



## SAUDI ARABIA

### SUBMISSION TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD

73<sup>rd</sup> SESSION, 13-30 SEPTEMBER 2016

#### INTRODUCTION

Amnesty International submits this briefing in advance of the September 2016 consideration of Saudi Arabia's combined third and fourth periodic reports in respect of the country's implementation of the United Nations (UN) Convention on the Rights of the Child (CRC). It sets out Amnesty International's concerns about Saudi Arabia's use of the death penalty for offences committed by persons below 18 years of age in breach of its obligations under the CRC. As such, this briefing is not an exhaustive account of Amnesty International's concerns regarding the implementation of the Convention by Saudi Arabia.

#### USE OF THE DEATH PENALTY FOR OFFENCES COMMITTED BY PERSONS UNDER THE AGE OF 18

In its Concluding Observations following the consideration of the second periodic report of Saudi Arabia in 2006, the UN Committee on the Rights of the Child urged Saudi Arabia "to take the necessary steps to immediately suspend the execution of all death penalties imposed on persons for having committed a crime before the age of 18, to take the appropriate legal measures to convert them into penalties in conformity with the provisions of the Convention and to abolish as a matter of the highest priority the death penalty as a sentence imposed on persons for having committed crimes before the age of 18, as required by article 37 of the Convention".<sup>1</sup> However, Saudi Arabia continues to violate article 37 of the CRC by using the death penalty for offences committed by persons below 18 years of age. Amnesty International could not obtain verifiable statistics on the execution of juveniles since the Convention was adopted. The last execution of a juvenile offender recorded by Amnesty International was that of Rizana Nafeek in January 2013, however, reports suggest that at least one of the 47 individuals executed on 2 January 2016 was under 18 years of age at the time of the offence for which he was

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<sup>1</sup> United Nations, Committee on the Rights of the Child, CRC/C/SAU/CO/2, 17 March 2006, Para 33.

sentenced to death occurred.<sup>2</sup>

Amnesty International would like to draw the Committee's attention to cases where Saudi Arabia imposed the death penalty on persons who were below 18 years of age at the time of their offence; in some cases the death sentence has not yet been executed. These cases also illustrate Amnesty International's concerns that the Saudi Arabian authorities fail to: respect fair trial guarantees provided in article 40 of the CRC; ensure that no child is subjected to torture or other ill-treatment (article 37(a)) and that children who are detained or imprisoned are "treated with humanity and respect for the inherent dignity of the human person"<sup>3</sup>; and provide "prompt access to legal and other appropriate assistance" (article 37(d)):<sup>4</sup>

- **Ali Mohammed Baqr al-Nimr** was arrested on 14 February 2012, aged 17. He was first taken to the General Directorate of Investigations (GDI) prison in Dammam, in the Eastern Province before being moved to Dar al-Mulahaza, a centre for juvenile rehabilitation; an indication that the authorities recognized and treated him as a juvenile. He was held in this centre until he was 18 years old when he was moved back to the GDI prison in Dammam where he is currently detained.

On 27 May 2014, the Specialized Criminal Court (SCC) in Jeddah, which was set up to deal with terrorism and security-related offences, sentenced Ali al-Nimr to death on a range of charges including, taking part in demonstrations against the government, attacking the security forces, possessing a machine gun and carrying out an armed robbery. The SCC appears to have based its decision on a 'confession' that Ali al-Nimr said was obtained under torture. Ali al-Nimr said that during interrogations by officials in the GDI he was beaten, kicked and otherwise ill-treated by four officers who forced him to sign statements that he was not allowed to read and was misled into believing were his release orders.<sup>5</sup>

Ali al-Nimr was held incommunicado for nearly six months after his arrest, and was denied access to a lawyer throughout his pre-trial detention, including all interrogation sessions. Those convicted of a crime in Saudi Arabia can appeal first instance court decisions only in writing and within 30 days. However, Ali al-Nimr was denied access to his lawyer to appeal the death sentence handed down by the SCC. Ali al-Nimr, his lawyer and family were not informed that his sentence was upheld by appeal judges at the SCC and by the Supreme Court sometime during the first half of 2015. In August 2015, Ali al-Nimr's family learnt that his case had been transferred to the Ministry of Interior for implementation. Ali al-Nimr has exhausted all his appeals and could be executed as soon as King Salman bin Abdulaziz Al Saud ratifies his death sentence.<sup>6</sup>

- **Abdullah Hasan al-Zaher and Dawood Hussein al-Marhoon** were arrested on 3 March and 22 May 2012 respectively, aged 16 and 17. The two young men now aged 20 and 21 were sentenced to death by the SCC in Riyadh on 22 October 2014 on charges similar to Ali al-Nimr. Upon arrest, both were taken to the juvenile rehabilitation centre (Dar al-Mulahaza) in Dammam, in the Eastern Province, where they were held until they reached the age of 18 and were moved to the GDI prison, also in Dammam, where they are currently detained. According to Amnesty International's information, Dawood al-Marhoon was held incommunicado for the first two weeks after his arrest and both he and Abdullah al-Zaher have said that they were tortured into

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<sup>2</sup> Human Rights Watch, *Saudi Arabia: 3 alleged child offenders await execution*, 17 April 2016, <https://www.hrw.org/news/2016/04/17/saudi-arabia-3-alleged-child-offenders-await-execution>

<sup>3</sup> Convention on the Rights of the Child (CRC), 20 November 1989, article 37(c).

<sup>4</sup> Convention on the Rights of the Child (CRC), 20 November 1989, article 37(d).

<sup>5</sup> See Amnesty International, *Saudi Arabia: Juvenile offender's death sentence must shame the authorities into meaningful action*, 29 September 2015, <https://www.amnesty.org/en/documents/mde23/2557/2015/en/>

<sup>6</sup> See Amnesty International, *Juvenile activist's death sentence upheld*, 16 September 2015, <https://www.amnesty.org/en/documents/mde23/2452/2015/en/>

'confessing' during interrogations by officers from the GDI. Neither Dawood al-Marhoon nor Abdullah al-Zaher were permitted access to their lawyers during pre-trial detention, including for their interrogations. Both the appeals division of the SCC and the Supreme Court upheld their sentences in 2015 without informing them, meaning they have exhausted all appeals and could be executed as soon as King Salman bin Abdul Aziz Al Saud ratifies their sentences.<sup>7</sup>

- **Rizana Nafeek**, a Sri Lankan domestic worker, was arrested in May 2005 on charges of murdering an infant in her care. She was sentenced to death in June 2007 by a court in Dawadmi, a town west of the Saudi Arabian capital, Riyadh, and executed on 9 January 2013 at the age of 24, despite claims she was under 18 at the time of the offence. Rizana Nafeek had no access to lawyers during her pre-trial interrogation and her trial in 2007. According to Amnesty International's information, she initially "confessed" to the alleged murder during interrogation, but later retracted this account saying that she was forced to make the "confession" under duress following a physical assault and arguing that the baby died in a choking accident while drinking from a bottle.<sup>8</sup>

The Saudi Arabian authorities did not recognize her as a child at the time of the offence, basing their conclusion on Rizana Nafeek's passport, in which her date of birth was given as 2 February 1982. Meanwhile, media reports citing Sri Lankan officials claimed that a certified copy of her birth certificate indicated her actual date of birth was 4 February 1988. The Sri Lankan authorities had confirmed that her passport was forged and a court in Sri Lanka had sentenced the two men who had forged her passport to prison terms for the forgery.<sup>9</sup> In this case, the Saudi Arabian authorities should have - in line with the principle that the best interests of the child shall be a primary consideration as required by the CRC - presumed that Rizana Nafeek was a child at the time of the offence, unless the prosecution proved otherwise.<sup>10</sup>

## RECOMMENDATIONS

Amnesty International is urging the Committee to call on Saudi Arabia to:

### *Conduct of juvenile proceedings*

- Halt the execution of persons who were below 18 years of age at the time of the offence, commute their death sentences and establish an official moratorium on all executions;
- Immediately abolish the death penalty for offences committed by persons below 18 years of age with a view to abolishing the death penalty for all crimes;
- Ensure that, if there is doubt about whether an individual was under 18 at the time of the crime, the individual is presumed to be a child, unless the prosecution proves otherwise.
- Take all measures necessary to guarantee that the trials of persons below 18 years of age at the time of the offence, meet, as a minimum, the international standards for fair trial;
- Ensure that child detainees are granted access to a lawyer and are informed of and granted all of their human rights from the time of their arrest;

### *Torture and other ill-treatment*

Individuals detained for offences committed when they were below 18 years of age are protected from torture and other ill-treatment by article 37(a) of the CRC, in addition to Saudi Arabia's

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<sup>7</sup> See Amnesty International, *Urgent Action: Juvenile offenders risk execution*, 15 October 2015, <https://www.amnesty.org/en/documents/mde23/2671/2015/en/>

<sup>8</sup> See Amnesty International, *Urgent Action: Further Information: Sri Lankan woman executed in Saudi Arabia: Rizana Nafeek*, 9 January 2013, <https://www.amnesty.org/en/documents/mde23/003/2013/en/>

<sup>9</sup> Arab News, *Forgers of Lankan maid Rizana Nafeek's certificate jailed in Lanka*, 18 January 2012, <http://www.arabnews.com/node/404212>; see also Amnesty International, *Sri Lankan woman at risk of execution*, 8 January 2013, <https://www.amnesty.org/en/latest/news/2013/01/sri-lankan-woman-risk-execution-saudi-arabia/>

<sup>10</sup> Human Rights Council resolution 19/37 (A/HRC/RES/19/37), 19 April 2012, para. 55.

obligations under the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which it acceded in 1997.

- Ensure that evidence obtained through torture or other ill-treatment is excluded from any court proceedings;
- Ensure that all allegations of torture and other ill-treatment used to extract “confessions” are investigated promptly, independently, impartially and effectively; and
- Ensure that, where sufficient admissible evidence of offences is found, those suspected of torture and other ill-treatment actions are prosecuted in proceedings that adhere to international fair trial standards.