



**KINGDOM OF SAUDI ARABIA**

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**THE DEATH PENALTY AND THE SPECIALISED CRIMINAL COURT IN THE  
KINDOM OF SAUDI ARABIA**

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**UNIVERSAL PERIODIC REVIEW**

**HUMAN RIGHTS COUNCIL**

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## REPORTING ORGANISATIONS

**Americans for Democracy & Human Rights in Bahrain (ADHRB).** A 510(c)(3) non-governmental organization based in Washington DC and initially formed in 2002. ADHRB fosters awareness of, and support for, democracy and human rights in Bahrain and the Middle East.

**European Saudi Organisation for Human Rights (ESOHR)** is a non-profit organization established by a group of activists with the aim of strengthening the commitment to human rights principles in Saudi Arabia.

**Reprieve.** An international legal action charity which was founded in 1999 (UK charity registration no. 1114900). Reprieve provides support to some of the world's most vulnerable people, including people sentenced to death and those victimized by states' abusive counter-terrorism policies. Based in London, but with offices and partners throughout the world, Reprieve is currently working on behalf of 70 people facing the death penalty in 16 countries, including Indonesia. Reprieve's vision is a world free of execution, torture and detention without due process.

## INTRODUCTION

Since 2011, the Kingdom of Saudi Arabia has made use of counterterrorism legislation and the death penalty as a political cudgel to silence and punish the exercise of fundamental rights and freedoms.

This submission was compiled by reviewing practices of the Specialised Criminal Court (SCC) in five separate trials since 2013,<sup>1</sup> resulting in 30 death sentences that have now exhausted all legal appeals and could be carried out imminently, without notice, and in violation of the right to life. It concludes that the Kingdom has acted in breach of its international human rights obligations by:

- ❖ Sentencing juveniles to death;
- ❖ Handing down death sentences for non-lethal offences that do not meet the internationally-accepted threshold for “most serious crimes,” the only crimes for which the death penalty can be given;<sup>2</sup>
- ❖ Systematically using torture and ill-treatment to extract confessions;
- ❖ Making excessive use of solitary confinement and enforced disappearances;
- ❖ Denying the defendants lawyers – some for up to 3 years;
- ❖ Enabling and supporting the judiciary’s failure to hold interrogators accountable on many accounts, and allowing courts to readily accept statements extracted under duress.

The use of the death penalty as a political weapon comes against the backdrop of Saudi Arabia’s increasing execution rate. Since 2014, the Kingdom of Saudi Arabia has carried out 579 executions, placing it among the top 5 executors in the world.

On 2 January 2016, the Kingdom carried out an unprecedented mass execution of 47 prisoners. Among those executed were prominent Shia cleric Sheikh Nimr al-Nimr, two young protesters, Mohammed al-Shuyoukh and Mohammed al-Suwaimil, and Ali al-Ribh – who was a juvenile at the time of attending protests he was sentenced to death for. A year later, in July 2017, the government executed four men for similar offences.

The Kingdom must immediately stay all executions that are pending as a result of trials carried out before the SCC or risk further violations of the right to life.

## **THE SPECIALISED CRIMINAL COURT AND THE DEATH PENALTY**

Following the Arab Spring protests in Saudi Arabia in 2011, the Kingdom launched a crackdown against protesters, human rights defenders, lawyers and political opposition by making use of a range of state security and counterterrorism legislation to arrest, detain and sentence to death a number of protesters and political opposition leaders.

Since Saudi Arabia's last UPR in 2013, the Saudi government has either charged or sentenced to death at least 50 persons for offences relating to the exercise of fundamental rights under the guise of counterterrorism legislation. As of the date of submission of this report, 30 men face imminent execution without notice following five separate trials before the SCC, having exhausted all legal appeals.

### *PLCTF 2014*

Saudi Arabia's counterterrorism framework is particularly problematic. The Penal Law for Crimes of Terrorism and its Financing (PLCTF) of 2014, which gave the SCC jurisdiction to hear terrorism cases in 2014, was the kingdom's vague and ill-defined counter-terrorism legislation and its provisions and definitions were broad enough to criminalise the peaceful exercise of freedom of expression. Under the law, individuals may be charged with a terrorism offence and sentenced to death for engaging in non-violent activities relating to the exercise of fundamental rights.

The SCC falls under the purview of the Ministry of Interior and was only given legal jurisdiction to hear cases relating to state security and terrorism offences by the PLCTF. In nearly all cases described in this submission, the PLCTF was applied retroactively and in violation of international law: the arrests were carried out before the legislation came into force and the offences alleged to have been committed occurred prior to 2014.

The law has been widely criticised as failing to meet international human rights standards for due process guarantees. In particular, it has been used to arrest, detain and convict protesters and human rights activists for acts of political expression protected by the right to freedom of expression, assembly and association. Indeed, the use of the death penalty in the cases described in this submission underscore these concerns, making it clear that the government is using the SCC as a political cudgel to silence perceived opposition by making it an offence punishable by death to exercise these rights.

### *Ancillary legislation used to bolster death sentences*

Saudi Arabia's Anti-Cybercrime Law (Royal Decree 17), promulgated in 2007, broadly criminalises large categories of online activity, with Article 6 criminalising the "production, preparation, transmission, or storage of material impinging on public order, religious values, public morals, and privacy, through the information network or computers."

The broad nature of the law allows the Saudi government to prosecute people for acts that do not accord with international standards of crimes. While the Anti-Cybercrime Law itself does not provide for the death penalty for cyber offences, individuals in Saudi Arabia are frequently sentenced to death for the totality of a list of offences, including offences committed under the Anti-Cybercrime Law.

### *PLCTF 2017*

In November 2017, the Kingdom repealed the 2014 PLCTF, replacing it with The Penal Law for Crimes of Terrorism and its Financing 2017 (PLCTF 2017). The law makes it a terror offence punishable by up to 10 years in prison for defaming or publically insulting the King or Crown Prince.<sup>3</sup>

The PLCTF 2017 also saw the establishment of the Presidency of State Security (PSS) which was vested with the powers of arrest, detention and oversight for suspected terrorism cases. Pursuant to the PLCTF 2017, the SCC now falls under the PSS's purview, with the PSS reporting directly to the King, thereby reinforcing the SCC's lack of independence.

The establishment of the PSS followed changes in the Kingdom making the Public Prosecution Services independent of the Ministry of Interior in 2017. Despite this, no steps have been taken to review cases prior to the new law coming into force although the Prosecution was responsible for laying charges and requesting the death penalty in all SCC cases.

The PLCTF 2017 also codified a number of offences that carry the death penalty but which do not meet the "most serious crimes" threshold under international law, including kidnapping or detaining a person or threatening to do so in the course of carrying out an act of terrorism or taking control of public transport or threatening to do so in the course of an act of terrorism while armed.<sup>4</sup>

While there are differences between the 2014 and 2017 PLCTF, the definition of terrorism remains overly broad. This indicates the Kingdom's continuing use of counterterrorism legislation as a political weapon to limit or thwart the exercise of fundamental rights and freedoms. Although Reprieve, ESOHR and ADHRB are not aware of any death sentences under the PLCT 2017, its amendments fail to address

key failings that have led to previous capital trials and death sentences under the former version of the law.

## THE DEATH PENALTY FOR JUVENILES

Since Saudi Arabia's last UPR in 2013, four separate trials before the SCC have resulted in 8 death sentences being handed down for persons who were under the age of 18 at the time they allegedly committed the offence, despite the Saudi government's partial acceptance of two recommendations made to abolish the death penalty for minors.<sup>5</sup> At least 4 persons who were juveniles at the time of the offence have been executed since 2016.

International law requires that death sentences not be handed down for alleged offences that occurred before the defendant was 18 years of age. The Kingdom of Saudi Arabia is party to both the UN Convention on the Rights of the Child (CRC) and the Arab Charter on Human Rights (ACHR) which protect juveniles from the death penalty.

Those facing imminent execution for offences committed under the age of 18 are:

1. Ali al-Nimr
2. Dawood al-Marhoon
3. Abdullah al-Zaher
4. Mujtaba al-Sweikat
5. Salman al-Qureish
6. Abdulkareem al-Hawaj

Two young men may have been juveniles at the time of the offence:

7. Saeed al-Skafi
8. Mustafa al-Darwish

In all instances, official SCC documents show that the court was aware the defendants were under the age of majority at the time of their alleged offences, as their lawyers submitted that the Public Prosecution's request for the death penalty was unlawful because the men were under 18 at the time of the alleged crime.

In September 2016, Saudi Arabia's delegation to the 73<sup>rd</sup> Session of the UN Committee on the Rights of the Child accepted publicly that 18 is the age of majority in Saudi Arabia and that the Kingdom is bound by the prohibition of the application of the death penalty against juveniles.<sup>6</sup>

### THE IMMINENT EXECUTION OF ABDULKAREEM AL-HAWAJ

Abdulkareem is one of at least 8 young men who were under 18 when he was alleged to have committed the crime of "sedition" for which he was sentenced to death. He was arrested at the age of 18 in January 2014 in connection with his attendance at pro-democracy protests that took place when he was 17 years old.

In March 2016, Abdulkareem was tried in the SCC on various charges related to his alleged attendance at protests. On 27 July 2016, an SCC court of first instance sentenced him to death. Saudi Arabia's Supreme Court finalised his death sentence in September 2017. He now awaits imminent execution.

Abdulkareem's youth at the time of his alleged offences is well known to the Saudi government, and his case has received considerable international media attention. Nevertheless, the Saudi government has taken no steps to commute his death sentence or refer him to a juvenile court; his execution remains imminent.

## Failure to provide children with enhanced fair trial rights

In addition to various concerns raised surrounding the fairness of proceedings carried out in the SCC, the United Nations Working Group on Arbitrary Detention has found that the SC “cannot be deemed competent to dispose of cases involving juveniles.” Nonetheless, juveniles continue to face trial in the SCC on capital charges resulting in death sentences.

The trials of all eight juveniles were carried out without regard for their fair trial and due process rights, which, under the CRC not only prevents them from having been subject to a capital trial, but also puts in place a series of enhanced measures to safeguard children and juveniles’ rights within the criminal justice system.<sup>7</sup>

Despite establishing a separate juvenile justice system and detention facilities for minors in line with the CRC, the Saudi government has not taken any steps upon the defendants’ arrest, detention and trial to recognize the young men as minors entitled to enhanced protections.

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### ALI AL-NIMR, DAWOOD AL-MARHOON AND ABDULLAH AL-ZAHER

The three young men were just 17, 17 and 15 when they were arrested separately. The offences they were sentenced to death for do not include any acts of intentional murder or harm; they relate to their alleged attendance in Arab Spring Protests.

All three were subjected to torture and ill-treatment to extract a confession. In 2016, they were due to be executed along with 47 others for “terrorism” offences. News at the time said 50 “terrorists” would be executed. International media surrounding their case likely saved them from execution; however, other young men like them were not protected, and at least 4 juvenile offenders were executed that day, including Ali al-Ribh.

Despite the UN calling for their immediate release, no steps have been taken by Saudi Arabia to commute or pardon them.

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## THE DEATH PENALTY FOR EXERCISING FUNDAMENTAL RIGHTS

In the last reporting cycle, Saudi Arabia confirmed that it is bound to uphold the “most serious crimes threshold”<sup>8</sup> – the well-established principle of international law that capital punishment can only be handed down for “intentional crimes, with lethal or other extremely grave consequences.”<sup>9,10</sup>

This position is reaffirmed in Article 6 of the ACHR, which provides that provides that the death penalty may only be issued for “the most serious crimes.”

However, SCC trials frequently violate the requirement that death sentences only be handed down for crimes of intentional, pre-meditated murder, relating in fact to the exercise of fundamental rights of rights to freedom of expression, belief, opinion, and association.

*“The stricture that [the death penalty] must be limited to the most serious crimes, in cases where it can be shown that there was an intention to kill, which resulted in the loss of life”*

UN HUMAN RIGHTS COMMITTEE

Of the 30 death sentences that could be implemented imminently, the following charging and sentencing patterns in violation of the most serious crimes threshold have been identified:

- The use of the death penalty for protest-related offences; The death penalty for the exercise for religious beliefs;
- Charges that lack clarity in establishing ‘premeditated murder’

## Charges relating to freedom of assembly, association, religion

Defendants in SCC trials are often sentenced to death in trials where they have not been charged with pre-meditated murder (the standard for “most serious crimes”), or where the prosecution’s narrative connecting the defendant to a crime of murder is unclear and unsupported. In some cases, a group of defendants are sentenced to death *en masse*, but only some of those defendants have actually been charged with murder. In others, the prosecution never attempts to connect the defendant to a specific violent act, but the defendant receives a death sentence nonetheless.

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### ABBAS AL-HASSAN

Abbas is a 45-year old businessman from Jeddah. He was arrested in June 2013 by Saudi state security forces, tortured, and subsequently charged with espionage on behalf of Iran, financing terrorism, and ‘spreading the Shia faith’. His charges also included ‘attending meetings with the cultural and commercial attaché at the Iranian embassy in order to improve his business, which included the import of Iranian goods’. The UN has called for an immediate stay in his and the execution of his 12 co-defendants because the charges fail to cross the most serious crimes threshold.

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Some of the charges relied upon by the SCC in handing down these death sentences relate to actions which, in most countries, would not be considered criminal—such as posting in favour of demonstrations on social media. Saudi authorities have introduced vague and ill-defined counter-terrorism legislation that is broad enough to criminalise the peaceful exercise of freedom of expression;<sup>11</sup> individuals may be charged with a terrorism offence and sentenced to death for engaging in non-violent political activities.<sup>12</sup> These offences do not meet the “most serious crimes” threshold, and also violate the principle of legality, which requires criminal offences to be clearly and precisely defined to prevent arbitrary arrests, detentions and punishments.<sup>13</sup> This principle is absolute and non-derogable, even during a crisis of national security.<sup>14</sup>

Some of these charges include:

<b>Exercise of freedom of speech, opinion, or assembly</b>	<b>Exercise of religion/association</b>	<b>Non-lethal offences</b>
❖ Preparing placards for anti-government demonstrations	❖ Spreading the Shia faith	❖ Sedition (“breaking allegiance to the King”)
❖ Using a megaphone to chant anti-government slogans;	❖ Attending meetings with the cultural and commercial attaché at the Iranian embassy in order to improve business, which included the import of Iranian goods.	❖ Espionage
❖ Planning and coordinating attendance at demonstrations	❖ Providing material goods to a religious cleric	❖ Participating in armed attacks against security forces or opening fire at security forces
❖ Participating in anti-government gatherings;	❖ Attending sermons or speeches by a Shia cleric	❖ Criminal damage
❖ Chanting anti-state slogans and inciting the public to participate in anti-state gatherings;	❖ Concealing persons accused of opening fire at security forces;	❖ Possession of weapons and/or the manufacture of Molotov cocktails ❖ Attacks against the Awamiya Police Station

None of these offences relate to premeditated murder and therefore do not cross the most serious crimes threshold.

Therefore all offences for which the men are sentenced to death for that do not relate to premeditated murder, including attendance at protesters and indeed, opening fire at security forces, are unlawful for failing to meet the “most serious crimes threshold.”

*Charges that do not relate to intentional, premeditated murder*

In one trial, five co-defendants were sentenced to death for a mixture of protest-related offences and one count of “opening fire at with opening fire at a soldier resulting in their death.” The charge does not relate to pre-mediated murder, and is so vaguely characterised by prosecution narratives that it does not specify which of the defendants is alleged to have caused the death of the soldier. As such, they do not meet the most serious crime threshold and cannot form the basis for death sentences.

## TORTURE AND THE DEATH PENALTY

Of the 30 cases mentioned in this report, nearly all reported consistent and credible allegations of torture and ill-treatment upon arrest and in detention, with the apparent goal of extracting confessions. The Kingdom of Saudi Arabia is party to the Convention against Torture, which prohibits the use of torture and ill-treatment without exception, and requires state parties to provide victims with access to impartial complaints mechanisms, as well as placing an obligation on the courts to investigate and exclude any testimony alleged to have been extracted through illegal treatment.

*“Anything I admitted to in the interrogation, I did only under the psychological pressure of torture. To escape that torture, I told the interrogator to write whatever he wanted and I would sign it. They made me stand for ages and insulted me and beat me, so as to show how a person can admit to things they did not do.”*

ABDULLAH AL-TURAIIF, 28, FACING IMMINENT EXECUTION

Some of the methods of torture and ill-treatment used by arresting officers in these cases include, but are not limited to:

- ❖ *Incommunicado* detention for periods lasting several months;
- ❖ Beatings while blindfolded and restrained, with blows to sensitive areas the body;
- ❖ Beatings with electric wires, metal rods, and steel-capped boots;
- ❖ Being forced to stand in stress positions while restrained for prolonged periods of time;
- ❖ Sleep deprivation, including being made to stand with his face against a wall throughout the night;
- ❖ Threats of further beatings if the defendant does not confess;
- ❖ Excessive use of solitary confinement lasting for periods of up to 6 months;
- ❖ Threats of violence against loved ones and relatives;
- ❖ The use of sectarian and derogatory language.

The SCC has also failed to uphold the basic fair trial rights of defendants.

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*"My son was subjected to the worst forms of torture in prison, which has led to serious bodily harm in his spinal column and his left eye falling out of alignment. He has lost all control of his bladder...and not to mention the psychological damage he suffers now too."*

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**MOTHER OF A DEATH ROW INMATE FACING IMMINENT EXECUTION**

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Paramount among these fair trial violations are violations of the right to have evidence obtained through torture excluded at trial. SCC judges have refused repeatedly to investigate allegations of torture and forced confessions, and to exclude evidence allegedly obtained through torture.

The UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death

Penalty (Safeguards) prohibit executions and death sentences following trials in which due process rights are not upheld. The right to be free from torture and to have evidence obtained through torture excluded is paramount among those fair trial rights. As such, any death sentence resulting from a trial that relies on evidence obtained through torture is unlawful.

SCC trials often rely on confessions alleged to have been extracted through torture by Saudi security forces, and SCC judges routinely refuse to exclude allegedly coerced confessions. The SCC also routinely refuses to order *ex officio* investigations into torture allegations raised by defendants. In all such cases, any and all death sentences are unlawful.

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**MUNIR AL-ADAM**

Munir is a partially deaf man. Following his 8 April 2012 arrest, Saudi security forces held him at the al-Qatif Police Station and GDI headquarters in al-Dammam and tortured him until he signed a false confession. They beat him on the soles of his feet, forced him to crawl on his hands and knees for days, and beat him in the head so severely that he lost all hearing in one ear.

## VIOLATION OF FAIR TRIAL RIGHTS

### *‘Stringent adherence’ requirement in capital trials*

The death sentences reported in this submission were handed down in trials before the SCC that failed to accord with international minimum standards for fairness and due process, which the Kingdom of Saudi Arabia is under an obligation to uphold. These rights are enshrined in the ACHR, which guarantees the rights of defendants to legal counsel, prompt trial, and equality of arms.

As a country that retains the death penalty, the Kingdom is bound to uphold the principle that capital punishment can only be handed out for crimes that meet the most serious crimes threshold and where there has been “stringent adherence” to fair trial and due process rights.

The UN Safeguards require that

*“Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights.”*

Although Saudi Arabia is not party to the ICCPR, mirror fair trial and due process provisions are enshrined in the ACHR to which Saudi Arabia is a signatory. Any failure to uphold these rights in capital cases with render any execution “summary” and stands in violation of the right to life.

In all 30 cases facing imminent execution, a consistent failure to uphold their basic due process and fair trial rights resulted not only in unsafe convictions, but any step taken towards carrying out their execution will result in a violation of the right to life. The SCC fails to uphold these basic due process rights, due in large part to the closed and extremely secretive nature of SCC trials. Saudi authorities actively prevented defendants from meeting with legal counsel until their trials had already begun, officials did not afford lawyers the necessary time or access to evidence submitted by the prosecution in order to prepare adequate defences, and defendants were not permitted to participate fully in their own defences. All of these represent violations of the fair trial rights enshrined in ICCPR Article 14, rendering any resulting death

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### SAEED AL-SKAFI

Saeed al-Sakafi was arrested 1 August 2012 when he was just 18-years-old for participating in demonstrations in Qatif, writing and posting posters of anti-government slogans, and allegedly using Molotov cocktails as well as firing at a police station in Awamiya.

He was placed in solitary confinement for three months and denied access to a lawyer for three years. Investigating authorities subjected Saeed to torture and ill-treatment, reporting that officers said:

*“If you do not sign the confession in front of the Sheikh you will be returned to us and we will beat you and show you forms of torture you cannot imagine... I will make you confess against your will and you will say you did everything I write in this confession for you.”*

Saeed raised his torture at trial and asked the judge to conduct an investigation; the judge refused and relied on his confession to hand down his death sentence.

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sentences unlawful.

The following violations have been reported across the cases mentioned in this submission, including:

- ❖ Excessive pre-trial detention without judicial oversight – in some cases up to three years;
- ❖ Denial of access to legal counsel – in some cases up to three years;
- ❖ Denial of access to Prosecution evidence;
- ❖ Failure to inform the defendants or their relatives of hearing dates; and
- ❖ Denial of the right to prepare an adequate defence.

#### *Reliance on torture-tainted confessions to secure death sentences*

The prohibition against torture, as well as the requirement that evidence extracted through torture be excluded from all legal proceedings, is well established in international law instruments to which Saudi Arabia is a party. Article 2 of the UN Convention against Torture (CAT), to which Saudi Arabia is signatory, prohibits torture in all circumstances. Article 12 requires prompt investigations of all torture allegations, and Article 15 stipulates that evidence obtained through torture cannot be invoked in legal proceedings. Article 8 of the ACHR makes similar provisions.

In particular, the SCC relied on confessions that nearly all the men reported were extracted either through torture or ill-treatment, without conducting investigations into the allegations or excluding this evidence. The SCC had an obligation to conduct an investigation when the defendant raised allegations of torture and ill-treatment, in order to ensure that evidence extracted through torture was not relied upon, in violation of CAT. Further, reliance on torture-tainted evidence is a violation of the fair trial right to be free from self-incrimination.

In all cases where the men raised torture in their trials, no investigation was carried out – in some instances, the SCC denied their requests for an inquiry to be conducted. Guilt not proven beyond reasonable doubt

Where the men have been alleged to have been involved in carrying out a shooting that resulted in the death of a security officer – and indeed in all cases – their guilt was not proven beyond reasonable doubt, the standard for all criminal and capital trials.

Capital punishment may be imposed for the most serious crimes with lethal consequences, following strict adherence to fair trial guarantees, and where the guilt of a person is based on clear and convincing evidence leaving no room for an alternative explanation of the facts.<sup>15</sup>

In these cases, however, no evidence was put forward to support the Prosecution's charges that the men were involved in the attack that resulted in the security officer's death, other than evidence obtained through torture and ill-treatment. This, in combination with the Prosecution's failure to clearly identify the suspects in the charging document, leaves serious room for doubt, and cannot be said to have met the standard of "beyond reasonable doubts."

## **EXECUTION PROCESS AMOUNTS TO TORTURE AND ILL-TREATMENT**

In many cases of capital punishment coming out of the SCC, we have documented secrecy surrounding the date of execution, failure to notify the prisoner or their family of the date, and subsequently delaying access to the body for burial amount to a violation of the prohibition against torture.<sup>16</sup>

All 30 cases analysed to support this submission have exhausted all legal appeals, with their death sentences finalised by Saudi Arabia's Supreme Court between 2015 and 2017. However, the execution process is shrouded in secrecy and relatives and the men live under constant fear that they will be executed without notice.

All final death sentences in the Kingdom are only carried out following the issuance of a Royal Decree by the King, which is then sent to the relevant prison authorities and the Ministry of Interior to carry out the execution. The King also has the power to delegate the issuance of a Royal Decree to another member of the government.

There is no timeframe in Saudi Arabian law between the final confirmations of a death sentence by the Supreme Court and when the King must ratify a Royal Decree for the execution's implementation.

In all cases of executions since 2016 involving Specialised Criminal Court decisions against protesters and political opponents, no prior notification was given to the families that an execution was to be carried out.

### *The execution of Ali al-Ribh*

Ali al-Ribh was arrested from his school by Saudi security forces in February 2012. Though al-Ribh was 18 at the time of his arrest, he was arrested in connection with his attendance at pro-democracy protests in Saudi Arabia in 2011, when he was still 17.

Al-Ribh was subsequently tried in the SCC for alleged offences that occurred before his 18<sup>th</sup> birthday, not including any charge of pre-meditated murder. After only five hearings, al-Ribh was sentenced to death by a panel of SCC judges on 9 June 2014.

On 2 January 2016, al-Ribh was executed in an unknown location. He was among 47 individuals executed that day, including at least 4 other juveniles,

Al-Ribh's family were not informed beforehand of his execution and only learned of their son's death from a newspaper article. The Saudi authorities have yet to return his body for burial by his family nearly two years on; they have also refused to disclose the method of execution and how or where he was buried.

## RECOMMENDATIONS

The violations described in this submission represent a veritable ongoing human rights crisis in Saudi Arabia, and it is crucial that the international community call strongly on the Saudi government at the third cycle UPR to immediately reform its application of the death penalty. To that end, we call for the following recommendations:

1. Pardon all individuals sentenced to death for alleged offences that occurred before the defendant was 18;
2. Criminalise the use of torture in all cases and initiate immediate, independent, and impartial investigations into all allegations of torture and forced confession;
3. Hold any and all perpetrators credibly alleged to have committed torture accountable in fair and open trials under the auspices of independent and impartial courts;
4. Conduct a thorough review of all trials and cases leading to a death sentence in which courts abrogated due process guarantees and unconditionally release and pardon any defendants who were tortured;
5. Immediately promulgate legislation enshrining protections from capital punishment sentences in all trials that do not meet the internationally-sanctioned “most serious crimes” threshold;
6. Reform the 2017 Counter-terror law so as to ensure that peaceful protesters and dissidents cannot be sentenced to death for assembly, expression, and religion-related crimes;
7. Promulgate legislation promoting and protecting the rights to expression and opinion, free assembly and association, and free religion;
8. Accede to all international treaty instruments pertaining to capital punishment and torture and enshrine all relevant paragraphs into domestic Saudi law;
9. Immediately institute a moratorium on the use of the death penalty with the view towards its abolition.

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<sup>1</sup> The trial of Ali al-Nimr; the trial of Dawood al-Marhoon and Abdullah al-Zaher; the trial of the “Awamiyah Cell” and the trial of the Iran Spy Cell

<sup>2</sup> The UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty provide that “[i]n countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes, with lethal or other extremely grave consequences.” (Safeguard 1). See <http://www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx>.

<sup>3</sup> “New anti-terror laws include death penalty,” *Saudi Gazette*, retrieved 20 March 2018, <http://saudigazette.com.sa/article/521049/SAUDI-ARABIA/New-anti-terror-laws-include-death-penalty>.

<sup>4</sup> Ibid.

<sup>5</sup> The Kingdom of Saudi Arabia partially accepted recommendations 138.126 and 138.130 concerning the abolition of the death penalty for minors (children under the age of 18), saying “the death penalty [...] is not carried out against children.”

<sup>6</sup> See “Consideration of Saudi Arabia (Cont’d) – 2145<sup>th</sup> Meeting, 73<sup>rd</sup> Session of the Committee on the Rights of the Child, <http://webtv.un.org/search/consideration-of-saudi-arabia-contd-2145th-meeting-73rd-session-of-committee-on-rights-of-the-child/5134779654001?term=saudi%20arabia#full-text>; these assurances were made by Saudi Arabia at 1h56m and 2h01m03s.

<sup>7</sup> At least **two other juveniles** were subject to a capital trials since 2013. Although they avoided the death sentence, their trials exhibited a similar pattern of violations of their enhanced due process and fair trial rights.

<sup>8</sup> During its 2<sup>nd</sup> Cycle Universal Periodic Review, Saudi Arabia received 14 recommendations concerning its application of the death penalty.

**138.40** Promulgation of a penal code that clearly defines criminal offences and the establishment of a moratorium on executions of persons having committed crimes under the age of 18 (Brazil);

**138.118** Abolish the death penalty (Paraguay);

**138.119** Declare a moratorium on the death penalty (Slovenia); introduce a moratorium on the death penalty (Sweden); observe a de facto moratorium on executions, in line with the international trend (Italy); adhere to the global trend against capital punishment by establishing a moratorium on its use (Poland);

**138.120** Consider as a first step to establish a moratorium on the death penalty with a view to its abolition (Slovakia); adopt a moratorium on executions as a first step to the abolition of the death penalty (Spain);

**138.121** Announce a moratorium on the death penalty with a view to its eventual abolition. Pending this take appropriate steps to reduce the application of the death penalty, observing due process of law in all judicial proceedings (Germany);

**138.122** Declare a moratorium on the death penalty and accede to the Section Optional Protocol to the ICCPR (Austria);

**138.123** Carry out further efforts to increase the transparency and openness of legal proceedings contemplating death sentences (Italy);

**138.124** Establish a moratorium on the use of the death penalty with a view to abolition, and in the meantime, immediately stop imposing the death penalty on anyone under the age of 18; bring the law and judicial practices in line with international fair trial guarantees and reduce the number of crimes which carry the death penalty as sanction (Lithuania);

**138.125** Establish alternative punishments to the death penalty and suspend the application of the death penalty for less serious offences and for people who were minors at the time of their crimes, in the perspective of a moratorium on executions (France)

**138.126** Abolish the death penalty for all individuals considered as minors under international law (Switzerland);

**138.127** Refrain from imposing the death penalty, corporal punishment and life imprisonment for crimes committed by persons under the age of 18 (Czech Republic);

**138.128** Abolish juvenile death penalty and corporal punishment (Albania);

**138.129** Abolish completely the penalty of corporal punishment (Switzerland); abolish corporal punishment such as lashes and amputations (Sweden);

**138.130** End the practice of executing children and bring the law and judicial practices into line with fair trial guarantees in international standards (Norway).

The government fully accepted recommendation **138.123** concerning greater transparency and openness for legal proceedings in which capital punishment is a possible outcome, stating: *The death penalty is only issued for the most serious crimes, and the kingdom’s systems provide guarantees of a fair trial, legal proceedings, and criminal procedure regulations that comply with international standards.*

<sup>9</sup> See Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, UN Doc. A/HRC/4/20, 29 January 2007, paragraphs 39-53 and 65. Guidance for the classification of crimes as “most serious crimes” has also been given by

the Human Rights Committee in its General Comment 6 (16) on the right to life; by the UN Special Rapporteur for extrajudicial, summary or arbitrary executions, see UN Doc. A/HRC/11/2/Add.6, 26 May 2009, paragraph 84; and UN Doc. A/HRC/11/2/Add.5, 28 May 2009, paragraph. 23; and further by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/HRC/10/44, 14 January 2009, paragraph. 66; and by the UN Secretary-General in his report on the question of the death penalty and his quinquennial reports on capital punishment and implementation of the safeguards guaranteeing the protection of the rights of those facing execution, see UN Doc. E/2010/10.

<sup>10</sup> As a signatory to the ACHR, it has pledged up restrict the use of capital punishment sentences to “most serious crimes.” Further, the paragraph 1 of the UN Safeguards iterates the importance of the death penalty being applied only when it is relevant.

<sup>11</sup> Human Rights Watch, Global: 140 Countries Pass Counterterrorism Laws since 9/11: Dangerous Expansion of State Powers to Investigate, Detain, and Prosecute (2012), available at: <https://www.hrw.org/news/2012/06/29/global-140-countries-pass-counterterrorism-laws-9/11> [accessed 20 October, 2016].

<sup>12</sup> Human Rights Watch, In the Name of Security: Counterterrorism Laws Worldwide since September 11 (2012), available at <https://www.hrw.org/report/2012/06/29/namesecurity/counterterrorism-laws-worldwide-september-11> [accessed 20 October, 2016].

<sup>13</sup> Article 15 of the International Covenant on Civil and Political Rights.

<sup>14</sup> Article 4(2) ICCPR; Human Rights Committee, General Comment No. 29, Article 4 (Derogations during a State of emergency) CCPR/C/21/Rev.1/Add.11, para. 7.

<sup>15</sup> See the UN Safeguards.

<sup>16</sup> Human Rights Committee, Communication No. 887/1999, *Lyashkevich v. Belarus* para. 9.2.