

## **ABOUT THE SAUDI SYSTEM OF JUSTICE**

Saudi Arabia has a criminal justice system based on a hardline and literal form of Shariah law reflecting a particular state-sanctioned interpretation of Islam.

Royal decrees are the other main source of law; but are referred to as regulations rather than laws because they are subordinate to the Sharia.[1, c. 4] Royal decrees supplement Sharia in areas such as labor, commercial and corporate law. Additionally, traditional tribal law and custom remain significant.[2, c. 56]

The judicial system is founded the Hanbali school of Sunni Islam too, in accordance with a ruling by King Abd al Aziz in 1926. The Hanbali system of jurisprudence, which rejected analogy as a source of law and gave prominence to the traditions and sayings of the Prophet Muhammad, was regarded as especially rigid by most Muslim lawyers.

Two categories of crime are delineated in the sharia: those that are carefully defined and those that are implicit in the requirements and prohibitions of the sharia. For the first category, there are specific penalties; for the second, punishment can be prescribed by a judge (qadi) of a sharia court. The first two categories are tried in sharia courts. A third category of crime has developed through the years as a result of various governmental decrees that specified codes of behavior.

An act of self-defense is recognized as a right nullifying criminality. Retaliation is permitted to the male next of kin of the victim by killing the criminal in the case of a homicide or exacting the same bodily injury that was inflicted on the victim. [3, c.175]

Acceptance of diya is, however, considered preferable under the sharia. In cases involving death or grievous injury, the accused is usually held incommunicado. Imprisonment before trial can last for several weeks or even months. The right of bail or habeas corpus is not recognized, although persons accused of crimes are sometimes released on the recognizance of a patron or employer.

The judge assigns great significance to a defendant's sworn testimony, although the testimony of two women is required to equal that of one man. In the absence of two witnesses, oral confessions before a judge are almost always required for conviction. Trials are held without jurors and are generally closed. They are normally held without counsel, although lawyers can advise the accused before the trial. In certain criminal cases, punishment can be referred to a local governor or shaykh for sentencing upon the advice of a local Muslim lawyer or the ulama.

Appeals against judges' decisions are automatically reviewed by the Ministry of Justice or in more serious cases by a court of appeal. Decisions of the appellate courts are final, except for sentences of death and amputation. Cases of capital punishment are automatically referred to the king for final review. [4, c.63]

The Saudi system of justice has been criticized for its "ultra-puritanical judges", who are often harsh in their sentencing (with beheading for the crime of witchcraft), but also sometimes overly lenient (for cases of rape or wife-beating) and slow, for example leaving thousands of abandoned women unable to secure a divorce. The system has also been criticized for being arcane lacking in some of the safeguards of justice, and unable to deal with the modern world.[5, c.75-76]

The sharia carefully defines crimes, such as homicide, personal injury, adultery, fornication, theft, and highway robbery, and prescribes a penalty (hadd) for each of them. Various degrees of guilty for homicide and bodily injury are recognized depending on intent, the kind of weapon used, and the circumstances under which the crime committed. Homicide is considered a crime against a person rather than a crime against society in which the state administers justice of its own volition. Under the sharia, the victim or the victim's family has the right to demand punishment, to grant clemency, or to demand blood money (diya) - a set payment as recompense for the crime.[5, c.78]

Saudi law theoretically allows the death penalty for following crimes commission: treason, espionage, murder, rape, terrorism, drug smuggling, apostasy (apostates are sentenced to beheading but are usually given three days to repent and return to Islam), armed robbery, sexual misconduct, atheism, burglary in aggravated circumstances, including recidivism, adultery, sodomy, homosexuality or lesbianism, waging war on God etc.

Capital punishment is a legal penalty in Saudi Arabia.. In 2016 the country performed at least 154 executions while in 2015, 158 people were executed by the Saudi authorities. [6, c.198]

Death sentences in Saudi Arabia are pronounced almost exclusively based on the system of judicial sentencing discretion (tazir) rather than Sharia-prescribed (hudud) punishments, following the classical principle that hudud penalties should be avoided if possible.[ 7, c.266-267]

It usually carried out publicly by beheading with a sword. Occasionally they can be performed by shooting.

A public beheading will typically take place at about 9am. The convicted person is walked into the square and kneels in front of the executioner. The executioner uses a sword known as a sulthan to remove the condemned person's head from his or her body at the neck. After the convicted person is pronounced dead, a police official announces the crimes committed by the beheaded alleged criminal and the process is complete. The official might announce the same before the actual execution. This is the most common method of execution in Saudi Arabia because it is specifically called for by Sharia law. Professional executioners behead as many as ten people in a single day. [8, c.44-45]

Crucifixion of the beheaded body is sometimes ordered. For example, in 2009, the Saudi Gazette reported that "An Abha court has sentenced the leader of an armed gang to death and three-day crucifixion (public displaying of the beheaded body) and six other gang members to beheading for their role in jewelry store robberies in Azir." (This practice resembles gibbeting, in which the entire body is displayed).[8, c.50]

In 2003, Muhammad Saad al-Beshi, who was described by the BBC as "Saudi Arabia's leading executioner", gave a rare interview to Arab News. He described his first execution in 1998: "The criminal was tied and blindfolded. With one stroke of the sword I severed his head. It rolled meters away...People are amazed how fast [the sword] can separate the head from the body." He also said that before an execution he visits the victim's family to seek forgiveness for the criminal, which can lead to the criminal's life being spared. Once an execution goes ahead, his only conversation with the prisoner is to tell him or her to recite the Muslim declaration of belief, the Shahada. "When they get to the execution square, their strength drains away. Then I read the execution order, and at a signal I cut the prisoner's head off," he said.[8, c.66]

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