

AMNESTY INTERNATIONAL

Q&A

Q&A for media spokespeople

Muzzling Critical Voices: Politicized trials before Saudi Arabia's Specialized Criminal Court

Note to spokespeople: All highlighted/underlined sentences are main talking points.

What is this report about?

This report documents how since 2011, Saudi Arabia's Specialized Criminal Court (SCC) has been used as an instrument of repression to silence dissent. It documents the cases of at least 95 individuals, the vast majority men, who were tried before the SCC, some in individual trials and others in mass trials, between 2011 and 2019. Cases include individuals tried on charges related to exercising their rights to freedom of expression, association and peaceful assembly, such as calling for social and political reforms, as well as cases of political activists and Shi'a minority rights activists tried, sentenced and, in some cases, subsequently executed following SCC trials.

Resorting extensively to the country's draconian counter-terror law and Anti-Cyber Crime Law, the SCC has effectively served to create a false aura of legality around the government's misuse of legislation and the justice system to silence its critics and opponents.

Who are the individuals targeted by the SCC?

Among those the court has punished severely are journalists, human rights defenders, political activists, writers, religious clerics and women's rights activists. Indeed, the authorities have been relying on the SCC to stifle freedom of expression, association and peaceful assembly, and to hand down harsh sentences, including the death penalty, following grossly unfair trials.

How many people are still in detention following SCC trials? How many are considered POCs?

We have documented the trials and sentencing of 27 individuals persecuted for expressing dissent, advocating change, criticizing the authorities, exposing abuses or highlighting the failures of the judiciary, often through the use of social media. Amnesty considers 22 of the 27 still detained to be prisoners of conscience and calls for their immediate and unconditional release.

How many people were sentenced to death following grossly unfair trials? How many executions?

Between May 2014 and October 2019, Amnesty International documented the cases of at least 39 Shi'a men who were sentenced to death for alleged involvement in terrorism-related acts, espionage or other security-related offences in relation to the protests in the Eastern Province. At least 28 of them were executed between January 2016 and April 2019 following confirmation of their sentences by both the SCC Appeal Court and the Supreme Court and ratification by the King

In addition, Shi'a Muslims have been condemned to death and executed for crimes committed when they were below 18 years of age, after they were found guilty by the SCC on the basis of torture-tainted "confessions". Three young men – Ali al-Nimr, Abdullah al-Zaher and Dawood al-Marhoon – continue to be at imminent risk of execution.

How were you able to document these cases? What did you base your findings on?

Research of this report was conducted between January 2016 and September 2019 from outside Saudi Arabia. Despite repeated requests to visit and discuss concerns with the government, the Saudi Arabian authorities have not permitted Amnesty International access to the country.

In the course of its research Amnesty International examined 60 official court documents (including charge sheets and verdicts), 23 appeals and defence notes. Amnesty's researchers have also reviewed government statements and royal decrees related to legal and political developments where available; the counter-terror laws of 2014 and 2017; academic sources; reports by UN Working Groups and UN Special Mandates, including the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism and the UN Special Rapporteur on extrajudicial, summary or arbitrary killings; and media sources.

Why have you chosen to focus on the SCC? Is it the only court that is used to stifle dissent?

The SCC is not the only court used by the Saudi Arabian authorities to stifle dissent but has been the most exacting tool used systematically by the authorities to prosecute human rights defenders, writers, religious clerics and political activists since 2011.

Between 2011 and 2014, many activists were tried before both the SCC and other criminal courts. However, from 2014 until mid-2018, all cases of individuals tried for their peaceful expression or for their participation in anti-government protests have been brought before the SCC only. Many of those whose trials began in August 2017 remain on trial before the SCC until this day.

In mid-2018, women human rights defenders were initially accused of charges under the counter-terror law following their arrest in mid-2018 and were expected to appear before the counter-terror court for their trial. However, international pressure on their cases most probably resulted in the fact that they are now being tried before a criminal court, and not the SCC, in which they won't face charges under the counter-terror law which carries lengthier prison sentences and the death penalty

Why do you say that the trials are grossly unfair/flawed?

The whole process of justice linked to the SCC is deeply flawed from the moment of arrest to final appeal. Most defendants in the trials documented by Amnesty International were:

- arrested without a warrant;
- not told the reasons for their arrest;
- held incommunicado, often in solitary confinement, without access to their families or a lawyer, for days, weeks or months;
- tortured or otherwise ill-treated in pre-trial detention to extract "confessions", as punishment for refusing to "repent", or to force detainees to pledge to stop criticizing the government;
- held without charge or trial, without any opportunity to challenge their detention, for up to three and a half years.

One of the most striking failings of the SCC in the trials reviewed by Amnesty International is its unquestioning reliance on torture-tainted "confessions". *At least 20 Shi'a men tried by the SCC have been sentenced to death on the basis of such "confessions", 17 of whom were executed.*

Also, the SCC does not operate according to clearly established and defined procedures, unlike other courts whose procedures are defined under the law on the judiciary. In the cases documented in this report, the SCC trials were conducted before a single judge. The judges exercise wide discretion in determining punishments, including the death penalty.

The SCC and its judges are effectively complicit in a wide range of human rights violations – arbitrary arrests and detentions, unfair trials, death sentences, torture and other ill-treatment, threats, and repression of freedom of expression, association and peaceful assembly.

Lately there have been quite a lot of positive reforms, especially on women's rights, as well as in the social sphere (tourism visa, men and women allowed to mix in public spaces, sports and music events, etc.). Aren't you being too harsh on the Saudis? Don't you think path to reform needs time but they are on track?

The current human rights situation in the country remains bleak despite these recent reforms. In a positive and long-overdue development, in August 2019 the Saudi authorities announced reforms to the guardianship system, specifically laws related to women's rights to obtain a passport and travel without the permission of a male guardian, as well as allowing women equal rights to men with regards to obtaining family records, registering births, deaths, marriage and divorce and acting as head of household. But let's not forget that several women activists who are now standing trial have been the leading campaigners for the country to abolish male guardianship restrictions and they risk prison sentences based on charges such as calling for reforms and the end of the male guardianship system.

More generally, let's not forget in what context these reforms took place – first the driving ban was removed barely one month after the first wave of detentions of the women who fought for the right to drive (and women's rights generally). In September of that year, another wave of arrests took place of a group of individuals who had merely either condemned the arrest of the women or expressed support with them. Then in October the killing of Jamal Khashoggi, which showed clearly to what extent the authorities were willing to go to silence dissent, shed light on a pattern of silencing dissent through a wide range of tactics, that has been ongoing for decades and for which scores of individuals continue to pay a hefty price. For example, all the women human rights

defenders are still on trial – three of them, including Loujain al-Hathloul are still in detention and there has been no investigation whatsoever to date into the claims of torture while in detention.

The Crown Prince's reforms have not resulted in the release of prisoners of conscience, a reduction in executions (in fact, 2019 has seen the highest number of executions in Saudi Arabia in a decade) or the reining in of the feared security and intelligence forces. Indeed, the number of prisoners of conscience continues to rise and includes the country's leading women's rights activists. Genuine human rights reforms must begin with the release of all peaceful activists and human rights defenders in the country.

What is your assessment of the independence of the judiciary and the SCC?

Amnesty International and other NGOs have long documented the severe inadequacies of the Saudi criminal justice system, including fair trial violations, as well as the lack of independence, transparency, and fairness. Following the consolidation of prosecutorial powers and intelligence agencies in the hands of the King and Crown Prince in June 2017 and the crackdown on civil society in September 2017, reports emerged of the arbitrary arrests of several SCC judges. Analysts interpreted this as part of a move by the new Saudi Arabian leadership under King Salman to consolidate their political power within the judiciary. At the same time, the King appointed or promoted 110 judges of various ranks.

What are the main recommendations to the Saudi Arabian authorities?

Amnesty International has made recommendations to various authorities to ensure that desperately needed reforms are introduced to end the travesty of justice embedded in the SCC. Among other things, Amnesty International calls on:

The King and Crown Prince of Saudi Arabia to release all prisoners of conscience immediately and unconditionally, ensure their convictions and sentences are quashed, and declare an official moratorium on all executions with a view to abolishing the death penalty.

The Supreme Judicial Council to fundamentally reform the SCC to ensure it is capable of conducting fair trials, is protecting defendants from arbitrary detention, torture and other ill-treatment, and overseeing fair hearings deciding on appropriate reparation to all victims of torture and other human rights violations by state officials or those acting on their behalf.

The Public Prosecution to ensure that all those against whom there is sufficient admissible evidence of responsibility for torture or other ill-treatment are promptly prosecuted on criminal charges in fair trials and, if convicted, given sentences commensurate with the gravity of the offence without recourse to the death penalty.

The Council of Ministers to establish an independent commission of inquiry into the use of torture and other ill-treatment by the GDI and other state agents; to repeal or amend the counter-terror law and the Anti-Cyber Crime Law to make them compatible with international human rights law and standards; and to ensure the death penalty is not imposed on anyone under the age of 18 at the time of their alleged offence.

What role can the international community play?

Saudi Arabia's strategic allies, including the USA, EU member states and the EU must clearly show the Saudi Arabian authorities that business cannot go as usual until the Saudi authorities commit to serious human rights reforms. This includes: Urging the Saudi Arabian government to fully respect and observe international human rights law and standards; calling on the authorities to amend the Anti-Cyber Crime Law and Law on Associations, as well as to repeal or substantially reform the counter-terror law.

In 2019, the international community sent signals, even if shy, to Saudi Arabia that then crackdown on HRDs is not going unnoticed. Two joint statements were issued by states at the UN Human Rights Council, one in March and another in September, in addition to the UN Special Rapporteur Agnes Callamard's report on the murder of Saudi journalist Jamal Khashoggi. All of these were positive opportunities to scrutinize Saudi's human rights record and it is important to build on them for a more robust and systematic response next year at the UN Human Rights Council and other fora. The positive reforms – mainly the guardianship system reforms – could have been the direct result of this new public scrutiny of Saudi Arabia's human rights record, and it is imperative that states maintain this scrutiny, which it can do by supporting at the Council the establishment of a monitoring and reporting mechanism over the human rights situation while in parallel maintaining public pressure for the release of the all peaceful activists and human

rights defenders.

Saudi Arabia will be hosting the G20 meeting in Saudi Arabia next November, do you think Saudi Arabia is fit to lead given the violations committed in the country? Will you call for the boycott?

Instead of genuine human rights reforms, the Saudi government has been trying to whitewash its dire human rights record by holding major international events in the country. [This includes the G20](#) and – through a government-authorized NGO – the global civil society forum (also known as C20). We are not calling for the boycott of G20, nor will we call on G20 leaders to boycott the summit. However, Amnesty International and other NGOs will not be engaging in this year's C20 process. *We cannot participate in a process that seeks to give international legitimacy to a state that provides virtually no space for civil society, and where independent civil society voices are not tolerated.*

Does the SCC only try activists? If not, why hasn't your report examined other cases connected with terror-related crimes?

This report does not look into cases of those tried by the SCC for affiliation to armed groups such as al-Qa'ida or for planning or conducting violent attacks. Amnesty International was unable to examine such cases given the difficulty in obtaining information about them, particularly because the Saudi Arabian authorities neither publicize nor share information details about them.

Is it true that Shi'a dissidents may have committed terrorist crimes?

Over 100 Saudi Arabian Shi'a activists have been tried before the SCC on vague and wide-ranging charges arising from their opposition to the government, including peaceful criticism in speeches or on social media, participation in anti-government protests and alleged involvement in violent attacks or espionage for Iran.

Amnesty's concerns in relation to cases of Shi'a protesters and other accused of violent charges are related to gross fair trial violations defendants faces from the moment of their arrest, until their final appeal. In all cases, Amnesty International concluded that the trials were grossly unfair, with defendants convicted and, in many cases, sentenced to death on vague, "catch-all" charges that criminalize peaceful opposition as "terrorism" and on the basis of pre-trial "confessions" that defendants recanted in court and claimed were obtained through torture or other coercive means.

Ends/