuals (86%) were executed for non-lethal offences not meeting the “most serious crimes” threshold set by international law;
- 84 individuals (81%) were executed in two mass executions on 2 January 2016 and 23 April 2019;
- At least 11 child defendants (10%) were executed.

29. The following acts relating to the exercise of fundamental rights have been charged as capital offences in Saudi Arabia:³⁴

- Attending pro-democracy protests;
- Waving anti-state banners;
- Burning tires;
- Owning banned books;
- Criticizing the regime;
- Tweeting.

30. Data collected by Reprieve also shows that individuals who exercise their fundamental right have been targeted, tortured, sentenced to death and executed.³⁵ This suggests that the Saudi government uses the death penalty as a tool of repression.

31. For example, in 2023, three men were sentenced to death in the SCC under the guise of terrorism for offences that related to their opposition to forced evictions of local tribes to make way for large scale development projects forming part of Saudi Arabia’s Vision 2030. The UN Special Rapporteur on Housing issued a communication in April 2023, stating that the conviction is “allegedly baseless, and they are rather being punished for merely voicing their opposition to the forced evictions of the Howeitat tribe, including on social media” and for “resisting evictions from their homes under the NEOM project, part of the Saudi 2030 Vision”.³⁶

32. Several capital trials are currently ongoing before the SCC where scholars and intellectuals face the death penalty for the exercise of fundamental rights. Saudi intellectual Salman Alodah is currently at risk of the death penalty for politically-

³⁴ Reprieve and ESOHR (n 3), p35.

³⁵ Reprieve and ESOHR (n 3), p35.

³⁶ Letter to Saudi Arabia, UA NLD 1/2023, 28 April 2023, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28039>

motivated offences including “incitement against the ruler” and “spreading discord.”³⁷ Salman was arrested from his home in 2017 after a tweet criticizing the Saudi government’s handling of a diplomatic affair.³⁸ Following his arrest, Salman was tortured, and suffers ill health as a result of that torture and other mistreatment while detained.³⁹ His family has also been targeted as a result of his political activities.⁴⁰

33. Hassan al-Maliki, a Saudi scholar and intellectual, is currently at risk of the death penalty for charges that include “conducting interviews with Western outlets”; “possessing books” that were “not authorized by the competent authority” in Saudi Arabia; “publishing books” outside Saudi Arabia; “publishing several tweets...questioning the principles of Islam”; and seeking to “destabilize the social fabric and national cohesion.”⁴¹

34. Eight of the child defendants executed in Saudi Arabia since 2010 were convicted of offences that involved exercising their fundamental rights to expression, association, and assembly.⁴² At least nine other individuals are on death row have been convicted for offences involving freedom of expression, including two child defendants.⁴³

Recommendations

- Review and amend legislations that provide for the death penalty to ensure that its application is restricted to the “most serious crimes”, as required by the Arab Charter.
- Commute all death sentences handed down for offences that do not meet the threshold of gravity of the Arab Charter, including drug offences and offences related to the exercise of freedom of expression.

³⁷ Al Jazeera, “Saudi ‘seeks death penalty’ for Muslim scholar Salman al-Awdah”, 5 September 2018, available at: <https://www.aljazeera.com/news/2018/9/5/saudi-seeks-death-penalty-for-muslim-scholar-salman-al-awdah>.

³⁸ Amnesty International, “Saudi Arabia: Prominent reformist cleric faces death sentence for his peaceful activism”, 26 July 2019, available at: <https://www.amnesty.org/en/latest/press-release/2019/07/saudi-arabia-prominent-reformist-cleric-faces-death-sentence-for-his-peaceful-activism/>

³⁹ Middle East Monitor, “Saudi cleric Salman Ouda’s health deteriorating in prison, Amnesty says”, 29 September 2021, <https://www.middleeastmonitor.com/20210929-saudi-cleric-salman-oudas-health-deteriorating-in-prison-amnesty-says/>

⁴⁰ The Freedom Initiative (@thefreedomi), Twitter, 19 April 2023, available at: <https://twitter.com/thefreedomi/status/1648771051172634628>

⁴¹ Reprieve and ESOHR (n 3), p35.

⁴² Reprieve and ESOHR (n 3), p35.

⁴³ Data compiled by the European Saudi Organization for Human Rights.

- Fulfill its promise to draft a penal code that complies with international and regional human rights obligations and that prohibits the death penalty for non-lethal offences.
- Commute the sentences of all those on death row convicted of non-lethal offences.

III. THE DEATH PENALTY FOR CHILDREN

35. Saudi Arabia has only partially implemented previous recommendations on prohibiting the death penalty for all persons under 18 at the time of the alleged offence.⁴⁴ Despite reform to the juvenile justice system, in practice, child defendants remain at risk of the death penalty and have been executed.

36. Saudi Arabia is party to the UN Convention on the Rights of the Child (CRC), which strictly prohibits the death penalty for all persons under 18 at the time of the alleged crime.⁴⁵ The use of the death penalty against an individual who was a child at the time of the offence is prohibited under customary international law.⁴⁶

37. In August 2018, Saudi Arabia promulgated the Juvenile Law, which governs the treatment of children in the criminal justice system. The Juvenile Law provides that if a child over the age of 15 commits an offence punishable by death, the punishment is substituted by a prison term of no more than 10 years.⁴⁷ However, Article 16 of the Juvenile Law states that it “shall not prejudice the legally prescribed provisions on hudud [mandatory] and qisas [retributive]”.⁴⁸ Children facing a mandatory or retributive death sentence are therefore excluded from the law’s application and can still be sentenced to death and executed.

38. Following promulgation of the Juvenile Law in 2018, Saudi Arabia told the UN that the law meant that “if the crime committed by the juvenile is punishable by death, the

⁴⁴ UPR of Saudi Arabia (2nd Cycle – 17th Session), 138.152. Implement legal reforms recognizing a legally-defined age of minority that prevents early and forced marriage, detention of minors as adults and exposure of minors to the death penalty (Australia).

⁴⁵ Saudi Arabia acceded to the UN Convention of the Rights of the Child on 26 January 1996. OHCHR, “UN Treaty Body Database: Ratification status for Saudi Arabia”, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=152&Lang=EN

⁴⁶ *Domingues v. United States*, No. 62/02, 22 October 2002, available at: <http://hrlibrary.umn.edu/cases/62-02.html>

⁴⁷ Royal Decree No. 113/M (2018) on the Juvenile Law (Juvenile Law), Article 15(2), available at: <https://www.moj.gov.sa/Documents/Regulations/pdf/77.pdf>.

⁴⁸ Juvenile Law, Article 15(2).

sentence shall be reduced to a term of not more than 10 years detention”.⁴⁹ This statement was not accurate, as the Juvenile Law does not extend to mandatory and retributive death sentences.

39. In April 2020, the Saudi Human Rights Commission (“SHRC”) announced on Twitter that a Royal Decree expanding the scope of the Juvenile Law had come into force with immediate effect, without publishing the text of the decree.

40. The Arabic version of the announcement on 28 April 2020 stated that the new Royal Decree would “abolish... discretionary death sentences on juveniles includ[ing] all persons who had not reached 18 at the time of committing the crime, including those sentenced to death for terrorism”, and that the law would be applied retroactively.⁵⁰

41. In October 2020, in response to criticism that the new Royal Decree did not uphold purported promises, the SHRC issued a further statement on its English-language Twitter account only, stating that “the abolition of the death penalty for individuals convicted of committing crimes while minors applies to all cases and entered into force immediately upon announcement”, that “no one in Saudi Arabia will be executed for a crime committed as a minor” and that “the maximum sentence for any juvenile offender is 10 years in a juvenile rehabilitation facility”. The application of the 2020 Royal Decree remains uncertain. The text has not been published and is not available on Saudi Arabia’s official gazette.⁵¹

42. While the exact number of child defendants on death row in Saudi Arabia is currently not known, Reprieve is aware of at least three cases, and ESOHR and MENA Rights Group have investigated and documented six other possible cases. The three cases documented by Reprieve have seen their sentences upheld by the Court of Appeal and are currently at risk of execution if the Supreme Court confirms the verdict.⁵² The three child defendants whose cases were documented by Reprieve allege that they were

⁴⁹ Kingdom of Saudi Arabia, “National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1 Kingdom of Saudi Arabia”, 20 August 2018, available at: <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FWG.6%2F31%2FSAU%2F1&Language=E&DeviceType=Desktop&LangRequested=False>

⁵⁰ HRCSaudi (@Commission Rights Human Saudi), Twitter, 28 April 2020, available at: <https://twitter.com/HRCSaudi/status/1255236606124068866>.

⁵¹ Saudi law requires laws to be published in the Official Law Gazette in order to come into effect. The Embassy of the Kingdom of Saudi Arabia to the United States, Basic Law of Governance, Article 71, available at: <https://www.saudiembassy.net/basic-lawgovernance>.

⁵² Reprieve, “Joint NGO statement to Secretary Blinken regarding child defendants facing execution in Saudi Arabia”, 6 June 2023, available at: <https://reprieve.org/us/2023/06/06/secretary-blinken-press-saudi-arabian-authorities-not-to-execute-the-two-child-defendants/>

tortured to obtain a confession that was later used as evidence for their conviction.⁵³

43. Saudi Arabia executed at least 15 child defendants between 2012 and 2022,⁵⁴ including Mustafa al-Darwish, who was executed in June 2021 for non-lethal protest related offences, just over a year after Saudi Arabia announced the 2020 Royal Decree.⁵⁵

Recommendations

- Immediately cease the use of the death penalty against child defendants, regardless of the offence committed, including commuting the sentences of all child defendants on death row.
- Uphold the Royal Decree passed in 2020 that outlaws the use of the death penalty against child defendants for all offences.
- Amend Juvenile Law in 2018 so that it extends to prohibiting the use of mandatory and retributive death sentences for children.
- Conduct a public inquiry into any executions of child defendants carried out in recent years and provide redress to the families of victims.

IV. TORTURE AND THE DEATH PENALTY

44. Saudi Arabia has failed to implement recommendations on prohibiting torture and ill-treatment.⁵⁶ Saudi Arabia is a party to the United Nations Convention Against Torture

⁵³ Reprieve and ESOHR (n 3), p11-16.

⁵⁴ Reprieve and ESOHR (n 3), p11-16.

⁵⁵ HRCSaudi (@Commission Rights Human Saudi), Twitter, 28 April 2020, available at: <https://twitter.com/HRCSaudi/status/1255236606124068866>.

⁵⁶ UPR of Saudi Arabia (3rd Cycle – 31st Session), 122.116 Adopt further steps to prevent torture, cruel and degrading treatment in prisons and detention centres (Belarus); 122.185 Establish a reliable complaint mechanism for detained persons and include in the national legislation clear provisions for the compensation of victims of torture within detention units (Serbia); UPR of Saudi Arabia (2nd Cycle – 17th Session) 138.153. Implement legal reforms to promulgate a criminal code, ensure transparent and fair criminal trials, and prevent arbitrary, secret and indefinite detention and torture in custody (Australia); 138.151. Guarantee due process, prohibit in law the use of torture and other forms of cruel treatments, in accordance with the Convention against Torture (France);

(UNCAT) ⁵⁷ which prohibits torture and ill-treatment, the use of torture-tainted evidence in proceedings, and places a positive duty on the state to carry out prompt, impartial investigations into allegations of torture. ⁵⁸

45. Persons on death row in Saudi Arabia continue to allege that they have been tortured while detained and interrogated by Saudi authorities, indicating that the use of torture in Saudi Arabia remains widespread.⁵⁹ Perpetrators identified by victims include state security officers and anti-narcotics forces.

46. The following forms of torture and ill-treatment have been used against individuals currently or previously on death row, often with a view of extracting a confession:⁶⁰

- Beatings, including with electric cables and plastic wires;
- Being forced into stress positions;
- Being held underwater;
- Electric shocks;
- Long-term solitary confinement;
- Being burnt with cigarettes;
- Being hung from the ceiling;
- Being forced to participate in the torture of a family member.

47. No investigations in line with international minimum standards have been carried out in any of the cases identified by the submitting organizations. Courts regularly rely on torture-tainted evidence to hand down death sentences and fail to carry out investigations into allegations raised in proceedings. ⁶¹

48. Any execution carried out based on torture-tainted evidence will amount to a breach of the right to life.

Recommendations

⁵⁷ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, State Parties, entered into force 26 June 1987, available at: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&clang=en

⁵⁸ Convention Against Torture, Articles 2, 4, 12, 13, 14 and 16.

⁵⁹ Reprieve and ESOHR (n 3), p16.

⁶⁰ Reprieve and ESOHR (n 3), p16.

⁶¹ Convention Against Torture, Article 15.

- Ensure that the judiciary is sufficiently trained to discharge its duty to investigate allegations of torture and ill treatment and to exclude any torture-tainted evidence from any and all legal proceedings.
- Promptly carry out an in-depth investigation into all allegations of torture and ill treatment, in line with international standards.

Ensure that the perpetrators identified during a fully impartial and effective investigation into torture allegations are prosecuted.

- Ensure that victims of torture and ill treatment are provided with access to redress, rehabilitation, and compensation.

V. FAILURE TO RATIFY KEY INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

49. Saudi Arabia has failed to ratify further international treaties, despite supporting several recommendations to that effect.⁶² To date, Saudi Arabia remains one of the few UN member states that has yet to ratify the International Covenant on Civil and Political Rights and amongst the minority that have not ratified the Optional Protocol to the Convention Against Torture.

Recommendations:

- Ratify the International Covenant on Civil and Political Rights and ensure that it complies with the obligations therein.
- Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and ensure that it complies with the

⁶² UPR of Saudi Arabia (3rd Cycle – 31st Session), 122.17 Continue implementing the recommendations accepted in the universal periodic reviews of 2009 and 2013, and in particular, ratify the two International Covenants on Human Rights (Spain); 122.3 Ratify the International Covenant on Civil and Political Rights (Mexico) (France) (Morocco) (Latvia) (Estonia) (Portugal); Accede to the International Covenant on Civil and Political Rights (Costa Rica) (Ukraine) (Romania); Become a party to the International Covenant on Civil and Political Rights (New Zealand); 122.4 Consider acceding to the International Covenant on Civil and Political Rights (Côte d'Ivoire) (Afghanistan); Continue considering accession to the International Covenant on Civil and Political Rights (Tunisia).

obligations therein.

CONCLUSION

50. Saudi Arabia has failed to implement numerous supported recommendations to bring its application of the death penalty in line with international standards. Despite various promises to the international community to establish and respect a penal code, to cease the use of capital punishment against child defendants, and to respect fair trial and free expression rights of those accused, the use of the death penalty in Saudi Arabia continues to grow.

