

Bloodshed and Lies:

Mohammed bin Salman's Kingdom of Executions



ES  **HR**

European Saudi organisation for Human Rights
المنظمة الأوروبية السعودية لحقوق الإنسان

REPRIEVE

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About Reprieve

Reprieve is a charitable organisation registered in the United Kingdom (No. 1114900) with special consultative status with the United Nations Economic and Social Council (“ECOSOC”) that provides free legal and investigative support to those who have been subjected to state-sponsored human rights abuses. Reprieve’s clients belong to some of the most vulnerable populations in the world. In particular, Reprieve protects the rights of those facing the death penalty and delivers justice to victims of arbitrary detention, torture, and extrajudicial execution.

European Saudi Organisation for Human Rights (“ESOHR”) is a non-profit organisation 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.

Foreword

By Lina al-Hathloul

The death penalty and its application have caused much ink to flow. While only total abolition of the death penalty will fully protect the basic human right to life, international law is clear that where countries retain the death penalty, its use is only permitted for the most serious crimes and following due process in a transparent environment. As this report explains in detail, Saudi Arabia falls woefully short of these standards. Saudi Arabia's use of the death penalty is as opaque as it is extensive.

The investigative work that Reprieve and ESOHR carry out in monitoring and recording executions in Saudi Arabia is crucial, both in exposing the reality on the ground and in countering the authorities' claims of unrealised reforms. Documentation is the first and most important step in identifying patterns of violations, establishing robust means of ensuring that violations do not reoccur, and building the basis of evidence that can be used when engaging with accountability mechanisms, national and international, in the future.

Unfortunately, I personally know the importance of documenting violations, gathering evidence, and having to examine and clarify patterns of violations far too well. In 2018, while Saudi Arabia was undergoing profound changes, and while the authorities were touting narratives of reform regarding human rights, especially women's rights, my sister Loujain al-Hathloul, a prominent Saudi women's rights activist, was kidnapped by the Saudi authorities. She was forcibly disappeared for weeks, brutally tortured and defamed. Her activism was considered a crime, and she was sentenced under Saudi Arabia's draconian anti-terrorism law.

Saudi Arabia's notoriously unjust judicial system makes it difficult for victims of the regime to mount a meaningful legal defence. Judicial decisions are taken behind closed doors, court documents are forbidden from being published, charges are illegally changed, and court sessions are indefinitely postponed, to name a few examples. But one thing can help victims of abuse perpetrated by the Saudi authorities: to gather all the relevant documents, all the numbers, and all the available details from the case. These will prove invaluable in efforts to achieve justice.

This report does exactly that: it presents data, analyses patterns of violations, and explicitly addresses how these violations illustrate the Saudi authorities' empty promises. One shocking example, among many others, is the information about the use of the death penalty against child defendants. According to Reprieve and ESOHR's monitoring, between 2010 and 2021 there were 15 recorded executions of child defendants.

The cases documented by Reprieve and ESOHR allow us to develop a comprehensive understanding of the use and implementation of the death penalty in Saudi Arabia. The data demonstrates that Saudi Arabia has increasingly used the death penalty since Crown Prince Mohammed bin Salman rose to power from 2015, and that its use is marred by discrimination, injustice, misrepresentation and human rights abuses in violation of international law.

The report comes at a critical time. It is of the utmost importance to re-focus the spotlight on the issue of the death penalty in Saudi Arabia, especially given that 81 people were executed on 12 March 2022, the largest mass execution in the modern history of the country. It is imperative to continue to document the situation, to campaign in a strong and consistent manner, and to urge the Saudi authorities and the international community to implement the recommendations set out in this report.

Executive Summary

Saudi Arabia is a flagrant abuser of the right to life. Between 2010 and 2021, Saudi Arabia executed at least 1243 people, making it one of the most rampant executioners in the world. As of December 2022, the Saudi regime had executed at least a further 147 people in 2022, including 81 people in one day in a mass execution on 12 March 2022.

Saudi Arabia's use of the death penalty has drastically increased since 2015. This escalation has taken place on the watch of Saudi Arabia's King Salman, who acceded the throne on 23 January 2015, and his son, Crown Prince and Prime Minister Mohammed bin Salman. The annual rate of executions has almost doubled since King Salman and Mohammed bin Salman came to power in 2015. From 2010-2014 there was an average of 70.8 executions per year. From 2015-2022 there was an average of 129.5 executions per year – a rise of 82%. The six bloodiest years of executions in Saudi Arabia's recent history have all occurred under the leadership of Mohammed bin Salman and King Salman (2015, 2016, 2017, 2018, 2019 and 2022).

Based on data collated by Reprieve and the European Saudi Organisation for Human Rights (“ESOHR”), this report exposes Saudi Arabia's worst abuses of the right to life, in violation of international treaties that Saudi Arabia has voluntarily ratified. The report finds multiple egregious human rights violations resulting from the continued use of the death penalty against child defendants, women and foreign nationals and for non-lethal offences.

The report shows that Saudi Arabia's application of the death penalty is riddled with discrimination and injustice, and that the Saudi regime has been lying to the international community about its use. Saudi Arabia still regularly executes child defendants and sentences child defendants to death, despite proclaiming internationally that it has ended this practice. Saudi Arabia disproportionately executes foreign nationals, including high numbers of female domestic workers and low-level drug offenders. A claimed moratorium on executions for drug offences has been nullified by the resumption of executions for drug offences in November 2022. The death penalty is routinely used for non-lethal offences and to silence dissidents and protestors, despite promises by the Crown Prince that executions would only be used for murder. Fair trial violations and torture are endemic in death penalty cases, including torture of child defendants.

Saudi Arabia's executions are shrouded in secrecy. The regime refuses to publish its death penalty data, despite the repeated exhortations of the United Nations (“UN”), and fails to notify families of executions or return bodies. This lack of transparency enables Saudi Arabia to cover up its abuses and impedes other states and organisations in their efforts to hold it to account.

The report finds that Saudi Arabia deploys discretionary death sentences in a high proportion of cases, especially in relation to non-lethal offences, but also in relation to serious offences including murder. Discretionary sentences are used for offences that have not been codified and when the legal, procedural and evidential requirements for a mandatory sentence were not met. The UN has made clear that discretionary imposition of the death penalty for uncodified offences is arbitrary and unlawful.

Key statistics

- ▶ The annual rate of executions has almost doubled since King Salman and Mohammed bin Salman came to power in 2015. From 2010-2014 there was an average of 70.8 executions per year. From 2015-2022 there was an average of 129.5 executions per year – a rise of 82%.
- ▶ The six bloodiest years of executions in Saudi Arabia's recent history have all occurred under the leadership of Mohammed bin Salman and King Salman (2015, 2016, 2017, 2018, 2019 and 2022).
- ▶ At least 15 child defendants have been executed since 2013, despite Saudi Arabia's repeated claims that it does not apply the death penalty to children.
- ▶ From 2010 to 2021, Saudi Arabia executed nearly 3 times as many foreign nationals for drug-related offences as Saudi nationals, despite foreign nationals comprising only 36% of Saudi Arabia's population.
- ▶ From 2010 to 2021, 31 women were executed. Of those, 23 were foreign nationals, of whom at least 13 were domestic workers.
- ▶ From 2010 to 2021, 94% of executions for non-lethal offences followed discretionary death sentences.

The report recommends full abolition of the death penalty in Saudi Arabia; immediate and impartial investigation of all executions carried out since 2010 in breach of the right to life; and publication of all death penalty data, as well as specific recommendations concerning the violations identified in the report. The international community is urged to act to prevent further abuses and to continue to push Saudi Arabia towards abolition.

PART 1

Introduction

1.1 Overview

The Kingdom of Saudi Arabia (“Saudi Arabia”) is one of the world’s leading executioners.¹ New data analysis by Reprieve and the European Saudi Organisation for Human Rights (“ESOHR”) reveals a legacy of discrimination, injustice, misrepresentation and human rights violations in Saudi Arabia’s use of the death penalty from 2010 to 2021. During this period, Saudi Arabia executed at least 1243 individuals.

Saudi Arabia shows no sign of stopping. On 12 March 2022, Saudi Arabia carried out the largest mass execution in its history, killing 81 people in one day. In 2022, Saudi Arabia executed at least 147 individuals. These figures belie the image that Saudi Arabia’s Crown Prince, Mohammed bin Salman, seeks to portray to the world of a progressive nation working to reduce its use of the death penalty.

In fact, Mohammed bin Salman’s rise to power in 2015 has coincided with a marked increase in executions. The annual rate of executions has almost doubled since King Salman and Mohammed bin Salman came to power in 2015. From 2010-2014 there was an average of 70.8 executions per year. From 2015-2022 there was an average of 129.5 executions per year – a rise of 82%. The six bloodiest years of executions in Saudi Arabia’s recent history have all occurred under the leadership of Mohammed bin Salman and King Salman (2015, 2016, 2017, 2018, 2019 and 2022).

This report examines data on 11 years of executions in Saudi Arabia, from 2010 to 2021. The data reveals that Saudi Arabia is failing to comply with the international minimum standards on the application of the death penalty, resulting in the systematic violation of the right to life, through:

- ▶ Continuing use of the death penalty against child defendants;
- ▶ Disproportionate executions of foreign nationals including women;
- ▶ Use of the death penalty against those exercising fundamental rights;
- ▶ Routine imposition of the death penalty for non-lethal offences;
- ▶ Breaches of fundamental safeguards protecting due process, fair trial, the right to be free from torture and the right to be free from discrimination.

1.2 Methodology

The data in this report has been compiled by Reprieve and ESOHR. These organisations maintain a database of all executions identified in Saudi Arabia since 2004. Reprieve and ESOHR monitor the number of executions carried out in Saudi Arabia by reviewing statements issued by the Ministry of Interior through the Saudi Press Agency or other official news outlets.

This information is disaggregated to analyse trends and key themes emerging from Saudi Arabia's use of the death penalty. The information is then cross-referenced through open-source investigation. Reprieve and ESOHR supplement and verify execution figures through casework, interviews with lawyers, activists and family members where possible. A number of individuals executed during the reporting period had been assisted by ESOHR and Reprieve. The data is up to date as of December 2022.

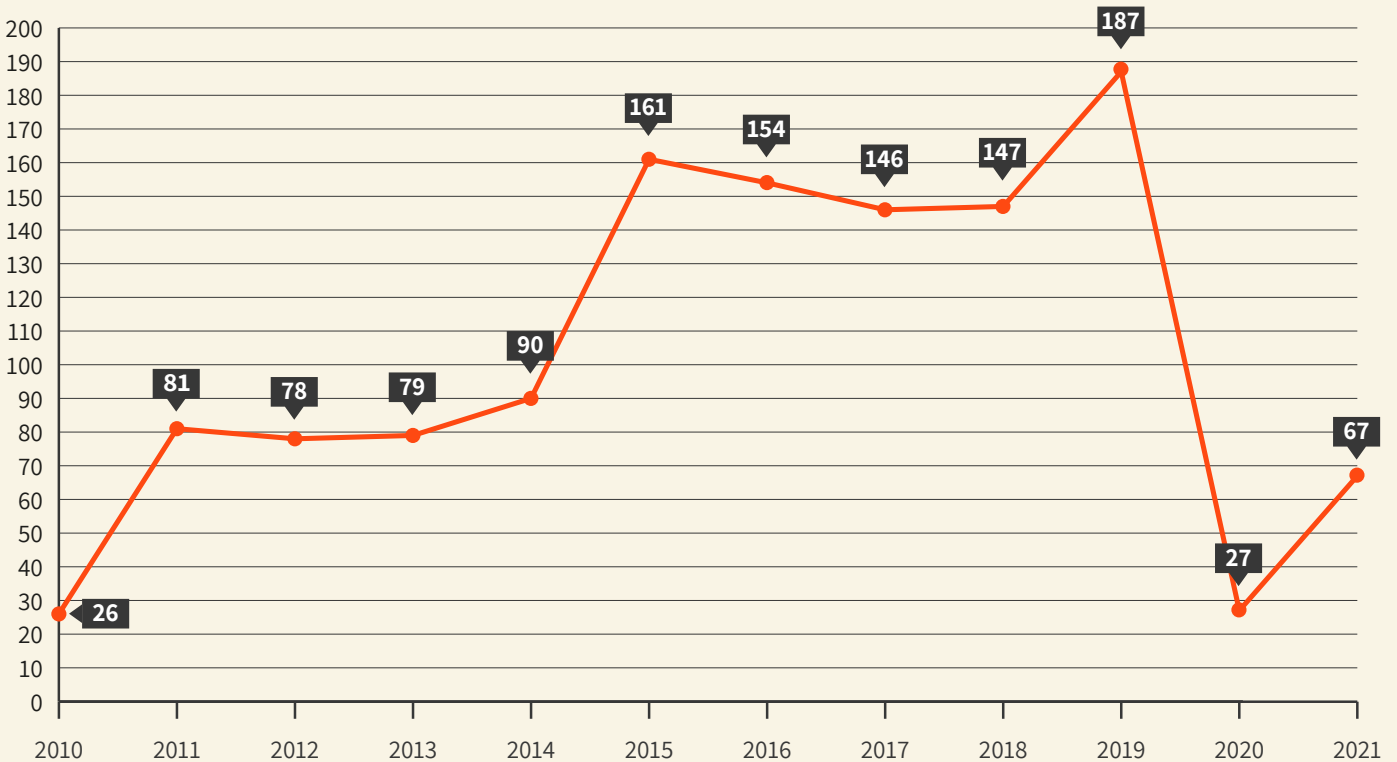
It is not possible to verify the true number of executions in Saudi Arabia during the reporting period. Saudi Arabia's criminal justice system is opaque, and its application of the death penalty is not transparent. Saudi Arabia does not publish official death penalty statistics, despite the United Nations ("UN") General Assembly's call on all states that retain the death penalty to "make available relevant information, disaggregated by sex, age, nationality and race . . . with regard to their use of the death penalty".² This should include information on persons sentenced to death, persons on death row, executions carried out, and sentences reversed or commuted.³ Saudi Arabia has not made any such information available.

Therefore, it is possible that Reprieve and ESOHR have not identified all executions in Saudi Arabia during the reporting period. Individual figures may differ slightly from other reported figures.

This report does not attempt a comprehensive analysis of every aspect of the data, but focuses on selected key themes relevant to the international human rights standards in respect of the application of the death penalty.

1.3 Summary of data from 2010 to 2021

Total executions in Saudi Arabia, 2010-2021



Saudi Arabia's application of the death penalty spiked beginning in 2015. From 2015 to 2022, average annual executions were 82% higher compared to the period 2010-2014.

The higher rate of executions coincides with the rise to power of the Crown Prince, Mohammed bin Salman, now widely regarded as the de facto ruler of Saudi Arabia. As detailed in this report, the Crown Prince has presided over increased numbers of executions of children, women and foreign nationals, as well as executions for non-lethal offences and mass executions.

The highest number of executions during the reporting period was in 2019, with 187 executions, followed by lower figures in 2020⁴ and 2021.⁵ Saudi Arabia executed 120 people in the first six months of 2022.

1.4 Legal context for the death penalty in Saudi Arabia

1.4.1 Categories of death sentences in Saudi Arabia

Saudi Arabia's constitution and legal system are derived from Islamic law.⁶ Unlike several countries in the region, Saudi Arabia has not codified a substantive penal code or laws that define common crimes.⁷ 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.⁸

Judges in Saudi Arabia retain wide-ranging powers to determine what behaviour may constitute a criminal offence and its resulting punishment, subject to the three categories of crime and punishment under Islamic law: qisas, hadd and ta'zir.⁹

- ▶ Qisas crimes and their punishments are a form of retributive or retaliatory justice, covering offences of bodily harm and death, including murder and manslaughter.¹⁰ If a defendant is convicted of murder under this category, the family of the victim can either request that the defendant is executed as retribution or accept financial compensation, known as diya or blood money. The family can also forfeit their right to request a retributive sentence and pardon the defendant, which is considered an act of charity.
- ▶ Hadd (plural: hudud) crimes and their punishments are fixed and mandatory in Islamic law, deemed 'claims against God'.¹¹ They are considered the most serious crimes, and there are strict legal, procedural, and evidential requirements that must be met before a judge can pass a mandatory sentence. There are a fixed number of crimes, three of which (adultery, apostasy and hiraba or waging war against God/banditry) can carry the mandatory death penalty.
- ▶ Ta'zir crimes and their punishments are all other offences, which are deemed claims against the State or society.¹² They are discretionary,¹³ either legislated for by the State or determined by the judge where there is no punishment specified in Islamic law or where the strict legal, procedural and evidential requirements for a mandatory or retributive sentence are not met.

The type of crime is not always determinative of the category of death sentence. For example, the crime of murder has been classified under each of the three categories. Reprieve and ESOHR identified 695 executions for murder between 2010 and 2021. Of those:

- ▶ 498 followed retributive death sentences;
- ▶ 131 followed mandatory death sentences; and
- ▶ 66 followed discretionary death sentences.

The types of crime resulting in execution between 2010 and 2021 could be classified into seven groups, regardless of the category of death sentence:

- ▶ Murder;
- ▶ Drugs trafficking, including smuggling;
- ▶ Sexual offences;
- ▶ Formation of, or membership with, an organised criminal group or proscribed group;
- ▶ Kidnapping or false imprisonment accompanied by assault, burglary or robbery;
- ▶ Sedition, treason and other state security offences; and
- ▶ Witchcraft and sorcery.

Except for murder, the remaining six types of crimes do not cross the "most serious crimes"¹⁴ threshold under international law and should not lead to the death penalty (see Part 5.2: Executions for offences that do not meet the "most serious crimes" threshold).

1.4.2 Concerns over the excessive use of discretionary death sentences

Reprieve and ESOHR have documented the use of discretionary sentences where the Saudi Public Prosecution requested the death penalty as a punishment for offences that have not been codified (see case study of Hassan al-Maliki in Part 5.4) or as an alternative when the strict legal, procedural and evidential requirements for a mandatory sentence were not met (see case study of Mustafa al-Darwish in Part 2.2).

Between 2010 and 2021, discretionary death sentences accounted for the largest proportion of death sentences resulting in executions (581 of 1243 or 47%), followed by retributive death sentences (498 of 1243 or 40%), then by mandatory death sentences (162 of 1243 or 13%).¹⁵

The UN has raised concerns that application of discretionary punishments on an uncodified basis results in both arbitrary detention¹⁶ and arbitrary death sentences.¹⁷ The UN Working Group on Arbitrary Detention has stated that Saudi Arabia's use of discretionary punishments has a "chilling effect" on the exercise of fundamental rights and should be strictly prohibited through codification and by limiting the scope of the death penalty to the "most serious crimes" only.¹⁸

1.4.3 Proposed reform of discretionary sentencing and codification of penal law

In 2021, Crown Prince Mohammed bin Salman announced the codification of a penal code,¹⁹ following decades of criticism that the absence of clearly defined criminal law creates legal uncertainty, arbitrary sentencing, and makes it impossible for the population of Saudi Arabia to know what acts may amount to a criminal offence resulting in prosecution.²⁰

The proposed penal code followed speculation in Saudi Arabia that it would abolish discretionary death sentences.²¹ In June 2020, a member of the Shura Council, Saudi Arabia's legislative body, suggested that the new penal code would clearly define all crimes and their punishment that would otherwise be categorised as discretionary and proposed limiting the scope of the death penalty to cases of intentional killing only.²² At the time of writing this report, the proposed penal code had not been promulgated.²³

1.5 Historical and political context



PART 2

Executions of Child Defendants

2.1 Introduction

Saudi Arabia has repeatedly claimed that it does not apply the death penalty to children or in respect of crimes allegedly committed by children. In September 2016, Saudi Arabia’s delegation stated to the UN Committee on the Rights of the Child that “there is no application of the death penalty on children”.³² Saudi Arabia has also purported to enact domestic legislation abolishing the death penalty for child defendants, but in practice continues its use.

2.1.1 International standards

Saudi Arabia is party to the UN Convention on the Rights of the Child (“CRC”)³³, which defines a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.³⁴ Under Saudi law, a child is defined as a person under the age of 18.³⁵ In this report, the term “child defendant” is used to refer to those accused of crimes allegedly committed before the person turned 18.

The imposition of the death penalty on an individual who was a child at the time of the alleged crime is prohibited by customary international law.³⁶ The UN Human Rights Committee has stated that anyone who was under 18 at the time of an alleged offence “can never face the death penalty for that offence, regardless of their age at the time of sentencing or at the time foreseen for carrying out the sentence”.³⁷

2.1.2 Purported domestic reforms

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.³⁸ However, Article 16 of the Juvenile Law states that it “shall not prejudice the legally prescribed provisions on hudud and qisas”.³⁹ Children facing a mandatory or retaliatory death sentence are therefore excluded from the law’s application and can still be sentenced to death and executed.

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 sentence shall be reduced to a term of not more than 10 years detention”.⁴⁰ This statement was not accurate, as the Juvenile Law does not extend to mandatory and retributive death sentences.

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.

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”,⁴¹ and that the law would be applied retroactively.⁴² While this appeared to be a positive step,⁴³ again, it appeared to be limited to a single category of sentence (discretionary sentences), and the application of the Royal Decree remains uncertain, as it has not yet been published or enacted as law.⁴⁴

In contrast, the statement issued a day later on the SHRC’s English-language Twitter account suggested the death penalty for children had been abolished completely as a result of the 2020 Royal Decree and that it would apply retroactively to any person sentenced to death for an offence committed under the age of 18, including in terrorism cases, without specifying the type of death sentence it applied to.⁴⁵

In October 2020, in response to criticism that the new Royal Decree did not appear to comprehensively abolish the death penalty for all persons under 18 at the time of the alleged crime, 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”.⁴⁶

On 23 February 2021, the President of the SHRC, Dr Awwad Alawwad, told the UN Human Rights Council that the consequence of the 2020 Royal Decree is that where a child commits a death-eligible crime, “the young delinquent . . . will be placed into a centre for a maximum period of 10 years”.⁴⁷

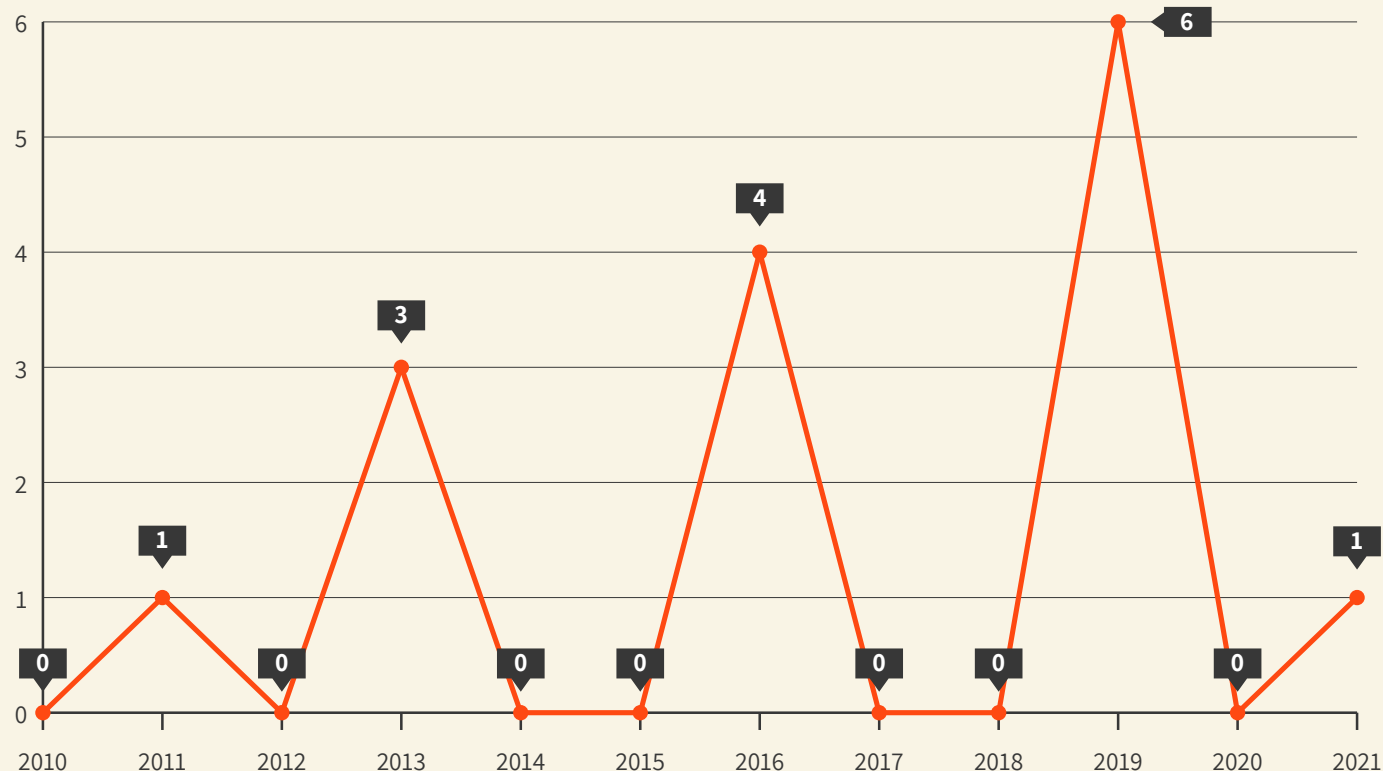
The application of the 2020 Royal Decree remains uncertain. The text has not been published and is not available on Saudi Arabia’s official gazette.⁴⁸ The official online version of the Juvenile Law 2018 does not include any amendments.⁴⁹

2.1.3 Summary of the data

Notwithstanding claims of reform, between 2010 and 2021, Reprieve and ESOHR documented 15 executions of child defendants. This included 7 executions after the promulgation of the Juvenile Law in 2018, all of which followed discretionary death sentences, and 1 execution after the announcement of the Royal Decree in 2020.

It is not possible to confirm the true numbers of executions of child defendants. In the cases Reprieve and ESOHR have worked on, no steps have been taken by the prosecution to identify whether a suspect may be a child. Therefore, it is often not known whether the person was a child at the time of the alleged crime. Further, the Saudi authorities claimed in at least one case that the defendant was an adult at the time of his alleged crimes, when this was demonstrably untrue.⁵⁰ The statistics are therefore likely to under-represent the number of executions for childhood offences.

Child defendants executed, 2010-2021



The following concerning points can be gleaned from the data:

- ▶ Continuing use of the death penalty for child defendants
- ▶ A high proportion of executions of child defendants following discretionary death sentences (13 of 15 executions)
- ▶ A high proportion of child defendants executed as part of mass executions (10 of 15 executions)

2.2 Continued executions of child defendants

The data shows that Saudi Arabia continued to sentence to death and execute child defendants throughout the reporting period. Since 2010, at least 15 individuals have been executed for offences committed when they were under 18 years old. Eleven of the 15 executions were carried out after 2015, when King Salman acceded to the throne, and 7 were carried out after 2017, following the appointment of the Crown Prince. In 2019 alone, there were 6 executions of child defendants.

The data suggests that more child defendants are being executed, and not that use of the death penalty for child defendants has been or is being abolished. The last known child defendant executed was Mustafa al-Darwish in June 2021, for protest-related offences, following a discretionary death sentence.

Case study

Mustafa al-Darwish

Mustafa Hashem al-Darwish was born on 19 September 1994. On 24 May 2015, Saudi authorities arrested Mustafa and detained him for two years without charge. The eventual charges included offences relating to his participation in protests when he was 17 years old. None of the charges were lethal. Mustafa received a discretionary death sentence from the Specialised Criminal Court.⁵¹

Mustafa was held in solitary confinement and tortured. He was beaten so badly that he lost consciousness several times. As a result of the torture, he confessed to the charges.⁵²

Mustafa was afforded a lawyer only after his first court hearing in August 2017. In this hearing, Mustafa told the judge that he had been tortured and his confession was coerced. The judge was aware of Mustafa's juvenility when he allegedly attended protests: the judgment states that Mustafa attended demonstrations in 1433 Hijri, which converts to 2011/2012 in the Gregorian calendar, when Mustafa was under 18.⁵³

The court did not investigate Mustafa's juvenility and did not question the veracity of his confession. Instead, the court relied on the confession to sentence Mustafa to death.⁵⁴

Mustafa was executed on 15 June 2021, without any warning to his family, who found out about his death on the news.⁵⁵ Following his execution, the SHRC falsely claimed that Mustafa was over 19 at the time of the crimes for which he was executed.⁵⁶ His body has not been returned to his family.

Several child defendants are currently at risk of death sentences because they have been charged with death-eligible offences.⁵⁷ The exact number is not known. The individuals about whom information is known are charged with offences including: association with a terrorist organisation, attending protests, chanting slogans and attending funerals. In the case of child defendant Mohammad al-Faraj, who was facing the death penalty prior to being sentenced to a term of 10 years in September 2022, the first funeral attendance occurred when he was nine years old.⁵⁸

In August 2020, following the announcement of the Royal Decree of 2020, the SHRC stated that the cases of Ali al-Nimr, Abdullah al-Zaher and Dawood al-Marhoon, who were all on death row for protest-related offences that took place before they turned 18, had been referred for review and resentencing.⁵⁹ On 7 February 2021, the SHRC announced that Ali, Abdullah and Dawood were resentenced to 10 years in prison, including of time served.⁶⁰ Ali was released from prison on 27 October 2021,⁶¹ Abdullah was released on 14 November 2021,⁶² and Dawood was released on 2 February 2022.⁶³

As of December 2022, there have been no further commutations of death sentences for persons sentenced to death for offences committed under the age of 18 at the time of the crime.

Saudi Arabia's Public Prosecutor continues to seek the death penalty for child defendants, despite public assurances that the authorities will implement the Juvenile Law and that the 2020 Royal Decree comprehensively abolishes the death penalty for children.

Abdullah al-Howaiti has been sentenced to death twice, both times after the announcement of the 2020 Royal Decree, despite being 14 years old at the time of the alleged offences. Abdullah's mandatory death sentence was initially quashed by the Supreme Court of Saudi Arabia and a re-trial was ordered; however, a retributive death sentence was handed down and later confirmed by the Court of Appeal. Abdullah awaits the outcome of his final appeal before the Supreme Court. Should the Court uphold the death sentence, Abdullah will be at imminent risk of execution.

Case study

Abdullah al-Howaiti

Abdullah al-Howaiti was born on 18 July 2002. In 2017, when he was 14, Abdullah was arrested at his family home along with his brother. The boys were taken 200 kilometres away, to Tabouk prison, where they were held incommunicado for four months. Abdullah was tortured until he confessed to leading the robbery of a jewellery store and murdering a police officer.⁶⁴ Abdullah's diary, handwritten during his four months in detention in 2017, details how he protested his innocence, but was tortured into confessing to crimes he did not commit.⁶⁵

During Abdullah's trial, which began in 2017, the court was given evidence of his age at the time of the offence, of the use of torture to extract his confession, and of his innocence. Abdullah's date of birth appears on the judgement, meaning that the judges knew that Abdullah was only 14 years old at the time of the alleged offence.

On 30 October 2019, the Criminal Court in Tabouk sentenced Abdullah to death under hudud. Abdullah appealed to the Court of Appeal. On 19 January 2021, the Court of Appeal in Tabouk rejected the appeal, upholding the conviction and death sentence.

On 10 November 2021, the Supreme Court of Saudi Arabia overturned Abdullah's conviction.⁶⁶ Under Saudi law, if the Supreme Court overturns a judgment, the case is remitted to the court of first instance for consideration.⁶⁷ Despite the claimed retroactivity of the Juvenile Law, the Public Prosecutor again called for the death penalty in Abdullah's re-trial. On 2 March 2022, the Criminal Court in Tabouk sentenced Abdullah to death for a second time.⁶⁸

On 28 January 2022, the UN Working Group on Arbitrary Detention issued an opinion finding Abdullah's detention unlawful. The Working Group noted its "alarm"⁶⁹ at Abdullah's age when arrested and its "gravest concern"⁷⁰ at his alleged torture. The Working Group was "deeply disturbed" by the imposition of the death penalty in breach of Article 37(a) of the CRC,⁷¹ and concluded that Abdullah should be immediately released and afforded compensation.⁷²

2.3 Mass executions and discretionary death sentences for exercising fundamental rights

Thirteen of the 15 child defendants were executed following discretionary death sentences. Two of 15 were executed following mandatory death sentences. Despite Saudi Arabia's claims, the data shows that it continued to execute child defendants following discretionary death sentences as recently as June 2021.

Eleven of the 15 executions were carried out following trials in the Specialised Criminal Court ("SCC"), the Saudi court established to try so-called 'terror and state security-related' offences. Prosecutions in the SCC are routinely used to crack down on human rights defenders, activists, protestors and those perceived to be in opposition to the government.⁷³ Eight child defendants were executed for exercising their fundamental rights to freedom of expression, freedom of association and freedom of assembly, including by attending pro-democracy protests (see further Part 5.5 below).

Ten of the 15 child defendants were executed as part of two mass executions, one on 2 January 2016 and one on 23 April 2019. Both mass executions were widely condemned owing to concerns that SCC could not afford defendants a fair trial, that many had been convicted solely for their participation in anti-government protests, and many had raised credible allegations of torture.⁷⁴

Case study

Mujtaba al-Sweikat

On 11 December 2012, Mujtaba al-Sweikat, then aged 18, was arrested at King Fahd International Airport by passport control staff and State Security officers. At the time, Mujtaba was at the airport with his family expecting to take a flight to begin his undergraduate studies at Western Michigan University.⁷⁵ Neither Mujtaba nor his family were informed of the reasons for his arrest, and no warrant was provided.⁷⁶

Mujtaba was not allowed to contact anybody for three days, and his family were not allowed to visit him for three months, during which time he was kept in solitary confinement. Mujtaba was subjected to torture and ill-treatment during his detention. He was kept in a special interrogation room and was beaten all over his body, including on the soles of his feet.⁷⁷

Mujtaba was interrogated and denied access to a lawyer. He was forced to sign a confession document which included allegations of attendance at protests when he was aged 17. When he refused to admit to allegations, he was beaten, tortured and subjected to verbal abuse.⁷⁸

On 23 August 2015, Mujtaba was brought before the SCC in Riyadh. Mujtaba was not given prior notice of the hearing and had no lawyer. This was the first time Mujtaba was informed of the charges against him. Mujtaba raised his torture and ill-treatment at trial, but no steps were taken by the presiding judge or other investigating authority to investigate his complaints. He was convicted solely based on his confession extracted under torture.

Mujtaba was sentenced to death on 1 June 2016 by the SCC.⁷⁹ This was upheld by the Court of Appeal and Supreme Court.⁸⁰ Mujtaba was one of 37 individuals executed in the mass execution on 23 April 2019.⁸¹ His body has not been returned to his family.

2.4 Systemic torture and due process violations

Reprieve and ESOHR have documented due process violations, unfair trials and use of torture relating to executions of child defendants. Some child defendants were not provided with a lawyer until they reached court or until after they were sentenced to death.⁸²

Reprieve and ESOHR have documented allegations of torture and ill-treatment in all cases of child defendants facing the death penalty in Saudi Arabia that have been identified. This included beatings, electric shocks, being burnt with cigarettes, being hung from the ceiling and being prevented from using the bathroom.⁸³ In several cases, individuals were tortured into making confessions. No investigation into these allegations of torture and ill-treatment have been carried out.

Of the child defendants currently at risk of death sentences that Reprieve and ESOHR are aware of, torture is alleged in several cases, including being kicked and beaten with electric cables and plastic wires, being forced into stress positions, being held underwater, electric shocks, long-term solitary confinement, and being forced to participate in the torture of a family member.

2.5 Conclusions

The data reveals multiple violations of international law in relation to child defendants, including:

- ▶ All 15 of the individuals in this group were executed in violation of the international legal prohibition on execution for childhood offences under Article 37(a) of the CRC, to which Saudi Arabia has agreed to be bound;
- ▶ Saudi Arabia has repeatedly breached the non-derogable prohibition against the use of torture under Article 2 of the UN Convention against Torture (“CAT”) and the prohibition under Article 13A of the Arab Charter by torturing child defendants;
- ▶ Saudi Arabia has failed to investigate allegations of torture, in breach of Article 12 of CAT;
- ▶ Saudi authorities have relied on torture evidence in order to convict and sentence child defendants, in breach of Article 15 of CAT; and
- ▶ Saudi Arabia has committed multiple due process violations, in breach of the obligation to provide a “lawful trial where defence rights are guaranteed” under Article 7 of the Arab Charter.

Saudi Arabia is flouting its own repeated public commitments to abolish the death penalty for child defendants.

Saudi Arabia must:

- ▶ Abolish the death penalty for child defendants.
- ▶ Publish the number of all child defendants executed since 2010 and immediately and impartially investigate those executions, with a view to providing redress to victims’ families.
- ▶ Immediately and impartially review individuals on death row and individuals accused of death-eligible offences to identify all persons who may have been under 18 at the time of the alleged offence.
- ▶ Commute the death sentences of all child defendants currently on death row and immediately release those individuals.
- ▶ Ensure that the Public Prosecutor will not seek the death penalty for any child defendant awaiting sentencing, and will not seek any further death sentences for child defendants.
- ▶ Investigate and prosecute all allegations of torture and ill-treatment of child defendants.

Unless and until it carries out these steps, Saudi Arabia’s public pronouncements on child defendant executions should be seen as cynical and deceptive attempts to gain political capital internationally, while it continues to execute those accused of childhood crimes.

PART 3

Executions of Women

3.1 Introduction

Since his appointment in 2017, Crown Prince Mohammed bin Salman has presented himself as a reformer on women's rights, as part of his Vision 2030 agenda.⁸⁴ The Crown Prince and his government have touted measures including removing the ban on female drivers, diluting the male guardianship system, appointing women to the SHRC and the Consultative Assembly of Saudi Arabia (Shura Council), and increasing the presence of women in the workplace and at public events.⁸⁵

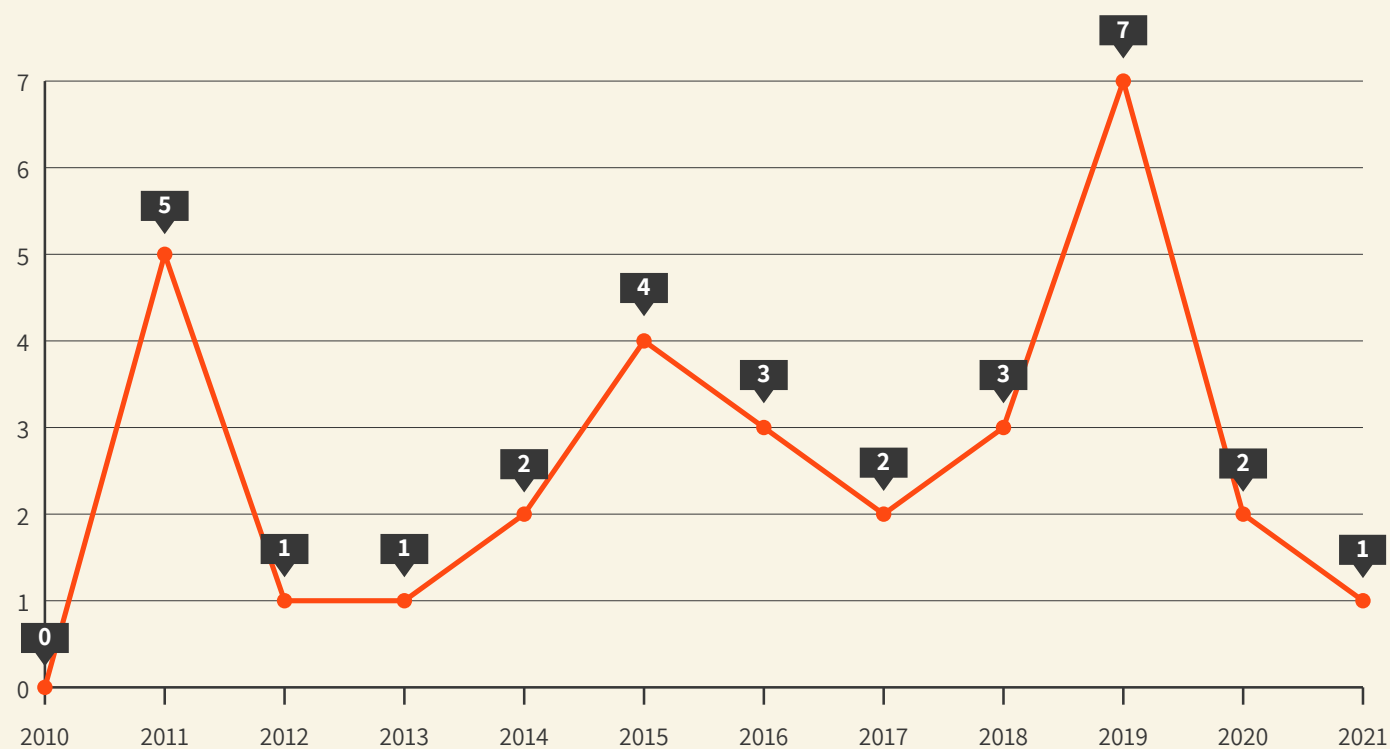
These steps have been accompanied by arrests and persecution of women's rights activists,⁸⁶ including threats of the death penalty⁸⁷ and alleged torture and sexual harassment of women in prison.⁸⁸

There was little information available on many of the women executed in Saudi Arabia since 2010. The dearth of information reflects Saudi Arabia's repeated failure to provide information on the composition of death row, as well as general concerns raised by other organisations that the experiences of women globally on death row are understudied.⁸⁹

There were 31 recorded executions of women over the reporting period⁹⁰ (2.5% of total executions). Of these:

- ▶ 23 of 31 women executed were foreign nationals, and of these, a majority were domestic workers (13 of 22);
- ▶ At least 1 was a child at the time of committing the alleged offence;
- ▶ 3 of 31 women were convicted of non-lethal offences (2 for drug offences and 1 for sorcery and witchcraft);
- ▶ 10 of 31 women were executed following mandatory death sentences;
- ▶ 15 of 31 women were executed following retributive death sentences; and
- ▶ 6 of 31 women were executed following discretionary death sentences.

Total women executed, 2010-2021



Studies have shown that women facing the death penalty are often the “invisible subjects of gender discrimination”.⁹¹ Women may be more likely to receive the death penalty when perceived as deviating from entrenched norms of gender behaviour, becoming the “femme fatale”, the “child murderer”, or the “witch”.⁹²

The first ever global study of women on death row carried out by the Cornell Law School found that capital trials aggravate pre-existing gender-based inequality. Women are “particularly vulnerable to abuse and other rights violations, either at the police station, during trial, or while incarcerated”.⁹³ Factors such as surviving gender-based violence, sexual or domestic abuse and exploitation are given little to no consideration at sentencing in many countries that retain the death penalty.⁹⁴

The UN Committee on the Elimination of Discrimination Against Women (“CEDAW”) has found that women and girls in Saudi Arabia face “persisting barriers ... to access to justice”,⁹⁵ including insufficient access to remedies for victims of discrimination and gender-based violence; insufficient training across law enforcement and lawyers on the specific issues faced by women and girls; and lack of adequate access to legal aid, such as lawyers.⁹⁶

This data reveals the following:

- ▶ A high proportion of executions of foreign national women (23 of 31 female executions); and
- ▶ A high proportion of executions of domestic workers (at least 13 of 31 female executions, and over half of the executions of foreign national women).

3.2 Executions of foreign national women

Reprieve and ESOHR identified 31 executions of women; of those individuals, 23 (74%) were foreign nationals. This is a small sample size, but it is worth noting that this proportion significantly exceeds the proportion of Saudi Arabia's female population comprised of foreign nationals (28%).⁹⁷

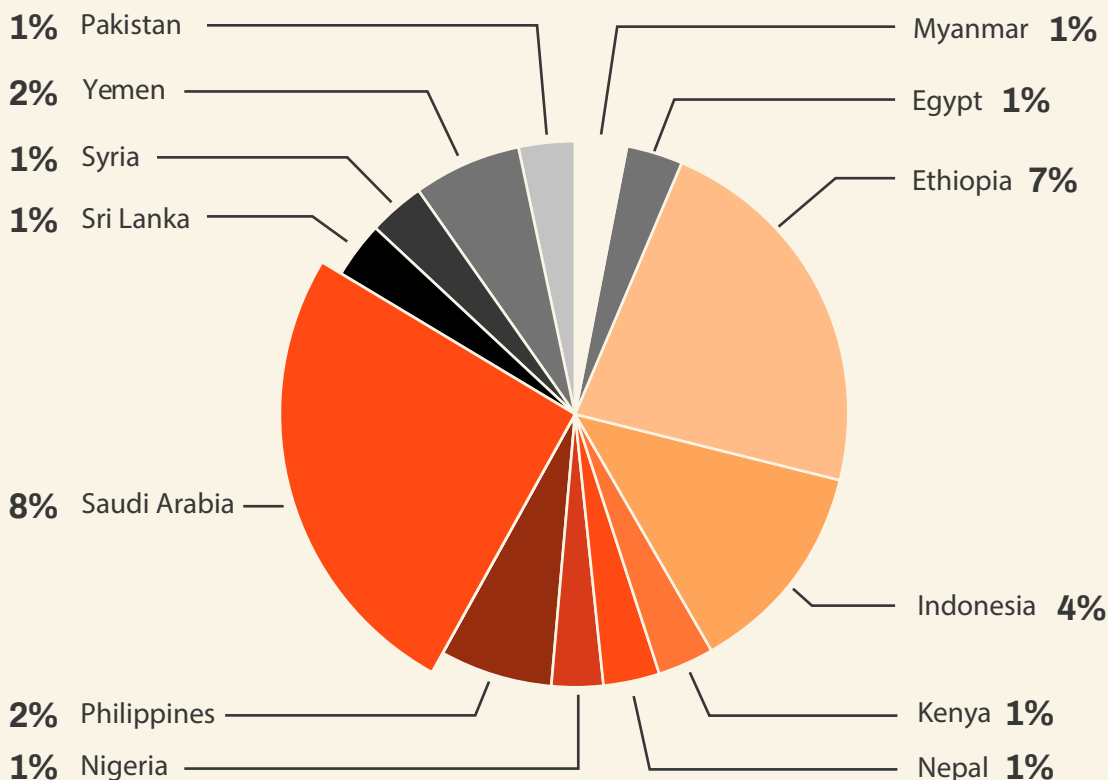
The number of foreign national women executed in Saudi Arabia has been disproportionately high for several decades. In 2008, Amnesty reported that between 1990 and 2008, over 50% of female executions in Saudi Arabia were of foreign national women.⁹⁸ The data from 2010 to 2021 confirms that even this high percentage has increased over time.

The high proportion of foreign national women executed in Saudi Arabia suggests that the death penalty is being implemented in a way that discriminates against foreign national women.

When the number of women executed is disaggregated by nationality, certain foreign nationalities appear to be over-represented. The 31 women executed included:

- ▶ 7 Ethiopian nationals;
- ▶ 4 Indonesian nationals;
- ▶ 2 Philippines nationals;
- ▶ 2 Yemeni nationals;
- ▶ 1 Egyptian national;
- ▶ 1 Syrian national;
- ▶ 1 Sri Lankan national;
- ▶ 1 Kenyan national;
- ▶ 1 Pakistani national;
- ▶ 1 Nigerian national;
- ▶ 1 Myanmar national;
- ▶ 1 Nepalese national.

Women executed, 2010-2021, disaggregated by nationality



3.3 Executions of female domestic workers

Over half of the foreign national women executed were domestic workers. Press statements and contemporaneous news reports on individual cases suggest that of the 23 foreign national women executed during the reporting period, at least 13 were domestic workers.⁹⁹

Domestic workers therefore represent at least 56.5% of foreign women executed over the reporting period, and at least 42% of women executed overall. Domestic workers make up approximately 6 to 7% of the total female population in Saudi Arabia.¹⁰⁰ The disproportionate number of domestic workers executed is consistent with reports in 2013 that more than 45 domestic workers were awaiting execution on death row in Saudi Arabia.¹⁰¹

Female domestic workers in Saudi Arabia at risk of the death penalty are particularly vulnerable within a criminal justice system that does not uphold women's right to be free from gender-based discrimination and within the kafala system.¹⁰²

Risks to women and girls within the kafala system

In 2020 and 2021, as part of Saudi Vision 2030 and prompted by the murder of a Bangladeshi domestic worker by her employers in Saudi Arabia,¹⁰³ some limited reforms were initiated to reduce restrictions on migrant workers¹⁰⁴ and to ban the word 'maid' from job advertisements.¹⁰⁵ However, approximately 10 million migrant workers in Saudi Arabia are still governed by the kafala system¹⁰⁶ and domestic workers are excluded from labour law protections.¹⁰⁷ Many human rights bodies and experts have found that female migrant domestic workers in the kafala system in Saudi Arabia are at increased risk of serious human rights violations. Domestic workers are susceptible to trafficking and frequently suffer financial, physical, sexual and emotional abuse, exploitation, overwork, forced confinement, food deprivation and other forms of torture and ill-treatment.¹⁰⁸ Female domestic workers have impeded access to justice, including fear of detention and deportation while legal proceedings are pending, and limited options for refuge.¹⁰⁹ Various investigations have reported high rates of suicide and unexplained deaths and disappearances among domestic workers.¹¹⁰ The population of female migrant domestic workers includes underage girls,¹¹¹ although there is no consolidated data on the precise number.¹¹²

These findings are consistent with those of Reprieve and ESOHR over the reporting period, which 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. This pattern suggests that the death penalty is applied against female migrant domestic workers in a discriminatory way.¹¹³

The case study of Rizana Nafeek is one example of intersecting vulnerabilities which may leave female migrant domestic workers at heightened risk of the death penalty. Another woman, Indonesian domestic worker Tuti Tursilawati, was convicted of murder and sentenced to death after she killed her employer when he was attempting to rape her, following a long period of sexual abuse. In other cases, such as that of Siti Zaenab Binti Duhri Rupa, accused women have shown symptoms of mental illness, having been severely mistreated by their employers.

Case study

Rizana Nafeek

Rizana Nafeek (the only female child defendant identified as being executed during the reporting period) was born on 4 February 1988 in Sri Lanka. On 1 April 2005, she moved to Saudi Arabia to work as a domestic worker to support her family, who were living in poverty.¹¹⁴ Rizana worked in the household of her sponsor, who had a baby boy.¹¹⁵

Rizana travelled to Saudi Arabia using a falsified passport arranged by recruiting agency that stated she was born in 1982, identifying her as 23 rather than 17 years old in 2005.¹¹⁶

On 25 May 2005, while Rizana was bottle-feeding the five-month-old baby at around 12.30pm, the baby started choking. According to Rizana's statement: "When I was feeding the infant, I noticed that the milk was oozing through the mouth and nose of the infant . . . I stroke the throat of the infant gently. As the infant was seen having its eyelids closed, I thought that he was snoozing".¹¹⁷

The baby died, but the cause of death was not known as police failed to conduct a post-mortem.¹¹⁸ Rizana's employer accused her of strangling the child following an argument with his wife, and took her to a local police station where she was arrested.¹¹⁹

Rizana 'confessed' to killing the child and repeated her confession in court.¹²⁰ Rizana was denied access to legal representation during her pre-trial interrogation.¹²¹ At a hearing on 3 February 2007, Rizana retracted her confession and told the court that it had been obtained by police under duress.¹²² Rizana was reportedly not provided with an interpreter when the confession was obtained.¹²³ Rizana was not allowed to present her birth certificate or other evidence of her juvenility to the court.¹²⁴

After Rizana had been sentenced to death, a lawyer was appointed to represent her.¹²⁵ Her lawyer submitted her birth certificate to support the evidence that Rizana was a minor and should not be executed pursuant to Saudi's obligations under the CRC. He argued that Rizana had been hired as a general maid and had no training in childcare. She was left alone to feed the baby and didn't know how to save him when he choked. Rizana's lawyer was not given permission to cross-examine the person who had translated the confession.¹²⁶

On 25 October 2010, the Supreme Court upheld Rizana's death sentence.¹²⁷ On 6 January 2013, Sri Lanka's President Mahinda Rajapaksa appealed to King Abdullah requesting a stay of the execution until a settlement could be reached with the baby's family.¹²⁸ However, Rizana was executed by beheading on 9 January 2013.¹²⁹

Case study

Tuti Tursilawati

Tuti Tursilawati was born in 1984 in West Java, Indonesia.¹³⁰ She arrived in Saudi Arabia in September 2009 to work for a family in Ta'if.¹³¹

Tuti's employer regularly sexually abused her.¹³² In May 2010, as he attempted to rape her, Tuti hit him with a stick in self-defence, which led to his death. She fled the house to try and get away, but she was found by a group of nine men who gang-raped her. Tuti was arrested by police a week later.¹³³ In June 2011, Tuti was found guilty of murder and sentenced to death.

On 29 October 2018, after eight years in prison, Tuti was executed by beheading. The Indonesian consulate were not informed of her planned execution until after she was executed, despite the Indonesian government's efforts to ensure consular notification prior to execution.¹³⁴ Indonesian President Joko Widodo criticised Saudi Arabia's decision to continue with the execution and demanded better protection of Indonesian workers in the country.¹³⁵

Case study

Siti Zaenab Binti Duhri Rupa

Siti Zaenab Binti Duhri Rupa was an Indonesian national and mother of two employed as a domestic worker in Saudi Arabia. She reportedly suffered from mental illness.¹³⁶

In October 1999, Siti Zaenab was arrested for stabbing to death the wife of her Saudi employer.¹³⁷ During interrogation, she stated that she had done this because of mistreatment.¹³⁸ She was forced to sign a letter stating that she had killed the woman intentionally. She was not afforded a lawyer or an interpreter at her trial.¹³⁹ On 8 January 2001, the court sentenced Siti Zaenab to death.¹⁴⁰ Her mental illness was not taken into account when she was sentenced.

Siti Zaenab was beheaded on 14 April 2015. The execution of the death sentence was delayed for 16 years, until the youngest child of the victim reached the age of maturity and was able to be asked for a pardon, which was rejected. The request of qisas by the family of the victim was confirmed.¹⁴¹

The Indonesian government had offered to pay diya, or blood money, amounting to 600 thousand riyals (USD 160,000) to secure a pardon for Siti Zaenab.¹⁴² However, the Saudi authorities said that only the heirs of the victim could pardon the sentence. Neither Siti Zaenab's family nor the Indonesian government were informed in advance of her execution.¹⁴³

The risk to migrant domestic workers in Saudi Arabia of abuse, up to and including the death penalty, has been recognised internationally. Some states have taken steps to protect their nationals.

- ▶ In 2011, Indonesia imposed a moratorium on sending its domestic workers to Saudi Arabia following the execution of an Indonesian domestic worker.¹⁴⁴
- ▶ In 2014, Indonesia reportedly paid USD 1.8million in diya to the family of an employer in order to save the life of an Indonesian domestic worker who was convicted of murder after being abused.¹⁴⁵
- ▶ In 2015, Indonesia introduced another moratorium on sending new domestic workers to the Middle East.¹⁴⁶
- ▶ In 2013, Ethiopia introduced a ban on domestic workers moving overseas, which was lifted in 2018 after passage of a new domestic law to guard against ill treatment.¹⁴⁷ It was also reported that in 2013 Saudi Arabia imposed a ban on recruitment of workers from Ethiopia “until investigations are completed into the killing of Saudi children by some Ethiopian maids”.¹⁴⁸
- ▶ In December 2021, the Philippines Ministry of Labour suspended the recruitment of Filipino domestic workers to Saudi Arabia.¹⁴⁹

3.4 Executions of Saudi women

Eight of the 31 women executed were Saudi nationals. One woman was executed for sorcery and witchcraft. The remaining 7 women were executed for murder and 6 were executed following mandatory death sentences. Of the 7 women executed for murder, 1 was executed for killing their child, 3 for committing a murder during a burglary, and 3 were sentenced to death for killing their husbands.

Although little is known about the Saudi women executed during the reporting period, gender-based discrimination is entrenched through Saudi Arabia's male guardianship system. Women and girls still require permission from their male guardian to file complaints about domestic abuse or gender-based violence. Women face discrimination in relation to marriage, inheritance, divorce and child custody. Men can file cases against female relatives under their guardianship for 'disobedience', which have resulted in arrest and forcible return to their male guardian's home or imprisonment.¹⁵⁰ A 2020 study found local prevalence of intimate partner violence against women in Saudi Arabia ranging between 20-39%.¹⁵¹

The systematic gender-based discrimination faced by women and girls in Saudi Arabia permeates the criminal justice system. Women have unequal access to justice, including lawyers, while police and legal professionals lack sufficient expertise or training to support women in the criminal justice system.¹⁵²

3.5 Conclusions

Saudi Arabia is applying the death penalty in a way that aggravates pre-existing gender-based discrimination, particularly against foreign national women. The cases examined show numerous violations of fundamental international human rights standards, including:

- ▶ Discriminatory application of the death penalty in respect of nationality, gender and socio-economic status, which violates the fundamental principle of non-discrimination under international human rights law;¹⁵³
- ▶ Breach of the right to equal treatment before courts and tribunals under Article 5(a) of CERD and Article 9 of the Arab Charter;
- ▶ Denial of legal representation and / or an interpreter, which are clear due process violations in breach of the obligation to provide a "lawful trial where defence rights are guaranteed" under Article 7 of the Arab Charter, resulting in arbitrary deprivation of the right to life; and
- ▶ The execution of individuals who may have been trafficked, which violates the non-punishment principle.¹⁵⁴

Notwithstanding its heavy economic reliance on foreign domestic workers, Saudi Arabia is not a signatory to the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.¹⁵⁵

Urgent action is required by Saudi Arabia and the international community to redress these violations and protect women. Saudi Arabia must:

- ▶ Immediately and impartially investigate executions of women since 2010 to identify violations of domestic and international law, with a view to providing redress to victims' families.
- ▶ Immediately and impartially review the cases of women on death row to identify all cases where there have been violations of domestic or international law affecting due process or fair trial, and commute the sentences of those individuals.
- ▶ Comply with international human rights standards in all cases of women accused of death-eligible offences, including immediate implementation of due process guarantees and fair trial rights.
- ▶ Provide gender-sensitive training to all professionals within the criminal justice system, including law enforcement, lawyers, prosecutors and judges.
- ▶ Abolish the kafala and guardianship systems and protect women against human trafficking, exploitation and abuse.
- ▶ Facilitate consular assistance for foreign national women accused of death-eligible offences.

PART 4

Executions of Foreign Nationals

4.1 Introduction

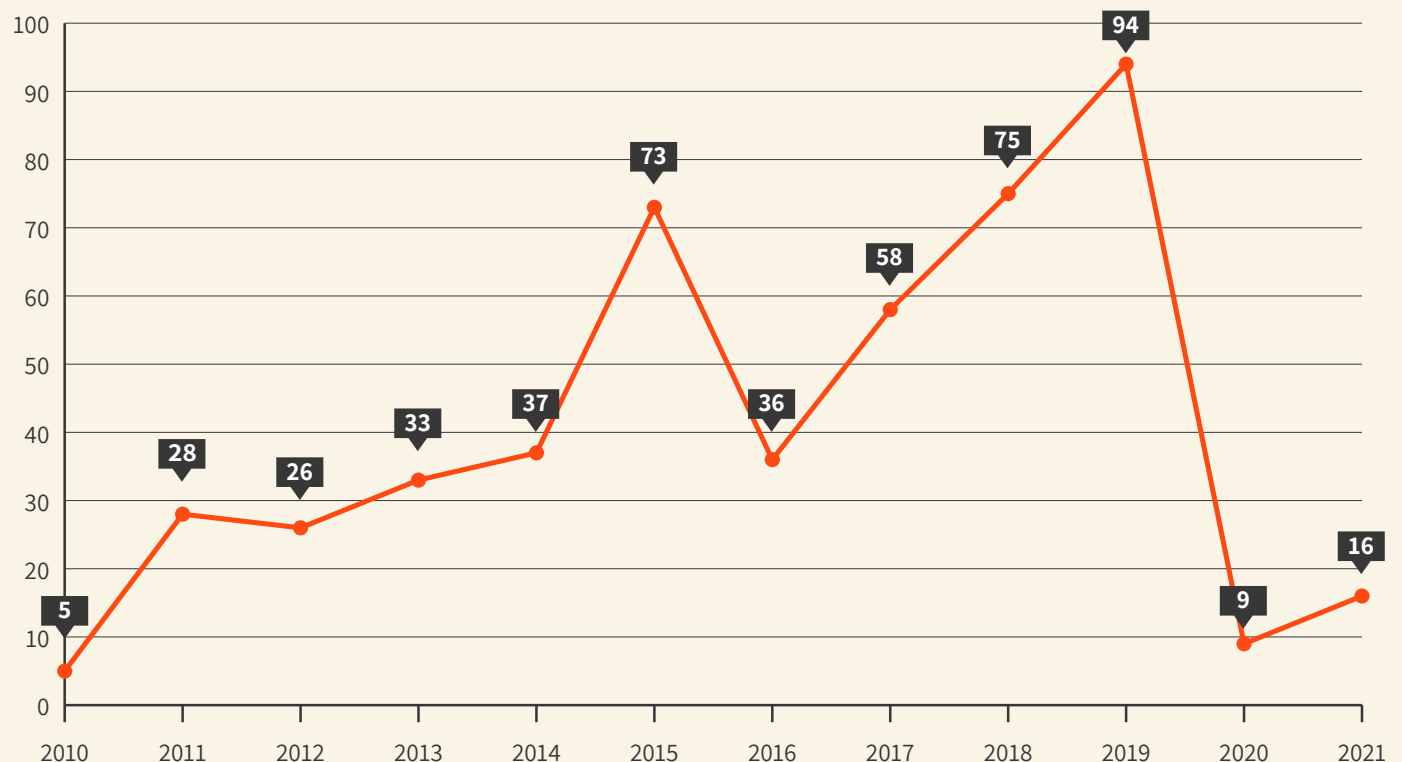
Saudi Arabia hosts the third largest migrant population in the world.¹⁵⁶ As of 2021, there were approximately 6 million migrant workers¹⁵⁷ residing in Saudi Arabia.¹⁵⁸ Many of these individuals work in Saudi Arabia in order to send money back to their home country.¹⁵⁹

The kafala (sponsorship) system regulates the relationship between migrant workers and employers in Saudi Arabia. The kafala system ties work permits to a single sponsor, whose permission is generally required for the worker to transfer positions or enter or leave the country.¹⁶⁰ Many migrant workers report their passports being withheld and working excessive hours with low or no pay.¹⁶¹ Labour reforms were introduced in March 2021, but only for certain workers.¹⁶² Labour law protections in Saudi Arabia exclude domestic workers.¹⁶³

Foreign nationals are particularly vulnerable to due process and fair trial violations in the context of the death penalty. International law entitles foreign nationals facing the death penalty to enhanced due process and fair trial rights,¹⁶⁴ recognising the range of barriers they faced in the criminal justice system, including language barriers, limited understanding of the legal conventions in the country they are detained in and limited financial means.¹⁶⁵ 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.¹⁶⁶

Despite international protections, during the reporting period foreign nationals were disproportionately executed in Saudi Arabia for certain offences. From 2010 to 2021, Saudi Arabia executed 490 foreign nationals.

Total foreign nationals executed, 2010-2021



4.2 Over-representation of foreign nationals

When the total number of individuals executed from 2010 to 2021 is disaggregated by nationality, some foreign nationalities represent a larger percentage of total executions than they do a percentage of the total population.¹⁶⁷ The 490 foreign nationals executed over the reporting period included:

- ▶ 164 Pakistani nationals;
- ▶ 92 Yemeni nationals;
- ▶ 58 Syrian nationals;
- ▶ 26 Egyptian nationals;
- ▶ 25 Jordanian nationals;
- ▶ 17 Nigerian nationals;
- ▶ 16 Bangladeshi nationals;
- ▶ 15 Ethiopian nationals; and
- ▶ 14 Chadian nationals.

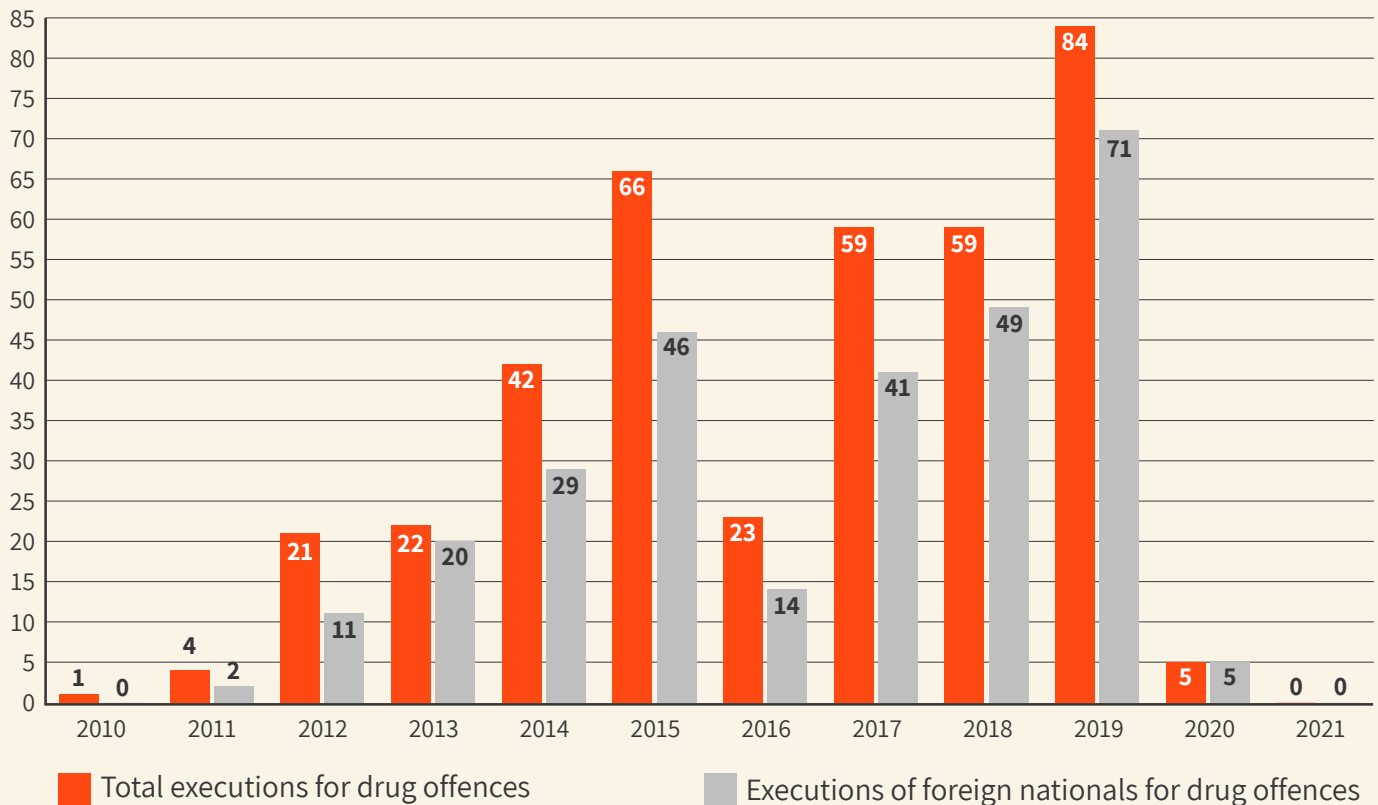
Foreign nationals made up 39% of total executions, which is slightly greater than the percentage of foreign nationals in the population of Saudi Arabia as a whole (36%¹⁶⁸). However, certain nationalities were overrepresented among those executed when compared to their proportional representation in Saudi Arabia's population. These were Yemeni, Jordanian and Pakistani nationals.

- ▶ Yemeni nationals make up 2.87% of the population of Saudi Arabia but 7.41% of executed individuals;
- ▶ Jordanian nationals make up 0.8% of the population of Saudi Arabia but 2% of executed individuals;
- ▶ Pakistani nationals make up 5% of the population of Saudi Arabia but 13.19% of executed individuals.

4.3 Executions of foreign nationals for drug offences

In the reporting period, there were 386 total executions for drug-related offences (see Part 5: Executions for Non-Lethal Offences, below). 102 (26%) of these were Saudi nationals. 284 (74%) were foreign nationals, including 137 Pakistani nationals (making up 35% of overall executions for drug offences and 47% of all foreign national executions for drug offences). Saudi Arabia thus 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.¹⁶⁹

Executions of foreign nationals as a proportion of executions for drug offences, 2010-2021



The death penalty in Saudi Arabia tends to affect foreign drug mules rather than drug lords. Foreign nationals executed for drug-related offences are frequently vulnerable individuals from impoverished backgrounds who have been trafficked, coerced, threatened or deceived by criminal organisations into drug-smuggling,¹⁷⁰ which by law attracts the death penalty.¹⁷¹ ESOHR describes “a recursive system of executions against would-be foreign worker drug smugglers”:

“Saudi agents interdict a smuggler and the Saudi government executes him, without dismantling the criminal organization ultimately responsible for the drug shipment, thereby creating conditions in which the criminal organization may coerce new foreign workers into performing the physical act of drug smuggling while themselves suffering minimal risk. ... The circle continues ad infinitum, victimizing impoverished foreign workers above all others.”¹⁷²

Over the reporting period, at least 40 of the 137 Pakistani nationals executed for drug offences were found to have either ingested large quantities of drugs or secreted them in their body, indicating that they were likely low-level drugs mules or victims of exploitation, including human trafficking. By contrast, only one person executed for drug offences, a Saudi national, was identified as the organiser of an international drugs trafficking network.

Despite the SHRC’s claim on its English Twitter account in January 2021 of a moratorium on execution for drug offences¹⁷³ (see further Part 5.1 below), foreign nationals continue to be at risk of execution for drug offences.

4.4 Discrimination, due process and fair trial violations

In addition to systematic abuses of detained persons in Saudi Arabia generally, foreign nationals face discrimination in the criminal justice system. Reprieve and ESOHR have identified that foreign nationals at risk of the death penalty were frequently denied access to interpretation, legal representation and consular assistance during the reporting period. Failing to respect these rights in the context of the death penalty will render any execution a breach of the right to life.¹⁷⁴

For example, in 7 cases of Pakistani nationals facing the death penalty for drug offences in Saudi Arabia, four UN Special Rapporteurs found that:¹⁷⁵

- ▶ All 7 were denied access to interpreters;
- ▶ All 7 were denied access to a lawyer;
- ▶ All 7 were denied their right to consular assistance; and
- ▶ All 7 had credible claims that they were victims of human trafficking or exploitation that were never investigated by Saudi Arabia's arresting or prosecuting authorities.

4.4.1 Lack of access to interpretation

The right to an interpreter during capital trials is crucial to upholding the full range of fair trial rights. Although Saudi Arabia's Code of Criminal Procedure enshrines the right to an interpreter at trial,¹⁷⁶ it does not fully guarantee the right to an interpreter at all stages of legal proceedings including on arrest and during the investigation stage when they are most in need of assistance.

In Reprieve and ESOHR's experience, some foreign national defendants with little or no Arabic-language proficiency are forced to undergo their trials with inadequate or no interpretation. Without an interpreter, foreign nationals without sufficient proficiency in the local language will be unable to communicate with their lawyer, understand the nature of the charges against them, participate fully in their defence or understand the evidence against them at trial.

4.4.2 Lack of access to legal representation

Saudi domestic law confers a right on a defendant to legal representation.¹⁷⁷ In practice, however, defendants are often unable to obtain legal representation at any point in proceedings.

Saudi Arabian arresting authorities regularly detain defendants incommunicado, giving them no opportunity to communicate with a lawyer. The European Parliament confirmed in July 2021:

“The Saudi authorities commonly place arrested individuals in incommunicado detention whereby they are denied contact with the outside world ... the majority of people who are taken into custody undergo periods of incommunicado detention ranging from several days to years.”¹⁷⁸

During detention, officers routinely torture defendants into confessing to crimes they did not commit.¹⁷⁹

There is no robust mechanism within Saudi Arabia's criminal justice system to ensure that defendants are provided with legal representation. Some foreign nationals may lack the financial resources to afford legal representation in their cases. Foreign nationals are frequently “left to navigate an unfamiliar criminal justice system on their own, often without lawyers”.¹⁸⁰

4.4.3 Lack of access to consular assistance

In August 2019, the then Special Rapporteur on extrajudicial, summary or arbitrary executions confirmed that consular notification and assistance in cases against foreign nationals, particularly where there is a death penalty risk, is a minimum fair trial guarantee.¹⁸¹ The Special Rapporteur also stated that “access to consular assistance is a human right, and the failure to notify foreign detainees of their right to consular assistance breaches the detaining State’s obligations under international human rights.”¹⁸²

Saudi arresting authorities rarely inform consular officials of the detention of foreign nationals.¹⁸³ Consular officials are therefore prevented from taking steps to ensure that their nationals are afforded fair trial rights.¹⁸⁴

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.¹⁸⁵ In 2018, Human Rights Watch interviewed 12 Pakistani nationals on trial in Saudi Arabia and 7 family members of 9 other defendants, finding:¹⁸⁶

- ▶ Nine of the 21 defendants said that court officials pressured them to sign agreements or documents without giving them an opportunity to read or comprehend the documents;
- ▶ Only 1 of the 21 defendants had a defence lawyer. Only that defendant was in possession of their court documents; and
- ▶ Four defendants said that court-appointed translators sometimes intentionally mistranslated their statements to judges.¹⁸⁷

Case study

Hussein Abu al-Kheir

On 18 May 2014, the Saudi Arabian Border Force arrested Hussein Abu al-Kheir, a Jordanian of Palestinian origin, as he crossed the border from Jordan into Saudi Arabia. They charged him with the possession of narcotic pills allegedly found in his car. He denied any knowledge of the drugs.¹⁸⁸ The authorities did not inform Hussein of his rights and did not allow him to appoint a lawyer.

For 12 days following his arrest, Hussein was held incommunicado and tortured by Saudi Drug Control authorities. They suspended him from his feet with his head facing down, beat him on his stomach, head, feet, hands and face, insulted him and subjected him to degrading treatment. After 12 days, Hussein signed a confession document.¹⁸⁹ To this day, Hussein continues to suffer from pain in his legs, weight loss, stomach pain, and deterioration of his physical and mental wellbeing.¹⁹⁰

On 27 January 2015, the Criminal Court in Tabouk found Hussein guilty of drug trafficking charges and sentenced him to death. They relied on his torture-tainted confession, despite Hussein’s statement to the judge recanting it.¹⁹¹

In September 2019, the Jordanian Ministry of Foreign Affairs informed Hussein’s family that the Supreme Judicial Council had refused his appeal, and that he had no further right to challenge his death sentence.¹⁹² Hussein has not been afforded access to legal representation at any point in the proceedings, and his torture allegations have never been investigated. He remains detained and at risk of imminent execution.¹⁹³

4.5 Conclusions

Saudi Arabia's treatment of foreign nationals in its application of the death penalty violates numerous international human rights standards, including:

- ▶ Discriminatory application of the death penalty in respect of nationality and socio-economic status, which violates the fundamental principle of non-discrimination under international human rights law;¹⁹⁴
- ▶ Breach of the right to equal treatment before courts and tribunals under Article 5(a) of the UN Convention on the Elimination of Racial Discrimination ("CERD") and Article 9 of the Arab Charter;
- ▶ Executing foreign nationals for crimes (including drug offences) that do not amount to "most serious crimes",¹⁹⁵ in breach of Article 6 of the Arab Charter;
- ▶ Regularly failing to notify consulates of the detention of their nationals, in contravention of Article 42 of the Vienna Convention on Consular Relations¹⁹⁶ and leading to arbitrary violation of the right to life; and
- ▶ Regular denial of legal representation and / or an interpreter, in breach of the obligation to provide a "lawful trial where defence rights are guaranteed" under Article 7 of the Arab Charter and leading to arbitrary violation of the right to life.

Saudi Arabia must:

- ▶ Abolish the death penalty for drug offences.
- ▶ Commute all current death sentences for drug offences.
- ▶ Immediately and impartially investigate executions of foreign nationals since 2010 to identify violations of domestic and international law, with a view to providing redress to victims' families.
- ▶ Immediately and impartially review the cases of foreign nationals on death row to identify all cases where there have been violations of domestic or international law affecting due process or fair trial, and commute the sentences of those individuals.
- ▶ Comply with international human rights standards in all cases of foreign nationals accused of death-eligible offences, including immediate implementation of due process guarantees and fair trial rights.
- ▶ Abolish the kafala system and enact an equitable legal framework governing the employment of migrant workers in Saudi Arabia.
- ▶ Facilitate consular assistance for foreign nationals accused of death-eligible offences.
- ▶ Investigate and prosecute all allegations of torture and ill-treatment of foreign nationals.
- ▶ Ratify the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

PART 5

Executions for Non-Lethal Offences

5.1 Introduction

Over the reporting period, there were 542 executions for non-lethal offences (43% of all executions) in both the General Criminal Court, which hears ordinary crimes, and the Specialised Criminal Court (“SCC”), which tries ‘state security’ and ‘terrorism’ cases.

The Crown Prince and his officials have repeatedly suggested to international audiences that Saudi Arabia intends to abolish the death penalty for non-lethal offences, particularly drug offences, in the near future. In an interview with TIME magazine on 5 April 2018, the Crown Prince indicated that Saudi Arabia was working on replacing execution with life imprisonment in some areas:

“We’ve tried to minimize [capital punishment] so we have clear laws that we can change, like if a person kills a person, they have to be executed in our law. But there are few areas that we can change it from execution to life in prison. ... So we are working for two years through the government and also the Saudi parliament to build new laws in that area. And we believe it will take one year, maybe a little bit more, to have it finished”.¹⁹⁷

In August 2020, an anonymous Saudi official told the Washington Post that a decision to abolish the death penalty for drug offences was “expected very soon”.¹⁹⁸

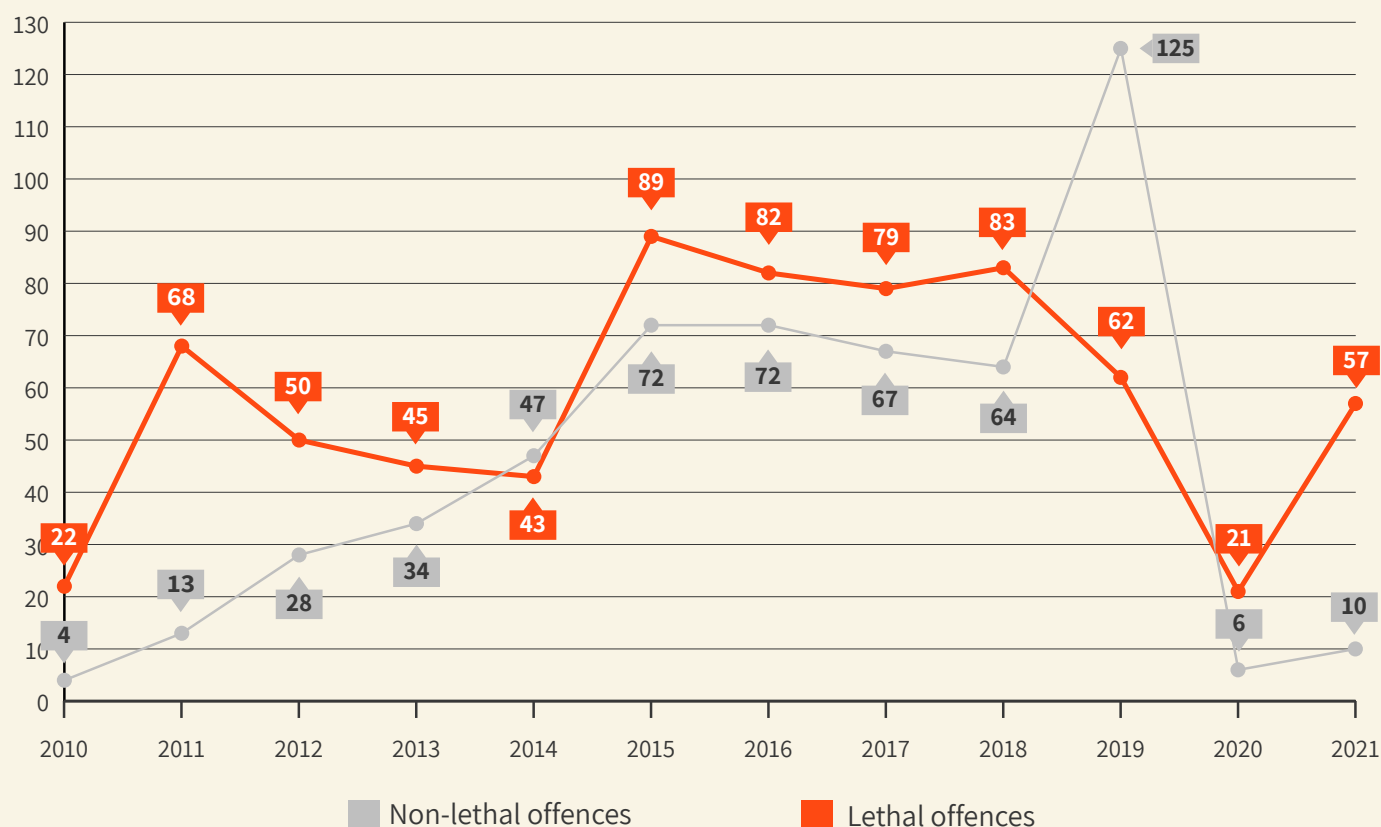
In January 2021, the SHRC issued a statement on its English-language Twitter account claiming that the decline in the overall number of executions in 2020 was due to a moratorium imposed on execution for drug offences.¹⁹⁹ However, no moratorium was ever formalised. There was no mention of a change in policy on the official websites of the Ministry of Interior, Ministry of Justice or Saudi Press Agency, and the SHRC’s tweet was not endorsed by the Crown Prince. There was no commutation of sentences or release of individuals on death row for drug-related offences. Saudi Arabia resumed executions for drug offences without warning in November 2022, killing 20 people in under a month.

On 3 March 2022, the Crown Prince stated in an interview:

“Regarding the death penalty, we are getting rid of it in its entirety apart from in one category [i.e. qisas], and this category is mentioned in the Qur’an and we can do nothing about it even if we wanted to. ... [T]his is what we are discussing and trying to implement in the next two or three years.”²⁰⁰

Nine days later, Saudi Arabia carried out the largest mass execution in its history, killing 81 people in one day (all sentenced in the SCC). Only 23 of the 81 men executed were convicted of a lethal crime.

Number of executions for lethal vs non-lethal offences, 2010-2021



The data on executions for non-lethal offences reveals the following:

- ▶ A high proportion of executions for non-lethal offences, i.e. those that do not meet the “most serious crimes” threshold under international law;
- ▶ A high proportion of executions for drug offences; and
- ▶ A large number of executions arising from prosecution in the SCC, including those involving the exercise of fundamental rights to freedom of expression, association and assembly.

5.2 Executions for offences that do not meet the “most serious crimes” threshold

Executions for offences that do not cross the “most serious crimes” threshold accounted for 43% of all executions over the reporting period. In 2019, executions for non-lethal offences exceeded those for lethal offences for the first time in nine years, accounting for 66% of all executions that year (125 of 187 executions). As of December 2022, there have been 90 executions for non-lethal offences in 2022.

Saudi Arabia ratified the Arab Charter on Human Rights which requires states that retain the death penalty to limit its application to the “most serious crimes”.²⁰¹ By definition, non-lethal offences do not meet the threshold of “most serious crimes” under international law.²⁰² 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.”²⁰³ 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”.²⁰⁴ Any execution for such an offence will amount to an arbitrary deprivation of life.

Non-lethal offences resulting in execution between 2010 and 2021 in both the General Criminal Court and SCC included:

- ▶ Drug offences;
- ▶ Sedition, treason, or other state security offences;
- ▶ Sexual offences;
- ▶ Directing or being a member of a banned organisation 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; and
- ▶ Adultery.

None of these offences meet the “most serious crimes” threshold and cannot be subject to the death penalty under international law. All 542 executions for non-lethal offences between 2010 and 2021 therefore resulted in a breach of the right to life.

Except for drug offences and some state security offences, none of these crimes or their punishments are codified in Saudi Arabia.²⁰⁵ The overwhelming majority of executions for non-lethal offences followed discretionary death sentences (94%, or 513 of 542). The remaining 6% of executions followed mandatory death sentences (29 of 542).

These findings reinforce concerns that discretionary death sentences are disproportionately used by Saudi Arabia in the absence of a codified penal code or sentencing principles. UN bodies have confirmed that, pursuant to the principle of ‘no penalty without law’ enshrined in Article 11(2) of the Universal Declaration of Human Rights,²⁰⁶ imposition of discretionary death sentences for uncodified offences renders both detention²⁰⁷ and the death penalty²⁰⁸ arbitrary.

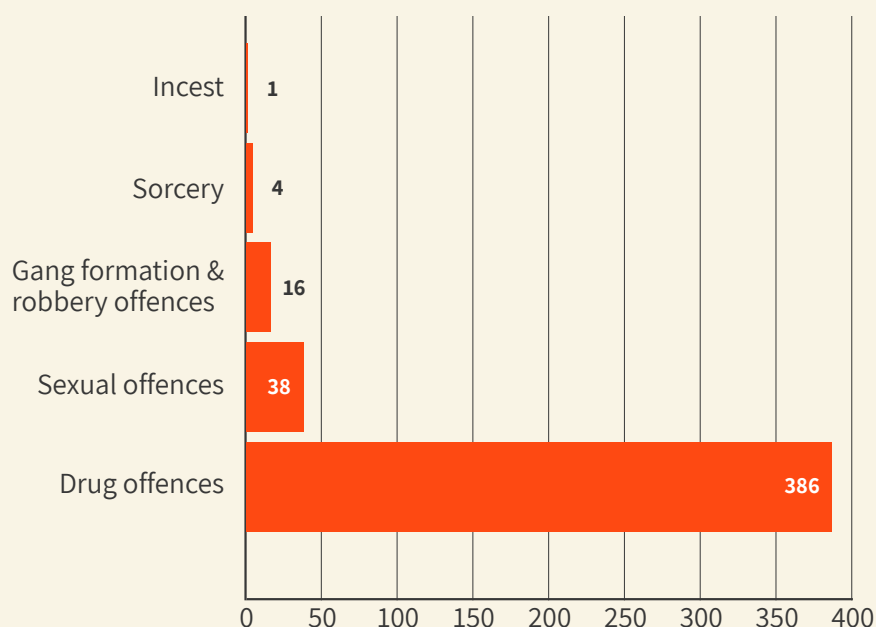
Between 2010 and 2021, discretionary death sentences accounted for the largest proportion of death sentences resulting in executions (581 of 1243 or 47%). Of the 581 discretionary death sentences, 513 (88%) were for non-lethal offences.

The UN Working Group on Arbitrary Detention has found that Saudi Arabia’s application of discretionary punishment in death penalty cases is arbitrary, has a “chilling effect” on the exercise of fundamental rights, and should be strictly prohibited through codification and by limiting the scope of the death penalty to “most serious crimes” only.²⁰⁹

5.3 Executions for drug offences

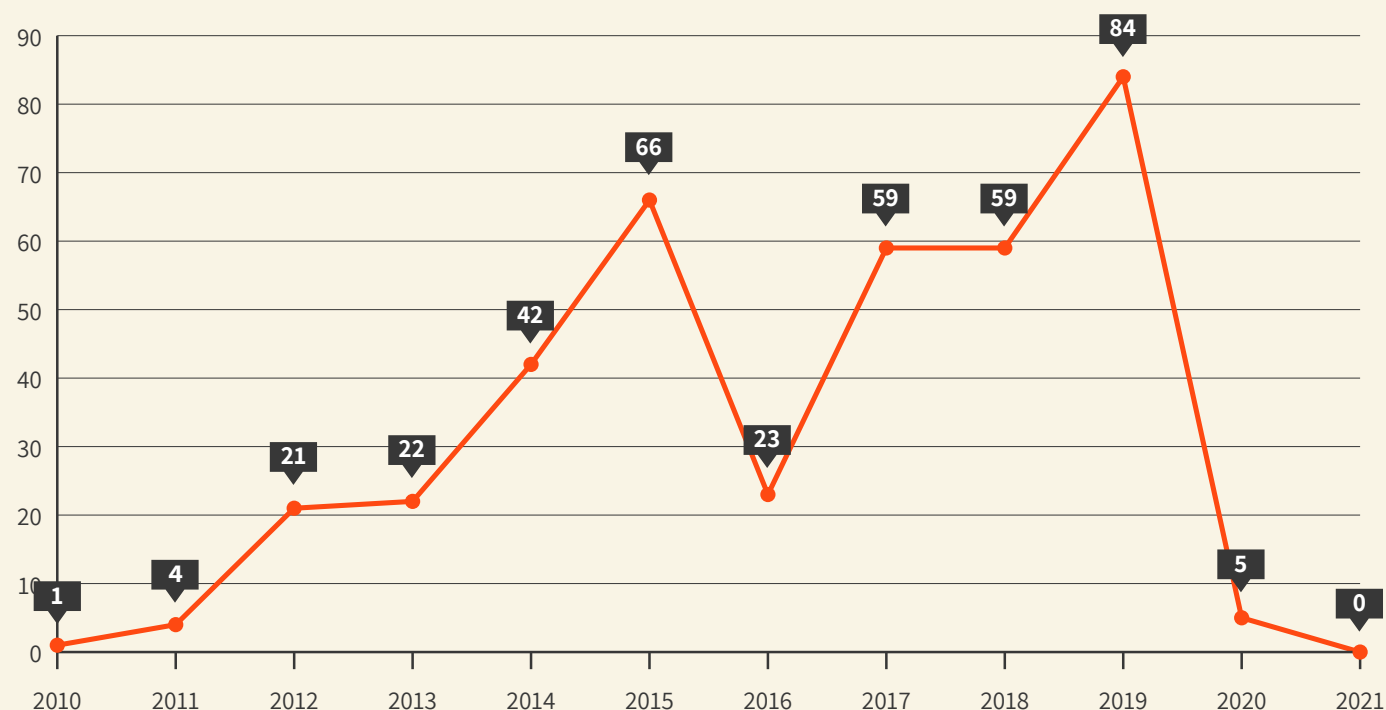
There were 386 executions for drug-related offences in the reporting period (71% of all non-lethal offences). All were non-lethal; 1 followed a mandatory death sentence, and the remainder (over 99%) followed discretionary death sentences. 284 (74%) of the individuals executed for drug-related offences were foreign nationals (see further Part 3: Executions of Foreign Nationals, above).

Executions for non-lethal offences arising from the General Criminal Court, 2010-2021



The announcement of the claimed moratorium on executions for drug offences only on the SHRC's English-language Twitter page suggests that it was intended to improve Saudi Arabia's reputation on the international stage. The sudden and aggressive resumption of executions for drug offences in November 2022, without any announcement or justification, exposed the purported moratorium as another misrepresentation.

Executions for drug-related offences, 2010-2021



5.4 Executions for exercising fundamental rights

The SCC, established in 2008, tries individuals for so-called ‘terrorism’ and ‘state security’ offences, and routinely violates human rights. This includes relying on torture-tainted confessions and targeting activists and human rights defenders.²¹⁰

Saudi Arabia’s misuse of the SCC and counterterrorism legislation have been widely criticised as tools to crack down on anyone perceived to be critical of the ruling monarchy, including the King and the Crown Prince. In 2018, the former UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, following an official visit to Saudi Arabia, concluded that counterterrorism measures were being “misused to stifle political dissent, suppress opposition and silence calls for reform by peaceful critics”²¹¹ and that “[t]here is an almost complete lack of transparency concerning domestic terrorism prosecutions”.²¹²

Under Article 32 of the Arab Charter on Human Rights, Saudi Arabia is obliged to guarantee “the right to information and to freedom of opinion and expression, as well as the right to ... impart information and ideas through any medium, regardless of geographical boundaries”.²¹³ The UN Human Rights Committee has explained that:

“Under no circumstances can the death penalty ever be applied as a sanction against conduct the very criminalization of which violates the [International Covenant on Civil and Political Rights], including ... establishing political opposition groups or offending a head of State”.²¹⁴

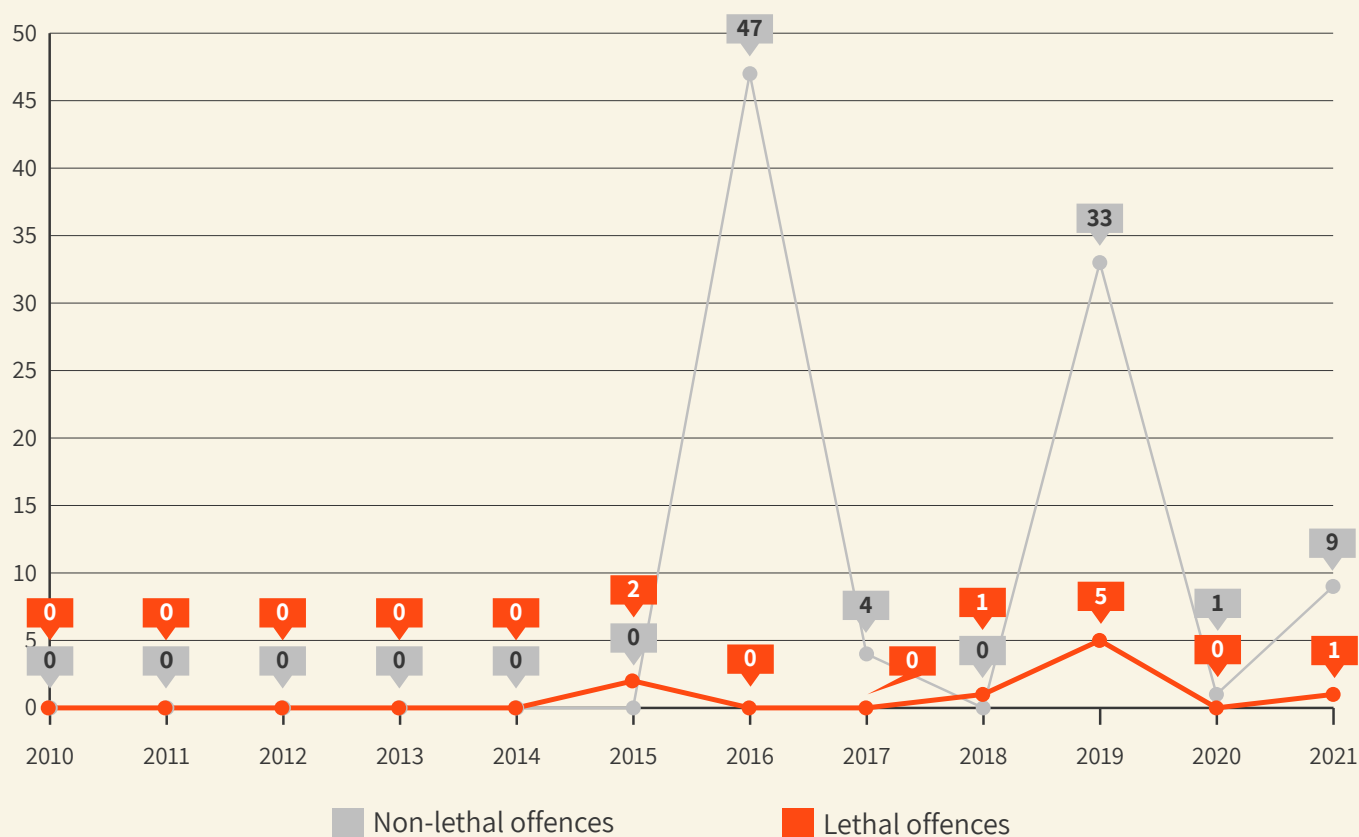
This extends to participation in pro-democracy protests, and would apply to cases that concern an exercise of freedom of expression, association and assembly.

Over the reporting period, there were 103 executions arising from trials in the SCC. The number of persons executed following convictions in the SCC increased considerably after 2015 when King Salman acceded to the throne.²¹⁵ No executions for SCC death sentences were recorded between 2010 and 2014. Two executions arising from the SCC were identified in 2015, both for a murder committed in the course of an act of terrorism. However, between 2016 and 2021, 101 individuals were executed following SCC convictions. Only 5 of those executed were sentenced to death for a lethal offence.

The data shows that of the 103 executions:

- ▶ 46 individuals (45%) were executed for exercising their fundamental rights, including attending pro-democracy protests and peacefully exercising their freedom of expression;
- ▶ 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;
- ▶ 93 individuals (90%) were executed following discretionary death sentences; and
- ▶ At least 11 child defendants (10%) were executed.

Executions following conviction in the Specialised Criminal Court, 2010-2021



The exact number of persons facing the death penalty in the SCC remains unknown. However, trials are ongoing, including that of Hassan al-Maliki, who faces a death sentence for his peaceful exercise of freedom of thought, conscious and opinion.

Case study

Hassan al-Maliki

Hassan al-Maliki is a Saudi scholar currently at risk of the death penalty in Saudi Arabia for peacefully exercising his right to freedom of expression.

Hassan authored multiple books on Islamic history and spent years working as a journalist and teacher. Through his writing, he has called for a Saudi society in which universal human rights are upheld and where members of different sects and faiths could peacefully co-exist.²¹⁶ He is respected and popular in the region, with over 280,000 Twitter followers.²¹⁷

On 17 September 2017, armed officers arrested Hassan at his brother's home without a warrant and held him without charge for a year.²¹⁸ When he was finally charged, the 14 charges against him, reported by state-linked media, all relate to Hassan peacefully exercising his freedom of thought, conscience and opinion.

Nine of the charges are vague statements that do not specify any violations of Saudi domestic laws. They include "conducting interviews with Western outlets"; "possessing books" that were "not authorised by the competent authority" in Saudi Arabia; "publishing books" outside Saudi Arabia; "publishing several tweets . . . questioning the principles of Islam" and seeking to "destabilise the social fabric and national cohesion" with his academic critique of certain Islamic schools of thought.²¹⁹

Hassan is being tried by the SCC, which has postponed his hearings 12 times over four years. The Public Prosecutor is calling for the death penalty.

Saudi Arabia shows no indication of ending the persecution of individuals exercising fundamental rights. In August 2022, two young Saudi women received a combined sentence of 79 years in prison following convictions in the SCC for their use of Twitter.²²⁰ In Saudi Arabia's mass execution on 12 March 2022, 58 of the men were executed for non-lethal offences (67%).

5.5 Conclusions

Saudi Arabia's record on executions for non-lethal offences from 2010 to 2021 shows the following violations of international human rights law, also amounting to arbitrary deprivation of the right to life:

- ▶ Breach of the rule under Article 6 of the Arab Charter that the death sentence only be applied in respect of the “most serious crimes”, namely intentional killing;²²¹
- ▶ Discriminatory application of the death penalty in respect of nationality and socio-economic status, which violates the fundamental principle of non-discrimination under international human rights law;²²² and
- ▶ Breach of the principle regarding the imposition of the death penalty for conduct which, when criminalised, violates the principles of the International Covenant on Civil and Political Rights.²²³

Saudi Arabia must:

- ▶ Abolish the death penalty for non-lethal offences.
- ▶ Commute all current death sentences for non-lethal offences.
- ▶ Immediately and impartially investigate executions for non-lethal offences since 2010 to identify violations of domestic and international law, with a view to providing redress to victims' families.
- ▶ End the use of discretionary death sentences and ensure that the proposed Penal Code clearly defines all offences that may be subject to prosecution and criminal sanctions.
- ▶ Immediately release all individuals imprisoned for exercising their rights to freedom of expression, assembly and association.
- ▶ Ratify the UN International Covenant on Civil and Political Rights.

PART 6

Conclusions and Recommendations

6.1 Conclusions

The data analysed in this report demonstrates that Saudi Arabia's extensive use of the death penalty from 2010 to 2021 is marred by discrimination, injustice, misrepresentation and human rights abuses in violation of international law. Saudi Arabia's use of the death penalty has increased since Crown Prince Mohammed bin Salman's rise to power, and continued unabated throughout 2022.

6.2 Recommendations

6.2.1 To Saudi Arabia:

Overall recommendations

- ▶ Immediately abolish the death penalty.
- ▶ Immediately and impartially investigate all executions carried out since 2010 in violation of the right to life.
- ▶ Immediately publish death penalty statistics disaggregated by sex, age, nationality and race, including information on persons sentenced to death, persons on death row, executions carried out, and sentences reversed or commuted.

Child defendants

- ▶ Abolish the death penalty for child defendants.
- ▶ Publish the number of all child defendants executed since 2010 and immediately and impartially investigate those executions, with a view to providing redress to victims' families.
- ▶ Immediately and impartially review individuals on death row and individuals accused of death-eligible offences to identify all persons who may have been under 18 at the time of the alleged offence.
- ▶ Commute the death sentences and immediately release all child defendants currently on death row those individuals.
- ▶ Ensure that the Public Prosecutor will not seek the death penalty for any child defendant awaiting sentencing, and will not seek any further death sentences for child defendants.

- ▶ Investigate and prosecute all allegations of torture and ill-treatment of child defendants.

Women

- ▶ Immediately and impartially investigate executions of women since 2010 to identify violations of domestic and international law, with a view to providing redress to victims' families.
- ▶ Immediately and impartially review the cases of women on death row to identify all cases where there have been violations of domestic or international law affecting due process or fair trial, and commute the sentences of those individuals.
- ▶ Comply with international human rights standards in all cases of women accused of death-eligible offences, including immediate implementation of due process guarantees and fair trial rights.
- ▶ Provide gender-sensitive training to all professionals within the criminal justice system, including law enforcement, lawyers, prosecutors and judges.
- ▶ Abolish the kafala and guardianship systems and protect women against human trafficking, exploitation and abuse.
- ▶ Facilitate consular assistance for foreign national women accused of death-eligible offences.

Foreign nationals

- ▶ Abolish the death penalty for drug offences.
- ▶ Commute all current death sentences for drug offences.
- ▶ Immediately and impartially investigate executions of foreign nationals since 2010 to identify violations of domestic and international law, with a view to providing redress to victims' families.
- ▶ Immediately and impartially review the cases of foreign nationals on death row to identify all cases where there have been violations of domestic or international law affecting due process or fair trial, and commute the sentences of those individuals.
- ▶ Comply with international human rights standards in all cases of foreign nationals accused of death-eligible offences, including immediate implementation of due process guarantees and fair trial rights.
- ▶ Abolish the kafala system and enact an equitable legal framework governing the employment of migrant workers in Saudi Arabia.
- ▶ Facilitate consular assistance for foreign nationals accused of death-eligible offences.
- ▶ Investigate and prosecute all allegations of torture and ill-treatment of foreign nationals.
- ▶ Ratify the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Non-lethal offences

- ▶ Abolish the death penalty for non-lethal offences.
- ▶ Commute all current death sentences for non-lethal offences.
- ▶ Immediately and impartially investigate executions for non-lethal offences since 2010 to identify violations of domestic and international law, with a view to providing redress to victims' families.
- ▶ End the use of discretionary death sentences and ensure that the proposed Penal Code clearly defines all offences that may be subject to prosecution and criminal sanctions.
- ▶ Immediately release all individuals imprisoned for exercising their rights to freedom of expression, assembly and association.
- ▶ Ratify the UN International Covenant on Civil and Political Rights.

6.2.2 To the international community:

- ▶ Maintain diplomatic and public condemnation of Saudi Arabia's use of the death penalty.
- ▶ Maintain pressure on Saudi Arabia to abolish the death penalty, including abolition of the death penalty for drug offences, non-lethal offences and following discretionary death sentences.
- ▶ Urge Saudi Arabia to publish its execution and death row data.
- ▶ Act to protect child defendants at risk of the death penalty.
- ▶ Seek assurances that individuals will not be executed where there are breaches of due process guarantees, fair trial rights or violations of international law.
- ▶ Hold Saudi Arabia to account for its breaches of human rights and international law.
- ▶ Consider the use of sanctions against Saudi Arabia, including reporting to the UN General Assembly and suspending Saudi Arabia's right of membership of the UN Human Rights Committee.
- ▶ Encourage Saudi Arabia to ratify relevant international conventions.

APPENDIX 1

Saudi Arabia's International Law Obligations

Arab Charter on Human Rights

- ▶ The Arab Charter, ratified by Saudi Arabia, requires countries that retain the death penalty to use it only for the “most serious crimes”.²²⁴
- ▶ The term “most serious crimes” must be “read restrictively and appertain only to crimes of extreme gravity involving intentional killing... [Further] a limited degree of involvement or of complicity in the commission of even the most serious crimes, such as providing the physical means for the commission of murder, cannot justify the imposition of the death penalty.”²²⁵
- ▶ The death penalty for non-lethal drug offences and the discriminatory use of the death penalty are prohibited.²²⁶ Any execution for a drug offence will amount to an arbitrary deprivation of life.

UN Convention on the Rights of the Child

- ▶ Saudi Arabia has voluntarily agreed not to execute child defendants. Article 37(a) of the CRC prohibits the application of the death penalty for child defendants.²²⁷ Saudi Arabia has ratified this treaty,²²⁸ and as such is obliged to comply with the prohibition.
- ▶ In addition to this obligation, it is widely recognised that the prohibition on executing child defendants is a norm of customary international law.²²⁹ The UN Committee on the Rights of the Child is clear that “the relevant age is the age at the time of the commission of the offence”²³⁰ and that any doubt in relation to the defendant’s age must be resolved in their favour.²³¹

UN Convention against Torture

- ▶ By acceding to CAT, Saudi Arabia has committed to prohibit torture, to adequately investigate allegations of torture, and to ensure that any statement made under torture not be invoked as evidence in proceedings.²³²

UN Convention on the Elimination of Racial Discrimination

- ▶ Saudi Arabia has acceded to CERD,²³³ and as such is required to “take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists”.²³⁴

APPENDIX 2

Glossary

| | |
|------------------------|--|
| Child defendant | An individual charged with, and / or convicted of, offences allegedly committed when the individual was under 18 years old |
| Diya | Financial compensation |
| ESOHR | European Saudi Organisation for Human Rights |
| Hudud | Fixed punishments |
| Qisas | Retributive punishments |
| SCC | Specialised Criminal Court |
| SHRC | Saudi Human Rights Commission |
| Shura Council | Consultative Assembly of Saudi Arabia |
| Ta'zir | Discretionary punishments |
| UN | United Nations |
| Vision 2030 | Saudi Arabia's national strategy to reduce its dependence on oil, diversify its economy and develop public service sectors |
| Arab Charter | Arab Charter on Human Rights |
| CRC | United Nations Convention on the Rights of the Child |
| CAT | United Nations Convention against Torture |
| CERD | United Nations Convention on the Elimination of Racial Discrimination |

Endnotes

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- 3 UNGA, Res 75/183, 75th Sess, UN Doc A/RES/75/183, 28 December 2020, para 7(c) available at: <https://digitallibrary.un.org/record/3896434?ln=en>.
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- 15 Reprieve and ESOHR were not able to verify the category of death sentences in two executions.
- 16 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, para. 105, available at: https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session84/A_HRC_WGAD_2019_26_AdvanceEditedVersion.pdf.
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