

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: UA SAU 4/2023  
(Please use this reference in your reply)

6 July 2023

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 44/5, 52/9 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the imminent execution of Mr. [REDACTED] and Mr. [REDACTED] two underage defendants, and raise our continuous concern over the administration of the death penalty in the Kingdom of Saudi Arabia in cases of crimes allegedly committed by offenders under the age of eighteen.

Reference is made to the previous communications, including AL SAU 1/2023 and UA SAU 2/2023, sent by Special Procedures mandate holders to your Excellency's Government concerning the handing down of the death penalty in cases of crimes allegedly committed by offenders under the age of eighteen. We acknowledge your Excellency's Government responses, including the one received on 14 April 2023, and have taken note of the information contained therein. We wish to however, disagree with your Excellency's Government's assertion that "the information contained in joint communication AL SAU 1/2023, dated 16 February 2023, is inaccurate and comprises false allegations and assertions based on information received from the source that is devoid of support and evidence." Further we regret to note that the legal and judicial checks and balances, both in legislation and in practice, currently in place in the Kingdom, do not meet the high threshold required in cases concerning capital punishment.

According to the information received:

*The case of Mr. Abullah [REDACTED]*

Mr. [REDACTED] was born in the Qatif region of Saudi Arabia's Eastern Province. Mr. [REDACTED] comes from a low-income family and is one of four children. Mr. [REDACTED] was arrested by security officers on 27 August 2014, when he was 18 years old. Officers grabbed him while he was walking in the street alone and proceeded to beat him and arrested him without presenting an arrest warrant. Mr. [REDACTED] was taken to Tarout Police Station,

then Qatif Prison, before he was transferred to Dammam Investigations centre, approximately five to six months after his arrest.

Mr. ██████ was held incommunicado for three months, and he remained in solitary confinement for approximately six months, during which time he was physically and psychologically tortured. Prison officers burned Mr. ██████ around his eye, broke his tooth and injured his knee. He was restrained and suspended for a long time. These abuses led to his hospitalization, where he spent two weeks in a coma.

During his time in detention, Mr. ██████ was forced into signing a false confession stating that he was part of a terrorist group. He denies all the charges against him, which are all non-lethal, protest-related crimes.

In August 2017, following three years of pre-trial detention, Mr. ██████ trial began before the Specialized Criminal Court (SCC). During the trial, he detailed how he was tortured and coerced into signing a false confession. He told the judge: “an investigating officer came to me with a written confession ready in his handwriting” and “asked me, under beatings and threats, to put a fingerprint on it without allowing me to read it.” The document was a declaration written by the investigative officer, ‘confessing’ to several offences, including alleged membership with a terrorist organisation and acts allegedly committed during protests. During the trial, Mr. ██████ made numerous requests for his medical records to be admitted showing his hospitalisation from the torture endured to coerce his confession, but these requests were not granted by the court.

There are seven charges listed on Mr. ██████ chargesheet, none of which are dated. However, an analysis of the charges suggests that most of them took place when Mr. ██████ was under the age of 18. Two of the charges relate to activities he is alleged to have undertaken with someone else, and which seems to have taken place when he was 17 years or younger, since the individual named had died when Mr. ██████ was 17 years old; another charge relates to an event at the Fish Roundabout in Qatif that took place a year before Mr. ██████ arrest, when he would have been 17 years old. Only one charge relates to protest-related activities that took place in May 2014, when Mr. ██████ was 18. The prosecution’s only evidence in this case is his alleged coerced confession. No material or physical evidence links Mr. ██████ to the charges against him were produced in court and he is not charged with causing any injuries to others or deaths.

On 20 February 2018, he was sentenced to death by the SCC.

Mr. ██████ was denied access to a court-appointed lawyer until 2021, after he had been sentenced to death by the SCC. His father, who has no legal training, represented him at his SCC trial, as the family could not afford to appoint a private lawyer.

On 8 August 2022, more than two years after the Government announced the Royal Decree that purported to abolish the death penalty for child defendants, the Court of Appeal upheld Mr. ██████ discretionary death sentence.

*The case of Mr. ██████*

Mr. ██████ is from the Qatif region. He is the oldest of four siblings, and also comes from a poor family.

On 9 March 2017, he was arrested, when he was 20 years old. He was contacted by the Public Prosecutor, ostensibly to sign a deed of judgment acquitting him in a previous case. As he was preparing to leave, he was arrested by the police. The police, who were armed, used force when arresting him, and did not present him with a warrant. Following his arrest, he was held at the police station for a week, and persons associated with him were not informed of the arrest.

During this time, he was tied to a staircase in the police station and kicked and insulted. After a week, he was able to contact his family, but could not say where he was held.

At some point thereafter, Mr. ██████ was transferred to another facility, where he was held in solitary confinement and tortured over a period of five months. His family received no communication from him during this time. While nothing has filtered out about his treatment during this period, he has been suffering sustained back pain and urinary tract problems since that time. His injuries were so severe that he fell unconscious and was hospitalized. There, he was examined by a doctor, but his family was unable to obtain the medical report despite requests.

The purpose of the torture reportedly inflicted on him was to force him to sign a confession. Throughout this time, he did not have access to a lawyer.

Five months after his arrest, Mr. ██████ family was finally able to visit him. He appeared weak and showed signs of injury; his family said he could not sit or stand without pain and that he seemed afraid. Although there were no officers in the room, Mr. ██████ did not feel able to speak freely. Since then, they have been able to visit him once every two months, and to speak with him on the phone once a week. The authorities monitor each visit.

In 2019, two years after his arrest, Mr. ██████ trial at the SCC began. The first hearing was held on 20 September. He told the judge that he had been forced to sign a confession and asked for a register showing the judge how long he was detained in solitary confinement. This request appears to have been disregarded. Ten days later, on 30 September 2019, another hearing was held, at which Mr. ██████ was charged. Throughout his arrest and most of his trial at the SCC, he did not have access to a lawyer and was made to present his own defence.

The charges against Mr. ██████ include: joining an unspecified armed organization; spying and firing at security forces; planning to target a police station; participating in acts of vandalism during demonstrations taking place in Saudi Arabia, such as raising anti-State banners and burning tires; protecting wanted persons; participating, promoting and inciting sit-ins; financing terrorism by receiving and transporting tires to the sites of demonstrations; possession and use of firearms and ammunition; promotion of narcotic pills; and consumption of cannabis. Mr. ██████ denied all the charges except for the last, for which he stated his regret at having consumed cannabis as an adolescent.

The charges also state that Mr. ██████ attended several funerals, which are the “demonstrations” mentioned above. These funerals occurred between 2010 and 2012, at which time he was still a child, aged between 15-17 years old.

The only documented evidence against him is his confession, which seems to have been extracted under torture. Based on this confession, the court sentenced him to death in October 2022. Mr. ██████ allegations of torture have not been investigated. A medical report was produced by a doctor during his confinement, but the family has not been given access to it.

In 2022, five years after his arrest and toward the end of his SCC trial, Mr. ██████ met with his state-appointed lawyer for the first time. The lawyer represented him at his appeal, where his sentence was upheld. It appears that the lawyer did not have adequate resources. Mr. ██████ had only spoken with his lawyer three times, and his family was unable to contact him.

We are seriously concerned by reports that the Supreme Court may have upheld Mr. ██████ and Mr. ██████ death sentences and that their executions can be carried out at any time without notice. If these death sentences are upheld by the Supreme Court, both men will be at risk of imminent execution.

All of the offences Mr. ██████ is alleged to have committed did not involve anyone’s death and are categorized under Saudi Arabia’s discretionary offences category (ta’zir), from which child defendants are specifically protected under the 2020 Royal Decree. Similarly, none of the charges against Mr. ██████ involve the anyone’s death, and do not meet the “most serious crimes” threshold as required by Saudi Arabia’s obligations under Article 6 of the Arab Charter.

In April 2020, Saudi Arabia’s Human Rights Commission (SHRC) announced a new Royal Decree purporting to abolish the death penalty for child defendants, bringing Saudi domestic law in line with international standards in this regard.<sup>1</sup> The SHRC clarified that the decree would provide for the retroactive application of the Juvenile Law of 2018, and that those convicted of terrorism offences would be

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<sup>1</sup> ‘Saudi Arabia abolishes death sentence for minors’ Deutsche Welle (Bonn, 27 April 2021) available at: <https://www.dw.com/en/saudi-arabia-abolishes-death-sentence-for-minors/a-53253967>.

covered by the decree.<sup>2</sup> In September 2016 Saudi Arabia's delegation stated before the UN Committee on the Rights of Child that “there is no application of the death penalty on child defendants.”<sup>3</sup> In August 2018 Saudi Arabia promulgated the Juvenile Law stating 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 in the institution.”

Both Mr. ██████████ and Mr. ██████████ were charged with terrorism-related offences. We reiterate our concerns expressed in SAU 12/2020, SAU 1/2022, SAU 5/2922, SAU 7/2022, and SAU 1/2023 regarding the compatibility of the *2017 Law on Combatting Terrorism Crimes and its Financing* with Saudi Arabia’s international human rights obligations under the Universal Declaration of Human Rights (UDHR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). During a visit to Saudi Arabia in 2017, the former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism expressed concern about the legislative framework for counter-terrorism, including fair trial provisions, and drew the Government's attention to problems of systematic torture in the country ([A/HRC/40/52/Add.2](#)). In this regard, we reiterate that the right to a fair trial is one of the fundamental guarantees of human rights and the rule of law. It comprises several interrelated attributes and is often linked to the enjoyment of other rights, such as the right to life and the prohibition of torture.

In line with our previous communications, we reiterate our concern about the overly broad definition of “terrorism” under the Law on Combating Crimes of Terrorism and its Financing susceptible to qualify civil disobedience and critical or opposing views as "terrorist" acts, undermining the "principle of legal certainty" enshrined in Article 11 of the UDHR. States must ensure that counter-terrorism legislation is limited to criminalizing properly and precisely defined conduct based on the provisions of international counter-terrorism instruments and is strictly guided by the principles of legality, necessity, and proportionality.

Ensuring Mr. ██████████ and Mr. ██████████ death sentences are overturned is essential if Saudi Arabian authorities are to demonstrate they do not sentence to death and execute individuals for childhood crimes, in line with Saudi Arabia’s obligation under article 3 of the [UDHR](#) considered as *jus cogens* in international law and without possibility of derogation, the [Convention on the Rights of the Child \(CRC\)](#), Saudi Arabia’s 2020 Royal Decree exempting juvenile defendants from the death penalty for and its statements before the Committee on the rights of the child.

The [United Nations safeguards guaranteeing protection of the rights of those facing the death penalty](#) provide that capital punishment may be imposed only for the most serious crimes, after a legal process which gives all possible safeguards to ensure a fair trial, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all

<sup>2</sup> Saudi Human Rights Commission (@HRCSaudi), “هيئة حقوق الإنسان: الأمر الملكي يشمل الأحداث الصادر بحقهم أحكام نهائية #السعودية في قضايا الإرهاب. #السعودية” <https://t.co/8PIYexjgt6> (Twitter, 28 April 2020), available at: <https://twitter.com/HRCSaudi/status/1255236606124068866>

<sup>3</sup> UN Committee on the Rights of the Child, 'Consideration of Saudi Arabia - 2144th Meeting, 73rd Session of Committee on Rights of the Child' (UN Web TV, 20 September 2016) <https://media.un.org/asset/k10/k10jpp11c7>.

stages of the proceedings. The Safeguards also provide that persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death. In addition, minors who are victims of recruitment should not be prosecuted for acts of association with a designated criminal group; the assessment of the criminal responsibility of children and adolescents should be made on a case-by-case basis, taking into account any mitigating circumstances; and there is a duty to investigate and prosecute adults who recruit or manipulate children and order them to commit criminal or terrorist acts.

Article 37 of the Convention on the Rights of the Child ([CRC](#)) states that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. (...); (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

The right to a fair trial, provided by article 10 of the UDHR, includes a set of procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to be presumed innocent, to have access to, and communicate with, a counsel of their own choosing.

The United Nations Human Rights Committee has highlighted that, “in cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important” and the imposition of a sentence of death upon conclusion of a trial, constitutes a violation of the right to life.

It has further stated that restrictions on the right to freedom of expression must be provided by law, pursue a legitimate aim, and be necessary and proportionate.

We also recall the absolute prohibition of torture, set forth in articles 1 and 16 of the [Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment](#) (CAT), acceded by Saudi Arabia on 23 September 1997, which also include the prohibition of the use of statements obtained under torture and other ill-treatment in any legal proceedings (article 15 of the CAT). All the allegations reported above in this respect should therefore be promptly and duly investigated (article 12 of the CAT). In addition, confessions and other information extracted under torture or ill-treatment are not admissible into any legal proceeding, as their admission violates the rights of due process and a fair trial (article 15).

The international human rights standards set by the [Arab Charter on Human Rights](#) (ACHR), specifically to articles 5, 8, 13, 15 16, 32 safeguard the rights to life,

liberty and security of person, to be brought promptly before a judge, to not be subjected to torture or cruel, inhuman or degrading treatment, to be treated with humanity while in detention and to be compensated in circumstances of unlawful arrest or detention, and the right to information and to freedom of opinion and expression.

Furthermore, the [United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, resolution 67/187 adopted in 2013](#), note in principle 2, that “States should consider the provision of legal aid their duty and responsibility.” When it comes to children, the Guidelines indicate in principle 11 that “legal aid provided to children should be prioritized, in the best interests of the child, and be accessible, age-appropriate, multidisciplinary, effective and responsive to the specific legal and social needs of children.”

We stress once again that the enforcement of any death sentence in contravention of a State’s obligations under international law is tantamount to an arbitrary execution and hence unlawful. We therefore respectfully call once again on Your Excellency’s Government to consider establishing an official moratorium on all executions as a first step towards fully abolishing the death penalty in the Kingdom. Furthermore, we recommend a review of all current cases in which prisoners are facing the death penalty in order to ensure that international minimum standards are met in each case.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please indicate at what stage of the judicial proceeding are the cases of Mr. [REDACTED] and Mr. [REDACTED]. Has the Supreme Court upheld the verdicts and sentences?
3. Please provide detailed information about the factual and legal basis for the arrest and detention of Mr. [REDACTED] and Mr. [REDACTED]. Please clarify whether an arrest warrant was issued by a judge and showed to them at the time of their arrest.
4. Please indicate what safeguards were afforded to them to ensure that their rights to due process were respected throughout the proceedings, including access to lawyers and how they were effectively

implemented with respect to the defendants.

5. Please provide detailed information on the initial phase of their detention, such as the location of the different places where they were detained, the conditions of detention there, their access to a lawyer and to their families during that period.
6. Please indicate what is the legal ground for their reported incommunicado detention (reportedly three months for Mr. [REDACTED] and five months, for Mr. [REDACTED]), and why were they held for prolonged periods in solitary confinement (6 months for Mr. [REDACTED], and 5 months for Mr. [REDACTED]).
7. Please indicate what safeguards were in place during their incommunicado detention and solitary confinement to ensure that they were not tortured or otherwise ill-treated by investigators to force them to sign statements of guilt.
8. Please indicate whether the allegations of torture made by the two men before the judges were investigated, as required under the Convention against torture.
9. Please indicate the nature of the evidence, besides their confessions, reportedly extracted under duress, which provided the grounds for the determination of their guilt.
10. Please provide detailed information about the determination of the age of the two defendants, and why the 2020 Royal Decree that purports to exempt juveniles from the imposition of the death penalty does not seem to apply to them – in spite of indications that they were below the age of 18 when the incidents they were charged with occurred.
11. Please explain how the death sentences applied to the alleged offences of these two men, respected the principles of legality, necessity, proportionality and non-discrimination.
12. Please provide clarification concerning the precise scope of application of the 2020 Royal decree exempting juvenile offenders of the death penalty. Are all juvenile offenders exempted or are there exceptions.

While awaiting a reply, we respectfully recommend that urgent attention be directed to their cases to see to it that that they are not executed, and that their cases are reviewed according to the provisions of the 2020 Royal decree.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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