**Submission to the Office of the High Commissioner for Human Rights ahead of the Report of the Secretary-General to the Human Rights Council on the question of the death penalty**

**Joint submission from Reprieve and the European Saudi Organisation for Human Rights**

April 2024

**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.

**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). Reprieve provides free legal and investigative support to those who have been subjected to state-sponsored human rights abuses. In particular, we protect the rights of those facing the death penalty and of victims of arbitrary detention, torture, and extrajudicial execution.

We are writing in response to your request dated 20 February 2024 for relevant information concerning the question of the death penalty arising since 1 July 2022, paying special attention to the imposition of the death penalty on persons younger than 18 years of age at the time of the offence, on pregnant women and on persons with mental or intellectual disabilities. We understand that this request is in relation to the UN Secretary General’s report to the Human Rights Council at its fifty-seventh session. This submission reports on developments in Saudi Arabia.

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**Summary**

1. Reprieve and ESOHR have monitored the escalation in the use of the death penalty in Saudi Arabia, which continues to be applied against child dependents, individuals accused of non-lethal drug offences, and in cases related to freedom of expression[[1]](#footnote-1).
2. Since June 2022, at least 290 individuals have been executed in Saudi Arabia. This includes 49 people whose executions were carried out in total secrecy, without official announcement by state media.
3. In 2024 so far, Saudi Arabia has executed at least 43 people.
4. Reprieve is aware of three child defendants on death row, all of whom either received death sentences or had their death sentences upheld on appeal after June 2023. ESOHR is monitoring a further six cases.

**Saudi Arabia’s escalating use of the death penalty**

1. Since Crown Prince Mohamed bin Salman and King Salman ascended to power in 2015, the annual execution rate in Saudi Arabia has almost doubled[[2]](#footnote-2).
2. In 2022, it became apparent that Saudi Arabia was carrying out secret executions. Between July and December 2022, Reprieve and ESOHR documented 26 executions, with a total of 147 executions in 2022. However, the Saudi Human Rights Commission (SHRC) later confirmed the total number of executions in 2022 was 196, making it the highest year on record for executions[[3]](#footnote-3). Of these executions, 49 were carried out secretly. The names and charges of these individuals remains unknown.
3. In November 2022, Saudi Arabia resumed executions for non-lethal drug offences, after an almost two-year hiatus. Since then, at least 59 individuals have been executed for drug related crimes.
4. In 2023, at least 172 individuals were executed in Saudi Arabia, including three women.
5. Between the months of January and March 2024, Saudi Arabia executed 43 individuals, including two women. There have been at least been five mass executions in 2024, in which 4 or more people killed at the same time.
6. ESOHR is aware of 69 cases of individuals at risk of the death penalty in Saudi Arabia, including nine child defendants. The true number of those at risk is almost certain to be higher.[[4]](#footnote-4)

**Child defendants on death row**

1. The SHRC issued a Royal Decree in 2020[[5]](#footnote-5) purporting to abolish the death penalty for child defendants.
2. The Royal Decree is not yet publicly available, nor has it been published in the Official Gazette.
3. Since June 2022, we have monitored three cases where courts have handed down death sentences to child defendants. ESOHR is aware of one other case where a child defendant was sentenced to death in 2023.
4. The Court of Appeal upheld child defendant Abdullah al-Howaiti’s[[6]](#footnote-6) death sentence in June 2022. Abdullah was arrested and tortured into confessing when he was 14 years old.[[7]](#footnote-7) Abdullah is currently awaiting the Supreme Court review of his case.
5. In August 2022, the Court of Appeal upheld the death sentence of Abdullah al-Derazi. Abdullah was sentenced to death for non-lethal, protest related offences that took place when he was under the age of 18. His conviction is based on torture tainted evidence.
6. In 2023, the Supreme Court upheld Abdullah al-Derazi’s sentence, meaning he could be executed at any time without notice.
7. In October 2022, child defendant Youssef al-Manasif was sentenced to death by the SCC for non-lethal offences, many of which took place when he a child. The SCC relied on Youssef’s torture-extracted confession to sentence him to death.
8. In March 2023, the Court of Appeal upheld Youssef’s death sentence. His current procedural posture is unclear.
9. ESOHR have identified a further six cases of child defendants at risk of the death penalty:
* Hassan Zaki al-Faraj
* Jawad Qarir
* Mahdi al-Muhsen
* Ali al-Sabaiti
* Ali al-Mubiuq
* Jalal al-Labad
1. In 2023, Jalal al-Labad had his death sentence upheld by the Supreme Court and is now at risk of imminent execution. His initial death sentence was handed down in July 2022 by the SCC, and upheld by the Court of Appeal later that year.
2. Saudi Arabia acceded to the Convention on the Rights of the Child in 1996, Article 37(a) of which prohibits the application of the death penalty for child defendants. These cases demonstrate that Saudi Arabia continues to be in violation of its obligations under international law regarding the use of the death penalty for childhood crimes.

**Implementation of Safeguards**

1. Our monitoring of the death penalty shows that Saudi Arabia consistently falls short of its obligations to afford special protections for individuals in capital trials, including ensuring adequate access to counsel at every stage of proceedings.
2. In the cases of child defendants Abdullah al-Derazi and Youssef al-Manasif, there has been a failure to ensure due process and access to legal representation. Abdullah was denied access to a court-appointed lawyer until 2021, after he had been sentenced to death. Abdullah’s father, who has no legal training, represented Abdullah at his SCC trial, as the family could not afford to appoint a lawyer.
3. Youssef al-Manasif was only allowed to meet with his state-appointed lawyer five years after his arrest, towards the end of his trial at the SCC in 2022. It appears that the lawyer did not have adequate resources. Youssef has only spoken with his lawyer three times.[[8]](#footnote-8)
4. Our documentation of these cases shows a consistent pattern of the use of torture to extract confessions that is used as evidence to sentence individuals to death. Abdullah al-Derazi and Youssef al-Manasif both required hospitalisation due to the severity of the torture inflicted upon interrogation.
5. All the charges against Abdullah and Youssef are non-lethal and do not meet the “most serious crimes” threshold as required by Saudi Arabia’s obligations under Article 6 of the Arab Charter[[9]](#footnote-9).
6. Reprieve and ESOHR have monitored the case of Salman Aloudah, who is at risk of the death penalty for charges that include “sarcasm and mockery of the government’s achievements”. Mr Alodah is currently being tried in the SCC on non-lethal charges that primarily relate to his peaceful exercise of freedom of expression, association and assembly.
7. Mr Alodah’s case demonstrates Saudi Arabia’s failure to ensure the implementation of safeguards guaranteeing the rights of those facing the death penalty. Mr Alodah has been held in solitary confinement since his arrest in 2017. He was held without charge and with no access to a lawyer for a year before his trial started.[[10]](#footnote-10)
8. Between September 2018 and July 2021, there were a series of hearings scheduled, the majority of which were postponed. No hearings have been scheduled in Mr Alodah’s case since July 2021.There is no indication when hearings will restart in his case or when an initial verdict will be handed down.
9. In October 2023, the UNWGAD issued an opinion finding Mr Alodah’s detention unlawful.
10. Throughout his detention, prison guards have physically and psychologically tortured Mr Alodah. As a result of the torture and mistreatment, Mr Alodah has become partially deaf and blind.
11. The majority of the charges against Mr Alodah do not specify any violations of Saudi domestic laws and appear to be uncodified in Saudi law, meaning a death sentence would be 'discretionary' and arbitrary.
12. In March 2023, Saudi Arabia executed torture victim Hussein Abo al-Kheir for non-lethal drugs charges. Mr al-Kheir was interrogated, tried and sentenced to death without ever having access to a lawyer.
13. In October 2022, the UNWGAD found that Mr al-Kheir was arbitrarily detained and that his deprivation of liberty "lack[ed] a legal basis". In light of this, they recommended that Saudi Arabia “quash his death sentence” and “immediately and unconditionally release him".[[11]](#footnote-11)
14. In the weeks prior to his execution, Mr al-Kheir had told his family that he had been advised to find legal representation ahead of a retrial. Despite this, on 12th March 2023, Mr al-Kheir was executed without notice. His family were informed of the news via Saudi Arabia’s official press.
15. Reprieve and ESOHR remain concerned about Saudi Arabia failure to codify a substantive penal code that defines common crimes.[[12]](#footnote-12) 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.[[13]](#footnote-13)
16. As a result, judges in Saudi Arabia retain wide-ranging powers to determine what behaviour may constitute a criminal offence and its resulting punishment.[[14]](#footnote-14)
17. In 2019, the UNWGAD explained that uncodified principles of discretionary punishment in Saudi Arabia could be used to deprive individuals of their liberty without a legal basis and violate the due process of law.[[15]](#footnote-15)
18. The ICCPR states “the death penalty can never be imposed if it was not provided by law for the offence at the time of its commission.” [[16]](#footnote-16)
19. In 2021, Crown Prince Mohammed bin Salman announced the codification of a penal code.[[17]](#footnote-17) At the time of writing this submission, the proposed penal code had not been promulgated.[[18]](#footnote-18)
1. Reprieve and ESOHR maintain an up to date database recording disaggregated information on executions, including information on nationality, sex and nature of the charges. This is limited to the executions that Saudi Arabia announces via its official state media, such as the SPA, or via social media accounts belonging to the Ministry of Interior. The true number of executions is likely to therefore be higher. [↑](#footnote-ref-1)
2. European Saudi Organization for Human Rights and Reprieve, ‘Bloodshed and Lies: Mohammed Bin Salman’s Kingdom of Executions’, January 2022, <https://reprieve.org/wp-content/uploads/sites/3/2023/01/Bloodshed-and-Lies-Mohammed-bin-Salmans-Kingdom-of-Executions.pdf> [↑](#footnote-ref-2)
3. Foreign, Commonwealth & Development Office, Human Rights and Democracy Report 2022, 13 July 2023, <https://www.gov.uk/government/publications/human-rights-and-democracy-report-2022/human-rights-and-democracy-the-2022-foreign-commonwealth-development-office-report#chapter-4-safeguarding-human-rights> [↑](#footnote-ref-3)
4. Saudi Arabia does not make data related to its use of the death penalty public, so the true figure of individuals going through capital trials or on death row is unknown. [↑](#footnote-ref-4)
5. Historical HRC Tweet (now taken down) (October 21 2021) available at: <https://reprieve.org/wp-content/uploads/sites/2/2021/04/2020_10_21_PUB_KSA_Tweet_DeathPenaltyJuveniles.jpg> [↑](#footnote-ref-5)
6. Information on all indivudals mentioned in this submission are held on file by Reprieve and ESOHR. [↑](#footnote-ref-6)
7. . The Supreme Court had overturned Abdullah’s original death sentence, but the Court of First Instance sentenced him to death again in his retrial in March 2022. [↑](#footnote-ref-7)
8. Information saved on file at Reprieve. [↑](#footnote-ref-8)
9. League of Arab States, ‘Arab Charter on Human Rights’, accessible here: <https://www.ohchr.org/sites/default/files/Documents/Issues/IJudiciary/Arab-Charter-on-Human-Rights-2005.pdf> [↑](#footnote-ref-9)
10. The SCC was established to try state security and terror-related cases, however in reality is used to crack down on activities, lawyers and human rights defenders, see also: Amnesty International, Muzzling critical voices: politicized trials before Saudi Arabia’s Specialized Criminal Court, 6 February 2020, available at: <https://www.amnesty.org/en/documents/mde23/1633/2020/en/> [↑](#footnote-ref-10)
11. UN WGAD Opinion 36/2022 concerning Hussein Abo al-Kheir (Saudi Arabia), Opinion dated 20 October 2022, <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session93/2022-11-21/A-HRC-WGAD-2022-36-SaudiArabia-AEV.pdf> [↑](#footnote-ref-11)
12. Chibli Mattar, ‘Mapping Saudi Criminal Law’ [2021] 68(4) American Journal of Comparative Law, available at: https://doi-org. eres.qnl.qa/10.1093/ajcl/avaa032. [↑](#footnote-ref-12)
13. Royal Decree No.39/M of 1422 (2001) on the Law of Criminal Procedure, official English translation available at: https://www. saudiembassy.net/law-criminal-procedure. [↑](#footnote-ref-13)
14. Punishments are subject to the three categories of crime and punishment under Islamic law: qisas (retributive), had (mandatory) and ta’zir (discretionary). [↑](#footnote-ref-14)
15. UN Working Group on Arbitrary Detention, Opinion No. 26/2019 concerning Abdelkarim Mohamed Al Hawaj and Mounir Abdullah Ahmad Aal Adam (Saudi Arabia), paragraph 96, available at: <https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session84/A_HRC_WGAD_2019_26_AdvanceEditedVersion.pdf> [↑](#footnote-ref-15)
16. ICCPR, Human Rights Committee, ‘General Comment No. 36’, 3 September 2019, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsrdB0H1l5979OVGGB%2BWPAXhNI9e0rX3cJImWwe%2FGBLmVrGmT01On6KBQgqmxPNIjrLLdefuuQjjN19BgOr%2FS93rKPWbCbgoJ4dRgDoh%2FXgwn> [↑](#footnote-ref-16)
17. Reuters, ‘Saudi Arabia announces new judicial reforms in a move towards codified law’, 8 February 2021, available at: https:// www.reuters.com/article/us-saudi-judiciary-idUSKBN2A82E6. [↑](#footnote-ref-17)
18. In March 2024, Amnesty published its analysis of an unofficial, draft penal code that was leaked online in July2022 and found that this unofficial draft. “falls woefully short of universal human rights standards”. The Saudi Human Rights Commission has denied the draft’s authenticity. More information at: Amnesty, Saudi Arabia: Repressive draft penal code shatters illusions of progress and reform, 19 March 2024, accessed here: <https://www.amnesty.org/en/latest/news/2024/03/saudi-arabia-repressive-draft-penal-code-shatters-illusions-of-progress-and-reform> [↑](#footnote-ref-18)