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Blurring the Line between Countering Terrorism and Countering
Dissent:
The Case of Saudi Arabia

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1: INTRODUCTION.....	5
2: THE TERMS OF REFERENCE AND METHODOLOGY	6
2.1 ANALYTICAL APPROACHES AND ASSUMPTIONS.....	6
2.2 TERRORISM AND THE EARLY YEARS IN SAUDI ARABIA	8
2.3 THE 9/11 TERRORIST WATERSHED AND BEYOND	9
2.4 FOCUS AND SOURCES.....	10
3: BUILDING A DUAL-USE COUNTERTERRORISM ARCHITECTURE	10
3.1 DEFINING TERRORISM	11
3.2 ENACTING COUNTERTERRORISM LEGISLATION	11
3.2.1 <i>The Convention on Terrorist Crimes and Financing</i>	12
3.2.2 <i>Cyber Crime Legislation</i>	13
3.3 DEVELOPING COUNTERTERRORISM MECHANISMS	14
3.3.1 <i>The Specialized Criminal Court for Terrorism</i>	14
3.3.2 <i>The Sakina</i>	14
3.3.3 <i>The Munasaha</i>	15
3.3.4 <i>leological Security Programs</i>	16
3.3.5 <i>The Social Media Black List</i>	16
3.3.6 <i>Markaz Itidal</i>	17
4: THE FUNCTIONING OF THE COUNTERTERRORIST SYSTEM.....	18
4.1 (Mis)APPLYING THE LEGAL SYSTEM.....	18
4.2 AN INADEQUATE DOMESTIC BALANCING MACHINERY	19
5: COUNTERTERRORISM AND ITS IMPACT ON THE DOMESTIC POLITY	20
5.1 SAUDI ARABIA’S SHIA COMMUNITY	20
5.2 ISLAMISTS, REFORMISTS, HUMAN RIGHTS ADVOCATES, AND OTHER DISSIDENTS REAL OR IMAGINED	23
5.2.1 <i>Islamist Political Parties, Movements, and Ideas</i>	25
5.2.2 <i>Controlling Religious Nonconformists</i>	29
5.2.3 <i>Other Political and Human Rights Activists</i>	29
5.3 EXCEPTIONS THAT PROVE THE RULE	34
6: INTERACTING WITH THE INTERNATIONAL COMMUNITY: COUNTERTERRORISM, HUMAN RIGHTS, AND REALPOLITIK	34
6.1 SHIELDING SAUDI POLICY FROM SCRUTINY	35
6.2 TOUTING INTERNATIONAL APPROVAL.....	37
6.3 THE KEY ROLE OF THE WEST	38
6.3.1 <i>The United States: A Qualitative Policy Change?</i>	38
6.3.2 <i>Other Western Countries: Struggling toward a Coherent Policy?</i>	41
6.3.3 <i>The 2018 Saudi Confrontation with Canada: Premeditated Overreaction?</i>	42
7: THE JAMAL KHASHOGGI MURDER-- A WATERSHED OR BUSINESS AS USUAL?	46
7.1 MANAGING THE KHASHOGGI INCIDENT FALLOUT.....	47
7.1.1 <i>Dealing with Domestic Audiences— Denials, Defiance, and Threatening Dissidents</i>	47
7.1.2 <i>Dealing with Foreign Audiences-- Damage Control, Righteous Indignation, and Alibis</i>	50
7.2 THE UNITED STATES: RIYADH’S VITAL AUDIENCE.....	51

7.3 THE IMPACT ON SAUDI ARABIA: CATALYST FOR POLICY REFORM OR MORE OF THE SAME?.....	53
8: CONCLUSIONS AND IMPLICATIONS.....	54

1: INTRODUCTION

In recent days, the focus on human rights with respect to Saudi Arabia, understandably, has centered on the disappearance and brutal murder of the journalist Jamal Khashoggi inside the Saudi consulate in Istanbul, Turkey. In many ways, to be sure, the Khashoggi case speaks to the whole human rights issue in Saudi Arabia and has represented a poignant “teaching moment.” While the Khashoggi case deserves an extensive and detailed study of its own, given its importance and its repercussions, there are also additional aspects of the human rights environment in Saudi Arabia that serve as the background against which such individual incidents can best be analyzed and understood. One element of that environment that merits particular attention is that of the intersection between human rights and the fight against terrorism, which is the subject of the present study. This is an area that overlaps with the Khashoggi case, as will be seen later, but also one that has a broader intellectual, legal, political, and humanitarian impact and implications.

Over the past several decades, the terrorist threat has loomed large in the domestic and foreign policies of many countries and, within that context, Saudi Arabia, in particular, has promoted itself as a leader and as a model to be emulated in the counterterrorism fight. The thesis of this study is that, Riyadh’s undeniable successes in that struggle and its international visibility in that area notwithstanding, the same legislation, administrative machinery, and security methods employed to fight terrorism have also been used for domestic political purposes, with significant negative consequences for human rights. That is, domestically Saudi Arabia has consciously developed a coherent and complex dual-use counterterrorist system to take advantage of the domestic and international sensitivity to terrorist threats in order to act not only against perpetrators of violent activities, who would be classified as terrorists in most societies, but that it has also used the same mechanisms as convenient tools to criminalize, prosecute, and penalize non-violent dissidents and critics of all persuasions. That is, Riyadh has used the analytical framework, rhetoric, and tangible tools and measures officially put in place to deal with terrorism also against legitimate actors in unrelated political contexts. In a way, such a development would not be surprising, as Saudi officials could reasonably expect that anti-terrorist arguments would resonate with both domestic and foreign audiences --both official and public in the latter case-- making it less likely for political opponents to gain legitimacy and more likely for the Riyadh authorities to gain approval or at the very least condonement for taking measures cast as being in the name of counterterrorism. More broadly, this case study highlights the potential lure for any country to take advantage of an existing set of legitimate counterterrorist tools for other, inappropriate, purposes.

In Saudi Arabia, one can distinguish a pattern of continuity in this sphere, although it may vary in its centrality over time. If anything, the intensity and extent of this phenomenon may have increased under the new monarch King Salman, who came to power in January 2015, and his son, Crown Prince Muhammad bin Salman (commonly known as MBS), who has quickly become the country’s de facto ruler. Under the new leadership, significant economic and social changes have been introduced, with liberalization in certain areas, such as in the status of women and in popular culture. However, this process has also masked an increasing concentration of power in the hands of MBS and a narrow inner circle, as what had been an autocratic polyarchy

has been transformed into a traditional “one bullet regime,” with no appreciable opening in the political system or change in the approach of fusing the handling of terrorism and dissent. If one considers the number of declared detainees in the General Investigation Directorate (Mabahith: essentially the country’s secret police) prisons --where security-related inmates are held-- as an indicator suggestive of relevant trends in that regard, that number was 3329 in January 2015, and by January 2018 it had risen to 5345, quite possibly understated in both cases.¹

A secondary thesis of this study is that the international community, and the West in particular, has often facilitated and abetted this process by passively accepting or actively approving Saudi Arabia’s argumentation and actions in this sphere. Brian Klaas, in particular, has made a compelling case in his insightful study *The Despot's Accomplice*, in which he argued that authoritarian regimes find “an accomplice” in the West willing to overlook their human rights records, and assessed that “the West is also an accessory to the crime, inadvertently robbing pro-democracy forces abroad of a path to power... [in its] chase [for] pyrrhic short-term economic and security victories.”²

2: THE TERMS OF REFERENCE AND METHODOLOGY

In order to better understand the course of the development and the dimensions of the issue of the misuse of counterterrorism in the context of Saudi Arabia, it is important to address the analytical contributions that other scholars have made that can serve as reference points in which to situate this case study.

2.1 Analytical Approaches and Assumptions

Not surprisingly, especially after the attacks of 11 September 2001, states have marshaled existing capabilities and have developed a range of new ones to deal with the challenge of terrorism. Policymakers, human rights advocates, and scholars have recognized the potential consequences for human rights, although the attention they have devoted to the issue has been uneven in terms of focus and intensity. For example, already in 2003, the United Nations Security (UN) Council passed Resolution 1456 (2003), declaring that “States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law.” However, perhaps as one could expect given the range of stakeholders, the thrust of that resolution and of follow-on UN documents has been in general terms, often addressing the rights of terrorist suspects, rather than considering the misuse of counterterrorist measures for unrelated domestic political ends.³

There have been a number of valuable official and academic studies addressing human rights issues within the context of counterterrorism. With respect to Saudi Arabia, a report on the misuse

of counterterrorism for the suppression of dissent by the United Nations' Human Rights Council (HRC), issued in June 2018 under the guidance of Special Rapporteur Ben Emmerson, is especially important, as it is based on first-hand in-country inspection visits and presents an unvarnished highly professional assessment.⁴ The focus of that report is largely on the flawed legal process --the mandate of its inquiry-- and the present study, rather than duplicate that milestone report, seeks to analyze and situate the phenomenon of the overlap of counterterrorism and political dissent within a broader political, social, and academic, as well as legal, framework.

More broadly, some scholars have also addressed repressive measures enacted in connection with counterterrorist campaigns in response to terrorist attacks, but not the use of such measures as a convenient screen for repressing unrelated non-terrorist political dissent.⁵ Usually, the focus of research has been on general societal human rights, the rights of terrorist suspects, or aspects of the law of war in fighting against terrorism, with the level of analysis for the impact of such counterterrorist legislation either on the terrorist suspects themselves or on society as a whole, almost incidentally as "collateral damage" to civil rights in the latter's case, and most frequently the spotlight has been on western democracies.⁶

A less-well studied facet of this same domestic counterterrorism campaign has been the fact that it has also been consciously targeted at specific sectors of the country's body politic for purposes unrelated to terrorism. Some researchers have asked whether there is a connection between recent anti-terrorist legislation worldwide and a retrenchment of human rights. For example, based on his survey of almost 200 countries, Todd Landman came to the conclusion that such a correlation was weak.⁷ Another salient study conducted a worldwide comparative longitudinal analysis, running a regression model where the independent variable was that of counterterrorist legislation in order to gauge the latter's impact on human rights.⁸ That research team's conclusion was that "No significant association emerged when we examined specific types of counterterrorist legislation and specific types of repression... Such results call into question the common assumption that there is a zero-sum-game between security demands and respect for core human rights."⁹ The authors suggested as an explanation "the declarative nature of many organizational practices," that is that such legislation may be enacted in some countries only for demonstrative purposes even if there is no real terrorist threat and thus such laws are not applied, which would skew the results of studies which such general premises.¹⁰ They also qualified their findings by noting that for "countries that habitually repress core rights," such legislation may be "redundant" in any case, since it is not needed in order to continue that repression.¹¹ Their ultimate conclusion was that "The study results suggest that trying to explain state repression by focusing on declarative acts, such as legislation, is misguided" but, significantly, that whether a country is already democratic or not may be a better indicator.¹² Indeed, as Beth Elise Whitaker observed perceptively, certain states have taken advantage of the post 9/11 era to also direct law enforcement capabilities against domestic political targets. As she noted,

the adoption of anti-terrorism legislation in the Third World provides governments with the tools they need to justify anti democratic practices... Broad definitions of terrorism have allowed incumbents to apply the label to any group or individual that threatens their political power. Expanded law enforcement capabilities have permitted officials to keep tabs on the communications and activities of civil society organisations. The reduction of procedural requirements has led police to detain suspects first and ask questions later.¹³

Overall, broad-brushed statistical surveys may mask significant realities in that, specifically, they may amalgamate a subset of countries into a broader analytical array and thereby dilute their significance and any attendant correlation. That is, if one excluded democracies (where taking advantage of terrorism to repress political opponents is relatively uncommon) and states where there is no real terrorist threat, and examined instead countries that are both authoritarian and where there is a plausible terrorist threat that could provide a pretext, the incidence of the misuse of terrorism to repress political opponents would probably be significant. Moreover, as emerges from the foregoing and similar academic studies, the focus has largely been on the effect of counterterrorist legislation. While an important aspect, addressing a single factor may result in limited insights. As the present study will suggest, the reality of the impact of counterterrorist policy on dissent and human rights most often may involve multiple cross-cutting factors, of which legislation is only one, albeit an integral one.

Concentrating on a single country may also provide more extensive data relevant to earlier preliminary conclusions on such relationships between counterterrorism and political activity. To date, one of the few academic studies to have addressed this issue with respect to a specific country has been one focused on Turkey.¹⁴ Focusing on Saudi Arabia, the subject of this study, can be especially instructive, as counterterrorism is a key component of that country's policy effort and image projection, as Riyadh routinely highlights the role it plays in that arena -- specifically against Al-Qaida and its later offshoot the Islamic State in Iraq and Syria (ISIS)-- both on the country's domestic front and in the region. What is more, the Saudi case offers an opportunity to examine a broad set of factors, as its counterterrorist effort has gone well beyond just legislation, and has included the creation of new judicial, administrative, and security machinery, as well as the mobilization of existing state agencies, the state-controlled media, the educational system, the judiciary, the religious establishment, the security and military sectors, diplomacy, and even public discourse as part of a coordinated effort. As one might expect, the country's Ministry of the Interior had the lead in counterterrorism until recently. However, in mid-2017, as part of the continuing accumulation of power in the hands of King Salman and MBS, the then-Minister of the Interior (and Crown Prince), Prince Muhammad bin Nayif, was removed and the Ministry of the Interior lost the key missions and assets related to the counterterrorism role, including intelligence, the Special Security Forces, the secret police (Mabahith), and the Special Emergency Forces. Instead, those functions were transferred to a new organization, the State Security Agency, which reports directly to the King, as Head of the Council of Ministers.¹⁵

2.2 Terrorism and the Early Years in Saudi Arabia

Terrorism has long been a problem in the modern world but Saudi Arabia initially was cautious about the international community's approach, which in earlier times was often focused on the Palestinian issue, which some countries considered terrorism but which Saudi Arabia viewed as legitimate resistance. Although itself the victim of what one could label terrorist violence, such as the millenarian Islamic uprising by Juhayman Al-Utaybi in 1979 that resulted in the embarrassing takeover of the Grand Mosque in Mecca, or the bombing in 1996 of the Khobar Towers which housed U.S. Air Force personnel, such attacks were sporadic and there was no

sustained official campaign to link terrorism with domestic dissidents, although the latter, of course were still arrested and punished over the years, albeit under separate rubrics.¹⁶

Such early incidents were often portrayed at home and abroad in non-terrorist terms. For example, at the time, senior members of the Saudi government typically characterized to the foreign press the Juhayman incident as “heretical and despicable actions,” a “seditious act,” and the perpetrators as “heretics who profaned the holy places,” “criminals,” and as a “gang.”¹⁷ The country’s religious establishment, likewise, condemned the attack in terms of “an evident moral error,” a “violation of God’s sanctuary,” “sinful aggression,” “a revolt against the ruler,” and “putting the interests of the country and the Believers at risk,” and their writings were characterized as “sinful publications.”¹⁸ Apparently, placing those events in a terrorist explanatory framework either for domestic or foreign audiences did not seem appealing or useful to the Saudi authorities at the time.

Again, in the 1990s, the Sahwa (Awakening), a homegrown Islamist ideological protest movement led by socially-conservative clerics who also advocated a more transparent and accountable government, represented an ideological threat, and the authorities cracked down.¹⁹ In 1994, when leading Sahwa clerics were arrested, the narrative by Saudi officials to foreign audiences was in terms of “fundamentalists” and “deviationist thinking,” even though by then the discourse of the Saudi media was saturated with the concept and terminology of terrorism with respect to the situation of the Islamists in Algeria.²⁰ Instead, domestic audiences were told that those arrested in Saudi Arabia were guilty because “those who had pledged to avoid dissensions failed to respect their pledges,” they “planned to create chaos,” and “challenged the ruler with their actions contrary to the obedience one [should show] on every issue to the one that God has placed as ruler over His believers.”²¹ The mufti (the country’s senior official religious figure), for his part, accused the detainees of “creating chaos due to envy of all the benefits of security, prosperity, and stability provided by the Kingdom of Saudi Arabia” and of “clashing against the doctrine of our forefathers.”²² Such portrayals were in stark contrast to the terrorist categorization and terminology for the same Sahwa ideas and even for the some of the same individuals that have been used more recently, as will be seen below.

2.3 The 9/11 Terrorist Watershed and Beyond

Saudi Arabia, as one would expect, recognized the 9/11 attacks as a terrorist watershed, although the initial emphasis was on distancing itself and Islam from any responsibility, given the Saudi nationality of most of the perpetrators, and Saudi spokesmen often directed blame to other quarters. It was only after Al-Qaida’s attacks within the country itself in 2003 that Riyadh’s focus shifted dramatically, elevating counterterrorism to a national priority, and it is from that year that the Saudis considered themselves “at war” with Al-Qaida, with a renewed impulse after the appearance of ISIS in 2014. As King Salman argued in 2015, “the Kingdom of Saudi Arabia has spared no effort in fighting against terrorism, both in theory and in practice, with complete resolve and at all levels.”²³ MBS, for his part, was confident when he stressed in 2017 that “In all honesty, we will not waste 30 years of our lives dealing with extremist ideas... we will eliminate what remains of extremism in the very near future.”²⁴ In fact, by late 2017, the Saudi

media assessed perhaps prematurely that success had already been achieved with “the elimination of terrorism” in Saudi Arabia thanks to MBS’s plan, and attributed to him that he allegedly had “uprooted the remnants of extremist ideas.”²⁵ Indeed, MBS claimed to have reduced the proportion of extremists in the population from 60% to 10% in just three years.²⁶

2.4 Focus and Sources

This study will examine how Saudi Arabia has dealt with real or imagined domestic political challenges in concrete terms within the context of an ostensible counterterrorist campaign using the paradigms and tools developed as part of its effort to deal initially with Al-Qaida. The analysis presented here will include a delineation of the dual-use counterterrorist infrastructure that has been put into place in the country, especially since 9/11, and how the fight against terrorism and against domestic political foes has overlapped, blurring what should be a distinct dividing line between the two. Concrete examples in the form of cases against organizations and individuals will illustrate the methods and impact of this phenomenon in the country’s political and social life.

For data, this study relies heavily on the local Saudi media and statements by officials and agencies of the Saudi government, as well as on international human rights organizations and the foreign media. In Saudi Arabia, the media is controlled tightly on issues of security, defense, and the royal family. Rather than to investigate or question, the role of the media in such sensitive areas is as an “echo chamber,” by reporting, explaining, and justifying government policy to convince and mobilize the public. As the country’s Minister of Culture and the Media, Awwad Al-Awwad, reiterated, “our media is ... is an effective weapon to defend the nation and its interests,” and he envisioned greater interaction between his Ministry and media content providers, warning that “it is unacceptable for anyone to remain neutral.”²⁷ If media outlets stray from the official line, journalists or editors can be fired, blacklisted, or jailed, and the offending newspaper or electronic source shut down.²⁸ In particular, on the issues of terrorism or human rights, media reports reflect closely official sources and views. As such, the media also can serve as a potent state-controlled tool to destroy an individual’s reputation without the latter having any means to respond.

3: BUILDING A DUAL-USE COUNTERTERRORISM ARCHITECTURE

Over the years, Saudi Arabia has built an impressive counterterrorism infrastructure consisting of legislation, judicial, security, and administrative mechanisms, and intellectual and religious analytical tools and legitimization rationales. What is striking is an apparently deliberate and comprehensive effort to craft this machinery at all levels for dual use, that is not only to fight against terrorism but also to serve as a means to deal with dissent. As will be seen in specific

cases below, legislation and mechanisms ostensibly designed to deal with terrorism are also used against those whom international human rights organizations consider non-violent political dissidents and human rights activists, intentionally blurring the categories in practice. What is more, this approach has permeated the country's broader social environment, with the generation of an informal but very real atmosphere where there is no discernible border between terrorism and dissent.

3.1 Defining Terrorism

Of course, defining who is or is not a terrorist has always been subjective to a certain degree, whether one is dealing at the international or domestic level.²⁹ On the international plane, determining what is legitimate resistance or terrorism has proved a major stumbling block in arriving at a consensus, and Saudi Arabia has always stressed the need to recognize the validity of such resistance. That definitional task should be easier on the domestic plane, given a state's sovereign right to determine such criteria and the greater leeway available when no international consent is required. Admittedly, some countries, such as the United States, have also faced obstacles in defining domestic terrorism, stemming largely from constitutional, bureaucratic, judicial, legal issues, or human rights, or public opinion concerns. Authoritarian states, on the other hand, face fewer such obstacles that might serve as a firewall or screening mechanism for the placing of any group or individual on a domestic terrorist list.

In Saudi Arabia, such designations, the enactment of legislation, and the creation of state mechanisms related to terrorism typically occur without much transparency, after perfunctory discussion (not debate) in the appointed Consultative Council (the *Shura*) or the Council of Ministers, and without extensive public deliberations, and often unexpectedly, by royal decree, in what is still an opaque patrimonial system where individuals matter more than institutions. The result is a definition and application of terrorism molded to fit political needs rather than an objective benchmark with legal or intellectual consistency or scrutiny. Likewise, the subsequent legal and administrative applications are essentially unchecked. There are no recognized political parties or labor unions, genuine elections, independent human rights organizations, or an independent legislature or judicial system as a sounding board, while the country's media is controlled tightly on this topic.

3.2 Enacting Counterterrorism Legislation

Riyadh, as part of the wider Arab world, signed on to the broad-brush anti-terrorist 1998 Arab Convention for the Suppression of Terrorism, but this was essentially window-dressing with no practical application to the situation in Saudi Arabia. Although legislation geared specifically to terrorism came about slowly in Saudi Arabia, that did not mean that in the absence of such laws the country could not act against those it considered terrorists, or against political dissidents. Indeed, the Saudi authorities arrested and dealt with thousands of suspects, especially in the aftermath of the 2003 domestic attacks by Al-Qaida, using either existing criminal laws or

informally, with no legal process.³⁰ However, being able to refer to specific laws may provide a cachet of legality and, more recently, the Saudi government has exhibited the need to provide greater concreteness and specificity to its definition of hostile groups and their activities without, however, thereby necessarily adding much clarity. Paradoxically, as Saudi definitions of terrorism have become more detailed, they have also become broader in scope.

3.2.1 The Convention on Terrorist Crimes and Financing

It was only in December 2013, with its Convention on Terrorist Crimes and Financing, that Saudi Arabia provided its first comprehensive official legal delineation of what criminal activity constitutes terrorism, both “directly and indirectly” as it stressed. In addition to what might expect in such legislation, that decree also specified the following as terrorist crimes: “disturbing the public order, disrupting society’s security and the state’s stability or placing the nation’s unity in jeopardy, obstructing the workings of the government’s basic administrative functions or of some of its parts, damaging the state’s reputation and standing, causing harm to any of the state’s agencies or to the country’s natural resources, or the attempt to force any state entity to undertake or refrain from an action or threaten to undertake or to incite actions that would lead to such results as listed above.”³¹ The intent appeared to be to provide benchmarks relevant specifically to conditions in Saudi Arabia rather than more comprehensive policy categories applicable to any case. However, by setting a framework of activities in general terms which could be used to apply also to virtually any peaceful political activity arbitrarily, the new guidelines appeared so all-encompassing and generic as to be meaningless. In particular, such provisions as “damaging the state’s reputation and standing” could easily apply –and subsequently did-- to peaceful political protests, criticism, or even questions about policy, whether by an individual, group, or media outlet.

The following year, the country’s Ministry of the Interior contributed further guidance by identifying by name organizations it considered terrorist, most of them with an international character. Nevertheless, the new guidance left the door open also to unspecified additional groups “similar in ideology, word, and deed” to the ones named specifically.³² Insofar as associated criminal activities deemed relevant to such terrorist groups –and revelatory of the domestic intent that was really paramount-- that Ministry specified in its guidance not only such violations as going abroad to fight but also promoting atheism or doubts about Islam, joining a political party, showing sympathy for banned groups, or participating in or encouraging public protests and rallies and “anything affecting the unity and stability of the Kingdom by any means whatsoever.” Significantly, the Saudi authorities now alluded to an additional terrorist act with an international dimension in relation to Saudi subjects --“causing harm to other states and their leaders”-- and also “inciting or appealing for help to other states, bodies, or international organizations against the Kingdom,” which in practice could, and has, applied to contacting international human rights organizations.

In November 2017, the Penal Law for Crimes of Terrorism and Its Financing, adopted by the Saudi Council of Ministers, provided additional concreteness to definitions and punishments for terrorist-related crimes, under the purview of the Specialized Criminal Court for Terrorism and State Security (SCC—see below). Included under the rubrics of punishable terrorist offenses are such activities as “undermining society’s security,” “endangering national unity,” “interfering

with the Basic System of Governance (the country's equivalent of a constitution) or of some of its laws," "disturbing public order," "infringing on the Kingdom's interests," and a form of *lèse-majesté*: "prison for anyone... who describes, directly or indirectly, the King or the Crown Prince in any way that violates religion or fairness."³³

In addition, the ambiguous concept of "disobeying the ruler" (*al-ifti'at ala waliy al-amr*), though not specifically enshrined in legislation, has been a frequent tool used against dissidents in recent years, often in conjunction with other statutes. Former judges of the SCC explained that this was "a legal term" to describe "crimes linked to terrorism," applicable to anyone who challenged the ruler's authority, criticized the ruler's decisions, "incited public opinion against the ruler," "lied about or slandered the ruler with the intent of overthrowing the ruler and the government" or "raised doubts about the ruler's integrity." The judges claimed that such actions were a precursor to open revolt and needed to be dealt with in their early stages.³⁴

3.2.2 Cyber Crime Legislation

A royal decree in 2007 enacted the Anti-Cyber Crime Act under the auspices of the country's Communications and Information Technology Commission, delineating crimes and penalties in cyberspace. While the law addresses routine online issues such as hacking, the invasion of privacy, defamation, pornography, gambling, and drug promotion, it also includes what clearly has a political thrust and some of its provisions have been used for a political purpose. For example, Article 6 of the Act which explicitly addresses the terrorist threat also criminalizes in a broad and vague manner "The production, preparation, transmission, or storage of material impinging on public order, religious values, public morals, and privacy, through the information network or computers."³⁵

By 2014, discussions were underway to amend the law both in order to catch up to the new technology in social media and to add greater detail to cyber crimes.³⁶ Of note, the amended version of the Act that appeared in late 2017 added what can only be viewed as political crimes. Although the complete text of the amended law has not been posted as of this writing, the counterterrorist Sakina website (see below) provided a summary of the main terms. A key provision was the criminalization of a vaguely defined incitement to rebel against the ruler. Other crimes included "causing detriment to the authority, policies, or agencies of the state and diminishing the latter's reputation in the eyes of the people by raising doubts, vilifying, making derogatory remarks ... [intended] to incite public opinion." It was also made unlawful to post information about investigations and legal proceedings. In general, according to the Sakina, the intent was to prevent "a threat to public safety, harming the state's interests, or slandering its reputation and prestige." The amended law also specifically criminalized besmirching the honor and reputation of the Grand Mufti and of the members of the Committee of Senior Ulama' (the country's top official religious body), as well as of any government official or employee. In addition, there were provisions to prosecute anyone supporting "atheism, destructive ideas, sorcery, witchcraft, and anything violating public morals."³⁷ Penalties ranged up to 10 years in prison and an \$800,000 fine. This law in both its original and amended forms has been used frequently in indictments either as a central or supporting element in cases before the SCC. And, the Public Prosecution Office has repeatedly published reminders that this law would be applied, with the most recent warning on its Twitter account in September 2018.

3.3 Developing Counterterrorism Mechanisms

A number of government mechanisms have been created in Saudi Arabia over the years to deal with terrorism, but these have also been applied to political dissent. In many cases, such mechanisms have preceded any corresponding legislation rather than being an outgrowth of the latter.

3.3.1 The Specialized Criminal Court for Terrorism

The Specialized Criminal Court for Terrorism and State Security (*Al-Mahkama Al-Jiza'iya Al-Mutakhassisa li'l-Irhab wa-Amn Al-Dawla*) was established by decree of the Ministry of Justice in 2008 and, as the name would suggest, this tribunal was designed to prosecute crimes related to terrorism. However, as will be seen in some of the concrete cases addressed below, its jurisdiction has extended well beyond that mandate.³⁸ The Minister of Justice explained at the time that in “the era of specialization” judges would be able to devote greater time to such cases and provide more “transparent justice” in such a court and that sentencing would be public.³⁹ The SCC operates with a three-man panel of judges, and is headquartered in Riyadh, but has regional branches as well as affiliates in some local criminal courts. The head of the country’s Supreme Judicial Council confirmed that the SCC has exclusive jurisdiction for any terrorist or state security-related case, to include such crimes as “incitement, leading people astray, and challenging the ruler.”⁴⁰ There is no clearcut dividing line between the two jurisdictional areas that appear in its title, which may well be intentional, facilitating a further blurring of categories of the cases dealt with by this court.

The SCC has a high rate of convictions. As of 2013, of 1514 cases adjudicated up to then, 1501 had resulted in guilty verdicts (99.1%), encompassing a total of 2145 individuals convicted out of 2180 put on trial (98.4%).⁴¹ In 2015-16, the rate fell somewhat to 96% of cases leading to a guilty verdict, and 97% of those individuals on trial found guilty.⁴² Not all the cases that go to the SCC are reported in the Saudi media or if they are, the details and the outcome may not appear in any follow-up. For example, after 13 women were arraigned by the SCC in November 2016 for having protested publicly on behalf of detainees, “carrying anti-government slogans,” seen as equivalent to “rebellious against the ruler” and “incitement to disorder and a violation of society’s freedoms,” nothing further has been heard publicly.⁴³ Often, trials may be conducted years after someone is arrested, as was the case of two bloggers sentenced in 2017 for supporting calls for demonstrations as part of the Arab Spring in 2011.⁴⁴ What is striking is also the low threshold for cases to be referred to the SCC, as occurred with a case in which two policemen were seen on a video criticizing political figures and which was deemed so serious as to be moved from an ordinary criminal court to the SCC.⁴⁵

3.3.2 The Sakina

The Sakina (*Al-Sakina*, Tranquility) is an online venture that styles itself as a “Campaign for Dialogue” and was launched in 2003 to engage anonymously bloggers and fora having “deviant and extremist ideas” by using religious arguments. It also posts terrorist-related research, news, and commentary online, as well as conducting workshops, conferences, and training for students, government employees, and clerics. Participants in the Sakina structure include clerics,

psychiatrists, psychologists, and academics. It claims to function as an independent agency, but is under the supervision of the country's Ministry of Islamic Affairs and a number of participating clerics are seconded directly from the Ministry.⁴⁶ Originally intended to address the jihadist online presence, it eventually began to also target a broader range of dissidents, including by publishing condemnatory materials. Apart from the countermessaging role, the Sakina at the same time also performs other security functions, as was the case during a feared outbreak of protests in 2017, when the Sakina's artificial intelligence capabilities were used to track and monitor offending bloggers.⁴⁷

3.3.3 The Munasaha

The Munasaha (*Markaz Muhammad Bin Nayif li'l-Munasaha wa'l-Riaya*, The Muhammad Bin Nayif Counseling and Care Center), was established publicly in 2006 by the Saudi Ministry of the Interior, although some sources suggest it had already been operating secretly since 2003.⁴⁸ This institution is essentially an ideological re-education (or as the Ministry terms it, "brain-cleansing"), rehabilitation, and monitoring mechanism for prisoners accused of extremism and for their families, with a stated mission to "treat extremist thought among detainees." In 2010, the Munasaha became a stand-alone Directorate within the Ministry of the Interior, and has permanent centers in Riyadh and Jeddah, with additional others planned, as well as operating mobile units in the provinces.⁴⁹ Over 400 personnel --clerics, psychiatrists, academics, sociologists, and security personnel-- interact with detainees individually and in groups (as well as subsequently after their release) to "rectify their deviant thinking by removing their doubts and erroneous views" so they can be "progressively reintegrated into society."⁵⁰ Participation is said to be voluntary, although the managing director told a human rights organization that individuals participate "because they know that they won't be released without completing the program."⁵¹ The Munasaha has also spread its activities throughout the educational system, at least down to the high school level, and carried out its first field visit to a school district in 2016.⁵² Typically, when it engaged students at one university, the Munasaha stressed as part of the "terrorist threat" ideas that "are hostile to the nation and its leaders."⁵³ Likewise, at another university, the Munasaha focused on ferreting out "deviant ideas" and on promoting the need to "obey the rulers."⁵⁴

Indicative of this organization's dual-role mandate, a "social policy adviser" working for the Munasaha underscored its wide reach and the intentional blurring between terrorism and dissent. When asked whether the Munasaha also had jurisdiction over those characterized as human rights advocates and reformers, he acknowledged that "The [Munasaha] Center does not differentiate between anyone... All those who are arrested --whether those who join terrorist or extremist organizations, those who call themselves human rights advocates (*huquqiyun*) and reformers (*islahiyun*), those who went to [fight in] combat zones, or those who distribute leaflets-- are brought to the Center for re-education and [training for] reintegration into society [even] before their trial is complete. It is not necessary that one have been a fighter in order to be processed through the Center."⁵⁵ Even when not brought before the judicial system, individuals have been obliged to go through the Munasaha re-education process, as was the case with numerous Saudi academics, out of concern that they had been critical of government officials, clerics, and military leaders.⁵⁶ Some individuals, such as the prominent Shia cleric Nimr Al-Nimr, who was eventually executed, had been forced to go through the Munasaha program

multiple times, a process that must also have been frustrating for his questioners, given that he was at least as well-versed in theology as they.

3.3.4 Ideological Security Programs

Al-Amn Al-Fikri (Ideological Security) has been a priority in virtually every sector of Saudi society and there are overlapping ideological information efforts run by various government agencies. Such programs, ostensibly established to counter terrorist ideologies, have often also been used to attack political dissidents and human rights activists. The Ministry of the Interior, which had been running various ideological activities for years, established a separate General Directorate for Ideological Security in 2007. Within the Ministry of Islamic Affairs, the General Directorate for Scholarly and Ideological Outreach (*Al-Idara Al-Amma li'l-Tawfiya Al-Ilmiya wa'l-Fikriya*) also is tasked with countering extremism by means of training courses, workshops, and conferences directed primarily at clerics.⁵⁷ A National Strategy for Ideological Security was developed as a joint effort among multiple government agencies and academia between 2008 and 2015. And, in 2017, the country's Ministry of Defense also launched its own Ideological War Center (*Markaz Al-Harb Al-Fikriya*) Twitter effort.

In 2004, the Ministry of Education also initiated a pilot program for ideological security in conjunction with the Ministry of the Interior in order to instill appropriate ideas and to weed out ideologically undesirable teachers and students and extended that effort country-wide by 2006. By 2010, some 2000 teachers had been fired for their “extremist views” and another 400 arrested “for sympathizing with Al-Qaida.”⁵⁸ Indicative of its growing importance, in 2015 this effort became a separate Directorate within the Ministry of Education and, by 2017, press reports indicated that the Ministry intended to establish its own consolidated “Center for Ideological Awareness” combining several existing programs designed to combat “terrorism and extremism.”⁵⁹ The task of the Ministry's effort is to conduct awareness sessions, distribute literature and, more ominously, to have the Ministry of the Interior train teacher committees in each school (up to the university level) to monitor and detect “extremist” individuals and forward monthly security reports.⁶⁰ Significantly, the Ideological Security effort in the Ministry of Education in late 2016 officially specified three broad areas of “extremist and terrorist” ideological security threats that need to be monitored in the country's schools, designating them as “extremist ideologies and destructive doctrines:” (1) Currents of contemporary ideological doctrines: Westernism, atheism, liberalism, and secularism; (2) Currents of takfiri [i.e. jihadist] extremism; and (3) Currents of political parties, sectarianism, separatism, and contestation.⁶¹ In December 2017, the Ministry of Education established its own internal Center for Ideological Security whose mission was to “prevent deviant ideas.” In 2018, the Minister of Education warned that the educational system, especially at the university level, was still “infiltrated” by “movements and political parties” and still saw a need to protect students against “divisions, organizations, and parties” which were said to lead to terrorism.⁶²

3.3.5 The Social Media Black List

When Saud Al-Qahtani, the then-media adviser to Saudi Arabia's Royal Council with the rank of minister, launched with considerable fanfare a campaign in August 2017 to establish, on the explicit order of the King and Crown Prince, a “black list” of Twitter accounts for subsequent

prosecution, the announced target was “all supporters of terrorism.”⁶³ Subsequent clarifications, however, suggested a broad and at the same time ambiguous coverage, including “all “promoters and supporters of Qatar’s policy,” (with whom Riyadh was at the time engaged in a political and military confrontation), as well as “traitors and plotters,” and critics of the regime or, as the Saudi Prosecutor General put it, those “who cast aspersion on [the country’s] achievements.”⁶⁴ Supporters of the initiative made it clear that this was to be considered a terrorist list.⁶⁵ And, by May 2018, Al-Qahtani was also proposing compiling “a black list of journalists who cast aspersion on the Kingdom... on its leaders and the nation.”⁶⁶

As a case in point, the new social media tracking system, functioning as part of what can be described as a surveillance state, led to the arrest of a prominent independent cleric, Awad Al-Qarni, for allegedly sending tweets calling for a negotiated settlement of the dispute between Saudi Arabia and the UAE against Qatar, which the state prosecution characterized as “critical of sister states and their leaders,” and thereby “inciting public opinion.” Although he was prosecuted before the SCC under the 2014 Royal Order 44, which was designed to pursue those Saudis who had fought abroad for jihadist groups, he was still found guilty and forced to pay a \$27,000 fine and his Twitter account was shut down.⁶⁷

In 2016, as part of its “Security Depends on All of Us” effort, the Ministry of the Interior also introduced a cellphone app with which anyone could report terrorist-linked activity on social media, and the authorities specifically also included in their broad definition of social media terrorism “anyone sympathizing with extremist religious and ideological organizations” and anyone who “exposed national unity to risk, who interfered with the Basic System of Governance or with some of its provisions, or who damaged the state’s reputation and image.”⁶⁸ Although in 2017 alone over 750,000 reports were received, most appeared to be about traffic violations, but in one public instance of political use, a pro-establishment cleric expressed his gratitude to the authorities for their shutting down the twitter account of someone who had criticized him.⁶⁹

Beyond just its intelligence collection function, as a result of the murder of journalist Jamal Khashoggi, it was also revealed that that office also had a mission of executing active measures, as its director, Saud Al-Qahtani, reportedly was personally involved in planning and directing that assassination operation.⁷⁰

3.3.6 Markaz Itidal

Markaz Itidal, the Global Center for Combating Extremist Ideology (known as Markaz Itidal, or the Moderation Center, in Arabic), was launched in Riyadh as a combined venture with the United States and other countries during President Donald J. Trump’s visit to Saudi Arabia in 2017, and has been promoted as part of the international counterterrorism effort. Its specific mission is to monitor and counter extremist ideas. It boasts having “unprecedented technological dominance in countering extremist ideas and activity” in the media, online, and on social media, relying on artificial intelligence, with a claimed response time of six seconds between analysis and counter-messaging.⁷¹ However, a good part of the focus appears to be tracking down and arresting offending bloggers.⁷² Moreover, indicative of Riyadh’s view of the Center’s desired focus of effort was the opening statement by the Center’s Saudi director, who stressed that the

MB was the main target. In his view, it was the MB who was “behind all extremism” and was responsible for “all the takfiri organizations.”⁷³ So far, despite a major investment of financial and human resources and the hi-tech at its disposal, the Center appears only to have produced some basic information briefings as a result of its monitoring activity and, according to its director, has continued to see as a key mission tracking down and countering pro-Qatar material as part of Saudi Arabia’s feud with that country, as well as “cleansing the nation of traitors,” rather than evidencing any significant results related to the terrorist threat.⁷⁴

4: THE FUNCTIONING OF THE COUNTERTERRORIST SYSTEM

The functioning of the counterterrorist system is often opaque, arbitrary, and harsh, with few countervailing safeguards.

4.1 (Mis)Applying the Legal System

Complaints about faulty counterterrorist legal procedures are common, ranging from long detentions before trials, to holding detainees incommunicado, not allowing impartial foreign observers at trials, and the use of ex-post facto laws, as in the case of defense lawyer Walid Abu Al-Khayr, Founded the Monitor of Human Rights in Saudi Arabia, who was tried under a new law for his past work on behalf of human rights.⁷⁵ In the case of Said Bin Zair, a religiously conservative professor of media, he was held in prison for eight years without charge before being tried and found innocent on charges of financing terrorists, released, and again arrested and tried on the same charges after the SCC had been set up, but again found innocent after spending another five years in prison.⁷⁶ At times, for apparent political expediency, the SCC process can be very rushed, as in the case involving the journalist Salih Al-Shayhi who was arrested in January 2018 after he had alleged corruption in the Royal Council on a television program. In his case, he was tried and sentenced within a month by the SCC to five years in prison.⁷⁷ The Saudi government has also used rendition from neighboring countries. For example, in a pre-emptive move, in September 2017, Riyadh extradited a Saudi national from Kuwait who was apparently intending to set up a news satellite channel, and the case is likely to go eventually to the SCC.⁷⁸ Again, in 2018 the Saudi women’s rights advocate Loujain Al-Hathloul was extradited from the United Arab Emirates and arrested as part of the “Cell of Seven” (see below) after her rendition.⁷⁹

Continuing on to the Court of Appeal after an SCC trial can make things even worse, as was the case with the blogger Ra’if Badawi, tried for initiating a liberal website, whose sentence was increased from 7 years and 3 months and 600 lashes to 10 years and 1000 lashes following his appeal in 2014.⁸⁰ Likewise, in the case of Walid Abu Al-Khayr, the Court of Appeal increased his sentence from that of the SCC because he had refused to apologize.⁸¹ In 2014, in what could be construed as related intimidation, the Ministry of Justice decided to disbar lawyers who “belong to political parties or adhere to ideologies.”⁸² In a further move perhaps intended to

pressure defense lawyers, the SCC the same year sentenced three attorneys to a total of 18 years for sending tweets in support of political prisoners and critical of court procedures and sentencing, which was said to “impune the impartiality of the State’s judicial system... representing high treason.”⁸³ In what may also be a lever to ensure the compliance of the judiciary, in late 2017, the country’s Ministry of Justice announced plans to create an internal ideological security unit to monitor members of the Ministry.⁸⁴

More basically, one cannot be certain that even accusations of support for groups such as Al-Qaida or ISIS have not been manufactured in order to bolster accusations of terrorism to lend credibility to the proceedings for other offenses and to divert criticism. Defendants have often maintained that confessions have been extracted under torture, as allegedly has happened routinely even in cases involving more visible foreign nationals.⁸⁵ In particular, there are reports that virtually all political prisoners have been victims of questionable legal procedures and abuse in detention, as documented in a highly professional and thorough 2011 report on Saudi Arabia by Amnesty International and the 2018 United Nations (UN)’s *Report of the Special Rapporteur*.⁸⁶

4.2 An Inadequate Domestic Balancing Machinery

Ordinarily, one would expect there to be structures in the form of human rights organizations to provide checks and balances to any overreach on counterterrorist measures. In fact, the Saudi government in 2004 authorized what is the ostensibly independent National Society for Human Rights. However, that society appears to act largely as an apologist for the government, with most of its activity centered on common criminal detainees but not engaging on behalf of dissidents. For example, when it received complaints that confessions by detainees were extracted by force, the society strenuously denied such claims, claiming that “all of the rights of prisoners were ensured.”⁸⁷ More broadly, it also supports the government on a range of unrelated political issues, as well as issuing communiques countering critical foreign human rights reports and defending actions such as the execution of the Shia cleric Nimr Al-Nimr.⁸⁸ In addition, there is an official government agency, the Human Rights Commission, established in 2005, whose mandate is to defend human rights. In reality, the Commission’s focus appears to be on defending the Kingdom’s human rights record to domestic and foreign audiences, as well as to second Saudi policy unrelated to human rights, whether on economic development or foreign policy issues. Moreover, in 2016, the Commission was made directly subordinate to the new King Salman, probably further restricting its freedom of action, although the Commission’s director praised the King for making “great strides in the field of human rights.”⁸⁹

5: COUNTERTERRORISM AND ITS IMPACT ON THE DOMESTIC POLITY

In many ways, terrorist standards have been used as a potent tool in domestic politics, offering a convenient vehicle to indict and convict political opponents, as well as to criminalize public support for certain groups or for those individuals who are accused. Any criticism or protests, including peaceful ones, are automatically branded as threats to security and are linked to terrorism in official discourse. As a prominent Saudi professor of criminology stressed, “There is no such thing as peaceful demonstrations or peaceful change. Experience shows that money is taken, people are killed, and honor is trampled, and criminals, violent people, and terrorists exploit those conditions for their own ends... where, then, is the principle of obedience and the masses’ obligation to obey the ruler?” For good measure, he warned that protests would enable Saudi Arabia’s foreign workers to revolt, too. Therefore, he entreated his audience “Let us not give terrorists and the deranged the opportunity [to take advantage] but, instead, let us be united with our state.”⁹⁰ As one Saudi academic insisted, “only extremists and a terrorists insult [Saudi Arabia].”⁹¹ Such standards have also applied to the numerous pilgrims that go on the yearly hajj in Saudi Arabia, with the country’s Minister for Islamic Affairs warning potential critics that “only someone who is deranged and an enemy of Islam insults the Kingdom.”⁹²

One can posit two nodes of political actors who are the principal targets of Saudi Arabia’s blurred counterterrorist policy. One is ascriptive, specifically the country’s Shia community, which has a built-in susceptibility to a cycle of discrimination, dissent, and harsh treatment due to its religious and cultural distinctiveness. The other actor against which this phenomenon is evident is a functional one, that is one stemming from the practice of ideas or activities which the state deems subversive, although that encompasses a very heterogeneous spectrum of actors, ideologies, and identities.

5.1 Saudi Arabia’s Shia Community

The attribution of terrorism and the use of the counterterrorist infrastructure have become the basis for dealing with dissidents in the country’s Shia community, one of whose main centers is in the oil-rich Eastern Province. While this community is not monolithic, overall its members have long suffered discrimination and a series of rolling repressions at the hands of the Saudi government, which has looked askance not only at its religious distinctiveness but also at that community’s focus on constitutionalism as a threat to its own political and religious legitimacy.⁹³

As an unnamed Saudi security official maintained in 2012, the state had a right to deal with what it termed “renewed terrorism” in the Shia center of Qatif “just like it dealt with other [incidents of terrorism] in the past” and, specifically, “with resolve, force, and an iron hand.”⁹⁴ The Saudi media, likewise, called on the government to deal with Shia dissidents with “an iron hand just as we have done with Al-Qaida’s terrorists and extremists” and to “use the lessons learned from our war on terror.”⁹⁵ In fact, the Saudi government and media ordinarily intentionally use similar

language in describing dissident Shia and Al-Qaida, such as “the errant band” (*al-fi’a al-dalla*), implicitly linking the two.⁹⁶

Riyadh has routinely used the terrorist label against peaceful protests in cracking down on the Shia community, leading to imprisonment and, in some cases, executions. The country’s Mufti formally legalized security operations in Qatif against the Shia community in 2016 by proclaiming a jihad, or holy war.⁹⁷ When protests and clashes reoccurred in the Shia areas in 2017, the Ministry of the Interior characterized the events as “terrorism” perpetrated by “terrorist agents” carrying out “foreign agendas” and equated those arrested with Al-Qaida and ISIS, while the Sakina likewise spoke of “terrorist crimes.”⁹⁸ Indeed, after the flare-up in 2017, an unnamed official source explained its cause as the result of the Saudi police having been “too patient with terrorist activities occurring in the Qatif area for decades.”⁹⁹ It was again the SCC that dealt with those Shia arrested for participating in the demonstrations in 2017, allegedly extracting confessions under torture before issuing death sentences.¹⁰⁰

Typically, the list of charges for one Shia dissident held for trial in the country’s SCC and ultimately sentenced to 15 years in prison for terrorism focused on areas of non-violent activity. The charges against him included consorting with and aiding other “terrorists,” but almost as an afterthought, with accusations at the top of the charge sheet such as participating in public protests and obstructing street traffic, yelling anti-government slogans, sending out messages on his Blackberry expressing sympathy for the Shia cleric Nimr Al-Nimr, and disagreeing with the death sentence imposed on the latter.¹⁰¹ Rather than an exception, this pattern was repeated in the case of another Shia dissident sentenced in 2017 also to 15 years in prison on charges of having participated in protest rallies and marches in Al-Awwamiya, shouting anti-government slogans “with the intention of undermining security,” and inciting others by his text messages to also participate.¹⁰² In 2016, the SCC dealt with the first case of women protesters from the Shia community, accusing them of supporting “the subversion of the social compact,” “disturbing security and public tranquility,” “impeding traffic,” subverting the social fabric and the national community,” and “spreading chaos.” One of the women was accused of using the social media to encourage participation in the protests and of having downloaded banned material on her laptop. She was sentenced to five years in prison and an \$800,000 fine.¹⁰³ In July 2018, the SCC sentenced a Bahreini national to 9 years in prison on charges of supporting and financing terrorism and, specifically, for having “attempted to undermine the social cohesion and national unity” by participating in the Shia protests in Al-Qatif at which “slogans critical of the [Saudi] rulers” were heard. He was prosecuted under Royal Order 44, intended for Saudis fighting abroad, as well as on money laundering charges for allegedly giving money to his brother, who was a dissident on the wanted list.¹⁰⁴

Significantly, the sentences imposed on the Shia brought to trial at the SCC were often longer than those for Saudis who were charged with having fought abroad with jihadist groups. Riyadh routinely has blamed Iran for events in Saudi Arabia’s Shia areas, with one editorialist claiming that “every terrorist act or bullet in the Gulf region is undertaken by agents belonging to Tehran... which calls for striking the head of the snake in Tehran.”¹⁰⁵ At the same time, within the context of the Shia issue, the media has excoriated those Shia who remain quiet or neutral “once the government has determined that any group or organization represents a source of terrorism.”¹⁰⁶

The high-profile case of the Shia cleric Nimr Al-Nimr was particularly instructive. Long a prominent dissident who was critical of the discrimination to which the Shia community was subjected, he campaigned for greater rights and called for free elections, and was a leader in the civil disobedience during the Arab Spring of 2011.¹⁰⁷ Arrested along with other Shia dissidents in 2012, he received a death sentence in 2014 after a secret trial in the SCC and was executed in January 2016. The core of the prosecution case centered on Nimr's sermons and interviews, said to incite "terrorist crimes" and to "disrupt national unity," as well as his alleged possession of "subversive materials," and accusations of having led protests and of supporting political prisoners. There were also accusations of having engaged in gun battles with the police and of having collected money to buy Molotov cocktails.¹⁰⁸ The government portrayed him as "a rabble rouser" and "mentally deranged," and accused him of having criticized then-Crown Prince Salman and Prince Nayif, Minister of the Interior, as well as of abetting religious heresies such as rebuilding shrines of saints that the government had demolished.¹⁰⁹

Nimr Al-Nimr was executed on the same day as 46 others, including both Shia dissidents and members of Al-Qaida convicted of violent acts, probably with the intent of further blurring the coverage of the terrorist label as a means to delegitimize Al-Nimr and any political dissent.¹¹⁰ The Saudi media portrayed the execution as a way to "prevent [Shia] youth from sliding into the abyss of terrorism."¹¹¹ The director of the Sakina justified Al-Nimr's conviction by branding him "a terrorist" and "a cancer," accusing him of "disrespecting the country's leaders" despite "repeated [sessions of the] Munasaha."¹¹² Indeed, the Sakina reportedly engaged in a campaign specifically aimed at neutralizing criticism of the execution in the domestic social media.¹¹³ Saudi embassies, as was the case in the United States, were anxious to convince foreign audiences that the trial had been carried out with due legal process, leaving no scope for complaints.¹¹⁴ Adil Al-Jubeir, the Saudi Foreign Minister, for his part, also sought to lump together Al-Nimr and the Al-Qaida individuals, insisting in a statement released by the Saudi embassy in Washington that the Kingdom should be praised, not condemned, for fighting against terrorism.¹¹⁵ As it was, the Saudi media was incensed by the West's focus on Al-Nimr and angered that the latter considered him a dissident while disregarding the fact that Al-Qaida detainees were also executed at the same time, which should have convinced foreign opinion that all those executed were in the same category, and that Al-Nimr, therefore, should also have been considered "a terrorist leader" just like the others.¹¹⁶ To further deflect criticism abroad in this case, the Saudi media countered by accusing the West of such things as ignoring collateral damage in its air strikes in the Middle East, as well as bringing up such issues as U.S. policy toward Native Americans and the victims of the nuclear bombs dropped on Japan.¹¹⁷

In a prominent related pending case, Ali Muhammad Al-Nimr, nephew of the executed cleric, remains on death row. When 17-year old Ali was arrested for protesting during the 2011 Arab Spring demonstrations, he was charged with "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 of using his cellphone to incite demonstrations, as well as of throwing Molotov cocktails, and was sentenced in 2015 by the SCC to beheading and crucifixion, although that has not yet been carried out.¹¹⁸ To be sure, Crown Prince MBS on a visit to Egypt in 2018 noted that "I have Shia friends," and has insisted to U.S. audiences that the Shia "are

living normally in Saudi Arabia.”¹¹⁹ However, such expressions do not seem to be reflected in Saudi policy toward that community so far.¹²⁰

5.2 Islamists, Reformists, Human Rights Advocates, and Other Dissidents Real or Imagined

There has also been a variety of individuals, ideas, and activities which the Saudi government has treated as terrorist, including Islamists, reformists, liberals, human rights advocates, religious nonconformists, and any other dissidents. Indeed, as one journalist argued, one should not differentiate between those recruiting for the jihad and secularists or liberals (whom he called “those seeking to spread obscenity and atheism in the name of freedom”), for “they are all in the same category and are all alike, a single enemy with the same objective, that of sweeping away the sons of the Land of the Two Holy Places [i.e. Saudi Arabia] and of undermining the country’s security.”¹²¹ In fact, in 2018 Salih Bin Hamid, a member of the Committee of Senior Clerics, former Head of the Shura, and now an adviser to the Royal Council, argued that it was the country’s liberals, secularists, and atheists, not Islam, that had generated terrorism.¹²² Significantly, the Ministry of Islamic Affairs sponsored a seminar in 2018 entitled “The Truth about Liberalism and Its Threat to Muslims,” which concluded that liberalism’s freedom of thought represented a threat to Islam, and accused it of causing the Arab Spring and of promoting the shedding of blood and revolt against rulers in the name of freedom, concluding that liberalism and “the terrorist MB” were but “two sides of the same coin.”¹²³ As a senior member of Saudi Arabia government’s media agency added later, liberal and secular “extremist ideas” were similar to radical religious ideas and leaders that had led to rebellion and into terrorist groups and “liberal extremism” was just as dangerous to the country’s youth, as it would “hijack our youth and exploit them in a war against us, just as youths were exploited in terrorism.”¹²⁴ More broadly, as a press cartoon made clear, any critics would be crushed by the state. (See FIGURE 1)

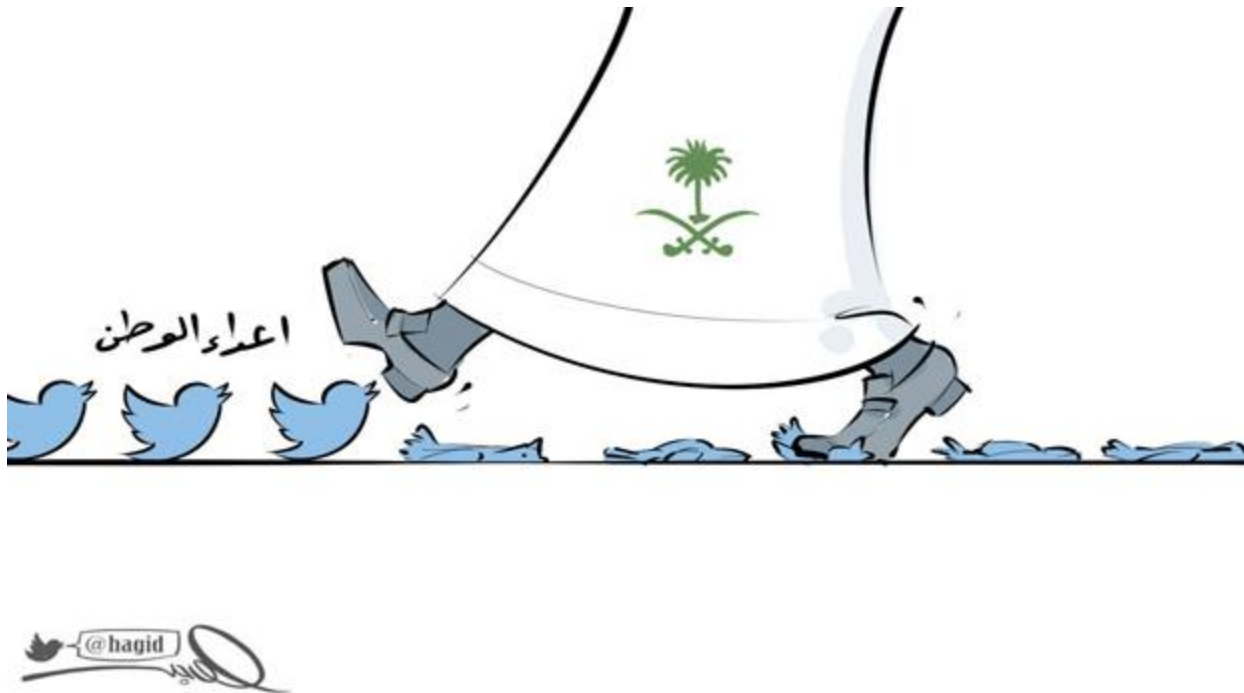


FIGURE 1: A powerful Saudi Arabia crushes “Enemies of the Nation,” critical tweets on social media, Abd Al-Rahman Hajid, *Al-Jazira*, 5 July 2018.

And, as a prominent cleric noted in 2018, after a personal visit from MBS, even those who criticized the rulers in private discussions (*majalis*) must be reported to the authorities because they were “religious rebels” (*khawarij*), using a term routinely applied to Al-Qaida/ISIS by the Saudi establishment.¹²⁵

Perhaps not surprisingly, in a crackdown on dissent in 2017 that targeted businessmen, academics, and clerics, the country’s Foreign Minister insisted that “The individuals who were detained were pushing an extremist agenda. They were inciting people, and this was not going to stand.”¹²⁶ Included in the 2017 crackdown was Islamic scholar Yusuf Al-Ahmad, who had already been charged at the SCC in 2011 for defending detainee rights. This time, he was accused of “subversive activity on behalf of foreign interests against the security and interests of the state,” and of “undermining national unity.”¹²⁷ The common thread among individuals and groups addressed here is of having been subjected to the country’s counterterrorist apparatus, including the SCC, Munasaha, Sakina, and various related legislation. Blanket accusations of terrorism have been so useful that the Saudi media even suggested a linkage between terrorism and corruption during the country’s selective crackdown on corruption in the 2017 detention of hundreds of prominent princes and businessmen.¹²⁸ And, in April 2018, plans were announced that those detainees who had refused to pay for their release would be arraigned at the SCC where, according to a judiciary official, they would be investigated to ascertain whether they had linkages to terrorism, probably as a pressure tactic to convince them to pay.¹²⁹

5.2.1 Islamist Political Parties, Movements, and Ideas

The Saudi regime has always viewed the appearance of political movements, much less organized parties, whatever their coloring, as potential vehicles for mobilizing opposition and as potential challengers to the Al Saud's legitimacy and rule. In particular, religious-based movements could appeal to a broad sector of a Saudi society atomized according to tribal, regional, and patrimonial loyalties thanks to the common denominator of Islam. With the exception of the takfiris, that is jihadists of the ilk of Al-Qaida and ISIS, it would be difficult to categorize the other Islamist-inspired "threats" as related to or equivalent to terrorism despite being considered officially as being on the same level, as their adherents and sympathizers have not engaged in violence in Saudi Arabia. One government strategy in recent years has been to equate explicitly and implicitly domestic dissidents with terrorist groups such as Al-Qaida and ISIS to thereby delegitimize them. The Saudi media, in fact, has posited a presumed inherent linkage between being a dissident and a terrorist, with one editorialist speaking of a mechanistic automatic progression, where someone starts out as a complainer, then becomes a dissident, then a pessimist, and finally ends up as an extremist who "blows himself up."¹³⁰ Typically, pro-reform activists arrested in 2007 were accused of supporting terrorists, but they and human rights organizations claimed the charges were trumped up, and they were eventually released.¹³¹ Likewise, when a Yemeni living in Saudi Arabia, a member of the Ismaili religious community, was arrested in 2017 for complaining on social media and on YouTube about conditions in Saudi Arabia's Najran province --the center for the country's Ismailis-- the media sought to tie him in with both Al-Qaida and ISIS, claiming counterintuitively that these groups "are directing him and are giving him publicity."¹³²

The changed official approach was noticeable in the case of the Islamist movements, with an emphasis on treating them more recently as a terrorist threat, unlike the situation in the 1990s. In particular, Saudi Arabia has had a long, if checkered, relationship with a more organized Islamist current, the Muslim Brothers (MB), dating back to the 1930s, with Riyadh viewing the MB over time as anything from a valued partner to a terrorist pariah based on both pragmatic and ideological considerations. Eventually, the MB and those Saudis associated with or influenced by the MB came to be seen domestically as a challenge to the Saudi regime's legitimacy and as a foreign policy hindrance, as in the MB's support for Saddam Hussein's 1990 invasion of Kuwait.¹³³ Moreover, the regime blamed the development of the Sahwa on MB influences.¹³⁴ In the wake of the Arab Spring of 2011, for which official circles in Saudi Arabia attributed an exaggerated mobilizing role to the MB in Egypt, Tunisia, Libya, and Syria, and due to revived calls for reform from the Sahwa, Riyadh's apprehension that something similar could occur at home, led to increased hostility toward such currents.¹³⁵ In March 2014, Saudi Arabia formally designated the MB a terrorist organization, while a prince lashed out at prominent preachers in Mecca and Medina who were accused of MB sympathies, and in 2015 the Saudi authorities forbade the MB and those influenced by their ideas from teaching.¹³⁶

As the country began to go through more rapid change and some potentially unsettling social, economic, and political developments, the Saudi authorities expressed exaggerated concerns there might be domestic protests leading to a reprise of the Arab Spring. Anyone who was suspected of potentially supporting such protests, as well as Saudi dissidents abroad, were accused of linkages to Al-Qaida, as well as to foreign powers such as Iran and Qatar.¹³⁷ In a

renewed campaign against the Sahwa --though by then the term had become shorthand for any Islamic-oriented political current-- the Saudi media claimed in 2016 that terrorism “without a doubt was a result of the [earlier] Sahwa period,” although assuring audiences that such extremist ideas were now contained.¹³⁸ Likewise, a prominent establishment cleric stigmatized the Sahwa movement as a gateway to terrorist groups with which he said it shared many ideas.¹³⁹ Indeed, a Saudi cleric reputed to be close to MBS, for his part, accused followers of the Sahwa movement of having incited Saudis to go on the jihad in Afghanistan, Chechnya, and elsewhere in the past and of the Sahwis’ having shed Saudi blood in their capacity as members of Al-Qaida and ISIS (as well as of tarnishing Saudi Arabia’s reputation).¹⁴⁰ A number of clerics and others arrested in the Fall of 2017 were accused of being part of the Sahwa tradition.¹⁴¹ What may have triggered the arrests according to some Saudi observers was a draft statement demanding the release of political prisoners held under the label of “security” risks, and accusing the authorities of torture and abuse in prisons.¹⁴² Arrests of former Sahwa clerics have continued, including the terminally ill Safar Al-Hawali and three of his sons in July 2018.¹⁴³

The campaign gathered further momentum after MBS criticized the Sahwa publicly in October 2017. As one editorialist explained, MBS realized that development required “the annihilation of extremism and of the extremists and the resolute criminalization of their movements without mercy” and had succeeded in “moving us from the darkness of the deadly Sahwa to the light of civilization and progress.”¹⁴⁴ The Saudi press also accused “the Sahwa’s terrorism” of standing in the way of national unity, development, and the transformation of the country into a civil state.¹⁴⁵ Given Riyadh’s open feud with Qatar, the Saudi media added to its attacks on the Sahwa accusations linking it to Qatar and once again castigated the Sahwa’s “deviant ideas,” with charges that many Sahwa followers were also members of terrorist organizations.¹⁴⁶ Some in the media likened “the Safavid Deceiver” [i.e. Iran], the MB, the Sahwa, liberalism, and “political party factionalism” as all equally extreme, with the Sahwa, in particular said to have provided “justification for terrorism.”¹⁴⁷ The Sahwa current’s “extremism” was also taxed with having given rise unavoidably to “the terrorism for which we are now paying a high price to eradicate.”¹⁴⁸ The issue remained so charged that when Al-Qasim University organized a colloquium in 2018 to study the Sahwa, critics accused the university of seeking to rehabilitate the latter, and the organizers had to insist that their intent was really to refute the Sahwa’s ideas, and the subsequent proceedings did focus on the Sahwa’s “corrupt ideas” and “conspiracy mentality.”¹⁴⁹

As part of this pre-emptive “just-in-case” effort, the Saudi media also conducted an extensive anti-MB campaign in 2017-18, claiming that the MB --which it labelled a terrorist and satanic organization-- was the basis for all terrorist groups, and explained the subsequent crackdown on that organization as needed in order to prevent terrorism, while at the same time taking advantage of the anti-MB campaign to conflate criticism of the latter with that of any hypothetical future political party, the Sahwa, and the Arab Spring.¹⁵⁰ When the Saudi Ministry of Defense’s Center for Ideological War opened in 2017, its initial target was the MB, which it said differed from Al-Qaida and ISIS only in terms of its timetable and some methods.¹⁵¹ Significantly, MBS portrayed to U.S. audiences the MB as simply part of an automated continuum, with a programmed progression to terrorism or, as he put it, an individual “gets from normal to a little bit conservative, to a little bit extreme then more extreme ’til he’s ready to turn

into a terrorist. And the Muslim Brotherhood network, it's part of this movement."¹⁵² The Saudi media continues to try to portray the MB and ISIS as connected. (See FIGURE 2)



FIGURE 2: “The [Muslim] Brotherhood” tells “ISIS:” “Snarl and the picture will be nicer.” Ali Al-Ghamdi, *Al-Madina*, 15 September 2018.

More broadly, addressing Saudis studying in the United States, the media accused anyone who joined the MB or any organization or political party while abroad of having “sold out.”¹⁵³ The country’s Committee of Senior Ulama’, likewise, used the opportunity to combine opposition to terrorism and to the MB as a platform to warn against any political dissent, and equated political protests as something promoted by foreigners and equivalent to a sin.¹⁵⁴ Saudi Arabia’s Foreign Minister, Adil Al-Jubeir, justified the accompanying wave of arrests in 2017 targeting government critics as part of the country’s policy of “zero tolerance for extremism and terrorism and incitement,” apparently intentionally blurring various categories of dissent.¹⁵⁵ One of those arrested at the time, economist Essam Al-Zamil, was charged a year later with terrorism, including giving foreigners “information and analysis about the kingdom,” membership in the MB, and “inciting protests.” His actual offense may have been his criticism on social media of MBS’ plan to privatize part of ARAMCO, the country’s national oil company.¹⁵⁶ As part of that same process, at least one Saudi university fired faculty members, doing so by lumping together terrorism, “deviant political party ideas,” and “dangerous inclinations” as justification.¹⁵⁷ And, the Saudis were hopeful the new U.S. Administration would go along and also declare the MB a terrorist group and “the source of all terror.”¹⁵⁸ Paradoxically, despite official concerns, Saudi observers were also confident that MBS would be able to put an end to MB and Sahwa extremism “straightaway” although they also feared that the victory would only be temporary and that additional “brain-cleansing” would be needed in the future.¹⁵⁹ The anti-MB media campaign has continued, with one editorialist typically labelling them a terrorist group and blaming them for the excesses of the Arab Spring, and calling for the MB to be dealt with “as the Europeans deal with [neo]-Nazis.”¹⁶⁰ The Saudi media has called for an even more thorough pursuit of “the terrorist MB” allegedly still present within various government agencies, criticizing the educational establishment, for example, because “we have not heard [yet] of the purge of education and the dismissal of those who became contaminated by the MB’s

pollution.”¹⁶¹ Similarly, another editorial, charging the MB with incitement against and the actual overthrow of rulers held that that organization represents “not only ideas but genuine terrorism.”¹⁶²

Saudi Arabia’s counterterrorism effort may have provided an administrative cover for tightening the government’s control over what is at times the country’s fractious religious life both within the official religious establishment and beyond, as religion remains an area of continuing concern despite the decline of its influence in society over the last generation. Since 2003, as part of its counterterrorist effort, the Saudi government removed some 3200 imam-s (prayer leaders) and khatib-s (preachers) for their extremist views already by 2009, according to the country’s Minister of Islamic Affairs, and another 2000 since then.¹⁶³ Officials from the Sakina and the Munasaha have also lobbied for a government standardization of all Friday sermons with the pretext of preventing radical preachers from promoting extremist and terrorist ideas, although with an estimated 3 million such sermons a year that may be difficult.¹⁶⁴ The state does seek to control the Friday sermons by at times dictating a theme for the week, such as terrorism, or by requiring weekly reports and by installing in mosques surveillance cameras connected to the Ministry of Islamic Affairs in order, as its says, to prevent “deviant ideas.”¹⁶⁵ Women preachers are also required to receive government certification, according to the Minister of Islamic Affairs in order to “choke off proponents of deviant ideas.”¹⁶⁶ In a further crackdown in 2018, the Ministry of Islamic Affairs planned to institute a telephone hotline so that individuals could report on clerics.¹⁶⁷

However, at least some of those clerical personnel targeted on charges of extremism and of supporting terrorism may be, instead, simply opposed to the government’s social and economic policies, and a number of conservative clerics and preachers have run afoul of the terrorism paradigm.¹⁶⁸ In that vein, when the authorities arrested a dissident cleric, Isam Al-Uwayd in 2017, they used the charge of terrorism and, specifically, in the form of verbal crimes, alleging that he had tweeted his support for ISIS.¹⁶⁹ Other regional sources, however, noted that although he had called the Al-Qaida-affiliated Jabhat Al-Nusra fighters in Syria “mujahidin” rather than terrorists, he had also tweeted against ISIS, and suggested that it was really Al-Uwayd’s tweets critical of the government’s Vision 2030 development plan and of MBS that had led to his arrest at the time.¹⁷⁰ In September 2017, likewise, several socially conservative women preachers were arrested, apparently for the views they held, although the disposition of their cases is still pending and no information has been released.¹⁷¹

In what presaged a new wave of arrests and trials, in September 2018 the cleric Salman Al-Awda, part of the group arrested in the Fall of 2017, was formally charged at the SCC with 37 terrorism-related counts, including organizing a religious committee in Kuwait, being a member of the Union of the Muslim Scholars, of belonging to the MB, of “suspicious contacts with the former amir of Qatar,” “repeated attempts to undermine the state,” “inciting society against the rulers,” “focusing on the shortcomings domestically,” “criticizing the treatment of prisoners of conscience,” “organizing meetings and conferences... to promote the MB agenda,” and of “supporting revolutions.”¹⁷² The prosecution asked for the death penalty. Another defendant, a Saudi-based Syrian preacher who had hosted a religious TV program, Fahd Al-Sunaidi, was also put on trial. The charges against him included contradictory ones of supporting both the hardline Sunni MB and, at the same time, the Shia Houthi movement in Yemen, having called Muammar

Al-Qaddafi an infidel at the time of the Arab Spring in Libya, having banned books in his possession, “supporting ... rebellion against the rulers” during the Arab Spring, and with praising ISIS.¹⁷³ The Saudi media, which never mentioned the defendants by name, waged a parallel campaign of its own, stressing that these were not defendants but “criminals,” and accused them of spreading “revolutionary terrorist ideas” intended to “incite the population against the leadership” and to “sow divisions between the rulers and the people.”¹⁷⁴

By mid-month, 15 defendants were put on trial, and proceedings were held in camera, and only some trials were even announced in public. The trials highlighted the circular logic whereby the MB had been categorized as a terrorist group and in the resulting syllogism, therefore, anyone with a link to the MB, real or tangential, or who could be said to share any ideas with the MB could automatically also then be accused of “terrorism.” As the media commentary seemed to imply, the focus was on the role of the defendants as critics and as a potential rallying point for political opposition rather than on the ostensible terrorist linkages with which they had been charged.

5.2.2 Controlling Religious Nonconformists

Those accused of religious nonconformism at times have also gone through the process intended for terrorists. For example, in 2014 five individuals were accused of following a self-proclaimed mahdi (the redeemer promised for end-times in Islamic doctrine) and prophet based in Kuwait and of cyber crimes for spreading his ideas and of money laundering due to the donations they had sent him. Unlike most cases of “sorcery” (really folk religion) which are usually tried in criminal or religious courts, a case involving a mahdi could have political consequences and was tried in the SCC, where the accused were charged with rejecting “the state, its rulers, and its judges” due to their doctrine. While thanks to a majority ruling by the judges they narrowly missed the death sentence requested by the prosecution, all received jail sentences ranging from five to twenty-five years, with corresponding bans on foreign travel after finishing their sentences.¹⁷⁵ As is standard procedure, the accused were processed through the Munasaha program, while the Sakina program highlighted their case as an object lesson.¹⁷⁶ Likewise, a Yemeni resident was brought before the SCC on charges of “doubting some tenets of Islam,” disparaging some of the hadith, “insulting the country’s rulers by describing them as tyrannical and using other improper terms,” and of cybercrimes for postings on Facebook. Forced to recant, in 2017 he was nevertheless sentenced to 21 years in prison.¹⁷⁷

5.2.3 Other Political and Human Rights Activists

Non-religious dissident quarters have also been targets of the counterterrorist strategy. Government figures have long sought to delegitimize liberal reformers by dismissing them as representing a threat in the same category as terrorism. Thus, Prince Khalid Al-Faysal, who was then governor of Asir and eventually to become King Salman’s adviser, in a lecture to university students warned of two parallel and equally dangerous currents in Saudi society: “the Westernizing current” and “the takfiri [i.e. terrorist] current.” He believed that “both are extremist and destructive,” and concluded that there was a “duty to fight against and eradicate both currents.”¹⁷⁸ Likewise, at a conference on terrorism held in 2010, the imam of the Grand Mosque in Mecca attacked “globalism, secularism, and Westernization” as all being

“terroristic.”¹⁷⁹ Typically, the Saudi media accused any dissidents, such as what one journalist called “libertarians” (*harura*), as being only disguised takfiri-s (i.e. Al-Qaida).¹⁸⁰

Among the political dissidents targeted was a group of 16 mostly academics and lawyers arrested in 2007 who had formed a group called Tawassu (an Arabic acronym for “Public Peaceful National Gathering”) to promote political and judicial reform. The state prosecution at the Jeddah branch of the SCC accused them of establishing “a dangerous secret organization” in cooperation with unnamed foreign intelligence services, of holding “meetings surrounded by secrecy” at which they had used projector slides and blackboards, and of “inciting disorder, harming national unity, damaging the reputation of the state,” as well as of having “cast doubt on the judiciary’s independence,” “undermined the public order,” “smuggled weapons and chemical weapons materials,” “incited rebellion against the ruler” and called for “armed revolt” with the goal of “seizing power.” The defendants were also accused of “organizing rallies and creating chaos outside a number of state agencies with the intent of creating pressure for the release of detainees and convicted prisoners.”¹⁸¹

A key element of the judicial strategy was to try to connect the defendants to Al-Qaida, with charges that the accused supported Al-Qaida’s ideas and program, collected and laundered money and recruited for the latter, called the Al-Qaida fighters by the positive name of mujahidin, and intended to create its own “Muslim Army.”¹⁸² What is more, the SCC also tried other cases at the same time involving individuals suspected of violent activities, with the media often seeking to conflate all defendants as similar in orientation. The Tawassu defendants, who claimed any confessions they had given had been coerced, denied the charges categorically.¹⁸³ In the event, the SCC found all defendants guilty in 2011, with sentences ranging from 5 to 30 years, monetary fines, and bans on foreign travel in trials reportedly riddled with procedural irregularities.¹⁸⁴

The year 2011 saw a widespread crackdown by Riyadh on dissidents and critics representing a spectrum of political views, probably triggered by the Arab Spring elsewhere in the region and the regime’s intent to do whatever necessary to prevent its spread to Saudi Arabia. Significantly, the government’s crackdown on the fledgling Saudi Civil and Political Rights Association (established in 2009), HASM in its Arabic acronym, was treated as a terrorist affair through secret trials in the SCC that resulted in lengthy prison terms.¹⁸⁵ This non-government organization was accused of “providing inaccurate information to foreign parties,” calling for a constitution and elections, expressing doubts about the role of clerics in government and politics, “denying the right of the rulers to remain in power,” sedition, and “undermining national unity.”¹⁸⁶ Their actual activities viewed as criminal included protesting in front of the Ministry of the Interior and “misusing the social media.” The presiding SCC judges ruled that ideas promoted by HASM such as the “ulama’s lack of understanding the political situation” and the rulers’ lack of legitimacy “match those of Al-Qaida,” and that the only difference between the two was that Al-Qaida engaged in violence while HASM called for “peaceful protests and dialogue.”¹⁸⁷ Mere membership in HASM was sufficient grounds for arrest.¹⁸⁸

In 2014 and 2015, more human rights activists were arrested and accused of terrorist activities, although international human rights organizations rejected such charges as false.¹⁸⁹ In 2014, the SCC heard the case of a blogger who was allegedly “in contact with acquaintances who style

themselves reformers,” accusing him of tweeting incitement against the ruler, clerics, and government agencies, of posting “unflattering photos of the Mufti,” and of calling for protests and rallies in support of political prisoners. He was sentenced under the provisions of the Anti-Cyber Crimes Act to 10 years in prison and a \$27,000 fine.¹⁹⁰

Wajdi Ghazzawi, is a Saudi cleric and TV journalist best-known for hosting the short-lived “Mujarrad Fadfada” (Just Venting) show on satellite TV in which he criticized such issues as corruption, the mistreatment of foreign workers, and Saudi Arabia’s alleged responsibility for the rise of Al-Qaida. He was arrested in November 2011 when he returned home to Saudi Arabia from Egypt, from where he operated, despite guarantees he claimed he had received that he would not be prosecuted.¹⁹¹ Put on trial at the SCC, he was found guilty in 2014 of “disobeying the ruler,” “undermining the authority of the state and all its institutions,” of “damaging the state’s reputation,” and of “disturbing public order,” with reference to Article 6 of the Anti-Cyber Crime Act that targeted the “Production, preparation, transmission or storage of material imping on public order, religious values, public morals, and privacy.”¹⁹² He was given a sentence of 12 years in prison and a lifetime ban from all media, and was forbidden from leaving the country for 20 years.

In another case, the writer Zuhayr Al-Kutbi was arrested in 2015 after he criticized in a TV appearance the long-dead King Saud (a well-known profligate and inept ruler that the royal family itself had deposed). At the SCC, he was charged with “defaming state institutions and officials,” as well as with supporting constitutional reform on his tweets and blog, using the Anti-Cyber Crime Act against him. The SCC sentenced him to 4 years in prison (although he was released two years later), a fine of \$27,000, a ban from appearing on TV and in the press for 15 years and from traveling abroad for 5 years after his release, as well as the closing down of his Twitter account, while the offending TV program was terminated.¹⁹³

Again, in 2016, two human rights activists, Abd Allah Al-Attawi and Muhammad Al-Utaybi, were put on trial before the SCC for having established the short-lived Union for Human Rights in 2013.¹⁹⁴ Charges included “participation in forming an association and announcing it before acquiring the necessary license... drafting, issuing, and signing a number of statements ...over internet networks that include offending the reputation of the Kingdom,” and calling “for changes in the Basic Law [Constitution],” as well as for cybercrimes for having posted information about the legal proceedings, and further aggravated by having staged a hunger strike while in prison.¹⁹⁵ In January 2018, they were sentenced to, respectively, 14 and 7 years in prison.¹⁹⁶ One journalist even lumped together “those following an ideology, sectarians, and leftist and nationalist extremists” across-the-board as siding with Iran and Qatar and of supporting “ISIS and Hizb Allah and all its terrorist branches.”¹⁹⁷

Criticism of any sort has continued to be unwelcome, as made evident by the arrest in January 2018 of another prominent human rights activist, Nuha Al-Balawi, although the catalyst may have been her tweets critical of Saudi Arabia’s phased policy of normalization of relations with Israel, and her case, too, is likely to go before the SCC.¹⁹⁸ And, media attacks on pro-democracy elements, portrayed as being as dangerous and of being tied to extremism, have continued, with a likely negative impact on any individual’s reputation and professional prospects. As a member of the Munasaha and head of his university’s ideological security committee stressed, “those

adopting slogans of freedom and democracy” were “dissolute” and wanted to “do away with religion and take power,” and were equally “deranged” as the MB.¹⁹⁹ The Saudi-led Coalition’s war in Yemen has also given rise to cases brought before the SCC against critics of the war. In February 2017, a Yemeni resident of Saudi Arabia was arraigned at the SCC, based on his alleged confession of favoring the Shia Ansar Allah (Houthis), one of the warring parties in Yemen.²⁰⁰ In April 2017, A Shia lab technician serving with the Saudi National Guard was arraigned by the SCC for using the social media to express criticism of the Saudi participation in the war in Yemen, with the prosecutor asking for a 25-year prison sentence.²⁰¹ Since the more detailed amended Anti-Cyber Crime Act was still some months in the future, he was prosecuted under Royal Order 44, which had been designed to pursue those Saudis who had fought abroad for terrorist groups, despite the poor legal fit, as well as the ambiguous 2007 version of the Anti-Cyber Crime Act. As often happens, these cases subsequently disappeared from the Saudi media.

In a well-publicized case, the Saudi State Security in May 2018 arrested prominent activists and supporters of women’s rights –that the state quickly named the “Cell of Seven” (eventually expanded to 17)-- and accused them of treason for allegedly passing inaccurate and “classified” information on the status of women to foreign media and human rights organizations, and for participating in “foreign plots” with the intent of harming Saudi Arabia. In an unusually intensive coordinated accompanying campaign, the Saudi media insisted that the government could not be tolerant with such traitors, that the intent of those arrested was to destabilize the country and take power on behalf of foreign interests, that they had insulted their country, that they had acted against religious and national values, and that they had brought shame and problems to their families, their tribes, and the nation, but also reassured readers that the state was secure and that the population stood firmly behind the country’s rulers. Among those arrested, as noted earlier, was the prominent women’s rights advocate Loujain Al-Hathloul, who, along with another activist, had already been arraigned before a regional branch of the SCC in 2014 for “disobeying the ruler” in connection with their attempt to drive a car from the UAE to Saudi Arabia.²⁰²

The media linked those arrested to extremism and terrorism, with claims that the authorities would not be deceived by “those calling themselves human rights supporters,” as this was just a screen and that it was really a case of terrorists who had abandoned their failed religious slogans for new ones of human rights in order to elicit international sympathies.²⁰³ A retired senior military officer accused those arrested of being “good-for-nothings crying over women’s rights” and of being sympathetic to the ideas of extremist groups,” and lumped them in with the MB and the takfiri-s as all being “terrorist enemies” and “enemies of the state.”²⁰⁴ An official in the Ministry of Culture and Media, likewise, included what he called the “traitors’ cell” along with Al-Qaida and ISIS as terrorist groups seeking to destabilize Saudi Arabia and against which the country was said to be fighting a jihad.²⁰⁵ Others also connected those arrested to the Sahwa and branded them as deranged.²⁰⁶ One writer characterized those arrested as a “fifth column” and a “cancer” who should be dealt with as with any terrorists, while another noted that the Qur’an classified treason as a capital crime.²⁰⁷ Since then, reports of torture and abuse of those detainees have emerged.²⁰⁸ There was also a concerted effort to isolate those detained, portraying them as “agents of [foreign] embassies” and insisting they had become “a tool in the hands of those who hate this country.”²⁰⁹ One academic, in particular, was insistent that Saudi human rights activists

should not deal with the international media, which wanted to harm the Kingdom, and that all contacts with foreigners should occur only through established official mechanisms.²¹⁰ The Saudi media, however, reassured the public that the government had the power and resolve “to deal with foreign plots... by striking at them with an iron hand ... a [course of action] springing from the Kingdom’s balanced track and principle of moderation.”²¹¹ A press cartoon during this campaign graphically portrayed those arrested as weak criminals being dealt with by a powerful Saudi state (See FIGURE 3).



FIGURE 3: A powerful Saudi sword defeats a weak “Traitor of his country,” Manal Muhammad, *Al-Jazira*, 21 May 2018.

For good measure, the media also attacked foreign human rights organizations that publicized their case as having lost all credibility, of having a secret agenda of undermining other countries’ stability, and of themselves being infiltrated by “MB terrorists.”²¹²

As of this writing, it was too early to predict the course this case would take. Although the Sakina had dealt with it, in itself an indicator that the accused would probably end up at the SCC and at the Munasaha, the intense international media attention and criticism the case elicited, as well as the sensitivity at home because women were involved so publicly, may have led to a partial retreat by the Saudi authorities, as some of the detainees were released a few days after their arrest, although only temporarily pending a completion of the investigation, with official claims that the detainees had already “confessed” during their interrogation.²¹³ Strikingly, in contrast to U.S. government support for protests for women’s rights in Iran, as expressed in a speech by Secretary of State Mike Pompeo, there was no official public U.S. reaction to the parallel events in Saudi Arabia that same week.²¹⁴

5.3 Exceptions That Prove the Rule

As a counterpoint, cases at the SCC which have resulted in not guilty verdicts are also informative. In one case, a Saudi was arraigned for allegedly having incited a rally five years earlier (and he may have remained in prison since that time) calling to free political prisoners and for insulting the rulers although, as it turned out, the only genuine charge was probably that of wishing that the Minister of Labor develop cancer because of his decree encouraging women to work, for which he was exonerated. However, the prosecutor planned to appeal and re-try the case.²¹⁵

The case of the hardline conservative cleric Abd Al-Aziz Al-Turayfi may illustrate yet another dimension. In April 2016, he was arrested for a tweet seen as directed at MBS that criticized compromising on religion to please “infidels.”²¹⁶ However, the SCC a year later found him innocent, although unverified dissident reports subsequently indicated that an SCC judge was himself arrested in retaliation for returning the innocent verdict.²¹⁷

In perhaps a more important case, Aqil Al-Aqil, the last director of Al-Haramayn Islamic Foundation --a key Saudi charitable foundation with apparent official connections-- and seven of his associates were put on trial at the SCC in 2014 under the provisions of the Convention on Terrorist Crimes and Financing. As early as 2004, the U.S. Treasury had already charged multiple branches of Al-Haramayn around the world with funneling money to Al-Qaida.²¹⁸ Under pressure from Washington, Riyadh had eventually closed the foundation’s foreign activities, but it was another ten years before Al-Aqil (who had continued working as a government official until then) was arrested. In the event, in what may have been a speedy reverse show trial, he and his colleagues were found innocent of any wrongdoing and quietly released shortly thereafter.²¹⁹

6: INTERACTING WITH THE INTERNATIONAL COMMUNITY: COUNTERTERRORISM, HUMAN RIGHTS, AND REALPOLITIK

The misuse of counterterrorism for political ends in Saudi Arabia is part of a broader phenomenon targeting the development of democracy and, of course, does not occur in an international vacuum. Riyadh finds its application of the counterterrorist paradigm convenient for domestic concerns and, not surprisingly, has sought to calibrate its foreign policy in ways that will neutralize foreign efforts to monitor and moderate Saudi policies.

6.1 Shielding Saudi Policy from Scrutiny

Scrutiny by international and foreign human rights organizations, governments, and the media is unwelcome in Riyadh and, in an on-going effort, Saudi Arabia has sought to quash any criticism of a blurring of its human rights and counterterrorism policies. Simply providing information to foreign human rights organizations is actionable before the SCC, as in one case where the Convention on Terrorist Crimes and Financing and the Anti-Cyber Crime Act were used to arrive at a guilty verdict on this charge in 2014.²²⁰ Thanks to a monopoly or dominant control over most sectors of the public and private space, the Saudi government has been able to restrict, if not totally prevent, foreign access to information about human rights issues. For example, even with the weight of the UN behind a recent investigative effort, “Despite repeated requests by the Special Rapporteur, the [Saudi] Government did not give access to any of the individuals currently in detention for offences related to the exercise of free speech rights.”²²¹

Saudi diplomacy has also been active in defending the country’s human rights practices, and Saudi Arabia is seldom challenged by the international community on its human rights policies, while its positive self-appraisals are taken at face value. For example, in 2017 the Saudi delegation assured the UN’s Social, Humanitarian & Cultural Committee that it was “reaffirming its commitment to continue efforts to strengthen and protect human rights” and that it had “fulfilled its obligations arising as a signatory to international agreements.”²²² Again, the Vice President of the Saudi Human Rights Commission, as head of his country’s delegation at the 59th Session of the UN’s Committee on the Elimination of Racial Discrimination held in Geneva in April 2018, stressed that “Saudi Arabia is continuing its efforts to protect and strengthen human rights,” and assured fellow-delegates that his country had reached “international human rights standards.”²²³

When there is foreign criticism, Saudi diplomacy can be defiant in public, as was the case with the Saudi ambassador at the UN with respect to the Nimr Al-Nimr verdict: “The application of sharia [i.e. Islamic] law as far as human rights is concerned is the highest form of human rights... We believe that we are holding ourselves to the highest standards. If that doesn’t please someone here or there, that’s their problem not ours.”²²⁴ Riyadh also complained through its London embassy about media criticisms when Al-Nimr was executed.²²⁵ A key Saudi argument in that respect has been the country’s sovereignty, as the same ambassador to the UN deflected appeals on the projected execution of Al-Nimr’s teenage nephew Ali, arguing “We respectfully request the world to respect our systems and our judicial processes, and our laws and regulations, and not to interfere in the internal affairs of a sovereign state.”²²⁶ The Saudi Foreign Minister, Adil Al Jubeir, likewise, insisted that on human rights “Just like we respect your legal system, you should respect our legal system. You cannot impose your values on us, otherwise the world will become the law of the jungle.”²²⁷ Significantly, there is an institute in Saudi Arabia, the Center for International Thinking about Saudi Arabia, whose role is to international views on the country and to “defend Saudi Arabia against Western accusations,” including on the issue of terrorism.²²⁸

Often, Saudis have interpreted foreign concerns as simply the result of a failure to communicate on their part. The Saudi Foreign Minister, addressing British criticism of Al-Nimr’s execution, attributed it to the fact, as he saw it, that “we have not been good at explaining ourselves, we

have not done a good job at reaching out to the British media or to the British public or to the British institutions, academic institutions, think tanks and so forth.”²²⁹ Significantly, Saudi Arabia has been retaining numerous public relations firms, has contributed to universities and think tanks, and has bought or subsidized foreign media to burnish its image abroad and to counter information about its domestic record.²³⁰ In particular, MBS has himself been an effective interlocutor abroad, able to divert the human rights issue thanks to offers of economic deals, his ability to project an image of shared values, and his engaging personality, resulting in what one might call a “dictatorship with a smile” acceptable in the West.

What is more, the Saudi media routinely gives the impression at home that the human rights issue is merely a pretext for Western countries to interfere in and undermine the reputation of other countries, and that international human rights organizations have little credibility and actually defend terrorists.²³¹ One prominent establishment cleric accused such organizations of having “hidden agendas,” seeking to sow “discord, hate, and depravity” so as to obstruct the Muslim world’s development.²³² Likewise, the director of a pro-Saudi lobbying entity in Washington, the Saudi American Public Relation Affairs Committee, attributed a “dishonorable past” to such organizations and questioned their credibility due to alleged double standards.²³³ Other Saudis have attacked allegedly “leftist” think tanks in the United States for assuming that authoritarianism fosters terrorism.²³⁴ In particular, the Saudi media has accused Human Rights Watch and Amnesty International of “recruiting traitors” to provide information for “fake reports,” to pressure Saudi Arabia and besmirch its reputation, with the aim of “preparing fertile ground for terrorists and traitors to undermine the Kingdom’s security.”²³⁵ To further delegitimize such human rights groups, the same opinion writer also claimed that George Soros, whom he described as being “of Jewish origin” and as “a supporter of revolutions,” was the source of their funding.

And, Saudis have long argued in favor of relativism, holding that international organizations ignore differences in cultures and traditions, and that “alternative interpretations” to the relevant facts are available.²³⁶ One Saudi academic even resented what he termed were Western human rights advocates and promoters of democracy because he claimed they contributed to terrorism by encouraging protests. He argued that such foreign critics attacked “the honesty of the country’s judiciary, its belief system, sovereignty, and independence,” and advised “Stop, we know best what is in our interest!” As he concluded,

nice words and lofty principles such as human rights and democracy... freedom and freedom of expression... are misused to create doubts and feelings of humiliation ... and lead to the making of extremists who believe in violence as a means and destruction as an end... All this results in terrorism and similar movements that roil the Arab world marked by a colonialist vision, an agenda of chaos, and [the fulfillment of] Zionist objectives.²³⁷

At times, Saudi reactions to criticism can be harsh, especially when originating in smaller countries. For example, in 2015, when Sweden’s Foreign Ministry issued a critical report about Saudi Arabia’s human rights record, Riyadh lodged a formal protest and summoned the Swedish ambassador to deliver “a strong message.” The Saudi Council of Ministers argued that the report violated diplomatic norms, contained false claims, and ignored the facts, and that Sweden had

attacked Saudi Arabia only because the latter is different. Likewise, a member of the Shura insisted on respect for Saudi Arabia's sovereignty and warned that Riyadh would not permit interference in its legal system. Saudi Arabia's representative at UNESCO, for his part, termed the Swedish report "flagrant interference [and] a violation of international law and of diplomatic norms," adding that the country had an Islamic legal system and that the report therefore constituted an attack on Islam itself.²³⁸ Similarly, in the case of Ali Al-Nimr, the Saudi ambassador to Italy felt secure in bluntly telling the latter to "not give lessons on human rights."²³⁹ It has also been common for Saudi Arabia to divert attention from itself by focusing on human rights violations elsewhere, as in Iran, Qatar, Iraq, Palestine, or by the Ansar Allah in Yemen or the Asad regime in Syria.

6.2 Touting International Approval

Saudi Arabia also believes that highlighting its contributions to counterterrorism will discourage any criticism on any attendant misuse. Indeed, Riyadh portrays itself as the "model for counterterrorism," highlighting its successes and claiming its innovations, such as the Munasaha program, serve as models for other countries.²⁴⁰ Riyadh also constantly reminds the international community of its commitment to counterterrorism and of what it contributes, such as organizing the Islamic Counterterrorism Coalition, hosting the Global Center for Combating Extremist Ideology and counterterrorist conferences, and contributing to the UN Counter-Terrorism Office, and expects that all this will matter far more than any shortcoming. The Saudi media touted the then-director of the U.S. Department of Homeland Security's explanation that Saudi Arabia was exempt from the Trump Administration travel ban thanks to its good security and as recognition and gratitude for its counterterrorist policies, and as an antidote to anyone who might desire discord in the bilateral relationship.²⁴¹ More directly, during MBS's 2018 visit to Great Britain, the Saudi media argued that there was no reason to criticize or accuse Saudi Arabia because the latter was a leader in the fight against terrorism.²⁴² As the head of the Nayif University of Security Sciences saw it, the international community's appreciation of Saudi Arabia's counterterrorism efforts represented a "success for Saudi foreign policy."²⁴³

In addition, Saudi Arabia has been anxious to participate in and shape the activity of international human rights organizations, especially those connected to the UN. In particular, at the UN, Riyadh has considerable economic clout to use with many smaller members, resulting in what Saudi Arabia portrays as international approval and confirmation of the validity of its policies, both to foreign and domestic audiences. Thus, Bandar bin Muhammad Al-Ayban, president of the state-controlled Saudi Human Rights Commission, noted that "Saudi Arabia received positive recognition of its human rights record" at the UN HRC meeting in Geneva, with the media portraying Saudi Arabia's repeated selection as a member of that body as "tangible proof of the very high regard that the Kingdom enjoys ... on behalf of the principles of justice, equality, and the defense and support for human rights."²⁴⁴ When Al-Ayban again led the Saudi delegation at the 2017 HRC session, he stressed that his country was fighting against terrorism but that it was also careful to respect human rights, although his enumeration of the latter rights appeared to be largely of material ones reminiscent of the old Soviet perspective, as he cited the right to healthcare, to an education, to a job, to women's participation in society, and the defense of the family.²⁴⁵ And, that same year, Saudi Arabia co-sponsored the resolution

“Effects of Terrorism on the Enjoyment of All Human Rights” through the UN HRC that, ironically, included a provision recognizing “that counter-terrorism measures and the protection of human rights are complementary and mutually reinforcing,” and the Saudi media claimed that it had been Riyadh that had convinced the other countries to agree to the measure and called its passage “a Saudi diplomatic victory.”²⁴⁶ As Gerd Oberleitner underscored in his impressive study of such international institutions, one perhaps cannot realistically avoid their politicization, given their dependence and varying degrees of control by individual governments.²⁴⁷ However, Saudi Arabia’s continuing interest in projecting a positive image suggests a genuine sensitivity to its reputation within such institutions and the international community they represent.

6.3 The Key Role of the West

For Saudi Arabia, its security and economic relationship with the West and, in particular, with United States has been and remains central, although in the area of human rights and democracy, it has not always been smooth.

6.3.1 The United States: A Qualitative Policy Change?

Over the years, in dealing with the United States, Riyadh has been sensitive to discussions of its human rights record that would surface periodically in the U.S. Congress, especially when major arms deals were being considered. However, although the degree of America’s concern for human rights in Saudi Arabia has waxed and waned over the years, depending on a specific administration, that has never really affected policy. Significantly, the bi-partisan “Tom Lantos Human Rights Commission” launched in Congress in 2008 appears to have fallen into neglect, with its website carrying the names of only three Saudi prisoners of conscience, but virtually no accompanying information.

Moreover, recently, Saudi Arabia may be sensing significantly reduced U.S. interest in its human rights conduct, part of an apparent increased general indifference to the issue in Washington.²⁴⁸ The keystone U.S. document that identifies an administration’s foreign policy priorities is *The National Security Strategy of the United States of America*, even if, in practice, U.S. policymakers and planners may ordinarily only pay lip service to it. Beginning in the Ronald Reagan Administration, the promotion of human rights and democracy has always had a prominent part in this document but, in the Trump Administration’s version, released in December 2017, on the contrary, those two concerns are barely mentioned, and even then only in dismissive terms. On the promotion of human rights, for example, the document states only: “We are under no obligation to offer the benefits of our free and prosperous community to repressive regimes and human rights abusers.”²⁴⁹ Democracy receives equally short shrift, with only a reference to the “durability of [the U.S.] republican democracy.”²⁵⁰ Likewise, although the *Country Reports on Human Rights Practices* was released as scheduled in March 2017, then-Secretary of State Rex Tillerson, breaking precedent, did not participate in the event, sending a message of the reduced importance of the issue.²⁵¹ Significantly, Tillerson indicated that, in effect, policy in pursuit of material interests should not be hampered by U.S. human rights concerns, as he openly told his subordinates in May 2017 that “Those are our values. Those are

not our policies... If we condition too heavily that others must adopt this value that we've come to after a long history of our own, it really creates obstacles to our ability to advance our national security interests, our economic interests."²⁵²

Overall, some have attributed a greater propensity for autocrats in general to run roughshod over their opponents to a perception of this U.S. indifference and exclusive prioritization of the fight against terrorism and other state interests.²⁵³ While one might argue that, in practice, all past U.S. administrations often have put Realpolitik interests ahead of human rights, one can sense a qualitative difference more recently with a more unabashed public and outspoken disregard of human rights. Significantly, when asked about North Korea's dismal human rights record following a bilateral summit in 2018, President Trump dismissed that as a concern, noting blithely that "so have a lot of other people done some really bad things. I mean, I can go through a lot of nations where a lot of bad things were done."²⁵⁴ And, in June 2018, in the wake of criticism of its own policy of separating migrant families and of Israeli policies, and of a telling report on poverty in the United States, the latter withdrew from the U.N. Human Rights Council, accusing it of "hypocrisy" and of "politicizing and scapegoating countries with positive human rights records."²⁵⁵ Some Saudis viewed this U.S. action as vindication for their own accusations of that U.N. body. For example, when the HRC issued a report in September 2018 critical of Saudi policies in Yemen, the Saudi media pointed to the U.S. withdrawal as confirmation that the HRC was hypocritical and ineffectual, and felt justified in warning that just as the United States had withdrawn from the HRC, others –implying Saudi Arabia-- could also pull out.²⁵⁶

Specifically, with respect to Saudi Arabia, the new Administration has provided not just passive tolerance of Riyadh's human rights policy but actual positive reinforcement. For example, already at his confirmation hearing, when asked about human rights in Saudi Arabia, Secretary of State nominee Tillerson had signaled that pressure would not be forthcoming from Washington, noting that Riyadh was "moving in the direction that [we] want it to move. And what I wouldn't want to do is to take some kind of a precipitous action that suddenly causes the leadership in the Kingdom of Saudi Arabia to have to interrupt that."²⁵⁷ The CIA under the new Trump Administration, for its part, awarded the George Tenet medal to the Minister of the Interior, Prince Muhammad bin Nayif, in February 2017 for his achievements in counterterrorism, even if it was only shortly before he was unceremoniously ousted by his young nephew, MBS, who took his place as Crown Prince. The Saudi media widely interpreted the Tillerson hearing and the CIA award as U.S. approbation of the Kingdom's policies and that the only thing that mattered in Washington was defeating ISIS.²⁵⁸

More directly, the U.S. Secretary of Commerce, Wilbur Ross, accompanying President Trump on his visit to Saudi Arabia in May 2017, remarked with naïve admiration that "There was not a single hint of a protester anywhere there during the whole time that we were there. Not one guy with a bad placard."²⁵⁹ As this study suggests, not only would dissidents face severe retribution, but the comment also ignored that at that very moment the Saudi government was quelling violently Shia protests in Al-Awwamiya. In particular, the Saudis are confident that other U.S. interests and especially the fight against terrorism will outweigh concerns about human rights. Tellingly, when Secretary Tillerson was asked about the human rights issue in that country during President Trump's visit, he told an interviewer "But, you know, the primary reason we're here today is to confront this threat of terrorism. If we do not defeat Daesh [i.e. ISIS], if we do

not defeat these forces of evil, there will be no conditions under which we can even hope to improve the human rights for all of the people in the region.”²⁶⁰ And, President Trump himself reassured his hosts that “We are not here to lecture, we are not here to tell other people how to live, what to do.”²⁶¹ Noticeably, a lone event on the President’s schedule during his visit intended to promote civil society in Saudi Arabia was cancelled.²⁶² Again, when the United States withdrew from the U.N. HRC, Secretary of State Pompeo justified the withdrawal by noting that the latter “includes authoritarian governments with unambiguous and abhorrent human rights records, such as China, Cuba, and Venezuela,” but pointedly did not include Saudi Arabia in the list.²⁶³

Moreover, reports alleged that a well-placed Trump family member in 2017 had shared intelligence with MBS personally about Saudi dissidents, which might have been interpreted as U.S. condonement.²⁶⁴ And, when news broke of the detention of Saudi princes and tycoons on charges of corruption in late 2017, with reports of torture and extortion, President Trump tweeted an unsolicited defense of the process: “I have great confidence in King Salman and the Crown Prince of Saudi Arabia, they know exactly what they are doing... Some of those they are harshly treating have been ‘milking’ their country for years!”²⁶⁵ When MBS visited Washington in 2018, President Trump reiterated that material interests may indeed overshadow other considerations in the bilateral relationship, as he noted that “We understand each other. Saudi Arabia is a very wealthy nation, and they’re going to give the United States some of that wealth, hopefully, in the form of jobs, in the form of the purchase of the finest military equipment anywhere in the world.”²⁶⁶ Unlike in previous years, when Riyadh had criticized the content of the Department of State’s *Country Reports* relevant to Saudi Arabia, it did not bother to do so in 2018, apparently confident that the document carried little policy weight.

While one cannot prove causality between U.S. policy and Saudi actions, there may be at least a degree of correlation, as some reports suggested an even greater readiness to crack down on dissidents given a more benign outlook by the new U.S. Administration.²⁶⁷ If nothing else, very public messages by the United States of indifference to the human rights situation and to any abuse of counterterrorist policy very likely serve to dampen the hopes of those seeking reform in Saudi Arabia. Moreover, attitudes of foreign disinterest make it easier for Saudi Arabia to ignore whatever disapproval might arise of the misuse of the country’s counterterrorism policies, as was the case with the criticism implied in the Department of State *Country Reports*, which the Director of the Saudi state-run human rights agency dismissed because it was “not in accord with what we are hearing from some American officials.”²⁶⁸ Revealingly, in conjunction with President Trump’s visit to Riyadh, a member of the country’s Shura felt confident in attacking international human rights groups by contraposing them with the interest of counterterrorism, as he argued that “such organizations work to besmirch the reputation of states that actively defend human rights and confront extremism and terrorism.”²⁶⁹

Moreover, what may appear to be a double standard in the U.S. approach to human rights as a bludgeon to be used only against political adversaries may undercut Washington’s moral clout. For example, in contrast to its silence on Saudi Arabia, the U.S. Administration was very active when demonstrations broke out in Iran in December 2017, criticising Tehran’s conduct toward protesters and seeking to coordinate with allies political and economic punitive measures against Iran.²⁷⁰ And, again in May 2018, Secretary of State Mike Pompeo expressed his support for

demonstrators against an “oppressive Iranian terror regime.”²⁷¹ Likewise, in June 2018, Pompeo urged that “in support of the Venezuelan people and their efforts to return to democracy,” the Organization of American States punish the Venezuelan regime by suspending its membership and “apply additional pressure ... including sanctions and further diplomatic isolation.”²⁷² However, as if to underline the transactional nature of human rights in the White House view of foreign policy, Secretary Pompeo in his keynote address delivered in Cairo during his Middle East tour in January 2019, did not mention human rights overall, much less the Khashoggi case specifically, even once, with an anti-Iran stance set forth as the basic litmus test for a regime’s moral uprightness.²⁷³

6.3.2 Other Western Countries: Struggling toward a Coherent Policy?

Other Western countries, of course, also tend to ignore Saudi Arabia’s misuse of counterterrorism measures due to material or security benefits, including receiving occasional anti-terrorist intelligence, factors that Saudi diplomats assume will be paramount and are quick to highlight. Typically, the Saudi ambassador to Britain stressed “the Kingdom’s contribution to Britain’s security and economy” as a way to deflect criticism of its human rights record.²⁷⁴ Conversely, when asked why his country had supported Saudi Arabia’s membership on the UN HRC, a flustered David Cameron, then Great Britain’s Prime Minister, answered “It is because we receive from them important intelligence and security information that keeps us safe,” also adding that “Saudi Arabia itself actually has quite a good record of de-radicalising people who have become radical terrorists and jihadists.”²⁷⁵ Significantly, observers linked impending arms deals with Riyadh for muted responses by Canada, France, and Great Britain to the treatment of Nimr Al-Nimr and other dissidents.²⁷⁶ Tellingly, some Arab observers suggested that the arms deals concluded during MBS’s 2018 visit to Britain would come at the expense of human rights issues (See FIGURE 4).



FIGURE 4: “Arms Deals,” the Saudi Crown Prince and a British official exchange money for weapons, squeezing out “Human Rights,” Imad Hajjaj, *Abu Mahjub News* (Amman), 12 March 2018.

6.3.3 The 2018 Saudi Confrontation with Canada: Premeditated Overreaction?

The diplomatic confrontation that erupted in August 2018 between Saudi Arabia and Canada on the heels of a single tweet by the Canadian Foreign Minister that supported the aforementioned liberal blogger Ra’if Badawi and other human rights activists languishing in Saudi prisons may have provided a window into how Saudi Arabia would like to deal with foreign countries when challenged on its human rights record. One could view Riyadh’s more hardline policy within the framework of the latter’s bolder recent domestic and foreign policy and, to some extent, that sort of Saudi belligerence may have been encouraged by its own calculus of current U.S. attitudes about human rights and assumptions of general U.S. support for Riyadh. In its reaction to what was a minor Canadian criticism that in the past might have drawn at most a diplomatic protest, this time Saudi Arabia launched a harsh media campaign, orchestrated no doubt by the government, that focused on accusations of Canada’s “blatant interference” as violating the country’s sovereignty, as well as leveling counter-charges that Canada itself was guilty of racism at home.²⁷⁷ Editorials were memorable for their strong language and outlandish accusations, denouncing Canada for “sticking its nose in what does not concern it” and for “idiotic behavior.”²⁷⁸ Charges included that Canada was providing a safe-haven and a “welcoming terrorist milieu” to Saudi dissidents, who “wrote tweets day and night ... inciting the population against the government,” such as by providing instructions on how to obtain asylum.²⁷⁹ And, probably seeking to appeal to other countries in the region, the Saudi media claimed that Canada was acting like a colonial power, leading a Leftist-MB-Iran coalition in “a war against religious

values and Arab social mores and customs” with the intent of spreading a neo-Leftist version of Christian values.²⁸⁰ What is probably a Saudi government-linked Twitter account even posted a threatening 9/11-like image, although this was later deleted. (See FIGURE 5)



FIGURE 5: An airplane flies over the Toronto skyline in a scene reminiscent of 9/11, Infographic Saudi Arabia Twitter site, 6 August 2018.

Saudi journalists also argued that their country already had its own human rights organizations with “genuine human rights activists who understand fully their appropriate role” and who operate “far removed from the pollution of being [foreign] agents and the filth of treason.”²⁸¹ In material terms, Riyadh expelled the Canadian ambassador, suspended all new bilateral economic

deals, began divesting assets, and initiated a diversion of its students and medical patients elsewhere, while threatening dire consequences for the Canadian economy.²⁸² Not unexpectedly, Canadian critics of their country's human rights stance on Saudi Arabia, for their part, often also raised arguments about potential losses in arms sales and other economic deals, as was the case with former Foreign Minister John Baird and served the Saudi media as a counterpoint.²⁸³

Significantly, Saudi perceptions of the evolution of American policy on human rights may have encouraged Riyadh to react in such an unusually severe manner. In the event, to the chagrin of Canadian public opinion, the U.S. reaction to the Saudi response was to demonstratively avoid backing Canada, falling back on an anodyne equidistance on the positions of the two countries.²⁸⁴ The Saudi media was quick to highlight the fact that Washington was not supporting Canada on this issue.²⁸⁵ At the same time, Saudi Arabia also touted Russia's unsurprising criticism of interference on behalf of human rights in other countries.²⁸⁶ When the European Union (EU), in the person of the High Representative for Foreign Affairs and Security Policy Federica Mogherini, also became involved, requesting information about the Saudi detainees, the director of the Saudi-controlled Organization of Islamic Cooperation lashed out, warning that Riyadh could take unspecified measures and claiming that such foreign concern "only serves the efforts of extremists and terrorist groups."²⁸⁷ Within days, however, the EU had backed down, reportedly deciding not to issue a public statement supporting Canada.²⁸⁸

Riyadh seemed bent on showing how it would reject all criticism of its human rights policies. In a public forum, Saudi Minister of Foreign Affairs Adel Al-Jubeir berated Canada for its calls that the critics who had been arrested be released. Evincing righteous indignation, he railed: "It is outrageous, from our perspective, that a country [i.e. Canada] will sit there and lecture us and make demands... we demand the immediate release? What are we, a banana republic? Would any country accept this? No, we don't." Al-Jubeir immediately also suggested that those about whom the Canadian Foreign Minister had tweeted were to be viewed as guilty "extremists" and deserved no sympathy: "You do this, you play into the hands of the extremists who are opposing our reform process." And, adding insult to injury, he demanded "Apologize. Say you made a mistake."²⁸⁹ Saudi Arabia had been having a similar spat with Germany after the latter's Foreign Minister had criticized Riyadh's human rights record. However, following elections in Germany, the new foreign minister backed down, issuing a formal apology stating that "we sincerely regret" what he described as a "misunderstanding."²⁹⁰ It may have been the German apology which came shortly before Al-Jubeir's interview referenced above, that may have encouraged the latter to take his belligerent stance toward Canada.

What was striking was that the grossly disproportionate Saudi reaction to a tweet from Canada was likely not an emotional response as much as calculated Realpolitik strategy in search of a pretext. In effect, for Riyadh, the benefits of its hardline response included projecting an image of strength—choosing what it apparently perceived as an easy target rather than one of the major powers or a significant trading partner—with one editorialist noting that Saudi Arabia in many ways was itself now a "Great Power," and especially so in terms of its economic strength, enabling it to "stun the Canadians and make them realize they are embroiled in an idiocy."²⁹¹ The message was also directed, as the Saudi media put it, to "other countries who might one day think of interfering in our internal affairs and cast doubt on our independent judiciary," which may have been intended to warn against foreign criticism of the series of trials initiated the

following month.²⁹² Saudi Arabia's domestic population was no doubt also a target, with the government's probable intention to generate support for the country's leadership by appealing to nationalism, as the media called for the people to unite against foreigners and, "instead of blithely supporting our enemies," to "rally around their leaders."²⁹³ Also, Riyadh may have wanted to isolate human rights activists and other critics at home that that foreign concern and support would not be forthcoming or be effective even if it occurred. In fact, commentators in Saudi Arabia held up the German example as a victory for Riyadh and predicted that Canada, too, would soon have to apologize, and that that would also mean "ending... [its] support for the destructive agents of the human rights organizations which are motivated by terrorist parties and regional states who violate international law."²⁹⁴ And, at the same time, human rights activists would be tainted for being seen as supported by foreign powers. (See FIGURE 6)



FIGURE 6: An unattractive "human rights activist" is portrayed as enabled by, and a cover for, a foreign hand, Abd Al-Aziz Rabi, *Al-Riyadh*, 8 August 2018.

7: THE JAMAL KHASHOGGI MURDER-- A WATERSHED OR BUSINESS AS USUAL?

The murder of Saudi journalist Jamal Khashoggi in October 2018 crystallized some of the issues raised in this study, despite the various anomalies of this case. As the incident occurred outside Saudi Arabia, specifically in the Saudi consulate in Istanbul, most of the Saudi ostensibly counterterrorist legal mechanisms, administrative structures, and procedures analyzed earlier were not a factor. Rather, given the circumstances, it was primarily extra-legal procedures that came into play on this occasion, although this case still represented in some ways the same blurring of the concepts of countering terrorism and countering dissent insofar as the official rhetoric and justification were concerned, as well as the involvement of Saud Al-Qahtani's cyber effort agency. In addition, of course, this case also provided an insight into how the international community—and, in particular, the United States-- could be expected to act in such circumstances. Here, the focus will be only on those aspects where the Khashoggi case intersects with the central topic of this study, that is the state's misuse of counterterrorism in dealing with dissent.

Khashoggi, a prominent Saudi journalist, had gone into self-exile in the United States in 2017 after being blacklisted in his home country for having expressed some policy criticisms. He may also have been viewed as “dangerous” in the sense that as a former political insider and senior adviser, including to the former longtime intelligence chief, Prince Turki Al-Faysal, Khashoggi knew a lot of secrets, whether on corruption, covert state support for terrorist groups, or whatever and, should he ever have decided to write a tell-all book, that could have been potentially embarrassing for the powers-that-be. Moreover, in exile, he had continued to contribute articles in the U.S. media, calling for greater freedom at home. And, he had also appeared on Qatar-owned Al-Jazeera TV. When, in May 2018, he wrote in defense of the women activists who had been arrested back home, the Saudi media took the opportunity to also include him in its campaign of condemnation.²⁹⁵ More immediately, there are indications that he was in the process of organizing an international digital political movement, something that the Saudi ruling circles would have certainly found to be an unacceptable challenge no matter how well-intentioned and patriotic such an effort was meant to be.²⁹⁶

Significantly, the Saudi media had begun to suggest he was a marked man. Press stories accused him of treason and of cooperating with terrorists, and vowed there would be “no mercy for a traitor... who sold out his country for a fistful of money” and suggested he return home “to mend your ways.”²⁹⁷ Ominously, a few months earlier, Saud Al-Qahtani had tweeted directly to another Saudi dissident living abroad, threatening him that “The assassination file has been re-opened. Look out.”²⁹⁸ And, more recently, intelligence reportedly has surfaced in the media of guidance by MBS a year before Khashoggi's murder to have the latter eliminated physically, by “a bullet.”²⁹⁹

Khashoggi simply vanished on 2 October 2018 after entering the Saudi consulate in Istanbul, Turkey, to deal with some administrative paperwork in preparation for his impending marriage, and was not seen again. As of this writing, although some details are still being investigated,

the evidence that has emerged suffices to support a compelling case that he had been the victim of a state-sanctioned assassination, as the American Central Intelligence Agency, as well as other similar agencies, organizations, and experts concluded, with some accounts suggesting especially gruesome details that entailed his strangulation and the dismemberment of his body.³⁰⁰ And, there were indications likely implicating high-level officials, including the country's Crown Prince.³⁰¹ The incident set off unprecedented media coverage and shed new light on how Saudi Arabia deals with dissidents, although much was to continue to remain outside the public purview. And, although it was still unclear whether Saudi Arabia would suffer meaningful international economic and political sanctions for this alleged crime or whether in the end the situation would return to business as usual, one would be hard-put to ever view the current Saudi leadership in quite the same way as before.

7.1 Managing the Khashoggi Incident Fallout

In dealing with the post-incident situation, the Saudi government followed two different vectors with international and domestic audiences, with varying emphasis on the terrorism angle.

7.1.1 Dealing with Domestic Audiences— Denials, Defiance, and Threatening Dissidents

Managing opinion at home was relatively easy, given the government's total control of the country's traditional media, social media, courts, and security apparatus. Saudi journalists and pundits were careful to exonerate the government, and especially Crown Prince MBS, of any involvement against dissidents abroad as a general principle, arguing as did a retired senior military officer --Major General Zayid Al-Amri-- on Saudi TV that "The Kingdom of Saudi Arabia is not a police state" and that such things as the Khashoggi killing had never happened before.³⁰² However, past experience suggested otherwise, that is if the situation required it, any of the country's legal and administrative mechanisms and procedures, however perfunctory or biased, could be bypassed altogether when dissidents were outside of Saudi jurisdiction. In effect, there is compelling evidence of a systematic pattern of Saudi Arabia's use extra-judicial measures over the years to deal with dissidents abroad without any reference to that country's legal apparatus. For example, journalist Saïd K. Aburish chronicles a number of Saudi dissidents who were pursued over the years, beginning with the intellectual Nasser Al-Said, who disappeared in Beirut in 1979 and who reportedly was assassinated there or in Saudi Arabia following his forced repatriation.³⁰³ More recently, Western media reports suggested that dissidents, including princes, had also been abducted or targeted abroad by the Saudi government and taken back against their will, with no accompanying legal process.³⁰⁴ Significantly, an unnamed Saudi government official told the local media that in the case of Khashoggi, the "negotiating team" sent out to him had simply gone too far, and that that operation was to be seen within the established framework of a standing order for the return of dissidents to Saudi Arabia which was designed "to prevent them from falling into working for those hostile to the Kingdom," but that, of course, it was only intended for those who "wish to do so."³⁰⁵

What is particularly germane to the current study is that as part of a process of denial and self-justification the Saudi authorities engaged in moral assassination by tarnishing Khashoggi's reputation at home with allegations of his linkages to terrorism. The Saudi media, for example,

accused him of “whitewashing terrorists” in the past in his writings and of cooperating with foreign “intelligence agencies” and with “terrorist groups,” quite apart from accusing him of having engaged in “an intellectual assassination attempt” against MBS, whatever that meant.³⁰⁶ Initially, at a time the Saudi authorities were denying that anything at all had happened to Khashoggi, the implication in the media was that even if it had, under the circumstances, that would have been legitimate, as the Saudi media accused him of sympathizing with Al-Qaida (since he had interviewed in Afghanistan in the 1980s some of those who were later to become Al-Qaida leaders), the Muslim Brothers, and other dissidents who were said to have “terrorist goals,” as well as of siding with Qatar, Turkey, and Iran.³⁰⁷ In point of fact, Khashoggi over the years had often written in the Saudi press condemning Al-Qaida, ISIS, and similar movements, while also calling for reform at home.³⁰⁸

In a way, vocal support for the changing official government versions of events became a litmus test of loyalty to the country’s leadership. In what was a transparently state-sponsored media campaign, journalists and opinionmakers all repeatedly called for a show of patriotism and for national unity around the country’s leaders, alleging that the country and Islam itself were the victims of “a vicious media attack” from abroad aimed at creating chaos and undermining Saudi Arabia and its rulers. Reporting on the situation by the foreign media was routinely dismissed as “media terrorism” aimed against Saudi Arabia and its leadership.³⁰⁹ Thanks to its control of the domestic media, the government could simply dismiss foreign reporting as “fake news.” (See FIGURE 7)



FIGURE 7: Press cartoon shows Saudi portrayal of foreign reporting on the Khashoggi case as all coordinated “fake news,” *Al-Muwatin*, 15 October 2018.

Typically, in the context of the Khashoggi case, a senior cleric, citing the need to protect the country's youth against terrorism, saw it as a duty to defend the country on social media and accused anyone who did not do so of being a traitor.³¹⁰ Indeed, as one journalist warned, remaining quiet now was tantamount to "high treason" and would be "fateful for you."³¹¹ Even Khashoggi's immediate family and relatives still living in Saudi Arabia were persuaded to go public to express their confidence in the Saudi government's handling of the case and to reiterate their own loyalty to the leadership and the country.

A key dimension of the extensive media campaign at home –which appeared coordinated and controlled, with similar themes and often also set formulaic language-- seemed to be to further delegitimize dissidents in the public eye and to convince the dissidents themselves that they were isolated and vulnerable, and that they could not count on support from abroad. In itself, the publicity surrounding the incident may well serve as an object lesson for all Saudi dissidents, those both still at home and abroad, especially if Riyadh's actions do not lead to meaningful sanctions. Tellingly, without mentioning the Khashoggi case specifically, one Saudi journalist, for no apparent reason, at this time wrote about the kidnapping in 1999 of the Kurdish nationalist leader Abdullah Öcalan –whom the Turkish government considered a terrorist-- in Kenya by Turkish security forces as an incident that had led to no international repercussions, perhaps seeking to underline that such proceedings would be tolerated by the international community.³¹²

The Saudi press warned that the "loyal population" would now be "a mighty mortal piercing arrow aimed at the traitors and enemies of the nation" and that "the evil traitors bent on destruction and terrorism ... are to be cast out."³¹³ Equally ominously, a Saudi military source warned on Saudi TV that it was Khashoggi's "sympathy for hostile parties, [such as] the [Muslim] Brothers' party, which is hostile to the Kingdom of Saudi Arabia, [that] ended up making him a victim. I hope this is a message to every citizen, male and female, to take care that they do not get to that stage."³¹⁴ Elsewhere, he also tweeted that the Khashoggi case should be "a lesson for Saudi citizens," claiming that Qatar's intelligence services may have killed Khashoggi once he was of no further use to them, and he therefore warned Saudis not to be "a tool for any country" for "you too will be eliminated once you do the enemy's job," although it was ambiguous who would do the elimination.³¹⁵

Significantly, the extent of the online tracking and social media manipulation capabilities and applications by Al-Qahtani's office only became better known in the wake of the Khashoggi murder. Apparently, Al-Qahtani's team had acquired advanced technology and training from Italy and Israel that enabled it to monitor and hack virtually all Saudi communications, and had proceeded to target dissidents in particular with these cyber and social media assets.³¹⁶ Now, not only dissidents, but ordinary Saudis as well, may have become even more sensitive than before to the potential cost of voicing anything that could be interpreted as criticism, and even several prominent analysts decided at this time to stop tweeting.³¹⁷ More broadly, Arab dissidents living abroad in general were said to have become more concerned that if Saudi Arabia could kill one of its dissidents with impunity, other regional regimes might also be emboldened to do so.³¹⁸

7.1.2 Dealing with Foreign Audiences-- Damage Control, Righteous Indignation, and Alibis

Dealing with public opinion and governments abroad, of course, was more complicated than dealing with domestic audiences. The standard accusation of Khashoggi's alleged terrorist linkages, while a convenient trope at home, was not likely to be as credible with foreign audiences, where Khashoggi had become a familiar figure --that is apart from some key exceptions where individuals may have been looking for any excuse, however flimsy, in order to exonerate Riyadh. Specifically, there were official Saudi attempts to link Khashoggi to terrorism aimed primarily at the Trump decisionmaking team, either because Riyadh expected the latter to be susceptible to such claims or because it assumed that President Trump and his associates would be actively seeking any excuse, extenuating circumstance, or counter-argument that might help to exculpate the Saudi leadership and relieve the White House from making difficult political decisions. In that vein, MBS, during a telephone call with the White House reportedly sought to plant the idea that Khashoggi had been a "dangerous Islamist."³¹⁹ Subsequently, President Trump would himself repeat such accusations, noting that "Representatives of Saudi Arabia say that Jamal Khashoggi was an 'enemy of the state' and a member of the Muslim Brotherhood."³²⁰ Assuring audiences that "my decision [on the Khashoggi case] is in no way based on that," he stressed that what counted for him, instead, in his decisionmaking on the issue were Saudi Arabia's arms contracts, its opposition to Iran, and cooperation against terrorism. Nevertheless, by leaving such allegations he had repeated about Khashoggi unopposed and unqualified, he thereby contributed to the very impression that Riyadh had apparently wished to give about Khashoggi's having been an extremist. And, President Trump's son also helped spread similar negative rumors.³²¹

At the same time, the Saudis also provided a series of implausible accounts which mutated as time went on. Initially, the Saudi authorities focused on outright denials, with official representatives at all levels issuing vehement disclaimers that anything untoward had occurred and labeling any reports to the contrary as "absolutely false and baseless" even as evidence mounted in support of such reports.³²² The Saudi authorities even repeatedly expressed their heartfelt concern for Khashoggi's safety and well-being, as was the case with the Saudi ambassador to Great Britain, Prince Muhammad bin Nawaf.³²³ And, evincing surprise, they insisted they were themselves at a loss as to what could have befallen him, with Prince MBS volunteering that "we are very keen to know what happened to him... we have nothing to hide."³²⁴ Once such denials became untenable, this was followed by a damage-control phase, which included Prince Khalid --as Saudi ambassador to the United States, and MBS's brother-- insisting that Khashoggi's death was "painful" and "not consistent with the Kingdom of Saudi Arabia's principles."³²⁵ Eventually, the focus of the Saudi public relations effort crystallized around emphasizing the important material interests that Saudi Arabia represented --whether help with counterterrorism, its effect on oil prices, investment opportunities, or arms purchases-- and the implication or even open argument that such benefits should not be put at risk by other countries over the fate of a single individual.³²⁶

7.2 The United States: Riyadh's Vital Audience

Of course, it is the United States that remains the linchpin for Saudi policy, given the security, political, and economic ties on which Riyadh relies and which would be extremely difficult to replace or do without. Perhaps operating in a cocoon of hubris, Saudi leaders initially may have calculated that their country's relationship with Washington in any case had become so unassailable --because of tangible interests and personal connections-- that they were immune to any long-lasting negative consequences from Washington, whatever they did.

In particular, in a patrimonial society such as that of Saudi Arabia, where personal relationships and networks, reinforced by transactional exchanges, are more important than institutional structures, players may assume that personal loyalties will override ideological --including, in this case, human rights-- concerns.³²⁷ The Trump family, according to media reports, had longstanding economic and private interactions which may have led Saudi policymakers to believe that such transactional ties would be decisive in the bilateral relationship between the two countries.³²⁸ As Trump had boasted openly during his presidential campaign, "Saudi Arabia, and I get along great with all of them ...they buy apartments from me, they spend \$40 million, \$50 million. Am I supposed to dislike them? I like them very much."³²⁹ More directly, individuals in the Trump Administration had also developed personal relationships and political stakes, as was the case of Trump son-in-law and adviser Jared Kushner and Crown Prince MBS, who was reported to have boasted that the former was "in his pocket."³³⁰ Whether such personal and economic ties to Saudi Arabia by senior U.S. political figures would or would not influence views on this and similar human rights cases was not clear, but this was still a factor that could not be ignored.

And, Riyadh might have been further emboldened to take the risks it took in the case of Khashoggi by what Saudi leaders may have perceived as a favorable international atmosphere for its human rights dealings, whether indifference on the part of the United States government or timidity by other states, fed by the recent Saudi successful experience in dressing down Germany and Canada.³³¹ Moreover, in light of the increased U.S. sanctions on Iran's oil sales, Riyadh may also have calculated that its own important position in the international oil market could insulate it from any serious repercussions.

As it was, one could argue that if there was any attention at all from the U.S. Administration on this case this may have been attributable to a number of extraneous and unforeseen factors, including the release of information by the Turkish authorities and the subsequent extensive media coverage, which in turn catalyzed interest in academic, human rights, and some U.S. political circles, thereby generating pressure on the White House. In fact, had Turkey, for whatever reasons, not made the information it had acquired public, the incident might likely never have come to light, as Western intelligence services would probably have kept quiet for political reasons, as they had about previous abductions of Saudi dissidents.

While a more complete account will have to await a subsequent study, here one can characterize briefly the Trump Administration's handling of the Khashoggi case as a ragged and at times

awkward dialectic policy strategy, entailing a combination of expressions of dismay and sorrow, accompanied by blustering language and threats of unspecified retribution, while at the same time working to gain time, and offset such promises of action by casting doubt on the evidence and by stressing the countervailing material interests that, ultimately, would be decisive in determining U.S. policy in this case. President Trump, in particular, appeared eager to accept and repeat Saudi denials and, some would say, actively abet the Saudi cover-up. Following a telephone call to King Salman on 15 October 2018, President Trump seemed willing to take Saudi denials at face value and, what is more, appeared anxious to raise doubts and suggest alternative facts, as he told reporters: "The king firmly denied any knowledge of it He didn't really know, maybe, I don't want to get into his mind but it sounded to me like maybe these could have been rogue killers, who knows?... His denial to me could not have been stronger, that he had no knowledge. It sounded like he and also the crown prince had no knowledge."³³² And, he seemed to accept when MBS "totally denied any knowledge of what took place."³³³ Likewise, asked if he believed the Saudi government's later story that Khashoggi had died during a brawl in the consulate, he had replied "I do, I do."³³⁴ Jared Kushner, for his part, reportedly encouraged President Trump to continue backing MBS, arguing that the crisis would pass.³³⁵ Significantly, Kushner, in telephone conversations with MBS, was also said to have advised or coordinated with the latter on how to handle the post-Khashoggi crisis.³³⁶ Conversely, the White House downplayed evidence provided by other sources, including by the U.S. intelligence community.³³⁷ For example, assessments and briefings developed by the CIA appeared to provide compelling evidence of Saudi government responsibility, including allegedly that of the Crown Prince.³³⁸

In deflecting or openly rejecting any attribution of responsibility or considering any material consequences for Saudi Arabia, American policymakers routinely had recourse to Realpolitik, although at times the interests they adduced could be exaggerated or questionable. In particular, President Trump expressed a determination from the first to continue arms sales to Saudi Arabia: "I don't like the concept of stopping an investment of \$110 billion into the United States... They're going to take that money and spend it in Russia or China or someplace else."³³⁹ And, he defended his intent by linking what was in itself an illusory Saudi deal with the creation of new jobs whose number increased each time he spoke, eventually reaching claims of 1 million, although industry experts realistically put the likely number at only some 500.³⁴⁰ The effort to inflate the magnitude of this arms relationship --an effort in which Jared Kushner was said to have participated-- in fact may have been intended as a way to discourage those calling for sanctions by portraying the financial losses that would ensue as irreparable.³⁴¹

When President Trump did inject a moral dimension, it was to praise MBS as "by far the strongest person" and as someone who "truly loves his country," and contrasting him as "a good counterbalance to the world (sic). Iran, they're as evil as it gets... We've got nobody else over there" to help protect Israel.³⁴² And, he was seconded by Secretary of State Mike Pompeo, who argued there would be no sanctions on Riyadh because "remember, Iran is running rampant throughout the Middle East," a somewhat excessive assessment.³⁴³

In the end, what counted for President Trump was that "They [i.e. Saudi Arabia] have been a great ally ... the United States intends to remain a steadfast partner."³⁴⁴ All the United States would do was to revoke the visas of some of the operatives implicated in the Khashoggi murder,

which Secretary of State Pompeo categorized as “a very strong response,” although in reality it was a largely meaningless gesture, as those affected had already been arrested and were soon to be indicted –as convenient scapegoats-- in Saudi Arabia itself.³⁴⁵ Trump himself characterized the U.S. move as a strong measure: “You saw we put on very heavy sanctions, massive sanctions on a large group of people from Saudi Arabia.”³⁴⁶ Even at that, the move may only have been intended to forestall Congress from imposing more far-reaching sanctions on more senior individuals in Saudi Arabia as part of the Global Magnitsky Act, a statute intended to pursue perpetrators of serious human rights abuses and corruption. In fact, the Administration continued to stall and to seek to divert attention from the case.³⁴⁷

The Saudi media would highlight all the reassuring statements emerging from U.S. officials as proof of foreign support and as vindication for Riyadh’s policy and, in fact, became increasingly confident that the economic benefits that their country offered would outweigh U.S. concerns about Khashoggi.³⁴⁸ For the Saudis, it was the Trump Administration --not the American media, Congress, or human rights groups-- that was key in the outcome of the Khashoggi affair because, as the Saudi media put it, “the Administration ... has the final word on which the final decision depends.”³⁴⁹ And, once it seemed that it would be business as usual, whatever evidence emerged, the Saudi media would write that the case could now be considered closed.³⁵⁰

7.3 The Impact on Saudi Arabia: Catalyst for Policy Reform or More of the Same?

The Khashoggi case, despite its tragic character, could serve as a catalyst for meaningful change in how Saudi Arabia deals with its dissidents and, in particular, for a rethinking leading to a clear differentiation between the approach to terrorism and to legitimate political dissent. That is, if the Khashoggi murder was, in fact, a rogue operation carried out without the knowledge and consent of the country’s leadership –the official position that Saudi Arabia eventually ended up adopting-- then one would have expected that measures would have been taken to ensure that a repetition of such an occurrence would not be possible in the future. Specifically, disbanding the cyber monitoring and social media effort presided over by Al-Qahtani that targeted dissidents, ending the use of laws and institutions ostensibly designed for combating terrorism against dissidents, human rights activists, or critics, and ceasing the characterization in the media of these same individuals and groups as extremists and terrorists would all have been logical steps.

To be sure, the Khashoggi case did spur some change in Saudi Arabia’s government structures, but the lessons that apparently were learned reflected merely an administrative perspective. Basically, the official consensus that emerged was that Saudi Arabia had to improve how it would handle similar crises in the future. In that vein, the Minister of Media and the Minister of Foreign Affairs were replaced, suggesting official discontent at how the Khashoggi crisis had evolved, and implicitly placing the blame for international censure on the poor performance by the country’s media and diplomacy in presenting the Saudi case abroad. There was agreement, in particular, that Saudi Arabia needed a more active media effort abroad, reflecting an official assessment that the problem had been that Riyadh did not get its message out effectively to

foreign audiences, rather than concluding that it was what had happened to Khashoggi and the subsequent coverup that foreign public opinion found objectionable.³⁵¹

Changes in the national intelligence apparatus and discussions about creating a crisis management center, likewise, appeared to be geared to improving the effectiveness of the government's conduct of policy rather than to changing the mission and methods with respect to dissidents. (See FIGURE 8)

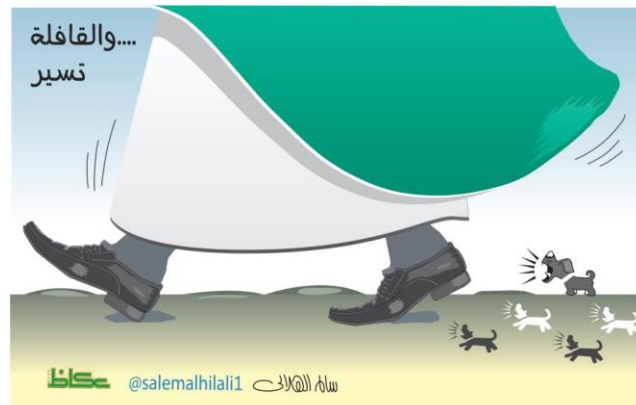


FIGURE 8: “And the caravan goes on.” Press cartoon suggests that Saudi Arabia feels it is sufficiently immune so that it will be unaffected in the long run by critics, portrayed as feeble little yapping dogs, Salim Al-Hilali, *Ukaz*, 8 November 2018.

Thus, instead of closing down or reforming Al-Qahtani's office, indications were that it was continuing to function as before and even that Al-Qahtani himself, despite supposedly having been suspended and under investigation for his alleged direct role in Khashoggi's murder, was still in contact with MBS and still providing advice.³⁵²

8: CONCLUSIONS AND IMPLICATIONS

Based on this study, one can draw several conclusions applicable to Saudi Arabia, but ones that are also relevant to the wider issue of the misuse of counterterrorism in the international community.

First, Saudi Arabia represents a situation of a systematic and extensive misuse of counterterrorism for the repression of unrelated political and religious activity. One can view Saudi Arabia's counterterrorist/counterdissident effort as an amalgam of both ideology and Realpolitik, with the latter element clearly predominant. That is, from a utilitarian perspective, a blurring of counterterrorism serves as a useful political tool to criminalize legitimate dissent and to counter criticism of Saudi policy. The results of the research on Saudi Arabia tends to support

Whitaker's original hypothesis as to the growth of the use of counterterrorism as a convenient tool or pretext to counter non-terrorist dissidents and, indeed, this phenomenon appears to also apply to other autocratic countries.³⁵³ Although such a trend may apply only to some countries, in those countries where it is a factor it can have a significant negative impact on human rights.

This study also suggests that, diverging from the results of the Shor, Filkobski et al study, counterterrorist legislation, specifically, can play a significant role, as it does in Saudi Arabia and probably in other countries as well, in the sense that it provides an important tool for criminalizing opponents and legitimizing their repression while providing a veneer of legal plausible denial in order to gain or increase the acquiescence of international, regional, and domestic publics. Clearly, such legislation in Saudi Arabia is not only of a "declarative nature" for demonstrative purposes, but is applied widely and frequently. Even if a state already has a history of repressing dissidents, specific counterterrorist legislation can serve as a cover to take measures against otherwise legitimate dissent that democratic states would not. Indeed, as seen, the all-encompassing mandate and vagueness of Saudi counterterrorist legislation and of its application highlights that the terrorist nomenclature is a commodity, with definitions and applicability that are malleable and tailored according to political requirements. That is, the use of the terrorist label in order to subject individuals or groups to the jurisdiction of such legislation has often been based on political expediency to serve as a means of delegitimizing adversaries and as a justification for applying measures in accordance with such assessments.

Second, the case of Saudi Arabia indicates that it may be most productive to look not only at a country's counterterrorist legislation, but also at the other interrelated and mutually-supporting aspects of the broader counterterrorist effort, such as the country's judicial, administrative, and security machinery, the mobilization of existing state agencies, the state-controlled media, the educational system, the judiciary, the religious establishment, the security and military sectors, diplomacy, and the official rhetoric in public discourse as analyzed in this study. Since governments, such as that of Saudi Arabia, view their own counterdissident effort as a "package," it makes sense to also analyze the impact in those systemic terms. Otherwise, observers may miss important facets of the phenomenon that serve to provide a synergistic result that maximizes the impact by tailoring the available repressive tools in various combinations depending on the specific case. Even if the focus is specifically on counterterrorist legislation, the latter must be viewed within this broader government and societal framework to evaluate its repressive impact properly.

Third, what the international community does matters. The international community can play a key role in the development of human rights in Saudi Arabia, although the likelihood of that happening may be limited by countervailing economic, political, and security interests, as the Khashoggi case illustrated. The international community, however, is not totally without leverage in influencing the situation, whether in Saudi Arabia or elsewhere, and could do more to improve the situation. The Saudis, for their part, are sensitive to living in a wider world. It was not accidental that the Saudi government felt it was important to convince domestic audiences that the Khashoggi crisis was over, that MBS was exonerated, and that all was back to normal in the eyes of the international community by using its information apparatus to portray MBS as having played a central role and of having received a warm welcome at the G-20 Summit in

Argentina in December 2018, even though foreign media reports indicated that most Western leaders had actually kept their distance and had marginalized him.³⁵⁴

In particular, the Saudis do care what the United States thinks. Memorably, according to a former U.S. Ambassador to Riyadh, at the time of the 1979 Shia protests, Prince Bandar, then Ambassador to Washington, reportedly had said that he “had promised to crush the Shia uprising ‘as long as (Washington) didn’t complain too much about human rights violations.’”³⁵⁵ In concrete terms, there is no realistic alternative to the United States for Riyadh as its ultimate security guarantor.³⁵⁶ While weapons systems can be purchased globally, doing so would complicate maintenance and interoperability requirements to unmanageable levels, as even now without the significant presence of U.S. contractors the Saudi military would be hard-put to function. More significantly, there is no other country with the out-of-area operational capability needed to defend Saudi Arabia in a crisis.

Of course, as highlighted by the Khashoggi case, opponents of any action may resort to a false dilemma of a “doomsday” approach. That is, the situation may be portrayed as one in which any action in support of human rights is said to unavoidably lead to a disaster in the relationship with Riyadh and beyond, whether in terms of security, political, or economic interests. This portrayal of extreme consequences was symptomatic in the Khashoggi case, as critics suggested that any punitive measures were sure to lead to a doomsday situation. One U.S. senator, typically argued --one could claim using a series of non sequiturs-- that anyhow “Saudi Arabia’s never been a budding democracy. It’s an authoritarian regime... if you want to have a powder keg in the Middle East blow up... that doesn’t mean we have to blow up the Middle East in order to condemn this kind of behavior.”³⁵⁷ However, if the international community, for whatever reasons, does allow egregious human rights incidents, such as the Khashoggi case, to fade away without closure or consequences, Riyadh’s cavalier assessments of impunity would prove correct. A recurrence of such outcomes would come at the expense of human rights and genuine progress toward a more open and less authoritarian society. And, Saudi (and other) dissidents, whether at home or abroad, would continue to feel isolated and vulnerable.

Klaas identifies three predominant options available to the international community in dealing with support for democratization: to do nothing, to promote democracy only when it is in “the short-term geostrategic interest of Western government,” or to “promote democracy... as a long-term goal even when it may not be in the interest of the United States and its Western allies.”³⁵⁸ One does not have to subscribe to an “all-or-nothing” alternative, and Klaas makes a compelling argument in support of a number of incremental steps that could lead to progress. To be sure, as a realist, he acknowledges that “at best, a few of these principles could slowly trickle into Western foreign policy.”³⁵⁹ And, ideally, Western countries should exhibit greater solidarity in supporting shared principles, including when a member of the international community comes in for censure or sanctions by Riyadh for having taken a critical stance on a human rights issue.

In effect, there is significant scope for having an impact between doing nothing or ostracizing a country completely, such as providing criticism and advice or imposing sanctions on individuals without thereby compromising the shared struggle against terrorism. For example, the U.S. Magnitsky Act of 2012, which was again in the spotlight in the wake of the Khashoggi case, authorizes the U.S. government to sanction human rights offenders by freezing their assets and

banning them from traveling to the United States.³⁶⁰ Originally stemming from a politically-motivated murder in Russia, the Act now applies globally. Economic and travel sanctions on individual Saudi oligarchs –not just on lower-level “trigger-pullers”-- as authorized by this Act, could have a positive impact without disrupting a country’s bilateral relations completely, and such targeted sanctions are flexible enough to adjust for progress on human rights. Simply expelling the Saudi ambassador to the United States, Prince Khalid bin Salman, who appears to have been complicit in the Khashoggi case, would make a statement.³⁶¹ Even when policies may seem inconsistent, due to political constraints, a partial approach can still have positive results. Thus, Canada decided to honor its pending arms contract with Saudi Arabia following the Khashoggi incident, despite local protests but, shortly thereafter, it was also willing to provide asylum to a young Saudi woman fleeing alleged family abuse in her homeland.³⁶²

Other concrete steps could be taken quickly that would both hamper materially Saudi Arabia’s misuse of counterterrorism for domestic repressive purposes and also send a message of international disapproval. For example, tighter controls can be placed on the sale of technical monitoring systems that Saudi Arabia claims are used in counterterrorism but that have been linked credibly to domestic human rights abuses. In fact, some spyware and malware exported by countries such as Germany, the United Kingdom, Italy, and Israel appears to have as its primary or even exclusive mission the monitoring and blocking of communications by human rights activists and other dissidents.³⁶³

In a democracy, even simply posing questions can be helpful. In the United States, although one would have expected Democrats to be critical, given that the Administration and Congress at the time were in Republican hands, views condemnatory of Riyadh often straddled political party lines, and some Republicans in Congress were unusually vocal in pinning responsibility on the Saudi leadership and were supportive of punitive measures, and this was often paired with simultaneous calls for a review of U.S. support for the Saudi war effort in Yemen and for cooperation with Riyadh on nuclear energy.³⁶⁴ Although at the time the Administration was largely able to implement its own policy, the questions that were raised and the lingering dismay in political circles may no longer translate into automatic support for Riyadh in the future.

Fourth, publicizing repeatedly, and at a high level, situations of the misuse of counterterrorism, whether in Saudi Arabia or elsewhere, is important. Saudi Arabia is sensitive to its international image, as shown by the effort it has exerted on multiple levels to mask its policies on the world stage, not only within international human rights institutions, but also in the foreign media and think tanks. On balance, barring some egregious overreaching, such as the alleged Khashoggi assassination, Riyadh has been able to “own the narrative” on blurring counterterrorism and the repression of dissent both because it can restrict the international media’s access and due to the inability of the local media to address the issue. And, at the same time, much of the international community has been willing to overlook the limited information that does appear, outweighed by material and security interests. Simply providing information can in itself serve a useful purpose and, over the years, the U.S. government up to now has at least made available a forthright assessment in the Department of State’s annual *Country Reports on Human Rights Practices*. And, there have always been at least symbolic gestures to make a point to the effect that the United States may not agree with all Saudi actions. In fact, one can recognize palpable contrasts between various U.S. administrations that arguably have made a difference on the ground. For

example, during the Obama Administration, the Department of State would make it a point to encourage public outreach to Saudi Arabia's Shia community by having visiting delegations include overt meetings with representatives from that community, reportedly much to the dismay of the Saudi authorities, although that has now reportedly been stopped.

Non-governmental organizations (NGOs), whether human rights organizations, universities, or think tanks, as well as the media, can play a significant role in promoting human rights, especially when governments are reluctant to do so because of countervailing tangible interests. For example, one can argue that it was the international media's sustained attention that compelled Riyadh to grudgingly acknowledge there had been any wrongdoing on its part in the Khashoggi case and to take steps, however perfunctory, against the immediate perpetrators by issuing criminal indictments, even while deflecting ultimate responsibility for the operation. The private commercial sector can also have a positive impact by taking a principled stand, as was the case when a number of firms, media companies, and prominent businessmen suspended their dealings with Riyadh—including those with an impact on the planned Red Sea City city of Neom and the Saudi space program-- at least temporarily in connection with the Khashoggi case, can also have a positive cumulative effect.³⁶⁵

Maintaining a continuous international spotlight on the situation can be important as a catalyst to a public discussion and, should a critical mass of public discourse arise, it would be more difficult for Saudi Arabia to simply ignore it as it has often been able to do up to now. NGOs and the media can use such tragic events as the Khashoggi case as teaching moments. In particular, NGOs can educate public opinion that such incidents are not just an aberration, but are symptomatic of a larger human rights problem in Saudi Arabia that merits international attention. Even symbolic measures, such as the proposal to rename the street in front of the Saudi Embassy in Washington, DC, after Jamal Khashoggi --a means used frequently during the Cold War-- can be significant as a continuing public reminder and as a statement of principle.³⁶⁶ Whether or not the international community can convince Riyadh to end using counterterrorism as a cover to repress dissidents, one can still make the argument that outside encouragement and pressure could at least mitigate and, conversely, that passivity will encourage such practices. Ultimately, even modest gains could have an appreciable impact on society and on individual lives and such outside concern is well worth the effort.

Finally, in practical terms, there already exists a reasonable blueprint for more general human rights reform, as offered in the UN's 2018 *Report of the Special Rapporteur*, and one can only repeat its sensible recommendations, including that Saudi Arabia revamp its broad and ambiguous counterterrorism legislation, institute fair trial proceedings, reexamine past cases, and investigate allegations of torture.³⁶⁷ As of this writing, there is no indication that such reforms are forthcoming in the near term, especially given sensitivities in ruling circles about the potential domestic discontent that could appear as the result of a number of the regime's political, social, and economic policies. A key strategy in support of such as objective should be to convince Saudi Arabia that ending the misuse of counterterrorism measures against dissent should have no negative impact on domestic stability or on the effectiveness of its legitimate effort against terrorists.

Quite the contrary, this phenomenon of blurring countering terrorism and countering dissent distorts legitimate counterterrorist efforts, diverting resources and attention to unrelated targets. And, indeed, the consequences of this policy of blurring are also toxic for the development of democracy and human rights, for deradicalization, and for stability. As some social scientists have suggested, a repressive environment in itself can be conducive to radicalization and terrorism. For example, as Tom Parker noted, “Social science research findings support the contention that observing the human rights norms that guarantee due process, equality before the law, and equal access to basic services, while outlawing torture, indefinite detention, the death penalty and targeted killing, can actually help ensure that states avoid falling into practices that can serve as drivers of radicalisation.”³⁶⁸ In fact, one model specifically predicts more political violence when governments violate the physical integrity and rights of their citizens-- especially when they frequently imprison citizens for political reasons or make them “disappear.”³⁶⁹ A growing body of empirical evidence tends to provide support for these views.³⁷⁰ In particular, imprisoning dissidents or critics can open them to the risk of radicalization and recruitment by members of Al-Qaida/ISIS who share their confinement, and this phenomenon appears to be widespread, whether in Egypt, Morocco, or Tunisia, where the media has called prisons “the incubator of terrorists.”³⁷¹ As such, arguments based on an interest-dependent calculus may be the most effective and most reasonable path to effecting positive change, although in Saudi Arabia’s political system the established paradigms within the leadership, as well as short-term concerns and sensitivity to any domestic criticism, may trump longer-term considerations no matter how compelling even interest-dependent arguments may be.

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³ For example, Commission on Human Rights, *Protecting Human Rights and Fundamental Freedoms While Countering Terrorism*, Report of the Secretary-General, E/CN.4/2004/91 (New York: United Nations, 2004); and United Nations Office on Drugs and Crime, *Human Rights and Criminal Justice Responses to Terrorism* (New York: United Nations, 2014), https://www.unodc.org/documents/terrorism/Publications/Module_on_Human_Rights/Module_HR_and_CJ_responses_to_terrorism_ebook.pdf.

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¹⁰ Ibid.

¹¹ Ibid, 14.

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