



## The Death Penalty in Saudi Arabia and Bahrain

### I. Saudi Arabia

#### A. Legal Parameters

Capital punishment is legal in Saudi Arabia, but there is no formal penal code that governs its use.<sup>1</sup> In the absence of codification, judges exercise broad discretionary power to determine sentences.<sup>2</sup> This power allows Saudi courts to issue the death penalty for crimes that do not carry mandatory death sentences. Violent crimes that are commonly punishable by death include murder, rape, armed robbery, and terrorist acts that result in loss of life.<sup>3</sup> Non-violent crimes that may warrant the death penalty include adultery, apostasy, drug-related offenses, witchcraft, and sorcery.<sup>4</sup>

Saudi Arabia acceded to the UN Convention on the Rights of the Child (UNCRC) in 1996, which stipulates that individuals may not be sentenced to death for crimes committed under the age of 18.<sup>5</sup> Nevertheless, Saudi law does not prohibit the execution of minors.<sup>6</sup> Instead, judges maintain the authority to decide whether a defendant should be tried as an adult by determining if the individual displays physical signs of puberty at the time of trial.<sup>7</sup> Consequently, Saudi courts have sentenced defendants to death for crimes committed when they were as young as 13 years old.<sup>8</sup>

Additionally, the Saudi government has consistently violated defendants' due process rights in capital cases. Defendants have reported being subjected to indefinite detention without charge, irregular access to counsel, and torture.<sup>(9)(10)</sup> The government has also failed to inform defendants of their charges, denied them access to evidence, and held their legal proceedings in secret.<sup>(11)(12)</sup>

#### B. Recent Updates

On 2 January 2016, the Government of Saudi Arabia executed 47 people in a single day, including mentally ill prisoners, prisoners convicted of crimes committed as minors, and the cleric and political

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<sup>1</sup> "World Report 2015: Saudi Arabia: Events of 2014," Human Rights Watch, 29 January 2015, <https://www.hrw.org/world-report/2015/country-chapters/saudi-arabia>

<sup>2</sup> "Sacrifice to the State: Capital Punishment in Bahrain and Saudi Arabia," Americans for Democracy & Human Rights in Bahrain, 9 April 2015, <http://www.adhrb.org/wp-content/uploads/2015/04/Sacrifice-to-the-State-Capital-Punishment.pdf>

<sup>3</sup> "Death Penalty Database: Saudi Arabia," Death Penalty Worldwide, 4 April 2011, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Saudi+Arabia&region=&method=#f5-2>

<sup>4</sup> "The death penalty in Saudi Arabia: Facts and Figures," Amnesty International, 25 August 2015,

<https://www.amnesty.org/en/latest/news/2015/08/the-death-penalty-in-saudi-arabia-facts-and-figures/>.

<sup>5</sup> "Status of Ratification Interactive Dashboard: Saudi Arabia," The Office of the High Commission for Human Rights, 2014,

<http://indicators.ohchr.org/>

<sup>6</sup> "Iran, Saudi Arabia, Sudan: End Juvenile Death Penalty," Human Rights Watch, 8 October 2010, <https://www.hrw.org/news/2010/10/08/iran-saudi-arabia-sudan-end-juvenile-death-penalty>

<sup>7</sup> Adam Coogle, "Saudi Arabia's Troubling Death Sentence," Human Rights Watch, 26 September 2015,

<https://www.hrw.org/news/2015/09/26/saudi-arabias-troubling-death-sentence>.

<sup>8</sup> Human Rights Watch, "Iran, Saudi Arabia, Sudan: End Juvenile Death Penalty."

<sup>9</sup> Law enforcement officials held Ali Nimr for nine months before he saw a judge, and then denied him access to a lawyer: Adam Coogle, "Saudi Arabia's Troubling Death Sentence," Human Rights Watch, 26 September 2015, <https://www.hrw.org/news/2015/09/26/saudi-arabias-troubling-death-sentence>

<sup>10</sup> Dawood and Abdullah faced some of the same violations as Ali Nimr: "Saudi Arabia: Fears grow that three young activists could soon be executed," Amnesty International, 16 October 2015, <https://www.amnesty.org/en/latest/news/2015/10/saudi-arabia-three-young-activists-could-soon-be-executed/>

<sup>11</sup> Human Rights Watch, "World Report 2015: Saudi Arabia: Events of 2014."

<sup>12</sup> "Death Sentences and Executions: 2014," Amnesty International, 2015, [https://www.amnestyusa.org/pdfs/DeathSentencesAndExecutions2014\\_EN.pdf](https://www.amnestyusa.org/pdfs/DeathSentencesAndExecutions2014_EN.pdf), pg. 51



activist Sheikh Nimr al-Nimr.<sup>13</sup> The Specialized Criminal Court (SCC) sentenced Sheikh Nimr to death on 15 October 2014 for crimes related to his peaceful free speech, including disobeying the ruler, and encouraging demonstrations.<sup>14</sup> Throughout the proceedings, Saudi authorities prevented Sheikh Nimr from consistently accessing legal counsel,<sup>15</sup> refused his defense team the opportunity to cross-examine government witnesses, and replaced the judge mid-trial.<sup>16</sup>

Abdulaziz al-Toaili'e was one of the two prisoners reportedly suffering from mental illness when they were executed on 2 January 2016.<sup>17</sup> Al-Toaili'e reportedly became severely mentally unwell after authorities subjected him to prolonged physical and psychological torture during his imprisonment.<sup>18</sup> According to his former cellmate, al-Toaili'e had begun to speak with insects, run around naked and screaming, and consume his own bodily waste.<sup>19</sup> On 14 April 2015, Saudi Arabia executed an Indonesian woman, Siti Zainab Binti Duhri Rupa, another individual suspected to suffer from mental illness.<sup>20</sup>

Saudi Arabia also recently sentenced and executed individuals for alleged crimes committed as minors. One of the 47 individuals executed on 2 January 2016 was Chadian national Mustafa Abkar.<sup>21</sup> Saudi security forces arrested Mustafa in Mecca on 19 June 2003, when he was 13 years old.<sup>22</sup> The government sentenced him to death eleven years later, on 14 October 2014.

That same year, the SCC sentenced Ali al-Nimr, Dawood Hussein al-Marhoon, and Abdullah Hasan al-Zahar to death for crimes related to their participation in protests in 2012.<sup>23</sup> All three were under 18 at the time of their arrests, and all three allege they were tortured into confessing.<sup>24</sup> With their appeals exhausted, Ali, Dawood, and Abdullah could be executed at any time.

On 11 March 2016, the Saudi news website *Okaz* published an article announcing the impending execution of four unnamed "terrorists," noting that they would contribute to the larger group executed in January.<sup>25</sup> As Saudi authorities did not execute Ali, Dawood, and Abdullah during the previous mass execution, independent human rights organizations have expressed concern that they could belong to this group of "terrorists."<sup>26</sup>

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<sup>13</sup> "Saudi Arabia: Mass Execution Largest Since 1980," Human Rights Watch, 4 January 2016, <https://www.hrw.org/news/2016/01/04/saudi-arabia-mass-execution-largest-1980>

<sup>14</sup> "Sheikh Nimr al-Nimr: Saudi Arabia executes top Shia cleric," BBC News, 2 January 2016, <http://www.bbc.com/news/world-middle-east-35213244>

<sup>15</sup> Mandates of the UN Special Procedures to the Government of Saudi Arabia concerning the case of Sheikh Nimr Baqir al-Nimr, 17 November 2014, [https://spdb.ohchr.org/hrdb/28th/public - UA Saudi Arabia 17.11.14 \(12.2014\).pdf](https://spdb.ohchr.org/hrdb/28th/public - UA Saudi Arabia 17.11.14 (12.2014).pdf)

<sup>16</sup> "Saudi Arabia: Appalling death sentence against Shi'a cleric must be squashed," Amnesty International, 15 October 2014,

<https://www.amnesty.org/en/latest/news/2014/10/saudi-arabia-appalling-death-sentence-against-shi-cleric-must-be-quashed/>.

<sup>17</sup> Rori Donaghy and Linah Alsaafin, "REVEALED: Juvenile prisoners and mentally ill killed in Saudi executions," *Middle East Eye*, 8 January 2016, <http://www.middleeasteye.net/news/untold-story-prisoners-arrested-children-and-mentally-unwell-inmates-executed-saudi-8396661>

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> Amnesty International "Saudi Arabia: Fears grow that three young activists could soon be executed."

<sup>24</sup> Michael Kaplan, "Who Is Abdullah Al-Zaher? Saudi Arabian Teenager Set For Execution By Beheading For Anti-Government Protest," *International Business Times*, 21 December 2015, <http://www.ibtimes.com/who-abdullah-al-zaher-saudi-arabian-teenager-set-execution-beheading-anti-government-2234466>

<sup>25</sup> "القصاص ينتظر 4 إرهابيين نفذوا مخططات إجرامية" 3 March 2016, <http://www.okaz.com.sa/new/mobile/20160311/Con20160311828560.htm>

<sup>26</sup> "Saudi Arabia: execution announcement raises concern over fate of three young activists," Americans for Democracy & Human Rights in Bahrain, 14 March 2016, <http://www.adhrb.org/2016/03/saudi-arabias-impending-execution-announcement-raises-concern/>



In 2015, Saudi Arabia executed 158 people, up from 90 in 2014.<sup>(27) (28)</sup> As of 23 March, Saudi authorities had reportedly executed 76 people in 2016.<sup>29</sup>

## C. Pardons and Commutations

Within the Saudi criminal justice system, the possibility for pardons and commutations differs by the ‘family’ of crime. Several offenses that are listed in the Quran, known as *hadd* crimes, warrant a specific penalty that can be neither reduced nor augmented. Apostasy for example, is a *hadd* crime that warrants capital punishment.<sup>30</sup> In cases involving the *qisas* category of offenses, however, the victim’s family can choose to commute the sentence.<sup>31</sup> For these crimes, which include murder, the family can also demand compensation, known as *diyya* or ‘blood money,’ in lieu of execution.<sup>(32)(33)34</sup> Finally, the king retains the ultimate authority to approve or cancel a death sentence after the appeals process has been exhausted.<sup>35</sup>

## II. Bahrain

### A. Legal Parameters

The death penalty is legal in Bahrain.<sup>36</sup> Crimes that are punishable by the death penalty generally fall under the category of treason, such as harming the territorial integrity and independence of the state, or taking up arms against the government.<sup>37</sup> The Criminal Code also provides judges great discretion in sentencing for any crime designated “serious”.<sup>38</sup> The penalty for crimes such as these can be capital punishment, or imprisonment and civil disqualification for a period of three to fifteen years. Other crimes that are punishable by death include apostasy and drug trafficking.<sup>39</sup>

In addition to the crimes specified in the Penal Code, new amendments to Bahrain’s anti-terror law allow courts to impose the death penalty for a number of “state security” or terror-related crimes.<sup>40</sup> The anti-terror law lacks a precise definition of terrorism, however. It does not require there to be specific purpose to commit a terrorist act, and some acts are deemed to be “terrorist” crimes without the

<sup>27</sup> “Country Profile: Saudi Arabia, 2015/2016,” Amnesty International, 2016, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/saudi-arabia/report-saudi-arabia/>

<sup>28</sup> Samuel Osborne, “Saudi Arabia ends 2015 with one final execution,” *The Independent*, 1 January 2016, <http://www.independent.co.uk/news/world/middle-east/saudi-arabia-ends-2015-with-one-final-execution-a6793506.html>

<sup>29</sup> “Saudi put to death in kingdom’s 76th execution of year,” *Dunya News*, 23 March 2016, <http://dunyanews.tv/en/Crime/328889-Saudi-put-to-death-in-kingdoms-76th-execution-of->

<sup>30</sup> “Mapping the Saudi State, Chapter 8: The Judiciary and the Ministry of Justice,” Americans for Democracy & Human Rights in Bahrain, 3 November 2015, <http://www.adhrb.org/2015/11/mapping-the-saudi-state-chapter-8-the-ministry-of-justice/>

<sup>31</sup> *Ibid.*

<sup>32</sup> Death Penalty Worldwide, “Death Penalty Database: Saudi Arabia.”

<sup>33</sup> Nick Robins-Early, “Saudi Arabia Ends A Brutal Year Of Executions By Beheading A Filipino National,” *Huffington Post*, 31 December 2015, [http://www.huffingtonpost.com/entry/saudi-arabia-executions-zapanta\\_us\\_5684096ce4b014efe0d9bdf](http://www.huffingtonpost.com/entry/saudi-arabia-executions-zapanta_us_5684096ce4b014efe0d9bdf)

<sup>34</sup> Nesrine Malik, “Paralysis or blood money? Skewed justice in Saudi Arabia,” *The Guardian*, 5 April 2013, <http://www.theguardian.com/commentisfree/2013/apr/05/sharia-law-diyva-saudi>

<sup>35</sup> Rory Donaghy, “Father of young Saudi protester facing crucifixion fears imminent execution,” *Middle East Eye*, 25 September 2015, <http://www.middleeasteye.net/news/father-young-saudi-protester-facing-crucifixion-fears-imminent-execution-1278235287#sthash.I5ZmASGk.dpuf>

<sup>36</sup> “Death Penalty Database: Bahrain,” *Death Penalty Worldwide*, 23 January 2011, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Bahrain>

<sup>37</sup> “Bahrain Penal Code, 1976,” 1976

[https://www.unodc.org/res/cld/document/bhr/1976/bahrain\\_penal\\_code\\_html/Bahrain\\_Penal\\_Code\\_1976.pdf](https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf) pg 32-36, 45

<sup>38</sup> *Ibid.*

<sup>39</sup> American for Democracy & Human Rights in Bahrain “Sacrifice to the State: Capital Punishment in Bahrain and Saudi Arabia.”

<sup>40</sup> Yara Bayoumy, “Bahrain king toughens anti-terrorism laws, rights groups cry foul,” *Reuters*, 1 August 2013, <http://www.reuters.com/article/us-bahrain-rights-idUSBRE9700HI20130801>



intention to cause death or serious injury.<sup>41</sup> The Government of Bahrain has exploited this ambiguity to criminalize certain acts of expression, assembly, and association.<sup>42</sup>

Minors, defined as persons below the age of 18, are not subjected to the death penalty in Bahrain. Additionally, the government does not apply the death penalty to mentally ill prisoners. If the accused is found to have been mentally ill at the time of the offense, during the course of the interrogation, or after sentencing, the person is required to be placed in a sanitarium.<sup>43</sup>

Nevertheless, Bahrain's use of the death penalty violates its obligations under the International Covenant for Civil and Political Rights (ICCPR), to which Bahrain acceded in 2006.<sup>44</sup> The ICCPR stipulates that the death penalty must only be handed down for the most serious crimes, and that fair trial standards must be applied, including an absolute prohibition against torture.<sup>45</sup> Individuals sentenced to death in Bahrain have reported frequent violations of these due process rights, such as arrests without warrants, irregular access to legal counsel, and the use of torture to extract confessions.<sup>(46)(47)</sup> Mohamed Ramadan, one of several individuals currently on death row, reported that Bahraini authorities tortured him for four days until he agreed to make a false confession.<sup>48</sup>

During its Second Universal Periodic Review in 2012, Bahrain rejected several recommendations to commute the death sentences of prisoners on death row, abolish the death penalty, introduce a formal moratorium, or consider the possibility of removing the death penalty from its legal system.<sup>49</sup>

## B. Recent Updates

Though Bahraini authorities have not executed anyone since 2010, courts have continued to issue death sentences primarily on the grounds of "state security."<sup>(50)(51)</sup>

On 31 December 2015, Bahraini courts rejected the first appeal of death row inmate Salman Isa, and sentenced another man to death. This brings the total number of prisoners on death row to ten.<sup>52</sup> The High Criminal Court sentenced Salman Isa to death on 29 April 2015 for his alleged involvement in a

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<sup>41</sup>"Bahrain Law on Counter-Terrorism," Bahrain Center for Human Rights, 2 October 2010, <http://www.bahrainrights.org/en/node/3449>

<sup>42</sup> Ibid.

<sup>43</sup> Death Penalty Worldwide, "Death Penalty Database: Bahrain."

<sup>44</sup> "United Nations Treaty Collection: International Covenant on Civil and Political Rights accession status," United Nations, 14 March 2016, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg\\_no=IV-4&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-4&chapter=4&lang=en)

<sup>45</sup> "NGOs across the globe condemn use of death penalty in Bahrain," Americans for Democracy & Human Rights in Bahrain, 16 December 2015, <http://www.adhrb.org/2015/12/ngos-across-the-globe-condemn-use-of-death-penalty-in-bahrain/>

<sup>46</sup> Americans for Democracy & Human Rights in Bahrain, "NGOs across the globe condemn use of death penalty in Bahrain."

<sup>47</sup>"United Nations Working Group on Arbitrary Detention, Special Rapporteurs letter to Bahrain," Special Rapporteurs on rights to freedom of peaceful assembly and of association; independence of judges and lawyers; promotion and protection of human rights while countering terrorism; on torture and other cruel and inhuman treatment or punishment, 14 August 2014, [https://spdb.ohchr.org/hrdb/28th/Public - UA Bahrain 14.08.14 %2811.2014%29 Pro.pdf](https://spdb.ohchr.org/hrdb/28th/Public-UA_Bahrain_14.08.14_%2811.2014%29_Pro.pdf)

<sup>48</sup> Special Rapporteurs on rights to freedom of peaceful assembly and of association, independence of judges and lawyers, promotion and protection of human rights while countering terrorism, on torture and other cruel and inhuman treatment or punishment, "United Nations Working Group on Arbitrary Detention, Special Rapporteurs letter to Bahrain."

<sup>49</sup> "A Follow-Up Report on Bahrain's UPR Second Cycle: The Deteriorating of Human Rights," Americans for Democracy & Human Rights in Bahrain, 23 April 2014, [http://www.adhrb.org/wp-content/uploads/2014/04/ADHRB\\_February2014\\_web.pdf](http://www.adhrb.org/wp-content/uploads/2014/04/ADHRB_February2014_web.pdf), pg 62

<sup>50</sup> American for Democracy & Human Rights in Bahrain "Sacrifice to the State: Capital Punishment in Bahrain and Saudi Arabia."

<sup>51</sup> Ibid.

<sup>52</sup> "NGOs condemn death sentences in Bahrain after record year," International Federation for Human Rights (FIDH), 8 January 2016, <https://www.fidh.org/en/region/north-africa-middle-east/bahrain/ngos-condemn-death-sentences-in-bahrain-after-record-year>



bomb attack that killed a police officer in 2014.<sup>53</sup> It is suspected that the authorities subjected him and his co-defendants to torture or other forms of coercion in order to extract false confessions.<sup>54</sup>

In 2015, Bahraini courts delivered seven new death sentences, four of which were issued the same week in December.<sup>55</sup> In November 2015, the Court of Cassation rejected the appeals of death row inmates Mohamed Ramadan and Husain Ali Moosa.<sup>56</sup> Bahraini courts initially sentenced Ramadan and Moosa to death on 29 December 2014 for their alleged involvement in a February 2014 bomb explosion.<sup>57</sup> Both men claim that they were tortured into confessing, and both men later recanted their confessions.<sup>58</sup> As noted by a number of UN special procedures, the courts failed to consider the defendants' allegations and convicted them "without any concrete evidence" beyond their recanted confessions.<sup>59</sup> With the rejection of their final appeals in November 2015, Ramadan and Moosa became the first persons since 2010 to have exhausted all legal avenues of appeal. They stand at risk of imminent execution.<sup>60</sup>

### C. Pardons and Commutations

Individuals sentenced to death in Bahrain can appeal their convictions to the Court of Cassation, the country's highest court of appeals<sup>61</sup>. The Court of Cassation considers only procedural technicalities, however.<sup>62</sup> Once the Court of Cassation upholds a death sentence, it is sent to the king, who has the authority to ratify the sentence, commute it, or grant a pardon.<sup>63</sup>

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<sup>53</sup> "July Champions for Justice: Bahrain's Death Row Prisoners," Americans for Democracy & Human Rights in Bahrain, 8 July 2015, <http://www.adhrb.org/2015/07/july-champions-for-justice-bahrain-death-row-prisoners/>

<sup>54</sup> Americans for Democracy & Human Rights in Bahrain, "July Champions for Justice: Bahrain's Death Row Prisoners."

<sup>55</sup> "European Parliament Resolution on Bahrain: the case of Mohammed Ramadan," European Union: European Parliament, 2 February 2016, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+B8-2016-0194+0+DOC+XML+V0//EN&language=en>

<sup>56</sup> FIDH, "NGOs condemn death sentences in Bahrain after record year."

<sup>57</sup> Americans for Democracy & Human Rights in Bahrain, "July Champions for Justice: Bahrain's Death Row Prisoners."

<sup>58</sup> Ibid.

<sup>59</sup> "Mandates of the Special Rapporteurs Letter to Bahrain," Special Rapporteurs on independence of judges and lawyers; extrajudicial, summary, or arbitrary executions; torture and other cruel, inhuman or degrading treatment or punishment, 20 November 2015, [https://spdb.ohchr.org/hrdb/31st/public-UA\\_Bahrain\\_20.11.15\\_\(7.2015\).pdf](https://spdb.ohchr.org/hrdb/31st/public-UA_Bahrain_20.11.15_(7.2015).pdf)

<sup>60</sup> FIDH, "NGOs condemn death sentences in Bahrain after record year."

<sup>61</sup> "NGOs Condemn Death Sentences in Bahrain After Record Year," Americans for Democracy & Human Rights in Bahrain, 8 January 2016, <http://www.adhrb.org/2016/01/ngos-condemn-death-sentences-in-bahrain-after-record-year/>

<sup>62</sup> "Bahrain must commute protesters' death sentences," Amnesty International, 23 May, 2011, <https://www.amnesty.org/en/latest/news/2011/05/bahrain-must-commute-protesters-death-sentences/>

<sup>63</sup> "Urgent Action: death sentences upheld at final appeal," Amnesty International, 12 January 2016, <file:///C:/Users/ADHRB%20Laptop%203/Downloads/MDE1131802016ENGLISH.pdf>