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Human rights situations that require the Council's attention

Written statement* submitted by Reprieve, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 August 2020]

* Issued as received, in the language(s) of submission only.

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Situation relating to Child Executions in 2020

On 26 January 1996, in acceding to the Convention on the Rights of the Child (CRC), Saudi Arabia committed to completely ending child executions within its territory.¹ Despite this commitment, the Kingdom has continued to violate this very basic human right. While the Kingdom has recently promulgated reforms that would ostensibly abolish the execution of children, loopholes within these laws will continue to legalize the State-sponsored killing of children. On the occasion of the 45th Session of the Human Rights Council, and in light of Saudi Arabia's candidacy for and presumed successful election to that Council, Reprieve and the European Saudi Organization for Human Rights (ESOHR) condemn the Saudi government's continued practice of executing children, and call on the government to re-examine and re-write existing law towards the complete and total abolition of child executions.

The CRC is extremely clear on the subject of capital punishment applied to children. Article 37(a) states:

"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..."²

Despite this clarity, and in contravention of international human rights law and basic standards of decency, the Saudi government has executed 11 children during the reign of King Salman. Saudi Arabia executed four children in 2016. Saudi Arabia executed six children in 2019. Saudi Arabia executed one child as recently as April 2020. A further 13 children face the death penalty at various stages of trial; three of them may be executed at any time.³

Beginning in 2018, the Saudi government instituted a series of reforms on the subject of child executions – reforms that it recently claimed would completely abolish the practice. The 2018 Juvenile Law restricted child executions for "ta'zir" offences,⁴ but continued to reserve the right to execute children for "hudud" and "qisas" offences, which include crimes such as murder, banditry, and, according to recent interpretations from the Office of the Public Prosecution, terrorism – a broad crime in Saudi Arabia that encompasses everything from throwing Molotov cocktails to attending certain funerals.⁵ A recent reform published by the Saudi Human Rights Commission in April 2020 applied that law retroactively, but still omitted "hudud" and "qisas" crimes. Despite the Commission's claim that the law would effectively abolish the death penalty against children throughout the Kingdom,⁶ ESOHR and Reprieve analysis indicates that as many as nine of the 13 children currently facing the death penalty in Saudi Arabia remain unaffected by the law, while those that the law would supposedly aid have yet to see any action on their cases and remain at risk of imminent execution.

Action on these reforms has yet to materialize. The 2020 Royal Decree has yet to be published in official channels. Further, while the government promised in April that it would begin reviewing cases of children on death row in earnest, those investigations have yet to occur.

¹ United Nations Treaties Convention. "11. Convention on the Rights of the Child." Chapter IV, Human Rights. Accessed 14 August 2020. Available at https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtidsg_no=IV-11&chapter=4&clang=en.

² Office of the United Nations High Commissioner for Human Rights. "The Convention on the Rights of the Child." The United Nations. Published 20 November 1989. Accessed 14 August 2020. Available at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

³ Internal ESOHR and Reprieve sources.

⁴ Saudi Arabia divides criminal responsibility into three categories called qisas, hudud, and ta'zir. Qisas and hudud offences are defined in the Saudi Sharia, while the definition and punishment of ta'zir offences is left to the discretion of the government.

⁵ Internal ESOHR and Reprieve analysis.

⁶ Reprieve. "Loopholes in Saudi promise to end death sentences against children." Published 27 April 2020. Accessed 14 August 2020. Available at <https://reprieve.org.uk/press/loopholes-in-saudi-promise-to-end-death-sentences-against-children/>.

As a result, three children that have exhausted their legal options remain at imminent risk of execution.

Ali al-Nimr

Ali al-Nimr was born on 20/12/1994. He was arrested 14/02/2012, when he was 17 years old. Ali was deprived of the right to counsel at all stages of investigation and trial, and denied the right to a trial within a reasonable time-frame. While holding him in detention, government agents tortured Ali. The government conducted his trial in secret, where the judge based his ruling on statements extracted under torture. On 27/05/2014, the judge sentenced him to death under “ta’zir” punishment. The ruling was confirmed on appeal, and he may be executed at any moment.⁷

Dawood al-Marhoon

Dawood al-Marhoon was born on 06/02/1995. He was arrested on 15/05/2012, when he was 17 years old. He was arrested from a hospital, where he was receiving treatment for an injury to his eye. After his arbitrary arrest, the government transferred Dawood to the Security Force Hospital, and then afterwards to a juvenile detention center before the end of his medical treatment, regardless of continued pain in his eye. Then, he was detained in solitary confinement for a week, during which time government agents tortured him and extracted a coerced confession. The government relied substantially upon this confession in convicting him on 27/10/2014. The judge sentenced Dawood to death under “ta’zir”, and the ruling was confirmed on appeal. He may be executed at any moment.⁸

Abdullah al-Zaher

Abdullah al-Zaher was born 24/03/1996. He was arrested on 03/03/2013, when he was 15 years old. Saudi authorities shot at him during his arrest, and subsequently caught him and hit him with their weapons until he fell on the ground bleeding. The authorities initially confined Abdullah at al-Awwamiyya city police station, where they beat him with iron wire all over his body, to visible effect. He was subsequently transferred to Qatif police station for investigation and then transferred on to a juvenile detention centre. Authorities tortured Abdullah until he signed a false confession, which the government used to secure a guilty verdict at the Specialised Criminal Court on terrorism on 21/10/2014. The judge sentenced Abdullah to death under “ta’zir”, a ruling that was confirmed by the Supreme Court on appeal. He may be executed at any time.⁹

A further nine children facing the death penalty at various stages of trial would remain completely unaffected by the recent reforms.¹⁰ Those children include Mohammed al-Faraj. Police arrested Mohammed in June 2017 when he was 15 years old. They held him incommunicado for two days before transferring him to an adult prison, where Saudi agents interrogated and tortured him. They beat him and kicked him, kept him in stress positions, and held him in solitary confinement for two months, until he confessed to his charges. The Public Prosecution requested a “hudud” death penalty against Mohammad for “herabah”, or “waging war against Allah”. He is charged with sending WhatsApp messages to a man who was allegedly wanted by the security forces, and with attending funerals and protests, including the funeral of his uncle at the age of nine. Mohammed has never been given access

⁷ Reprieve. “Ali al-Nimr.” Accessed 14 August 2020. Available at <https://reprieve.org.uk/case-study/ali-al-nimr/>.

⁸ Reprieve “Dawood al-Marhoon.” Accessed 14 August 2020. Available at <https://reprieve.org.uk/case-study/dawood-al-marhoon/>.

⁹ Reprieve. “Abdullah Hassan al-Zaher.” Accessed 14 August 2020. Available at <https://reprieve.org.uk/case-study/abdullah-hasan-al-zaher/>.

¹⁰ Internal ESOHR and Reprieve sources.

to a lawyer, and is said to have presented a written document ‘confessing’ to the offences and requesting mercy from the judge, which was obtained under coercion.¹¹

The Saudi treatment of these children, its incarceration of them for acts often protected by international law, its torture of them, and its attempts towards their execution, stand in violation of voluntary commitments made by the Kingdom to the international community. The country’s actions blatantly violate international human rights law, as well as basic standards of human decency.

As Saudi Arabia seeks to rejoin the Members of the Human Rights Council, we call on the Saudi government to respect and actualize the commitment that it made in 1996 when it acceded to the Convention on the Rights of the Child, and that it recently re-made in April 2020 when it stated that it would completely abolish the death penalty in the Kingdom. We insist upon the immediate commutation of the sentences of Ali al-Nimr, Abdullah al-Zaher, and Dawood al-Marhoon, as well as their release per the Working Group on Arbitrary Detention Decision of 2016.¹² We further demand the immediate withdrawal of the demand for the death penalty against Mohammed al-Faraj and the eight other children currently facing the death penalty at various stages of litigation. Finally, we demand that the government close any and all loopholes providing the Public Prosecution with the ability to seek the death sentence against children.

European Saudi Organization for Human Rights, an NGO without consultative status, also shares the views expressed in this statement.

¹¹ Reprieve. “Mohammed Essam al-Faraj.” Accessed 14 August 2020. Available at <https://ne-np.facebook.com/ReprieveHQ/posts/mohammed-essam-al-faraj-was-15-when-he-was-arrested-as-he-was-leaving-a-bowling-/10158484029274288/>.

¹² Human Rights Council Working Group on Arbitrary Detention. “Opinion No. 61/2016 concerning three minors (minors A, B, and C, whose names are known to the Working Group) (Saudi Arabia).” 6 February 2017. A/HRC/WGAD/2016/61, Para. 67. Accessed 14 August 2020. Available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session77/A_HRC_WGAD_2016_61_AEV.pdf.