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Saudi Arabia's Illegal Executions of Juvenile Violent Extremist Offenders

Carrie Seleman¹

"We're keen on young recruits between fifteen and twenty as they are the most adaptable to the concept of Jihad for the sake of God."

-Osama Bin Laden²

I. INTRODUCTION

Mustafa Abkar trekked from Chad to Mecca under the impression that he would be studying the Qur'an.³ As it turns out, the so-called Qur'an course was a terrorist criminal course.⁴ Arrested in Saudi Arabia in 2003 at the age of sixteen, Mustafa was held without access to a lawyer.⁵ He spent twelve years in prison and, throughout that entire period, he had only one court hearing, where he was sentenced to death.⁶ Mustafa was one of three prisoners – including Ali al-Ribh and Amin al-Ghamidi⁷ – killed in a mass execution on January 2, 2016, whose alleged crimes as violent extremist offenders⁸ took place when they were juveniles.⁹ All too often, those convicted of committing crimes as juveniles are sentenced to death in Saudi Arabia. In October 2015, for example, the Saudi Arabia's Supreme Court upheld a death sentence for Abdullah al-Zaher, who was convicted of a crime he allegedly committed when he was fifteen years old.¹⁰ On July 27, 2016, Abdulkareem al-Hawaj was sentenced to death for crimes he allegedly committed in 2012, at age sixteen, including "throwing two Molotov cocktails at police," "participating in riots that resulted in the shooting of an armored vehicle," "participating in illegal gatherings," "chanting against the state," and using "social media to insult the leaders."¹¹ Abdulkareem's sentence was upheld by the Supreme Court on September 11, 2017, thereby exhausting his final available appeal.¹² The Court's decision was based solely on confessions, which Abdulkareem says were

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² Miriam Wells & Namir Shabibi, *These Are the Juvenile 'Offenders' Saudi Arabia Executed in January*, VICE NEWS (Apr. 26, 2016, 6:50 AM), <https://news.vice.com/article/these-are-the-juvenile-offenders-saudi-arabia-executed-in-january>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ U.S. DEP'T OF STATE, SAUDI ARABIA 2016 HUMAN RIGHTS REPORT 1, 3 (2016) [hereinafter HUMAN RIGHTS REPORT].

⁸ The Council of Europe defines violent extremism as "the promoting, supporting, or committing of acts which may lead to terrorism and which are aimed at defending an ideology advocating racial, national, ethnic, or religious supremacy, or opposing core democratic values." See *Guidelines for prison and probation services regarding radicalisation and violent extremism*, COUNCIL OF EUROPE (Mar. 2, 2016), https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c1a69.

⁹ Wells & Shabibi, *supra* note 2.

¹⁰ HUMAN RIGHTS REPORT, *supra* note 7, at 4.

¹¹ *Id.*

¹² *Saudi Arabia: Further Information: Juvenile Offender at Risk of Imminent Execution*, AMNESTY INT'L (Sept. 18, 2017), <https://www.amnesty.org/en/documents/mde23/7103/2017/en/> [hereinafter AMNESTY INT'L] (select "Download PDF").

forced by way of isolation and torture.¹³ Now, all that stands between him and his execution is ratification of his sentence by the King.¹⁴

Juvenile violent extremist offenders do not imagine one day dying in a suicide bombing. They are victims of circumstances beyond their control and should be treated as such. Part II of this paper will give a brief overview of the history of Islamic extremism.¹⁵ Part III of this paper will explain the structure of the Islamic State's¹⁶ educational program and how it influences children to give their lives to terrorist¹⁷ organizations. Next, Part IV will delve into Saudi Arabia's legal system and how the country handles juvenile anti-terrorism cases. Finally, Part V will propose an international response.

II. HISTORY OF ISLAMIC EXTREMISM

The colonial era, failed post-colonial attempts at State formation, and the creation of the State of Israel induced anti-Western sentiment and movement throughout the Arab and Islamic world.¹⁸ The growth of these nationalist movements, along with the view that terrorism could be effective in reaching political goals, generated the first phase of modern international terrorism.¹⁹ Following Israel's victory in the 1967 War, Palestinian leaders realized that the Arab world was unable to confront Israel militarily.²⁰ At the same time, Palestinians drew lessons from revolutionary movements in Latin America, North Africa, and Southeast Asia, as well as from the Jewish struggle against Britain in Palestine.²¹ These movements influenced the Palestinians to move away from classic guerilla, typically rural-based, warfare toward urban terrorism.²² These radical Palestinian groups became a model for numerous secular militants and offered lessons for subsequent ethnic and religious movements.²³ For example, the failure of Arab nationalism in the

¹³ AMNESTY INT'L, *supra* note 12.

¹⁴ *Id.*; "Judgments imposing death...shall only be executed pursuant to a Royal Order to be issued by the King or his authorized representative." Law of Crim. Proc. Royal Decree No. (M/39) art. 220(a) (Oct. 16, 2001).

¹⁵ Islamic extremism consists of "individuals committed to restructuring political society in accordance with their vision of Islamic law and willing to use violence to achieve their goals." See JOHN D. JOHNSON, *Analysis of the Sources of Islamic Extremism*, U.S. ARMY COMMAND & GEN. STAFF C. 1, 7 (June 15, 2007), <https://www.hsdl.org/?view&did=236180>.

¹⁶ "The Islamic State (IS), also known as the Islamic State in Iraq and Syria (ISIS or ISIL) is a Salafi-Jihadist militant organization in Syria and Iraq whose goal is the establishment and expansion of a caliphate." See Freeman Spogli Institute for International Studies, *The Islamic State*, STAN. UNIV., web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/1 (last visited Apr. 14, 2017) [hereinafter Freeman Spogli Institute].

¹⁷ Terrorism is "premeditated, politically motivated violence perpetrated against noncombatants by subnational groups or clandestine agents." See Johnson, *supra* note 15.

¹⁸ John Moore, *The Evolution of Islamic Terrorism: An Overview*, PBS, <http://www.pbs.org/wgbh/pages/frontline/shows/target/etc/modern.html> (last visited Mar. 13, 2018).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.* Guerilla warfare is "military and paramilitary operations conducted by irregular, predominantly indigenous forces against superior forces in enemy-held or hostile territory." PATRICK D MARQUES, *Guerrilla Warfare Tactics in Urban Environments*, US ARMY COMMAND AND GENERAL STAFF COLLEGE 1, 4 (June 6, 2003), <http://www.dtic.mil/get-tr-doc/pdf?AD=ADA416603>.

²³ *Id.*

1967 War²⁴ resulted in the strengthening of both progressive and extremist Islamic movements.²⁵ In the Middle East, Islamic movements increasingly came into opposition with secular nationalism, providing an alternative source of social welfare and education.²⁶ In this way, political Islam, which was more open to progressive change, was seen as a threat to conservative Arab regimes, thereby generating support for more fundamentalist²⁷ and extremist groups.²⁸

In the early 2000s, Abu Musab al-Zarqawi²⁹ began training extremist militants to participate in the Iraqi insurgency against the United States.³⁰ These militants swore loyalty to al-Qaeda, but after increasing backlash from the community and pressure from American and Iraqi forces, the group dissipated until becoming involved with the Syrian Civil War in 2011.³¹ In 2013, Abu Musab al-Zarqawi's militant group officially changed its name to the Islamic State.³²

A. *The Islamic State in Saudi Arabia*

To understand the connection that the Islamic State has with Saudi Arabia specifically, one must begin with an understanding of Wahhabism, which was founded by Muhammad ibn Abd al-Wahhab.³³ The main tenet of the Wahhabist doctrine was that of *takfir*, which empowered Abd al-Wahhab and his followers to deem fellow Muslims, should they engage in activities that encroach on the sovereignty of the King, as infidels.³⁴ Abd al-Wahhab believed that all who did not pledge their allegiance to a single Muslim leader should be killed, their wives and daughters violated, and their possessions confiscated.³⁵

Abd al-Wahhab was expelled from his village due to his radical views, and in 1741, he found refuge with Ibn Saud and his tribe. Ibn Saud's tribe perceived Abd al-Wahhab's teaching as a means to overturn Arab tradition and convention, ultimately leading to a seizure of power in Arabia.³⁶ Ibn Saud's clan, after adopting Wahhabism, acted under the banner of jihad.³⁷

²⁴ Also known as the Six-Day War, the June War, and the Third Arab-Israeli War, this was, as the latter name suggests, the third of the Arab-Israeli wars, and it resulted in Israel's capture of the Sinai Peninsula, Gaza Strip, West Bank, Old City of Jerusalem, and the Golan Heights. *Six-Day War*, ENCYCLOPEDIA BRITANNICA, INC., <https://www.britannica.com/event/Six-Day-War> (last visited Mar. 13, 2018).

²⁵ Moore, *supra* note 18.

²⁶ *Id.*

²⁷ Fundamentalism is "a form of religion that upholds belief in the strict, literal interpretation of scripture." *Fundamentalism*, OXFORD ENGLISH DICTIONARY (online edition).

²⁸ Moore, *supra* note 18.

²⁹ Abu Musab al-Zarqawi is credited as the founder of the Islamic State. See Ted Kemp, *Abu Musab al-Zarqawi is the man who founded ISIS*, CNBC (Aug. 12, 2016), <https://www.cnbc.com/2016/08/11/who-founded-isis-abu-musb-al-zarqawi-started-the-terror-group.html>.

³⁰ Freeman Spogli Institute, *supra* note 16.

³¹ *Id.*

³² *Id.*

³³ Alastair Crooke, *You Can't Understand ISIS If You Don't Know the History of Wahhabism in Saudi Arabia*, HUFFINGTON POST, https://www.huffingtonpost.com/alastair-crooke/isis-wahhabism-saudi-arabia_b_5717157.html (last visited Mar. 13, 2018).

³⁴ *Id.*

³⁵ *Id.*

³⁶ Crooke, *supra* note 33.

³⁷ *Id.*; see Brian Handwerk, *What Does "Jihad" Really Mean to Muslims?*, NAT'L GEOGRAPHIC NEWS (Oct. 24, 2003), https://news.nationalgeographic.com/news/2003/10/1023_031023_jihad.html (noting that Jihad has many meanings. The most common interpretation of jihad is that of a struggle for self-improvement, but the interpretation referenced by Islamic extremists is "jihad of the sword." This concept began when Muslims were ordered by God to fight those

Additionally, Ibn Saud and Abd al-Wahhab reintroduced the idea of martyrdom in the name of jihad.³⁸ When King Abd-al Aziz shifted toward statehood in the 1920s, he curbed violence to improve diplomatic standing with Britain and America, and he institutionalized the original Wahhabism.³⁹ This cultural revolution was based on Abd al-Wahhab's hatred and call to purge Islam of its heresies and idolatries.⁴⁰

The Islamic State was born from the denial of Wahhabism's three pillars, the doctrine of "One Ruler, One Authority, One Mosque," which respectively refer to the Saudi king.⁴¹ The Islamic State aspires to the creation of the caliphate, the ideal of the unity of all Muslim territories,⁴² and it forcefully denies the Saudis' claim of authority to rule.⁴³ The Islamic State has accused the Saudi monarchy of corrupting the faith in order to preserve its power.⁴⁴ Further, the Islamic State claims that the Saudi state deviated from the true beliefs of Abd al-Wahhab, and that the Islamic State is the true representative of the Wahhabi message.⁴⁵

Today, Saudi Arabia is the second largest source of Islamic State fighters,⁴⁶ and more than 5000 Saudis have been incarcerated in Saudi Arabia on terrorist charges.⁴⁷ Although the majority of these fighters are adults, many of them began their participation with the Islamic State as children.

III. INDOCTRINATION

Since its inception in 2002, the Islamic State has sought to establish an Islamic caliphate⁴⁸ based on extreme interpretations of Islam and *Shari'ah*.⁴⁹ The Islamic State's school curricula restricts and controls the information that is disseminated to the children.⁵⁰ Youth who are chosen from the Islamic State's schools to become 'Cubs of the Caliphate' are sent to military training schools, in which they become active members of the group by taking on tasks ranging from spying

enemies that drove them from their land. They were not, however, given permission to fight non-believers or those who rejected Islam. Islamic extremist groups expand this concept in an effort to justify their actions).

³⁸ Crooke, *supra* note 33.

³⁹ *Id.*

⁴⁰ *Id.*; Handwerk, *supra* note 37; Heresy is defined as "a dissent or deviation from a dominant theory, opinion or practice." *Heresy*, MERRIAM-WEBSTER DICTIONARY (online edition); Idolatry is "the worship of a physical object as god." *Idolatry*, MERRIAM-WEBSTER DICTIONARY (online edition).

⁴¹ Crooke, *supra* note 33.

⁴² Cole Bunzel, *The Kingdom and the Caliphate: Duel of the Islamic States*, CARNEGIE ENDOWMENT FOR INT'L PEACE (Feb. 18, 2016), <http://carnegieendowment.org/2016/02/18/kingdom-and-caliphate-duel-of-islamic-states-pub-62810>.

⁴³ Crooke, *supra* note 33.

⁴⁴ Ben Hubbard, *ISIS Turns Saudis Against the Kingdom, and Families Against Their Own*, N.Y. TIMES (Mar. 31, 2016), <https://www.nytimes.com/2016/04/01/world/middleeast/isis-saudi-arabia-wahhabism.html>.

⁴⁵ *Is Saudi Arabia to blame for Islamic State?*, BBC (Dec. 19, 2015), <http://www.bbc.com/news/world-middle-east-35101612>.

⁴⁶ Ian Bremmer, *The Top 5 Countries Where ISIS Gets Its Foreign Recruits*, TIME (Apr. 14, 2017), <http://time.com/4739488/isis-iraq-syria-tunisia-saudi-arabia-russia/>.

⁴⁷ Hubbard, *supra* note 44.

⁴⁸ A caliphate is a pan-Islamic group or state. See Johnson, *supra* note 15, at 6.

⁴⁹ Freeman Spogli Institute, *supra* note 16.

⁵⁰ Pamela Engel, 'Sometimes the gun is taller than the kid': How ISIS uses schools to indoctrinate children, BUS. INSIDER (Mar. 12, 2016), <http://uk.businessinsider.com/how-isis-recruits-and-indoctrinates-children-2015-12?r=US&IR=T>.

to becoming fighters in combat.⁵¹ These children have no access to external information about tolerance and the world outside of militant operations.

To teach their 'Cubs,' the Islamic State has created its own system of education, its own curriculum, and its own version of history. Even something as simple as the English alphabet is taught in conjunction with violence. When learning the alphabet, children of the Islamic State are taught that "G" is for gun, paired with a picture of an AK-47, and that "S" is for sniper, shown alongside a picture of an Islamic State fighter aiming his rifle.⁵² The textbooks used in the Islamic State's schools contain math problems that utilize images of weapons and tanks, side-by-side with those of objects like fruit and flowers.⁵³ The syllabus includes lesson plans on how to make explosive belts, take female hostages, and set up booby-traps.⁵⁴ The children are indoctrinated on a daily basis. Violence is normalized.

The school is not just a place of "education" in the academic sense; it also provides an opportunity for Islamic State personnel to scout children exhibiting physical acumen.⁵⁵ Within the school system, the Islamic State engenders a sense of prestige and competition among children by telling them that not everyone will be allowed to become *ashbal*, or lion cubs.⁵⁶ Children between the ages of ten and fifteen who are chosen to become Cubs of the Caliphate face a grueling physical and mental regimen that lasts between thirty and fifty days.⁵⁷ Children who were in the Caliphate and escaped have reported that the children face isolation from their families, sleep on flea-infested mattresses, and are mentally and physically exhausted.⁵⁸ This harsh environment gives rise to camaraderie and manifests deep pride in the children for what they are able to endure.⁵⁹

A. Why Children – and Why They Cannot be Held to a Standard of Capital Punishment for Their Involvement with Violent Extremist Organizations

Children are an easy target for the Islamic State for two reasons: first, they have underdeveloped brains and second, due to external communal pressures. Children are more malleable to indoctrination and less likely to resist the persuasion to join the Islamic State because they do not fully understand mortality.⁶⁰ Research shows that because youth are still developing

⁵¹ Liesbeth van der Heide & Eva Entenmann, *Juvenile Violent Extremist Offenders: Peer Pressure or Seasoned Soldiers?*, INT'L CTR. FOR COUNTER-TERRORISM (Sept. 12, 2016), <https://icct.nl/publication/juvenile-violent-extremist-offenders-peer-pressure-or-seasoned-soldiers/>.

⁵² John Huddy, 'G' is for gun: Troops find ISIS textbooks used to brainwash children, FOX NEWS (Mar. 7, 2017), www.foxnews.com/world/2017/03/07/g-is-for-gun-troops-find-isis-textbooks-used-to-brainwash-children.html.

⁵³ Engel, *supra* note 50.

⁵⁴ *ISIS brainwashed 400,000 kids in Mosul to fight, carry out suicide attacks – report*, RT (Nov. 16, 2016, 8:38 AM), <https://www.rt.com/news/367089-mosul-children-isis-brainwashed/>.

⁵⁵ John Horgan & Mia Bloom, *This is How the Islamic State Manufactures Child Militants*, VICE NEWS (July 8, 2015), <https://news.vice.com/article/this-is-how-the-islamic-state-manufactures-child-militants>.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Children and Violent Extremism: International Standards and Responses from Criminal Justice Systems*, PENAL REFORM INT'L, 1, 2 (Mar. 2017), <https://www.penalreform.org/resource/children-violent-extremism-international-standards-responses-criminal-justice/> [hereinafter *Children and Violent Extremism*].

cognitively, they tend to act more impulsively.⁶¹ They lack the maturity of judgment and do not have a rigid moral compass.⁶²

There are several factors that push youth toward the influences of terrorist organizations. First, these organizations offer economic incentives, and youth tend to take more risks for less pay than adults do.⁶³ Second, those with parents and family members who are already members of violent extremist organizations are groomed from birth to join the ranks.⁶⁴ Third, youth who are looking to escape marginalization from their community find protection in violent extremist organizations.⁶⁵ There are additional factors that pull youth into terrorist organizations, including non-pecuniary rewards such as a sense of honor and duty, a heightened social status, and the charismatic leadership and propaganda of the organizations.⁶⁶ These factors play a major role in the lives of the children involved with the Islamic State.

B. Child Soldiers and the Islamic State

Many circumstances drive children into the hands of the Islamic State. Most of the children that are drawn in by the Islamic State are saddled with vulnerabilities, such as lack of economic opportunity; disruptive social context and experiences of violence, displacement, trauma, and loss; deprivation of psychological needs for efficacy, autonomy and purpose; and degradation of education infrastructure and opportunities to learn.⁶⁷ Additionally, the Islamic State has historically gone to houses and forced parents to hand their children over.⁶⁸ Finally, some families force their children to join the organization in order to receive a salary that goes directly to the family.⁶⁹

Although the use of child soldiers is not novel, the Islamic State's tactics do not follow the trends of previous militant organizations.⁷⁰ Where, historically, child soldiers have been used because they provided a specific technical advantage in combat, the Islamic State seemingly treats their child soldiers no differently than their adult soldiers.⁷¹ This can be seen in a report published by the Combating Terrorism Center at West Point Academy, which suggests that the Islamic State's systematic use of children is even more widespread than previously imagined.⁷² Of the eighty-nine cases analyzed in the Combating Terrorism Center's study, 39% of the children died

⁶¹ Van der Heide & Entenmann, *supra* note 51.

⁶² *Id.*

⁶³ Melissa Lefas, *Juvenile Violent Extremist Offenders in the Prison System*, GLOB. CTR. ON COOP. SEC. 1, 21 (Sept. 1, 2016), <http://www.cep-probation.org/wp-content/uploads/Presentation-Melissa-Lefas-Juvenile-Violent-Extremist-Offenders-in-the-Prison-System.pdf>.

⁶⁴ *Id.* at 22.

⁶⁵ *Id.*

⁶⁶ *Id.* at 23.

⁶⁷ *Children and Violent Extremism*, *supra* note 60, at 1.

⁶⁸ Callum Paton, *Caliphate Cubs of Isis: Inside the Dark World of Islamic State's Cadres of Child Soldiers*, INT'L BUS. TIMES (Dec. 14, 2015), www.ibtimes.co.uk/caliphate-cubs-isis-inside-dark-world-islamic-states-cadres-child-soldiers-1532562.

⁶⁹ *Id.*

⁷⁰ Erin McLaughlin, *How ISIS Recruits Children, Then Kills Them*, CNN (Feb. 22, 2016, 9:28 AM), <https://www.cnn.com/2016/02/19/middleeast/isis-child-soldiers/index.html>.

⁷¹ *Id.*

⁷² Mia Bloom, John Horgan, & Charlie Winter, *Depictions of Children and Youth in the Islamic State's Martyrdom Propaganda, 2015-2016*, 9 COMBATING TERRORISM CTR. SENTINEL 1, 29 (Feb. 2016), <https://ctc.usma.edu/app/uploads/2016/02/CTC-SENTINEL-Vol9Iss214.pdf>.

during detonation of an explosive device, 33% were killed as foot soldiers in battlefield operations, 6% died while working as propagandists, 4% conducted mass suicide attacks against civilians, and the final 18% died alongside adult fighters, after infiltrating and attacking an enemy position and then detonating suicide belts.⁷³ Further, the Islamic State's overall use of children has increased – there were three times as many suicide operations involving children in January 2016 than there were in January 2015.⁷⁴

The Islamic State is not restricting its use of child soldiers to roles in which they have a comparative advantage over adults, unlike what has been seen in previous conflicts involving children.⁷⁵ Rather, the children involved with the Islamic State are fighting alongside adults, being treated as any other fighter would be treated.⁷⁶ Graduates of the Cubs of the Caliphate program are trained for positions as porters, spies, and even for suicide missions.⁷⁷ Islamic State militants have filmed these children watching public beheadings, training in hand-to-hand combat, firing weapons, distributing knives to men preparing to behead prisoners, and carrying out executions themselves.⁷⁸ These children, juveniles between the ages of fifteen and eighteen years old, comprise around twenty percent of all suicide missions.⁷⁹ The Islamic State has built a system that manufactures child militants.

IV. THE SAUDI ARABIAN LEGAL SYSTEM AND THE CONFLICT WITH INTERNATIONAL LAW

Saudi Arabia is unique in its written law. Referred to as “The Basic System,” Saudi Arabia's constitution states that the Qur'an and the Sunnah of the Prophet Muhammad are the Kingdom's constitution.⁸⁰ This ideology is based on the doctrine of Wahhabism, which relies on Islamic, religious texts as its legal sources.⁸¹ It thereby opposes any interpretation of law and religion not based on traditional textual sources of law.⁸² Since only God can legislate, statutory laws in criminal, administrative and commercial areas are only lawful and enforceable where there is no clear text present in Islamic law that would otherwise regulate a given issue.⁸³ However, there is controversy over codification of Islamic law, and as a result, any codes, legislations, and acts are deemed informal.⁸⁴ Additionally, prosecutors and judges are free to criminalize any act in accordance with their own personal interpretation of the precepts of Islamic law,⁸⁵ constrained only by their own conscience in determining the will of God.⁸⁶ Judicial decisions of Saudi judges

⁷³ Bloom, Horgan & Winter, *supra* note 72, at 30–31.

⁷⁴ *Id.* at 31.

⁷⁵ *Id.* at 32.

⁷⁶ *Id.*

⁷⁷ Lefas, *supra* note 63, at 12.

⁷⁸ Horgan & Bloom, *supra* note 55.

⁷⁹ Lefas, *supra* note 63, at 15.

⁸⁰ Dr. Abdullah F. Ansary, *A Brief Overview of the Saudi Arabian Legal System*, HAUSER GLOBAL L. SCH. PROGRAM (July 2008), http://www.nyulawglobal.org/globalex/Saudi_Arabia.html.

⁸¹ Hossein Esmaeili, *On a Slow Boat Towards the Rule of Law: The Nature of Law in the Saudi Arabian Legal System*, 26 ARIZ. J. INT'L & COMP. L. 1, 5 (2009).

⁸² Esmaeili, *supra* note 81, at 5.

⁸³ Ansary, *supra* note 80.

⁸⁴ *Id.*

⁸⁵ Wells, *supra* note 2.

⁸⁶ Ansary, *supra* note 80.

can only be overruled if they contradict the plain meaning of the Qur'an or Sunnah, or abandon interpretations or principles applied by higher courts.⁸⁷

In light of this legislative system, the government of Saudi Arabia has yet to formally outlaw the execution of minors.⁸⁸ In fact, Saudi Arabia lacks even a legal definition of who is a minor.⁸⁹ In determining whether defendants qualify as minors, the trial judge is granted discretion in deciding whether the physical signs of puberty are present at the time of the trial.⁹⁰ This method is not only subjective, it also completely disregards the age of the defendant at the time the alleged crime was committed. As a result, judges have sentenced children to death for crimes committed when they were as young as thirteen years old.⁹¹

In 2008, Saudi Arabia established the Specialized Criminal Court, with the sole purpose of trying detainees linked to terrorist attacks.⁹² The Specialized Criminal Court falls under the jurisdiction of Saudi Arabia's Supreme Judicial Council,⁹³ which is responsible for the supervision of all courts and judges in Saudi Arabia.⁹⁴ As of February 2014, the Court's jurisdiction is codified in the "Penal Law for Crimes of Terrorism and Its Financing."⁹⁵ Although the Saudi embassy in Washington reported in January 2016 that the Court had tried 2225 cases involving 6122 defendants, details about the defendants, charges, and trials have largely been kept secret.⁹⁶ All cases tried in the first two years following establishment of the Court related to defendants suspected of ties to al-Qaeda.⁹⁷ In late 2010, the Court began expanding trials to include defendants other than those with ties to al-Qaeda, beginning with legal proceedings for political activists.⁹⁸ By March 2016, most cases related to support for the Islamic State or Jabhat al-Nusra,⁹⁹ another internationally recognized terrorist organization.¹⁰⁰ Although, as of May 4, 2017, Saudi Arabia had been targeted in a vast number of terrorist plots, at least 1075 since 1987,¹⁰¹ the prominence of this threat is no excuse for the Specialized Criminal Court to disregard human rights.

⁸⁷ Ansary, *supra* note 80.

⁸⁸ *Submission to the UN on child rights in Saudi Arabia*, AMERICANS FOR DEMOCRACY & HUM. RTS. IN BAHR. at 1 (Aug. 2, 2016), <http://www.adhrb.org/wp-content/uploads/2016/08/ADHRB-Submission-to-Saudi-Arabias-CRC-Review.pdf> [hereinafter *Submission to the UN*].

⁸⁹ *Adults Before Their Time: Children in Saudi Arabia's Criminal Justice System*, HUMAN RIGHTS WATCH (Mar. 24, 2008), <https://www.hrw.org/report/2008/03/24/adults-their-time/children-saudi-arabias-criminal-justice-system>.

⁹⁰ *Submission to the UN*, *supra* note 88.

⁹¹ *Id.*

⁹² Lori Plotkin Boghardt, *From ISIS to Activists: New Security Trials in Saudi Arabia*, 33 WASH. INST. FOR NEAR E. POL'Y 1, 1 (2016).

⁹³ *Id.* at 2.

⁹⁴ Law of the Judiciary Royal Decree No. M/78, art. 6(e) (Oct. 1, 2007) (Saudi Arabia).

⁹⁵ Boghardt, *supra* note 92, at 2.

⁹⁶ *Id.* at 1.

⁹⁷ *Id.* at 3.

⁹⁸ *Id.*

⁹⁹ *Id.* at 4–5.

¹⁰⁰ *Nusra Front (Jabhat Fateh al-Sham)*, COUNTER EXTREMISM PROJECT 1, 1, <https://www.counterextremism.com/threat/nusra-front-jabhat-fateh-al-sham> (select "Download Report").

¹⁰¹ *UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism concludes visit to Saudi Arabia*, U.N. HUM. RTS. OFF. OF THE HIGH COMMISSIONER, (May 4, 2017), <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21584&LangID=E> [hereinafter UN Special Rapporteur].

Regardless of Saudi Arabia's domestic legal system and legislation, or lack thereof, the country is a signatory to the United Nations Convention on the Rights of the Child.¹⁰² Saudi Arabia is therefore legally bound by the Convention on the Rights of Child and is subject to legal consequences of violations thereof. Article 37(a) of the United Nations Convention on the Rights of the Child states that:

State Parties shall ensure that 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 offenses committed by persons below eighteen years of age.*¹⁰³

Juveniles who are involved in violent extremist organizations are immersed in a curriculum that desensitizes violence,¹⁰⁴ indoctrinating them to think in black-and-white terms.¹⁰⁵ The inclusion of violent extremist offenders who were arrested for their crimes as juveniles in Saudi Arabia's mass execution on January 2, 2016 was in direct violation of the United Nations Convention on the Rights of the Child; and yet, the country is not being held accountable for its actions. For example, even the United States turned a blind eye when, on February 13, 2017, Saudi Arabian Prince Muhammed bin Nayef was awarded the George Tenet medal by the Central Intelligence Agency for his contributions to fighting terrorism, despite Saudi Arabia's disturbingly broad interpretation of combating terrorism.¹⁰⁶ The United Nations and Saudi Arabia's allies are overlooking, rather than addressing, the country's gross disregard for the rights of children.

V. AVENUES OF INTERNATIONAL RESPONSE

Saudi Arabia, as a signatory of the United Nations Convention on the Rights of the Child, must be held accountable for its juvenile executions. The treaty was created to explicitly recognize that children are entitled to special care and assistance.¹⁰⁷ It further protects the idea that children have a certain physical and mental immaturity, which requires appropriate legal protection.¹⁰⁸ The United Nations Convention on the Rights of the Child is legally binding upon its signatories, and yet the world continues to overlook Saudi Arabia's violation of this international law.

¹⁰² *Convention on the Rights of the Child*, United Nations Treaty Collection, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=48&lang=en (status as at Feb. 5, 2018).

¹⁰³ United Nations Convention on the Rights of the Child art. 37, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter UNCRC]. (emphasis added).

¹⁰⁴ Jay Akbar, *ISIS is 'copying the Nazis' recruitment tactics and brainwashing young boys from BIRTH into becoming their next generation of killers*, DAILY MAIL (Mar. 6, 2016), <http://www.dailymail.co.uk/news/article-3478245/ISIS-copying-Nazis-recruitment-tactics-brainwashing-young-boys-BIRTH-generation-killers.html>.

¹⁰⁵ Kelly Cobiella, *Denmark De-Radicalization Program Aims to Reintegrate, Not Condemn*, NBC NEWS (May 24, 2015, 3:21 AM), <http://www.nbcnews.com/storyline/isis-terror/denmark-de-radicalization-n355346>.

¹⁰⁶ Bethan McKernan, *CIA awards Saudi crown prince with medal for counter-terrorism work*, INDEP. (Feb. 13, 2017, 10:54), www.independent.co.uk/news/world/middle-east/cia-saudi-arabia-crown-prince-muhammed-bin-naye-medal-counter-terrorism-work-intelligence-a7577221.html.

¹⁰⁷ UNCRC, *supra* note 103, at Preamble.

¹⁰⁸ *Id.*

A. Security Council

The United Nations is composed of six main organs, one of which is the Security Council, the primary international peace and security body.¹⁰⁹ Article 24 of the Charter of the United Nations mandates the Security Council to act on behalf of all members of the United Nations, to ensure prompt and effective action with respect to the maintenance of international peace and security.¹¹⁰ All members of the United Nations, in accordance with Article 25 of the Charter of the United Nations, agree to carry out all decisions of the Security Council,¹¹¹ decisions which are considered binding by the International Court of Justice.¹¹² Therefore, the Security Council has discretion to use any measures it deems necessary, excluding the use of armed forces, to give effect to its decisions.¹¹³

On February 13, 2017, the United Nations Security Council held its 7882nd meeting.¹¹⁴ Addressing the prominence of terrorism, the Security Council adopted Resolution 2341, reaffirming that terrorism is one of the most serious threats to international peace and security.¹¹⁵ The Resolution further reaffirms that counterterrorism efforts must be conducted in compliance with international human rights law and international humanitarian law.¹¹⁶ The broad, vague language contained in Resolution 2341 is ineffective in addressing specific issues surrounding counterterrorism efforts.

The Security Council must take it upon itself to pass a resolution condemning Saudi Arabia's use of capital punishment against any person who committed the punishable offense as a juvenile, regardless of the severity of the crime. The Council must explicitly interpret its affirmation that counterterrorism efforts comply with international human rights law to include the provisions laid out in the United Nations Convention on the Rights of the Child, specifically Article 37(a).

B. Committee on the Rights of the Child

Governments that have ratified the United Nations Convention on the Rights of the Child or one of its Optional Protocols must report to the Committee on the Rights of the Child.¹¹⁷ This Committee is made up of eighteen experts from different countries and legal systems that have been nominated and elected by State parties but act as individuals rather than representatives of their countries.¹¹⁸ In response to the execution conducted by Saudi Arabia on January 2, 2016, the Committee, in its October 25, 2016 report, expressed a deep concern that the country had executed

¹⁰⁹ *What is the Security Council?*, U.N. SECURITY COUNCIL, www.un.org/en/sc/about/.

¹¹⁰ U.N. Charter art. 24, ¶ 1.

¹¹¹ U.N. Charter art. 25.

¹¹² Marko Divac Oberg, *The Legal Effects of Resolutions of the UN Security Council and General Assembly in the Jurisprudence of the ICJ*, 16 EUR. J. OF INT'L L. 879, 884 (2005).

¹¹³ U.N. Charter art. 41.

¹¹⁴ See generally S.C. Res. 2341 (Feb. 13, 2017).

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Monitoring the fulfilment of States obligations*, UNICEF (Nov. 30, 2005), https://www.unicef.org/crc/index_30210.html [hereinafter UNICEF].

¹¹⁸ *Id.*

multiple people who were under the age of eighteen when their alleged crimes were committed.¹¹⁹ This concern has obviously not been addressed, though, as Saudi Arabia has continued sentencing to death those who committed crimes as juveniles.¹²⁰ The United Nations Convention on the Rights of the Child grants a role in its implementation to the United Nations International Children's Emergency Fund ("UNICEF").¹²¹ Under the Convention, UNICEF has a legal obligation to contribute advice and assistance to the Committee, and to facilitate broad consultations within the States to maximize the accuracy and impact of reports to the Committee.¹²²

The Committee on the Rights of the Child is also able to consider individual complaints alleging violations of the United Nations Convention on the Rights of the Child and its Optional Protocols by State parties, as well as to carry out inquiries into allegations of grave or systematic violations of rights.¹²³ The United Nations Convention on the Rights of the Child allows for State parties to file complaints to the Committee against another State party that is not giving effect to the provisions of the Convention.¹²⁴ This procedure has never before been used,¹²⁵ but Saudi Arabia's current use of child executions presents a perfect case for such a complaint to be brought.

C. Special Procedures

The "Special Procedures" of the Human Rights Council are independent human rights experts mandated to report and advise on human rights from a specified perspective, either thematic or country-specific.¹²⁶ This work is performed either as an individual, in the capacity of a "Special Rapporteur" or "Independent Expert," or as a working group consisting of five members, representing the five regions of the world (Africa, Asia, Latin America and the Caribbean, Eastern Europe, and the Western group).¹²⁷ Special Procedures are responsible for making country visits, sending communications to States, conducting studies and convening expert consultations, and providing advice for cooperation.¹²⁸

As of August 1, 2017, there are forty-four thematic and twelve country-specific mandates,¹²⁹ including a mandate for a Special Rapporteur on extrajudicial, summary, or arbitrary executions and a mandate for a Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.¹³⁰ However, it does not include a

¹¹⁹ U.N. Comm. on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Saudi Arabia*, ¶ 20, U.N. Doc. CRC/C/SAU/CO/3-4 (Oct. 25, 2016) [hereinafter U.N. Comm.].

¹²⁰ See AMNESTY INT'L, *supra* note 12.

¹²¹ UNICEF, *supra* note 117.

¹²² *Id.*

¹²³ *Monitoring children's rights*, U.N. HUM. RTS. OFF. OF THE HIGH COMMISSIONER, <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIntro.aspx>.

¹²⁴ *Human Rights Bodies: Complaints Procedures*, U.N. HUM. RTS. OFF. OF THE HIGH COMMISSIONER, <http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx>.

¹²⁵ *Id.*

¹²⁶ *Special Procedures of the Human Rights Council*, U.N. HUM. RTS. OFF. OF THE HIGH COMMISSIONER, <http://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx>.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Thematic Mandates*, U.N. HUM. RTS. OFF. OF THE HIGH COMMISSIONER, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx?Type=TM.

mandate for a Special Rapporteur on the situation of human rights in Saudi Arabia.¹³¹ Since the mandate was established in 1982,¹³² the Special Rapporteur “on extrajudicial, summary or arbitrary executions” has not visited Saudi Arabia even once.¹³³ This Special Procedure must take it upon himself or herself to submit visit requests to Saudi Arabia, so that he or she may meet with judges, lawyers, government leaders, detainees, and others, and ultimately bring to light the kingdom’s gross disregard for the rights of juvenile offenders.

On the other hand, since the mandate was established in 2005,¹³⁴ the Special Rapporteur “on the promotion and protection of human rights while countering terrorism” has visited Saudi Arabia once, in 2017, and his report is forthcoming.¹³⁵ In his preliminary findings, released on May 4, 2017, the Special Rapporteur noted a few concerns with Saudi Arabia’s counter-terrorism approach, focusing on the right to free speech and due process.¹³⁶ In a press release published the next day, the Special Rapporteur spoke out only against Saudi Arabia’s use of counter-terrorism legislation against people peacefully exercising their rights to free association, assembly and expression.¹³⁷ By failing to address juvenile executions, the Special Rapporteur has completely overlooked Saudi Arabia’s use of capital punishment for crimes committed as juveniles. The forthcoming final and official report must address the preliminary observations’ shortcomings.

VI. CONCLUSION

Saudi Arabia must recognize that the juveniles arrested in violent extremist efforts are victims of a large-scale structured indoctrination scheme. The Islamic State and other terrorist organizations are at fault. The children themselves have not obtained the level of competency required to acknowledge the consequences of joining the terrorist organization; they are victims, not criminals. These children only understand fear, hunger, and marginalization, all of which these organizations use to their advantage to manipulate them into becoming young militants. Juvenile violent extremist offenders, just like any other juvenile offender, are guaranteed the protections of the United Nations Convention on the Rights of the Child. It is the United Nations’ obligation to address the international law violations being carried out by Saudi Arabia in their executions of juvenile violent extremist offenders, and Saudi Arabia’s obligation to recognize the rights of juveniles, regardless of their affiliation with terrorist organizations.

¹³¹ *Country Mandates*, U.N. HUM. RTS. OFF. OF THE HIGH COMMISSIONER, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx?Type=TM.

¹³² *Thematic Mandates*, *supra* note 130.

¹³³ *Country Visits*, U.N. HUM. RTS. OFF. OF THE HIGH COMMISSIONER, <http://www.ohchr.org/EN/Issues/Executions/Pages/CountryVisits.aspx>.

¹³⁴ *Thematic Mandates*, *supra* note 130.

¹³⁵ *View Country visits of Special Procedures of the Human Rights Council since 1998*, U.N. HUM. RTS. OFF. OF THE HIGH COMMISSIONER, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=SAU.

¹³⁶ UN Special Rapporteur, *supra* note 101.

¹³⁷ *Saudi Arabia must reform counter-terror law and free peaceful critics, says UN rights expert*, U.N. HUM. RTS. OFF. OF THE HIGH COMMISSIONER, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21585&LangID=E>.