



## UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

### FACTSHEET **SAUDI ARABIA'S SPECIALIZED CRIMINAL COURT**

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#### USCIRF's Mission

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*To advance international freedom of religion or belief, by independently assessing and unflinchingly confronting threats to this fundamental right.*

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#### Introduction

Since the inception of Saudi Arabia's Specialized Criminal Court (SCC) in 2008, the Saudi government has used it to systematically commit violations of the right to freedom of religion or belief. While originally created to clear a backlog of terrorism cases, the SCC routinely targets minorities and dissenters, including religious dissidents, members of religious minority communities (particularly the minority Shi'a community), and those who have publicly criticized the Saudi government's singular interpretation of Sunni Islam.

The SCC imposes harsher sentences than other Saudi criminal courts for similar offences, routinely *denies* defendants access to legal counsel, and *delays* issuing judicial decisions. The court's convictions are sometimes *based* on confessions obtained through torture. These actions particularly affect members of religious minority communities and have a chilling effect on religious freedom in Saudi society. The SCC's treatment of religious minorities includes several of the examples of "particularly severe violations" under the *International Religious Freedom Act of 1998*: Cruel, inhuman, or degrading punishment; prolonged detention without charges; and the flagrant denial of liberty or the security of persons.

In recent years the Saudi government has made small *changes* that move the country in the direction of reform. These changes, however, have done little to address the structural factors responsible for the religious restrictions overall, including religious freedom violations inherent in the activities of the SCC. Legal limitations to the scope and powers of the SCC would help reduce the severity of these violations, but the Saudi government has not indicated that it has any plans to reform the court or more explicitly enumerate its powers. As such, the Joseph R. Biden administration should consider whether the actions of the SCC and its officers meet the standard for U.S. sanctions or visa bans. More importantly, the State Department should lift the national security waiver shielding the Saudi government from accountability for its religious freedom violations despite its status as a *Country of Particular Concern*.

## Structure of Saudi Arabia's SCC

The Saudi government created the SCC in 2008 to expedite the trials of people [suspected](#) of involvement in a series of terrorist attacks beginning in 2003, for which al-Qaeda claimed responsibility. Concurrent with the 2011 protests that emerged across the Middle East, however, the court began [prosecuting](#) peaceful activists whose views dissented from those of the government. Since then, many defendants tried by the court have been members of religious minority groups or have supported the rights of these groups to freedom of religion or belief.

As established, the Saudi Supreme Judicial Council [appoints](#) the SCC's judges, and the Ministry of Interior (MOI) refers cases to the court.<sup>1</sup> However, human rights groups and international organizations question the impartiality of the court's structure. In 2016, the UN Committee Against Torture expressed [concern](#) that the court was "insufficiently independent of the Ministry of the Interior." The court also tries cases that are within the jurisdiction of other courts but can impose harsher sentences for the same crime.

Historically the MOI was also responsible for investigating and prosecuting cases in Saudi Arabia, including in the SCC. However, two royal decrees in 2017 shifted these authorities away from the MOI and brought them within the purview of the King. These decrees [created](#) the Public Prosecution, which is led by an attorney general and is under the authority of the King. A 2020 amendment to Article 112 of the Penal Procedures law further [enhanced](#) the Public Prosecution's power to determine which cases to prosecute. Despite recent positive steps that the Public Prosecution has taken to outline more clear [procedures](#) for evidence, [arrests](#), and referring cases to court, it continues to prosecute defendants on the basis of their religious identity or beliefs. The 2017 royal decrees also established the State Security Presidency, which [reports](#) to the King, and [moved](#) several investigative and prosecutorial bodies from the MOI to the State Security Presidency.<sup>2</sup> As a result, the SCC became a judicial body in which the Saudi ruling family could more directly intervene, influencing the outcome of cases where those on trial expressed criticism or dissent of the government and its religious interpretations.

## Legal Instruments

Many SCC verdicts enforce laws whose overly vague and poorly defined terms lead to severe restrictions on Saudis' freedom of religion or belief, including the Anti-Cybercrimes Law (2007) and the Penal Law for Crimes of Terrorism and its Financing (2014). Many aspects of religious freedom protected under international law fall within definitions of "terrorism" as outlined in these laws, despite being protected activities. As a result, Saudi religious minorities and dissidents are often prosecuted by the SCC for practicing their faith or expressing their beliefs. These prosecutions, in turn, have had a chilling effect on freedom of religion or belief in Saudi Arabia.

Saudi authorities often [use](#) the [2007 Anti-Cybercrimes Law](#) to prosecute cases in the SCC. Article 6 of the law [prohibits](#) producing material "that harms public order, religious values, [or] public morals" and imposes a fine of up to five years in prison and a three million Saudi rial (US\$800,000) fine. The government has often used this law to [prosecute](#) defenders of human rights as well as those critical of the Saudi government. While international law [defines narrow exceptions](#) to religious freedom predicated on protection of public order and public morals invoked in the law, the SCC's application of these exceptions runs contrary to the [Siracusa Principles](#), which dictate that exceptions must not be used to destroy a protected right or discriminate against individuals based on their religion or belief.

In February 2014, the Penal Law for Crimes of Terrorism and its Financing [expanded](#) the definition of terrorism within Saudi law to include acts of peaceful expression. Furthermore, a March 2014 decree from the MOI expanded the list of activities considered "terrorist crimes" under the law to [include](#) "calling for atheist thought" and "questioning the fundamental principles of Islam." Legal experts also note that "the decree did nothing to cure the potential for it to be discriminatorily applied against particular groups — such as religious minorities."<sup>3</sup> A July 2014 decree also gave the SCC exclusive jurisdiction to try the cases of those accused under the 2014 law. As a result, many defendants being tried in other courts had their cases moved to the SCC, where they faced the prospect of harsher sentences. In October 2017, the Law on Counterterrorism and its Financing further [consolidated](#) power under the King. It also allowed the SCC to [sentence](#) people to up to 10 years in prison for insulting the King in a way that impugns religion or justice.

1 Brittany Benowitz and Virginia Anderson, "Terrorism Prosecutions in the Specialized 'Court' of Saudi Arabia," in *Law, Security, and the State of Perpetual Emergency*, ed. Linda Bishai (London: Palgrave MacMillan, 2020): 213.

2 Benowitz and Anderson, 218.

3 Benowitz and Anderson, 214.

The SCC takes advantage of its vaguely defined legal authorities to target and prosecute religious minorities and others who peacefully dissent from the government's endorsed version of Hanbali Sunni Islam. Religious dissidents prosecuted by the SCC also face egregious [violations](#) of their rights, including prolonged and incommunicado detentions, delayed trials, lack of access to legal representation and information about the charges against them, and torture to exact confessions, [documented](#) extensively by international human rights organizations. The court [rarely investigates](#) these events.

## Major SCC Religious Freedom Cases

### Nimr al-Nimr

Saudi Arabia [arrested](#) influential Shi'a Sheikh Nimr al-Nimr in July 2012 over his support of protests in the Eastern Province in 2011 due to the government's discrimination against Shi'a Muslims. Al-Nimr was [not charged](#) for eight months following his arrest. In March 2013, he went on trial at the SCC on [charges](#) of "disobeying the ruler" and "inciting sectarianism." Al-Nimr was denied access to a lawyer in pre-trial detention and could not access the evidence against him. His lawyer was also not informed of several key trial dates. The SCC [sentenced](#) Al-Nimr to death in October 2014. Saudi Arabia [executed](#) him in January 2016.

### Mustafa Darwish

Mustafa Darwish was a Shi'a resident of the Eastern Province of Saudi Arabia. In 2011 and 2012, he participated in protests against Shi'a discrimination in the province. Saudi authorities [arrested](#) Darwish in 2015 on charges of "participation in armed rebellion against the rulers" and "seeking to disrupt national cohesion," among others. He was [held](#) incommunicado, denied access to legal counsel prior to his trial, and reportedly tortured into confessing. The SCC sentenced Darwish to death in 2018. The Saudi government [executed](#) Darwish in June 2021 despite him being a minor when he allegedly committed his crimes.

### Mohammad bin Hassan al-Habib

[Mohammad bin Hassan al-Habib](#) is a Shi'a Muslim cleric imprisoned for his religious identity and criticism of state-sponsored religious discrimination. He was arrested in July 2016 and placed in solitary confinement, held incommunicado for four months, denied access to a lawyer, and reportedly was tortured. At his first hearing in front of the SCC in October 2016, al-Habib was charged with violating a pledge he made in 2012 not to give sermons

considered objectionable. In July 2017, al-Habib was found not guilty of violating the pledge, but the appeals branch of the SCC overturned that decision and sentenced him to seven years in prison for "sectarianism" and "calling people to sedition" under Royal Decree No. A/ 44 of 2014. In April 2018, al-Habib faced new charges, including "endeavoring to shake the societal fabric and national unity" and violating the Anti-Cybercrimes Law. In August 2019, the SCC, invoking Article 6 of the Anti-Cybercrimes Law, sentenced al-Habib to an [additional](#) five years in prison and imposed a five-year travel ban after he is released. This ruling was then [upheld](#) on December 15, 2019. Since then, Al-Habib's health has [deteriorated](#) due to mistreatment and medical neglect by prison authorities. In March 2021, the UN Human Rights Council's Working Group on Arbitrary Detention concluded that Sheikh al-Habib's detention was "a direct consequence of the exercise of his fundamental rights to freedom of thought, conscience, and religion."

### Loujain al-Hathloul

[Loujain al-Hathloul](#) is a prominent Saudi activist who has peacefully opposed the male guardianship system, which is [based on](#) the Saudi state's singular interpretation of Sunni Islam and imposed on Saudi women regardless of their personal religious beliefs. She is one of several defendants tried in the SCC for her peaceful activism against the system. Al-Hathloul was [arrested](#) in May 2018 and held without charges for 10 months. For the first three of these months, she was denied access to a lawyer, held incommunicado, and not permitted to speak with her family. During interrogations, she was reportedly [tortured](#), a treatment she was later [asked to deny](#) in exchange for her freedom. On November 25, 2020, her case was [transferred](#) from the Criminal Court in Riyadh to the SCC, which reportedly said it would investigate allegations of torture. On December 10, 2020, her trial [began](#) under SCC jurisdiction after having been suspended at regular criminal court for a year-and-a-half. She was [charged](#) with sharing information about women's rights in Saudi Arabia with journalists, activists abroad, diplomats, human rights organizations, and international bodies. On December 28, 2020, less than three weeks after the trial began, the SCC [sentenced](#) her to five years and eight months in prison. In February 2021, Saudi Arabia [released](#) al-Hathloul following international pressure, and suspended two years and 10 months of her sentence. However, on March 10, 2021, the SCC [rejected](#) her appeal and affirmed her original sentence, which also included three years' probation and a five-year travel ban.

## Waleed Abu al-Khair

[\*Waleed abu al-Khair\*](#) is a Saudi lawyer who represented religious prisoners of conscience, including Raif Badawi, who had expressed views critical of the Saudi state's interpretation of Islam. Al-Khair is also the [\*head\*](#) of an organization called Monitor of Human Rights in Saudi Arabia. Saudi authorities [\*charged\*](#) al-Khair in 2013 with "breaking allegiance to and disobeying the ruler and disrespecting the authorities," "offending the judiciary," "inciting international organizations against the Kingdom," and "founding an unlicensed organization." He was [\*arrested\*](#) in April 2014 during the fifth session of his SCC hearing related to these charges. In [\*February 2015\*](#), the SCC [\*upheld\*](#) al-Khair's sentence of 15 years in prison, imposed a 15-year travel ban following his release, and fined him 200,000 riyals (US\$53,000). Al-Khair has faced extensive mistreatment in prison, including [\*denial\*](#) of requests for medical care to help manage his diabetes.

## Hassan Farhan al-Maliki

[\*Hassan Farhan al-Maliki\*](#) is a Muslim religious scholar whose religious views often differ from those of the Saudi government. He was arrested in September 2017 and held in pretrial detention for more than a year. In October 2018, al-Maliki appeared before the SCC and was formally charged with 14 crimes, including calling into question the fundamentals of Islam, receiving money from foreign terrorist organizations, giving interviews to hostile media outlets, incitement to demonstrations and sit-ins in Bahrain, insulting the country's rulers and Council of Senior Clerics, supporting Hezbollah and the Houthis, seeking to destabilize the social fabric and national harmony, and violating the Anti-Cybercrimes Law. After [\*multiple delays\*](#), Al-Maliki was allowed to deliver a statement in his defense for the first time on March 8, 2020, nearly two and a half years after his arrest. The SCC delayed subsequent hearings for months. Maliki's latest hearing was on November 3, 2021, with an additional hearing scheduled for December 28, 2021. No ruling has been issued against him.

## Dawood al-Marhoun

[\*Dawood al-Marhoun\*](#) is a Saudi citizen imprisoned for protesting discrimination against Saudi Arabia's Shi'a minority. Al-Marhoun was detained in 2012 at the age of 17 for participating in protests against Shi'a discrimination in the Eastern Province. Al-Marhoun spent roughly 22 months in pretrial detention without ever being charged. He was also reportedly held incommunicado several times during his detention and was denied access to a lawyer. When al-Marhoun was finally charged, he was accused of "participating in marches and gatherings" during 2011 protests in Saudi Arabia. In October 2014, the Specialized Criminal Court convicted al-Marhoun of all charges and sentenced him to death. The main evidence indicating his supposed guilt was a confession that he was reportedly [\*coerced\*](#) into signing under torture. The court failed to investigate his torture allegations. In November 2020, Saudi Arabia [\*commuted\*](#) al-Marhoun's sentence to 10 years in prison.

## Ali al-Nimr

[\*Ali al-Nimr\*](#) is the nephew of Shi'a cleric Nimr al-Nimr. He was detained in July 2012 for participating in protests against Shi'a discrimination in the Eastern Province. Despite being only 17 years old at the time of his arrest, authorities did not allow his parents to visit him in detention until four months later. The SCC held three hearings for al-Nimr before granting him access to a lawyer, who was then prevented from meeting with his client during the trial. In May 2014, the SCC sentenced al-Nimr to death on charges including "breaking allegiance with the ruler," "going out to a number of marches, demonstrations, and gatherings against the state and repeating some chants against the state," and inciting demonstrations via the internet. Al-Nimr told the court that he had been tortured into confessing. However, it failed to investigate these allegations. In February 2021, Saudi Arabia commuted his sentence to 10 years in prison. al-Nimr was [\*released\*](#) early on October 27, 2021.

## Salman al-Ouda

Sheikh [Salman al-Ouda](#) is a Muslim religious scholar who engaged in peaceful dissent as leader of the Muslim Brotherhood-inspired Sahwa movement, [which called for](#) governmental reforms in Saudi Arabia during the 1990s. In September 2017, police arrested al-Ouda from his home amid a statewide wave of arrests of scholars, intellectuals, and activists. Al-Ouda was held incommunicado and in solitary confinement for the first five months of his detention, with no access to a lawyer or his family. He was also held in pre-trial detention without being charged for a year. In September 2018, al-Ouda appeared before the SCC in Riyadh for his first hearing. Prosecutors charged him with 37 crimes and sought the death penalty against him. As evidence, prosecutors presented hundreds of tweets in which al-Ouda “criticized government projects, called for reforms, and demanded the release of prisoners.” Since that first hearing, al-Ouda’s trial has been postponed multiple times or held in closed door sessions. The last known hearing for his trial occurred on March 14, 2021.

## Mohammed al-Rabiah

[Mohammed al-Rabiah](#) is an activist who has peacefully opposed the Saudi male guardianship system. Authorities arrested al-Rabiah in May 2018 amid a statewide crackdown on those opposing the guardianship system. He was [reportedly](#) tortured in prison. After three years of detention, al-Rabiah was finally charged with “striving to destabilize the social fabric and weaken national cohesion and community cohesion,” “communicating with others with the intent of disturbing the security and stability of the nation,” and “writing and publishing a book containing suspicious instructions.” Prosecutors sought [25 years](#) in prison under Article 6 of the Anti-Cybercrimes Law and Articles 53 and 55 of the Law on Combating and Financing Terrorism Crimes. On March 21, 2021, al-Rabiah’s case was transferred to the SCC, and on April 20, he was [sentenced](#) to six years and six months in prison followed by a travel ban. An appeals court [upheld](#) the decision in September 2021.

## Abdullah al-Zaher

In March 2012, Saudi authorities arrested [Abdullah al-Zaher](#) at age 15 after he protested Saudi Arabia’s discrimination against its Shi’a minority. Al-Zaher was held in pretrial detention for 22 months without being charged and was also denied access to a lawyer before and during his trial. In October 2014, the SCC convicted al-Zaher for “participation in marches and gatherings” and “chanting slogans against the state.” The court sentenced al-Zaher to death for these offenses. The main pieces of evidence indicating his supposed guilt were the arrest report and a confession that he was reportedly coerced into signing. The court failed to investigate his torture allegations. Al-Zaher’s sentence was upheld in October 2015. In November 2020, Saudi Arabia commuted al-Zaher’s sentence to 10 years in prison. He was [released](#) November 14, 2021.

## Conclusion

The treatment of Specialized Criminal Court (SCC) defendants in Saudi Arabia constitutes “[particularly severe violations](#)” of religious freedom under the International Religious Freedom Act of 1998 and in many cases are gross violations of human rights. These violations include torture or cruel, inhuman, or degrading treatment or punishment; prolonged detention; causing the disappearance of persons; and flagrant denial of life and liberty. Religious minorities and peaceful religious dissidents are regularly denied due process in the SCC because of their religious beliefs. They are tried on the basis of confessions allegedly obtained through torture, denied access to the evidence against them, and not permitted to speak with lawyers throughout their trial. Their sentences are unusually harsh and often include capital punishment. Saudi Arabia has carried out these punishments, actively executing those convicted in the SCC over their religious beliefs.

In February 2021, the United States government imposed [sanctions](#) and [visa restrictions](#) on Saudi authorities complicit in “freedom of expression” violations and targeting dissidents for exercising their “human rights and fundamental freedoms.” Saudi officials associated with the SCC are often complicit in these serious violations as well, particularly as they relate to the fundamental freedom of religion or belief. As such, the United States should determine whether the actions of officials associated with the SCC meet the standard for sanctions and visa restrictions.



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The U.S. Commission on International Religious Freedom (USCIRF) is an independent, bipartisan federal government entity established by the U.S. Congress to monitor, analyze, and report on religious freedom abroad. USCIRF makes foreign policy recommendations to the President, the Secretary of State, and Congress intended to deter religious persecution and promote freedom of religion and belief.