

£SAUDI ARABIA

@An upsurge in public executions

INTRODUCTION

In the past year Amnesty International recorded the public execution of 105 people in Saudi Arabia, which represents the second highest number of executions ever recorded by the organization during a one-year period. During the same period in 1991-1992, for example, 25 executions were carried out, while in 1990-1991, 11 executions were recorded (see Tables I and II in the appendix). Amnesty International is gravely concerned at this rise in the number of public executions and the increase in the number of offences carrying the death penalty and fears that this may be a new trend which is inconsistent with the goal, endorsed by the United Nations (UN) General Assembly, of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment in all countries. On a number of occasions the Special Rapporteur on Summary or Arbitrary Executions has expressed his concern when a large number and broad range of offences are subject to the death penalty in a particular country, most recently in his report covering 1992 (UN Doc. E/CN.4/1993/46).

Amnesty International is also concerned that some of the offences which carry the death penalty in Saudi Arabia do not involve intentional crimes with lethal or other extremely grave consequences. Imposition of the death penalty in these cases would violate Safeguard 1 of the UN Economic and Social Council (1984/50) which states that:

"[i]n countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences".

Furthermore apostasy in Saudi Arabia carries the death penalty. International human rights standards including the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Article 18 of the Universal Declaration of Human Rights and Article 18 of the International Covenant on Civil and Political Rights (ICCPR) protect the right of all persons to freedom of expression or religion.

The death penalty is also being imposed after trials which fail to meet international standards for fair trial. Defendants are denied the most basic rights during pre-trial detention, including the right of access to lawyers and independent medical attention, prompt access to a judge, ability to challenge one's detention before a judge and having adequate time and facilities to prepare their defence. Furthermore, defendants are denied the right to be formally represented by a lawyer during their trial. This is in contravention of Articles 9 and 14 of the ICCPR and other international human rights standards concerned with fair trial.

In addition many of the victims have been sentenced solely on the basis of "confessions". This creates an incentive to coerce suspects into giving "confessions", sometimes by means of torture. Courts in Saudi Arabia have repeatedly failed to investigate claims of torture, and continue to consider "confessions" obtained under torture as admissible evidence in reaching a judgement. This is in violation of Articles 8, 9 and 12 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

LEGAL PROCEDURES

Saudi Arabia has neither a Penal Code nor a Code of Criminal Procedure and the basis of all legislation in the Kingdom is the *Shari'a* (Islamic law), with particular reference to the Hanbali school of jurisprudence, one of the four schools of jurisprudence in Sunni Islam¹. The principal components of the *Shari'a* are: the Qur'an, the holy book of Islam containing divine communications from God to Man; the *Sunna* (Tradition), based on the sayings and deeds of Prophet Muhammad; the *Ijma'* (Consensus) i.e. the consensus of senior '*Ulama* (religious scholars) on a given issue; and the *Qiyas*² (Deduction or Comparison) which is the use of precedent in Islamic history to pass judgement on present day events. Thus, which it is said that Saudi Arabia's legal system is based on divine principles, *Ijma'* and *Qiyas* are clearly Man's interpretation of these principles.

Under the *Shari'a*, the death penalty is mandatory for *Hadd* offences (offences against divine will) including apostasy, certain acts of sabotage, treason or conspiracy against the state, and some cases of robbery with violence. Sexual offences such as adultery committed by a married person, and rape, as well as premeditated murder and, in some cases, lesser degrees of murder all constitute capital offences.

To supplement the *Shari'a* the State may issue regulations in the form of Royal Decrees, Royal Ordinances, codes or bye-laws as long as they do not conflict with *Shari'a* principles. On 18 February 1987 Saudi Arabia widened the scope of the death penalty. The Council of Senior '*Ulama* (Religious Scholars), the highest religious body in the Kingdom entrusted with interpreting Islamic law, issued *fatwa* (religious edict) No. 138 which extended the death penalty to include persons convicted of drug smuggling or receiving and distributing drugs from abroad. King Fahd bin 'Abdul-'Aziz approved the ruling in March 1987, and since that time, at least 68 people have been executed for drug-related offences.

¹ The other three schools of jurisprudence in Sunni Islam are Shafi'i, Hanafi and Maliki.

² Shi'a Islam does not use *Qiyas*, which it replaces by *Ijtihad* or '*Aql* (Mind or Reasoning), arguing that past events can not, by themselves, be used to determine current situations.

On 24 August 1988 the scope of the death penalty was again widened by the Council of Senior 'Ulama who issued *fatwa* No. 148 extending the death penalty to persons convicted of acts of sabotage or "corruption on earth" that "undermine security and endanger lives and public or private property". Such acts were deemed to include the "destruction of homes, mosques, schools, hospitals, factories, bridges, ammunition dumps and water storage tanks, resources of the Treasury such as oil pipelines, and the hijacking and blowing up of aircraft." Previously those convicted for such offences had faced execution only where the offence had involved loss of life. In September 1988 four Saudi Arabian citizens were executed in al-Dammam in what may have been retroactive implementation of *fatwa* No. 148. They were convicted of smuggling explosives into the country and blowing up fuel tanks at oil installations in Jubail in the Eastern Province. One year later, in September 1989, 16 Kuwaiti nationals were executed. The 16 had been on pilgrimage to Mecca and were convicted of planting bombs there in July. They were sentenced after trials which failed to meet minimum international standards for fair trial. The defendants were not allowed legal representation and were convicted on the sole basis of "confessions" reportedly extracted under torture. The increase in the number of offences carrying the death penalty is inconsistent with the goal, endorsed by the UN General Assembly, of progressively restricting the number of offences for which the death penalty may be imposed.

Cases involving the death penalty in Saudi Arabia are first heard before *al-Mahakim al-Kubra* (the General Courts) and death sentences passed by such courts are automatically referred to the Court of Appeal, whose decision is referred to the permanent body of the Supreme Judicial Council for review and approval. The permanent body is composed of five members. Final ratification is by Royal Decree. There is no bar association in Saudi Arabia and defendants do not have the right to have a lawyer formally present during the trial. During hearings of the General Court the presiding judge questions and cross examines witnesses and the defendant(s) before passing sentence. Many convictions are based solely on a "confession", which, in Amnesty International's view, creates an incentive for interrogating officials to coerce defendants, including by torture or ill-treatment, in order to force them to "confess". This is borne out by the numerous testimonies received by the organization from former detainees. Articles 8 and 9 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment clearly state that all allegations of torture and where there is reasonable ground to believe that an act of torture has been committed, the competent authorities of the State concerned shall promptly proceed to set up an impartial investigation. Article 12 of the Declaration states that:

"[a]ny statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned..."

EXECUTION METHODS

Executions in Saudi Arabia are carried out by beheading with a sharp sword for males and usually by firing squad for females. Married women convicted of adultery may also be executed by stoning to death. The last time Amnesty International recorded such a case was in 1981. Executions are held in major towns and cities in the Kingdom, usually on a Friday after noon prayers, in a square in front of the Provincial Governor's palace. A doctor is present at the scene of the execution and examines the body to confirm the death. The method of execution by beheading is particularly violent for all those involved: the victims, their families and on-lookers. Although death by beheading is claimed to be swift and "merciful", in some cases several blows had to be administered before the victims were pronounced dead, thus causing untold suffering.

Figure 1 Public execution in Saudi Arabia

The executioner in Saudi Arabia is an official of the government, employed by the Ministry of the Interior and is reportedly paid a bonus for every execution he carries out. On 6 April 1989 a Saudi Arabian newspaper, *al-Madina al-Munawwara*, published an interview with Sa'id al-Bishi, an executioner in the Province of Mecca for over 35 years. In those years Sa'id al-Bishi claims to have cut off the heads of over 600 convicted criminals and severed the hands from the wrists of over 90 convicted thieves. In a story he recounted for the interview, al-Bishi said:

"The strangest and most difficult [experience] was once in Mecca when I had to execute two men who had killed a colleague of theirs and buried him on a farm in Wadi Fatima...[we were] in Sahat al-'Adl (Justice Square) in front of the Holy Mosque in Mecca. After the death sentence was read out, I struck the neck of the first criminal and in one blow his head fell off right in front of him and in the immediate view of the second criminal who was still awaiting the sword. When I went up to him he gave me a strange look, but I felt no pity for him because he was a criminal who deserved punishment. I hit him on the neck and he fell flat on the ground. The doctor examined him and declared him dead, but apparently he had been so shocked by the sight of his colleague's head that his heart had stopped beating for a few moments."

al-Bishi recounts that in this case the victim had not died and that he had to strike his neck once more. He later stated that "in some cases it has taken two blows for them to die and in very rare cases, three."

CASES OF EXECUTIONS

Of the 105 individuals executed in the past year, 55 were convicted of murder, four of whom were also convicted of rape; 38 were convicted on drug charges, including one on charges of repeatedly brewing alcohol; six were convicted of rape or sodomy; three were convicted of armed robbery; two were convicted of adultery; and one was convicted of apostasy. Forty-eight of those executed were Saudi Arabian citizens while the others included nationals of Pakistan, Nigeria, Yemen, Sudan and the Philippines.

While Amnesty International recognizes that governments are entitled to bring to justice those responsible for recognizably criminal acts, including murder, drug-trafficking and rape, it maintains that those charged **must receive a fair trial**, in accordance with basic international standards and should be punished if found guilty. **Under no circumstances** should they be executed.

Salem bin Jaber al-Subay'i and Hamad bin Ahmad Al-Zayn, both Saudi Arabian nationals employed in the Passports Department, were convicted of committing adultery with an undisclosed number of women. A statement issued by the Ministry of the Interior said that the two men exploited their official position and the need of the victims for their services in order to commit their crimes. The two men were publicly beheaded in Riyadh on Friday, 14 August 1992.

Shakirallah Sayful-Rahman Ajoon Khan, a Pakistani national, was reportedly beheaded on 22 January 1993 in a public square in Jeddah after being convicted of

smuggling heroin into the Kingdom. His sentence had been ratified less than two weeks prior to his execution. In another case, on 2 April 1993, five Saudi Arabian nationals were reportedly executed after being convicted of smuggling hashish into the Kingdom. Marzuq 'Eid Suway'id al-'Umayri, 'Atallah Qublan Salem al-'Umrani, Muqbil Hamid 'Eid al-'Asabyan al-'Umrani, Ahmad Sulayman Salim al-Suway'id al-'Umrani, and Marzuq Sulayman Sa'id al-'Umayri were beheaded on a Friday in a public square in Tabuk.

On 3 September 1992 Sadiq 'Abdul-Karim Malallah was publicly beheaded in al-Qatif in Saudi Arabia's Eastern Province after being convicted of apostasy and blasphemy. Sadiq Malallah, a Shi'a Muslim from Saudi Arabia, was arrested in April 1988 and charged with throwing stones at a police patrol. He was reportedly held in solitary confinement for long periods during his first months in detention and tortured prior to his first appearance before a judge in July 1988. The judge reportedly asked him to convert from Shi'a Islam to Sunni Wahhabi Islam, and allegedly promised him a lighter sentence if he complied. After he refused to do so, he was taken to *al-Mabahith al'Amma* (General Intelligence) Prison in Dammam where he was held until April 1990. He was then transferred to *al-Mabahith al'Amma* Prison in Riyadh, where he remained until the date of his execution. Sadiq Malallah is believed to have been involved in efforts to secure improved rights for Saudi Arabia's Shi'a Muslim minority.

Figure 2 Sadiq 'Abdul-Karim Malallah

On 9 April 1993 three men were executed and then crucified in the city of Haql in Tabuk Province. Jum'a bin Muhammad bin Musay'eed al-Dabar al-'Umrani and Musa bin Ibrahim bin Rafi'i al-Mas'udi, both Saudi Arabian nationals and Bahansawi Hamada Muhammad 'Ali, an Egyptian national, were convicted of the murder of Salim bin Sulayman bin Musay'eed al-'Umayri, his wife and their four children, as well as the rape of the wife.

AMNESTY INTERNATIONAL'S CONCLUSIONS AND RECOMMENDATIONS

Amnesty International opposes the death penalty unconditionally, believing it to be the ultimate form of cruel, inhuman and degrading treatment and a violation to the right of life as proclaimed in the Universal Declaration of Human Rights and other international human rights instruments. Amnesty International works for the abolition of the death penalty throughout the world and for clemency in all cases where executions are feared to be imminent, regardless of the nature of the crime for which a prisoner has been convicted. Amnesty International considers that execution is irrevocable and can be inflicted on the innocent; the use of the death penalty is brutalizing to all who are involved in the process; execution is an act of violence, and violence tends to provoke violence; the death penalty is

frequently used as an instrument of repression against opposition, racial, ethnic, religious and underprivileged groups; the death penalty denies the widely accepted penal principle of rehabilitating the offender. While Amnesty International fully recognizes the need for governments to take effective measures to punish people found guilty of recognizably criminal offences, the death penalty has never been shown to deter crime more effectively than other punishments.

The rise in the number of executions in Saudi Arabia in recent months and the introduction of legislation increasing the number of capital offences is contrary to UN General Assembly Resolution 32/61 of 8 December 1977 which reaffirmed that: "...the main objective to be pursued in the field of capital punishment is that of progressively reducing the number of offences for which the death penalty may be imposed, with a view to the desirability of abolishing this punishment." **Amnesty International urges the Saudi Arabian authorities to take immediate steps to stop executions and reduce the number of capital offences with a view to abolishing the death penalty. The organization urges in particular that the death penalty not be proscribed for offences not involving intentional lethal or other extremely grave consequences and offences such as apostasy. The right of all persons to freedom of expression or religion is protected by international human rights standards.**

Amnesty International is gravely concerned that victims are sentenced after unfair trials and innocent individuals may be convicted and executed. Furthermore, Amnesty International is concerned that convictions can be passed on the sole basis of a "confession", particularly in light of the fact that torture and ill-treatment have been known to be used against suspects. **The organization urges the Saudi Arabian authorities to allow defendants access to defence lawyers during trials and to independent medical attention. It also calls on the authorities to investigate, immediately and impartially all allegations of torture and to make "confessions" which may have been extracted under torture inadmissible in court as specified in the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

Amnesty International is also concerned about the involvement of doctors and medical professionals in the administration of the death penalty, and considers their participation to be a violation of professional ethics. **It calls upon health professionals not to participate in executions or to facilitate their occurrence.**

APPENDIX

TABLE I
EXECUTIONS PER ONE-MONTH PERIOD (1989-1993)

Month	1989	1990	1991	1992	1993
January	--	2	--	--	14
February	2	8	--	3	9
March	14	3	--	1	--
April	11	--	--	1	14
May	4	--	9	--	7 (as of 15 May)
June	6	1	7	2	
July	--	1	3	4	
August	2	--	2	9	
September	26	--	--	8	
October	11	--	--	10	
November	20	--	2	10	
December	15	--	6	18	
TOTAL	111	15	29	66	

TABLE II
TOTAL EXECUTIONS PER YEAR RECORDED
BY AMNESTY INTERNATIONAL SINCE 1980

1980	79 - includes 63 for political offences
1981	14 - includes one by stoning to death
1982	16
1983	21
1984	23
1985	45
1986	24
1987	54
1988	26 - includes four for political offences
1989	111 - includes 16 for political offences
1990	15
1991	29
1992	66