

THE BROOKINGS INSTITUTION

INVESTIGATING THE KHASHOGGI MURDER:  
INSIGHTS FROM U.N. SPECIAL RAPPORTEUR  
AGNES CALLAMARD

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**Introduction:**

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**Featured Speaker:**

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**Discussion:**

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## P R O C E E D I N G S

MR. SACHS: Ladies and gentlemen, thank you very much for joining us both here in Washington and via C-SPAN wherever you are. My name is Natan Sachs and I'm the director of the Center for Middle East Policy here at the Brookings Institution. And on behalf of the Center and the Brookings Institution at large, I want to welcome you again.

We have a very special event today and a full house to boot. This is not the first event in Washington on this general topic, and I think it's a fair question to ask why, why are we focusing on the murder of one individual. And I think that's a topic that will come up in our discussion today of course.

But I think two points are worth pointing out first. I've said this, and I think perhaps even right here before, but Brookings has a quaint notion that facts matter. We still believe that. It's controversial, but we do. And we think also that norms also might matter, or perhaps should matter. I think that's perhaps more open for debate on which norms and when.

And in that sense, I cannot think of a better event to shed light on some of the facts of what became a very large and very important event. Jamal Khashoggi was known to many people in Washington -- he was in this building many times -- and known to many people both here and abroad. And his murder in that sense perhaps drew more attention than with others. That's, I think, fair to say. But his murder also had important implications for international law, for international norms, and as a resident of the United States, for American foreign policy.

And so, with that, I'm delighted that we can host this event today and on short notice, I'm again grateful for the full house. This event of course is particularly important because we have a very special guest and we're honored to have her here with us, Dr. Agnes Callamard, who is the UN special rapporteur on extrajudicial, summary or arbitrary executions. And thank you for much, Dr. Callamard for joining us.

She is a citizen of France, has a distinguished career in human rights and

humanitarian work globally in civil organizations, the United Nations, and in academia. She's currently the director of the Columbia University Global Freedom of Expression, an initiative seeking to advance understanding of international and national norms and institutions that define and protect freedom of expression and information in an interconnected global community.

She also works as special advisor to the president of Columbia University, Lee Bollinger, and she previously had many years in very important civil society organizations dealing with civil rights and freedom of expression. She was the executive director of Article 19, an international human rights organizations promoting freedom of expression, she found and led Humanitarian Accountability Partnership, now CHS Alliance, and she formerly worked in Amnesty International as well in very important roles.

In her role as Special Rapporteur, of course, she's had a very important role in understanding what has exactly happened on the events that we're discussing today. And we're delighted to have her, honored to have her, and look very much forward to her comments.

I'm also joined by two friends and colleagues. I'll be brief with their bios since you have them with you, but moderating our discussion will be my friend and colleague, Tamar Wittes, who is a Senior Fellow at the Center for Middle East Policy. She was formerly a Deputy Assistant Secretary of state for Near East Affairs at the State Department in the Obama Administration. She's done a lot of work on democracy promotion. She was Deputy Assistant Secretary of State in 2011, so you can imagine she had something to do then. She co-hosts Rational Security, which if you have not listened to yet, shame on you, and please listen to it. It's definitely worth your time. And she has also written on this topic exactly, on the question of U.S.-Saudi relations and U.S. relations with Middle East powers more broadly.

And we're also joined -- a special treat -- by my former boss, a Nonresident Senior Fellow with us in the Foreign Policy Program, and formerly the Acting Vice President

of our program. He is now the Chief Engagement Officer of World Justice Project here in Washington. From April 2008 to '19 he was a Senior Fellow here with us, as I mentioned, and he was also the inaugural fellow of the Brookings Robert Bosch Foundation Fellowship in Berlin.

He previously in the Clinton Administration worked in the White House, the State Department, and the Pentagon, and at Brookings worked on a wide variety of issues relating to human rights, diplomacy, and the rise of democracy. He is the author of "Five Rising Democracies: And the Fate of the International Liberal Order", which I highly recommend as well.

And so without further ado, I would like to invite Dr. Callamard, Tamara Wittes, and Ted Piccone to the stage please. (Applause)

DR. CALLAMARD: Good afternoon, thank you very much for the kind words and the introduction. It's a pleasure for me to be here today and to share with you very quickly some of the findings and conclusions related to my investigation and then I hope we can have a conversation. You know, I think you have, over the last week, been bombarded with information about the killing of Mr. Khashoggi and the inquiry I have pursued, but I felt it was still important to highlight a few dimensions of it.

So the killing of Mr. Khashoggi was both an extraordinary event and unfortunately a fairly common pattern. It's common because many journalists and human rights defenders around the world are the object of targeted killings, intentional killings. And, indeed, there is enough evidence to highlight the fact that those killings are not decreasing but are increasing in spite of many efforts to stop them. And there is also evidence that those killings are usually met with impunity. But it is also an extraordinary killing because of the nature and the circumstances of the execution of Mr. Khashoggi. It's an extraordinary brazen act and it is an act of state.

So my investigation sought to determine whether or not there were states responsible for the killing, which one were they, and what were the implications of the killings

for justice for Mr. Khashoggi and more generally for the prevention of violence against journalists around the world.

As you know, the State of Saudi Arabia has put forward the theory that the killing was conducted by rogue officials and therefore that they had done everything that they had to do to respond to the killing. I took their theory seriously and to heart. I looked at the evidence at my disposal in terms of the commission of the crime, in terms of the investigation of the crime, and in terms of the prosecution of the crime. And the only conclusion I could reach on the basis of the evidence is that the State of Saudi Arabia is responsible for the killing. There is a great deal of international standard and jurisprudence on what it means for states to be responsible for violation, including a killing.

So I did not come up with my own theory in terms of distinguishing between a rogue act and a state act. I relied extensively on what had been done and written, including by the international law commission. And basically the definition of the state act is really an act conducted by state officials using state means and resources. And the killing of Mr. Khashoggi met all of the characteristics of a state killing.

It was done by 15 representatives of the state, all of whom with 1 exception, worked for the state security agencies, it was planned at least 48 hours, and probably earlier than that, it was planned from Riyadh. The killing itself was premeditated at least 24 hours before the killing, according to various information I was able to gather. The state representatives, the state agents that conducted the execution, 15 of them, did that by using a means, a state means. It travelled -- at least 8 of them travelled using a private jet with diplomatic clearance. Two of them used a diplomatic passport. As you know, the killing took place in a consulate. The consul himself used his power to ensure that there were no witnesses on the floor where the killing took place. After the killing, someone had planned to behave as if he was Mr. Khashoggi. That also required some planification, if only to have a fake ID.

So all of the dimensions of the execution of the crime meet the definition of

a state killing. State agent, state mean, state resources. There was nothing private, there was nothing personal about the execution of the crime.

So that's for the execution.

In addition to that I also looked at the investigation and the prosecution. Under international human rights law the failure to investigate effectively, promptly, in good faith -- there are a number of other standards -- a killing amounts to a violation of the right to life. So I did consider the steps taken by Saudi Arabia to investigate the killing of Mr. Khashoggi. I found out that they had a team of 17 people that arrived in Turkey, where the first bunch arrived on the 6th of October and they remained in Turkey until past the 15. During that period they were in the crime scene on their own without any witnesses and without the Turkish investigators. There is plenty of -- enough evidence to conclude that while they may have investigated what happened there, they also took the opportunity of their presence in the crime scene to clean it, making it impossible for the Turkish investigators that were finally granted access on the 15th and on the 17th to gather any kind of material evidence related to the killing. In addition to that, the Turkish investigators were only granted six hours in the crime scene itself, which was the consulate, and a few more hours in the residence two days later, but they also had to investigate all of the cause.

So the investigation, in my opinion and based again on the international standard related to what an investigation should look like, based on those standards there is no way I can conclude that the investigation conducted by Saudi Arabia was done effectively, was done in good faith, and allowed for international cooperation.

That investigation could only have been -- that type of investigation could only have been conducted given the level of interest and given the public statements that were made at the time. That investigation was done with the Saudi government authority behind it. So there the link between the investigation and the state is direct. And it is therefore reinforcing the notion that the execution of the killing and what happened afterwards is a state act.

And then when I looked at the prosecution of the crime, so what I did find was also a range of weaknesses, limitations, and abuses as per international human rights law. Just to give you a few examples, the prosecutor identified in one of his statements a range of people responsible for the killing, even named one of them as having incited the team before it left, Saud al-Qahtani, having told them bring back Mr. Khashoggi, he's a national threat. That particular individual, in spite of the role that the prosecutor himself acknowledged, has not been charged and is not part of the 11 people who are currently on trial. As you know, the trial is held behind closed doors and the Saudi authorities are continuing to hide behind the charade that this is a domestic matter, even though everything about the killing of Mr. Khashoggi makes it an international crime.

The killing itself is a violation of international human rights law and of a (inaudible) norm. The circumstances of the killings mean that Saudi Arabia violated the Vienna Convention on consular relations and the UN Charter related to the prohibition on the use of force extraterritorially at times of peace. The killing of Mr. Khashoggi also amounted to an act of torture, which is grounded on a treaty and constituted an enforced disappearance, still constituted an enforced disappearance to the extent that the remains of his body have not been located. Everything about the killing of Mr. Khashoggi makes it an international crime, which should attract international attention, scrutiny, and, in my view, which mandates indeed an international investigation and universal jurisdiction.

So these, in a nutshell, are the findings of the trial of the killing of Mr. Khashoggi, an international crime, a brazen act, a state crime, for which the state is responsible. Once we have determined state responsibility, the next step should be what does that mean. State is big. Who is responsible for the killing?

As I highlight in my report, my inquiry is grounded on the international human rights law, which means focusing quite largely on the responsibilities of the state. However, I did look at the evidence to determine what should be the logical next step. And the logical next step for me is to identify individual liability in relationship to the killing,

particularly within the chain of command. The 11 people on trial at the moment are really at the lowest level. Yes, five of them at least were in the room at the time of the killing, so they are responsible for the killing. But the trial has failed and is failing so far to tackle the chain of command, which in a very centralized state as that of Saudi Arabia does require to look at a fairly high level in my opinion.

In the report I highlight some of the evidence at my disposal which indicates that more work needs to be done to investigate the liability of the Crown Prince and, you know, of his advisor Saud al-Qahtani. With the case of Saud al-Qahtani, the prosecutor himself, as I have said, has already admitted of his responsibility for the crime in that case, at least for an enforced disappearance, which is also, as I said, a crime under international law, and yet he is not being charged.

So there is much more that can be done with regard to individual liability and the criminal process. I have concluded, however, that I am not convinced that judicial accountability will be easy to find, particularly in Saudi Arabia. I do not believe that this can be done very well out of Turkey either. I'm hoping that there will be some steps taken in the United States, which raises a range of difficulties in terms of asserting jurisdiction, even though I think the U.S. has a deep interest in the killing of Mr. Khashoggi and in truth telling.

However, I will not want the search for justice for Jamal Khashoggi to be held hostage of the vagaries of legal processes in Saudi Arabia. I think it is important to identify other options for judicial accountability and prosecution, but as well for different forms of accountability -- political, diplomatic, strategic, cultural, a number of them. And these have been the object of the recommendations in my report, along with some of the analyses.

So in conclusion, I think one political issue that is very clear to me is that the response to the killing of Mr. Khashoggi cannot be to hide behind a process in Saudi Arabia that is so imperfect. That's the first thing. Second, we cannot hide behind the notion that it is a domestic issue in Saudi Arabia. Absolutely not. It is a crime that really calls on the



international community to denounce but also act. It is a crime for which the United States in particular should have an interest in solving and a particular interest in the accountability process. And one of the reasons I'm coming to Washington is to hope to speak and identify with various actors how far the United States can go, what it should do to ensure that the killing of Mr. Khashoggi, a U.S. resident, an employee, or journalist for the *Washington Post*, therefore in many ways a symbol for a very deep seated value in the U.S., that that killing does not go unpunished.

Thank you very much. (Applause)

MS. WITTES: Thank you all for being here. As you heard, I'm Tamara Wittes, a Senior Fellow here in the Foreign Policy program.

Dr. Callamard, thank you so much for those specific and comprehensive opening remarks and for the painstaking and thoughtful work that went into this report, which is generating I think conversation not only around the specifics of this case, but also as you noted, what this case means for state responsibility, for human rights violations, the balance or the tension between individual accountability and state accountability and what responsibility other actors in the international system have to ensure accountability and importantly, as you said in your report, the responsibility to prevent a recurrence, because, as you noted at the outset of your remarks, the targeting of journalists, the targeting of political dissidents, is all too common.

I have to begin by asking whether you've discussed your report and your recommendations with the Secretary General at all.

DR. CALLAMARD: No. I actually tried to -- he was in Geneva when I was there last week, but protocol made it very difficult for he and I to have a conversation. I am planning to so, however.

MS. WITTES: Wonderful. And have you spoken with High Commission for Human Rights, Michelle Bachelet?

DR. CALLAMARD: Yes.

MS. WITTES: And in that conversation, understanding that your role is under the UN Human Rights Council, a subject that I know we'll come to in this discussion, the High Commissioner of course has an essential role to play. So what do you and she see as the next steps within the UN?

DR. CALLAMARD: You mean the High Commissioner?

MS. WITTES: Yes.

DR. CALLAMARD: I think you will have to ask her really. I will not want to put words in her mouth. She did express a support for the findings and for the follow up and for accountability, so, you know, yeah.

MS. WITTES: Okay. Thank you.

So do you think you have allies within the UN system to pursue additional steps at the UN, which is of course one channel for pursuing international accountability?

DR. CALLAMARD: That's an interesting question -- ally. Look, I think the UN until now has been paralyzed a bit in terms of how -- or a lot -- in terms of how to tackle such an issue. I think the Secretary General, the Security Council, the Human Rights Council have found it difficult to tackle a crime that is linked to such influential actors as Saudi Arabia, that is -- you know, has been at the -- is actually right now as I was presenting my report, there was those, you know, words of war with Iran. I mean it is all extraordinarily difficult. And I think that is not helping solving a truth and justice for the killing of Mr. Khashoggi.

So I think there are allies within the member state, I think there are allies within individuals working for the United Nations. I think when it comes to decision making bodies we'll have to keep pushing.

MS. WITTES: Thank you. So I think as I reflect on the weeks and months since Jamal's murder, one of the features that has made it so tricky for investigators, but for all of us to understand what happened and to understand the role played by different actors, is the context of regional politics. This murder took place in the midst of rivalries and

disagreements within the region, including between Turkey and Saudi Arabia. And so in the immediate aftermath of Jamal's disappearance we saw leaking to the media, we saw selective release of information, particularly by the Turkish government that -- you know. And there are those that would argue that that muddied the waters, including for an investigation like yours.

Now, my understanding is that as you went about this work you had some cooperation from both governments, both the Turkish and the Saudi government, or -- I'll let you describe precisely (laughter), but also that the Turks did not provide you with all of the audio tape that they had available, they didn't provide you with all the evidence that they had available.

Would you talk a little bit about how you navigated those relationships?

DR. CALLAMARD: Yeah. So the investigation into the killing of Mr. Khashoggi was a complex one because of the political environment, because of the geo strategic upheavals that were taking place as I was proceeding with my inquiry, but also because of the nature of the evidence that was valuable, all of which was very much based on intelligence rather than on what you would expect to find in terms of evidence. And intelligence is very distinct from criminal evidence. It is like water. You seem to hold it and then it goes away. It's not as tangible and it is very difficult to challenge it properly.

So I am highlighting those limitations in my report. A great deal of the information is valuable regarding the execution of the killing itself. Those very important two days are based on intelligence and on recordings, which I could not authenticate, meaning the Turkish government did not give me copies of the -- and that's actually quite understandable, because copies of such recordings give you access to metadata, which allows you, if you're so inclined, to find really the sources and the methods. So that could not be done.

So I was allowed to listen to the recording in the office of the intelligence of Turkey, but only so much of the recording. So what the rest of the recordings may say about

the killing, whether they may not have anything to say about the killing, that of course are very important questions. I hope that the Turkish investigators eventually will make those remaining recordings public. I found different ways of triangulating the information provided in the recording, through CCTV, for instance, and other forms of evidence I could gather, and by talking to other experts who had listened to the recordings and therefore I could get a sense from them of how they had interpreted the recording. Because the recordings are not straightforward. You need to interpret them. They are background sounds, there are a lot of things.

So I think it's important to recognize that the killing of Mr. Khashoggi is complex from an evidentiary standpoint, but not impossible. I did get a fair amount of support from the Turkish authorities. They gave me access to more than just the recordings, so I have also results from their -- when they eventually searched the crime scenes. They did provide me access to what they found there, and a range of other things.

A Saudi authority did not cooperate at all. So they did not respond to me various official letters, they did not respond to my request to meet with a Saudi investigator and with a Saudi prosecutor. Just, you know, there was no cooperation whatsoever.

MS. WITTES: And have they communicated with you at all since the report was issued, other than the public statements we've seen?

DR. CALLAMARD: No. They have -- well, they've done those public statements critiquing the work I had done, accusing it of biases and so on, but they remain very general. So they did not suggest or they did not present a particular aspect of my conclusion that they felt was unfounded. They remain at a very general level and usually use -- you know, they use a script basically that all government that do not like to be criticized by the UN uses, oh, she's biased, the methodology is flawed, and she relied on the media. Basically those are the three critiques and you find them every time a government doesn't like your work, that's what they did.

MS. WITTES: Thank you.

Ted, I want to bring you into this conversation and ask you to go a little bit to this issue of state responsibility as opposed to the responsibility of individuals. And, you know, this is a bit of a tension in international human rights law. We developed tools for individual accountability, partly to ensure that individuals knew they would be culpable, they couldn't claim they were just following orders, and to create incentives for individuals to refuse orders to abuse rights.

But in this case we see that this focus on individual accountability has maybe diverted our attention from state responsibility.

MR. PICCONE: I think what Dr. Callamard -- thank you, Tamara -- has done here I think in her report, which I've read the 101 pages and I have to say I've read a few of these reports in my research here at Brookings, and this is one of the most comprehensive and thoughtful and sober reports that I've ever read on such a difficult and complex subject. So I have no doubt that what you're hearing today, just the summary, is coming from something that's much deeper and richer in terms of its content.

And I think that goes to the importance of the case. I mean the state responsibility, and it being the Kingdom of Saudi Arabia in particular, does raise a number of challenges. And I think the fact that Turkey is also involved only complicates matters. And the way that you drew on so many different aspects of international law, so it was the individual human right to life and to be free from torture and not to be disappeared, of Jamal Khashoggi, number one, but all the other violations that took place by the state in terms of Vienna Convention on consular affairs and the extraterritorial use of force, really call for extraordinary treatment of this kind of a case.

Natan had mentioned a book that I worked on while I was here, but before that I worked on another book in which I spend some years just investigating how UN Special Rapporteurs work and how they have impact at the national level. So I'm coming at this from some time really looking in the weeds of this.

And so I want to mention a couple of things about this mechanism and put it

in the context that's important. This mandate on Special Rapporteur for Extrajudicial Executions was created in 1982. So this is a standing mandate that the member states of the Human Rights Council have created because they know that they need an independent voice to be their eyes and ears when it comes to these kinds of violations. And there are many, many other mandates that they've created. I mean, you know, it's fashionable in some circles in Washington to dismiss the Human Rights Council and its tools. They say it's useless, it's a shield for dictators, it's anti-Israel, but your investigation I think proves that all three categories are wrong. This is a case involving a powerful Middle Eastern state and that goes to the heart of what is useful about this system. No one else in the UN system stood up to fill this vacuum of not investigating an international crime.

And think that's where the Special Rapporteurs have the independence to step in and do this. They have the mandate of the Council, then they independently choose which cases to focus on, which countries, which priorities, and they -- with, by the way, not a whole lot of resources. It's a very cost effective instrument and I'm sure she has stories.

MS. WITTES: It's not even near a day job. (Laughter)

MR. PICCONE: Exactly. It's a very demanding job and this one in particular I could say has been done very, very professionally.

MS. WITTES: SO I want to follow up on this question of other forms of accountability. You made the point in your remarks, Dr. Callamard, that we shouldn't focus only on the judicial mechanism. And when it comes to the United States, I have to say I'm really struck by the contrast in the response between -- and not only the United States, but other countries as well -- the response to this murder and the response to the Skripal poisoning, which also used -- you know, it was a state going abroad, using diplomatic resources, to target a dissident on the soil of another country who was there, you know, under that country's protection. And in that case the United States and a dozen or so other countries expelled Russian diplomats and said if you are going to violate the Vienna Convention on consular affairs in this manner, we're going to constrain your ability to

exercise your authorities under that Convention.

So how are we to understand -- I mean is there something about this case that makes it particularly different from the perspective of a state party? Or is it a simple difference between the relationship between the U.S. and Russia and the U.S. and Saudi Arabia?

Ted, maybe I'll let you start.

MR. PICCONE: That's probably a more difficult question for you to answer.

I mean the human rights agenda at the international level has always been very politicized and a matter of power politics. And I think you can easily see it through that lens in this particular case. I don't think that's a surprise. I think that does make the work of a Special Rapporteur more challenging, but not impossible. And I think it is a matter of finding allies in the UN membership that will now take the case forward.

If you think about the commission of inquiry in human rights in North Korea, that broke new ground by bringing that case -- it was a mandate of the Human Rights Council -- all the way to the Security Council. And even the Chinese did not step in the way of making sure that human rights was put on the agenda of the UN Security Council as a matter of international security and peace. So the precedent has been set and I think you do have to ask yourself whether this is another case that because of its scope and the exceptional nature of it, it needs to be brought to a higher level in the UN system. As difficult as it can be, it can be done.

DR. CALLAMARD: And if I may add, so the killing occurred on October 2 and since then many governments with Saudi Arabia at the head have attempted to bury, taught to say, let's move on. In fact, in January I think at the economic Davos meeting, Saudi Arabia was "welcomed back" in the meeting and let's, you know -- with the notion that now we can move on. That killing is not going to disappear. You know, my report came now. There will be more things coming up afterwards.

So the idea on the part of various representatives of governments that

eventually we can just -- you know, if we hold on long enough it will go away. I doubt it's going to happen. With this particular issue it's not going to happen. Journalists are after it, movie makers are after it, the fiancée of Mr. Khashoggi is not going to give up, I'm not going to give up, other investigators, Turkey. I mean it's just not going to go away. So that's the first thing.

The second thing I want to highlight, in my opinion, the killing of Mr. Khashoggi, and more generally violations by Saudi Arabia, are dangerous, of course for the victims, but they also highlight very sharply the democratic deficit within our own countries. There is a huge gap between what the public in general is asking and what the elected representatives are ready to do on that particular country. There is a very big gap, which is acknowledged by some state representatives, but not by everybody. And therefore finding ways of reducing that gap I think is particularly important for us here in this room and abroad. It is really a matter of the values of democracy and how to ensure that because a state is so powerful it can claim impunity for such an international crime. I think this is really -- it really matters that we don't allow that message to become normalized. It was not normalized for Russia, it has not been normalized for Russia, it should not be normalized for Saudi Arabia. Whatever idiosyncrasies have been tolerated in the past when it comes to that particular country. I think it is really up to us I think, the electorate, to ensure that our elected representatives do stick to the script for global governance and minimum respect for human rights.

And we cannot tolerate that democratic deficit to become the norm.

MS. WITTES: Thank you. Ted, did you have --

MR. PICCONE: Yeah, I'd love to jump in and build on this point, which is critical. And the issue of accountability and opposite being impunity, I think is really the heart of the matter here. And I liked the way your report reflected on this. You said clearly that it's not just a matter of who ordered it, who did the act, but who was in the chain of command and who failed to act -- that being on step. But also not just criminal



accountability, but we have to look at political and financial and diplomatic forms of accountability in order to make sure this case does not go unpunished given the facts of what we know.

And I'm just wondering if you could elaborate a little bit more on what some of those measures could be and which ones you see as most feasible.

DR. CALLAMARD: Yes. So I really think that the narrative around the killing cannot be a narrative of defeat. To me that's extremely important, particularly in this day and age. And it is not a narrative of defeat. Yes, some individuals have not been had to account, or many others, but the issue is still on the global agenda, it keeps bothering business as usual, and it keeps bothering some of the people holding power. And I'm not only talking about the White House here, but in other countries, who would want to, you know, move on. So we need to really ensure that the notion of justice and accountability takes many different forms and many different colors. Political accountability, diplomatic accountability. You mentioned, for instance, the fact that after the Russian dissident was killed using chemical means in the UK there was a big diplomatic response. We have not seen that yet when it comes to Mr. Khashoggi. What we have seen are individualized targeted sanctions. There has not been a determination to hold the State of Saudi Arabia to account. And to me this is something we must absolutely insist upon. This is not only about individuals, it's about the state that has committed the state crimes. And so far the western governments that have adopted individualized targeted sanctions -- which by the way are good -- are also selling the rogue theory by so doing.

So it's really important to insist on what do we do vis a vis the State of Saudi Arabia, not some, you know, 15-17 individuals. That has not been done.

I'm not necessarily calling for State sanctions except on one issue, which is surveillance technology. I didn't feel it was my -- to be honest, it was my mandate. And there are difficult topics. State sanctions are very -- you know, can have very detrimental impact on the little people of a country. But when it comes to, for instance, surveillance

technology, that I believe there should be a moratorium on the same of surveillance technology to Saudi Arabia because time and time again that country has demonstrated that it cannot be trusted in terms of how it's using that particular technology. That's just one example.

You know, I have been -- have now realized that next year the G20 will be taking place in Saudi Arabia. The political accountability for Mr. Khashoggi will mean that it doesn't happen, or it's moved elsewhere, or something is being done to ensure that the political system in the U.S. and in other countries does not become complacent of that international crime and of the narrative that Saudi Arabia is trying to sell, fairly effectively in some quarters, that it has taken the right steps to respond to it.

MS. WITTES: Thank you.

And I want to emphasize here a point that is brought out in your report very well I think, which is that Jamal's murder took place in a context of Saudi policy, of other governmental abuses of human rights inside the Kingdom. And that when one thinks about prevention, whether it's the Saudi government's responsibility to prevent the murder of someone like Jamal Khashoggi, but also the international community's intense interest in preventing a recurrence of such events, that there's a relevance, what else a government is doing.

So as we sit here, the trial of the women activists who were arrested for peaceful advocacy is ongoing in the Kingdom, right. There are a number of others imprisoned for peaceful political dissent. And as you noted, in the case of the trial of those accused of Jamal's murder, the Saudi judicial system is not meeting basic standards of fairness, for the rights of those accused.

So it strikes me that in addition to the point you made about democratic values, about freedom of expression, and the responsibility and interests that other state governments have there, there is also a broader interest, or an interest in looking more broadly at human rights and this particularly brutal, particularly public extrajudicial killing in

the context of the broader human rights behavior of a government.

As we talk about accountability, and you mentioned the G20 as one example of an opportunity, let's say, for international accountability, it also strikes me that part of what has happened here in Washington -- if we can be beltway centric for a moment - - is that this is a very important relationship between the United States and Saudi Arabia, but it is one between two countries with very different systems and very different values. And part of what I have observed in the concerns raised by American elected officials on Capitol Hill, for example, in the wake of Jamal's murder, is what does this say to us about the reliability of our partner. What does it say to us about our ability to work with this partner at a government to government level?

And so it strikes me that there is an interest for Saudi Arabia in understanding the cost of this act and the cost of a failure to take responsibility of this act in terms of its ability to sustain its other international relationships, even if they're on entirely different issues.

I wonder, Ted, or Dr. Callamard, if you want to --

MR. PICCONE: What comes to mind in your point here is the reexamination that's underway here in Washington about our relationship with China. Now, it's not at the same level of friendship in the first place, but very comprehensive after many years of building up all kinds of dialogue and cooperation. We are going through a retrenchment. And I've looked closely at china's role. You talk about how systems are so different. Here it's a system that is so different from ours. Do we share values on human rights? Well, if you look specifically at China's behavior at the Human Rights Council, you will see that there has been a bit of a sea change, where they've gone from playing defense to offense. And I don't know if you've seen this in your time there, but we have seen that the Chinese are pushing against the whole way that the human rights system works. The ability of Special Rapporteurs to visit countries and do independent investigations is under attack and China is leading the attack. Saudi Arabia has already been there for a long time. Are

these our friends or are these our allies? I mean I think we have to be much smarter about how we condition our relationships. And if we're serious about human rights, we have to put it higher on the level of priority.

MS. WITTES: Do you think it makes a difference to the U.S. response to this murder that the United States is not itself engaged anymore at the Human Rights Council? It's not part of these conversations. (Laughter)

DR. CALLAMARD: You know, I'm not sure. I'm not sure. There is a lack of leadership at the moment at the Human Rights Council, and for a while the U.S. was quite an important actor and did lead on a number of very difficult issues within the Human Rights Council, and President Obama in particular. So there is a gap. There is a lack of leadership; people are waiting as they are all looking at each other over the casualty investigations. I mean I could feel it during what we call the interactive dialogue. After I presented my report there is two or three hours where all the states make their statement, two minutes each, and I was told the day before that everyone was waiting to see what the others were going to do in order to determine how far they can go in their statement. So there is no leadership at the moment. People are just not sure what they can do.

My reading of the interactive dialogue -- and I don't know if you listened to it, Ted. Maybe the time was not very good for the U.S. But it was really interesting to see how little support there was for Saudi Arabia. Maybe up to eight countries made public statements voicing their critique and rejection of the report and their support for Saudi Arabia's ongoing process. I'd say, you know, probably eight. Then there were a number of countries that were middle of the road, but even those countries you would have expected them to actually be more supportive of Saudi Arabia. And I'm not going to name any countries, but I'll invite you to consult the statements. And then there was quite a lot of countries, the majority, that voiced their support for the report and for some of the follow up, including countries that would not have necessarily expected.

So when it came to the Human Rights Council, I think there was --

something happened there, which I cannot quite yet fully analyze, which I'm sure others will in the near future. Now, when I say support from the report, it does not mean necessarily a broad statement and the broad step to ones holding Saudi Arabia and its leaders accountable. No, it was a little bit -- it was public support, but yet not quite to the point where you would -- I would have liked them to be. So it was not a sea change, but it was certainly very positive steps taken by the vast majority of people who took a stand. And I think, based on my conversations with some of the countries that I thought would support Saudi Arabia and did not, I know that they were criticized by Saudi Arabia afterwards, but yet they took a principle stand.

So something happened during that session, which is worth -- if there is anyone interested in analyzing those dynamics, I think it's really worth looking at it and trying to understand the kind of reconfiguration that has happened. And that I hope that the U.S. Congress and Senate, that have been quite courageous in challenging the White House and in sticking really -- or trying to ensure that those key principles, human rights protections, war crimes, and so on are drivers for foreign policy. I think those individuals in the Senate and the Congress should take some -- I mean not pleasure, but --

MS. WITTES: Encouragement.

DR. CALLAMARD: Yeah, encouragement, real encouragement from what happened at the Human Rights Council.

MS. WITTES: Thank you.

I'm going to open it up for questions from the floor at this point. We have about 15 minutes. I'm going to try and get to as many of you as I can. I'm going to ask you to wait for the microphone, identify yourself, and ask one single concise question.

And let's start with Shane Harris right in the middle.

MR. HARRIS: Hi, I'm Shane Harris. I'm a reporter with the *Washington Post*. I was part of a team that investigated Jamal's murder. And thank you very much for the work that you've done and for being here to discuss it today.

I'm curious, since he was killed we've seen a number of reports from other Saudi activists living overseas, citing what they believe are credible threats to themselves that have been delivered in some cases by state intelligence services and security services. Nothing necessarily to indicate the level of threat we saw against Jamal, but nevertheless concerning.

Did you find anything in your investigations about other threats to activists and journalists, Saudis, living overseas? And do you think it's possible given the relative lack of consequence or response to the Saudi government for this crime that they could perpetrate something like this again against other activists?

Thank you.

DR. CALLAMARD: Thank you very much.

So I did investigate that particular issue quite a lot because I wanted to see whether the killing of Mr. Khashoggi fit within a pattern by Saudi Arabia itself. So I could not find more than what was already in the public domain really, which is there had been a few killings and a number of enforced disappearance and abduction. When it comes to threats I think there is absolutely no doubt, based on my interviews, that most Saudis living abroad who have -- either in exile or self imposed exile feel not -- I mean feel that they have risk attached to their life and to their wellbeing I will say -- certainly to their wellbeing. Whether or not these have been more specific than, you know, a few phone calls and so on, possibly not at this stage, with the exception of the one that you have spoken about and others which are the four activists that were warned by the CIA back in May.

But there is enough evidence I think to call for a moratorium for the surveillance technology at the moment for sure.

MS. WITTES: Thank you.

Here please in front. Thank you.

MR. GOLOVIN: Thank you, hi. Karl Golovin.

History is filled with examples of state sponsored covert actions,

assassinations, people being suicided, or false flag terrorism. Does the United Nations investigate for what international law would be applicable to preventing states from engaging in covert actions that would be more subtle than what was done Khashoggi, of course? And as references the domain LCfor911.org, and the very recent book, "The Assassination of James Forrestal", by David Martin.

So ultimately the question is what prevents states from simply doing things just more covertly?

MS. WITTES: In a way it was the brazenness of this crime that attracted attention and created the support that enabled you to do this investigation.

DR. CALLAMARD: Yeah. So I haven't elaborated on other forms of covert actions. In any case, I was mostly focusing on killings. And I did find over the last five years about fifteen such killings that could be attributed to state, but as I didn't investigate them I could not really talk about them. So, yes, covert actions do of course happen. Yes, they are in violation of international law, of a variety of international -- not only human rights laws, but others.

Does the UN investigate them? I think the UN has denounced them on a number of occasions. They have denounced and the Security Council has taken a position against extrajudicial killing of a Palestinian activist in Tunisia, which was one of the only times the Security Council took a position for one single killing. But the United Nations has denounced other killings, although not to the level of the Security Council.

There is also plenty of evidence of the policy in a number of states having taken action to protect a dissident living in exile, including Turkish dissident, Iranian dissident, you know, Saudi dissident, and so on.

So I'm not sure I'm answering your question, but if you're asking whether it violates international law, yes, it does. It can only be justified under -- you know, we state consent, but I'm not talking about necessarily killing, but state consent and Security Council -

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MS. WITTES: Authorization?

DR. CALLAMARD: -- authorization.

MS. WITTES: Thank you.

On the aisle here in the white shirt, Kevin.

MS. KOTOK: Hello, my name is Sharon Kotok.

I'm wondering, have you met with any representatives of the Trump Administration, either the White House, the State Department, or the National Security Council? And if so, what were there reactions to your report?

Thank you.

DR. CALLAMARD: Not yet.

MS. WITTES: You haven't had meetings yet?

DR. CALLAMARD: No. I mean I met with the U.S. Administration, but not anyone at the White House, yet.

MS. WITTES: Yet. Emphasis on the yet.

Marvin?

MR. KALB: Marvin Kalb. I'm a Senior Fellow here at Brookings.

First, congratulations on the report.

My question concerns the role of the individuals rather than states. And you have been very careful today and in other public comments that you've mad about not speaking about the role of the Crown Prince. Could you please do that now? (Laughter)

DR. CALLAMARD: You know, I haven't because it's not my area of expertise and it's not my mandate. You know, so I'm a human rights expert, I'm not an expert in criminal law, which is what would be required.

What did I find, and which I have highlighted in the report. I found that it is difficult to imagine that the Crown Prince, or someone really at that level, didn't know or should not have known that there was such an operation. It is just -- you know, it's just difficult. Now, that does not mean that I have evidence of the Crown Prince ordering the



killing. But I think it's important to understand that the criminal investigation should not just determine, as important as it is, who has ordered directly, but high level officials can be held accountable for other forms of action or inaction, for other commission or omission. And to me that's as -- it is quite important that we do not narrow down the story about the killing of Mr. Khashoggi to who has ordered, because it could be who has incited, for instance, directly or indirectly, who knew that something was going on but failed to take action to stop it, who should have known that something was in planification and failed to prevent it.

In the case of the Crown Prince, two direct links to him are established in my report. First, as you pointed out, there was a campaign of actions, of violations taking place before the killing of Mr. Khashoggi. And there is no way you can suggest that he's not linked to that campaign, he is the head of state. Those violations have been well denounced and demonstrated. They have not even denied it so far. So his responsibilities for creating the conditions that made the killing of Mr. Khashoggi possible I think is something that must be more thoroughly investigated than I have done, but certainly one possible direction.

The second is investigation. There is no way that the Crown Prince and others at his level did not know about the botched investigation. And that botched investigation, followed by a very unsatisfying prosecution, are a violation of the right to life, you know, almost at the same level of the commission of the crime itself. So that's also was a direct link with the highest level of authorities, including the Crown Prince.

But, you know, I didn't want the report to just focus on the Crown Prince and I'm hoping that the -- in fact, your reaction and your reaction show that what I'm trying to do is point the focus on the state, not on an individual at the moment. I think we really must insist that this was a state killing and for which the state must be held accountable and responsible.

MR. PICCONE: And if I might add, the steps you suggest for systemic reform within the state, everything from reforming of the intelligence services to release of political prisoner and a whole set of other steps that if the Kingdom was serious about trying

to make amends for this crime, they could do a lot to start improving their human rights record. And I think that is what we're talking about, that's the opportunity. Sadly, tragically, we're at that point that this moment offers.

MS. WITTES: Yeah, you know, I recall when the abuses at Abu Ghraib took place. President George W. Bush came out in public and acknowledged responsibility on behalf of the United States government and expressed his apologies, publicly.

MR. PICCONE: Which the Kingdom has not done.

MS. WITTES: Right. So there are many ways for a state to take responsibility.

On the aisle, navy jacket. Just wait for the microphone, if you would.

MS. ESTULIN: Shayna Estulin, i24NEWS.

The State Department says they have seen a copy of your report and that they're looking it closely. What do you want the State Department to do? What do you want the Administration to do?

DR. CALLAMARD: The U.S.?

MS. WITTES: Yes, the U.S. State Department?

DR. CALLAMARD: So in the report I make a number of recommendations for -- specifically directed at the United States. The first one, I think the U.S. can play a very important role in terms of truth telling and unlocking the secrets that have been attached to the killing. There is so much linked to intelligence sources and so on. It is extremely detrimental to the search for justice. I recognize the importance of not burning sources and methodology, but I think there is more than has been done so far, including by the CIA.

So I'm recommending -- most of my recommendations are really about transparency and truth telling. It's about an FBI investigation and declassification of the information related to the killing of Mr. Khashoggi so that it can be made publicly -- can be made -- held accountable. It could be a hearing within the Congress about the killing of Mr. Khashoggi, anything. You know, all of those recommendations are really about unlocking

the information that is in this country at present and that is being held under lock and key or under the threat of legal actions for violating very important national security provisions.

That needs to be unlocked. That's what I'm recommending here.

And then the other recommendations are the same as other member states, and I've already talked about looking beyond individualized sanction, sanctioning the Crown Prince at the moment, because there is enough evidence to suggest that he has a part of responsibility for the killing, not necessarily ordering, but other responsibilities. And that I want to put the onus on them to demonstrate that he's not responsible. You know, if we cannot get access to all the evidence, let them show that he nothing to do with it beyond, you know, some declaration.

So I'm calling on sanctions there, which I think are reflected actually in one of the initiatives within the Congress at the moment.

So that's what -- there are a number of recommendations that are for all member states, but for the U.S. in particular, it's about truth telling, transparency, and unlocking the information that a few individuals want to keep under the cover.

MS. WITTES: Dr. Callamard, I want to thank you. I know your time is short because you have other engagements today that I hope will prove constructive and productive, but as Natan said at the beginning, at Brookings we believe that facts matter, and it's clear that accountability begins with truth telling. And I want to thank you for the care and the work that you have put in to telling the truth of what happened to Jamal. And we wish you the best in your efforts at accountability.

DR. CALLAMARD: Thank you very much.

MS. WITTES: Thank you. (Applause)

DR. CALLAMARD: If I may just add one word, I do believe that it is the people in this room, or many of you at least, and others, that would create the declic (trigger) for real justice because to my many meetings with head of state or very high level representatives, they really are very hesitant. And we need to push them to take the right

step, to make the right decisions, and to say, you know, that just cannot go on in that fashion. That crime -- I know there are many other crimes around the world, and I think what the crime of Mr. Khashoggi has shown is the feeling of power and impunity that some countries exhibit. And that needs to be crushed. That cannot be allowed. The narrative cannot be allowed to go on without any reaction, and there has been plenty, but we must continue because that's very dangerous for Mr. Khashoggi's accountability. But more generally it is intolerable that governments could just use their power to justify their own impunity. Because they are powerful, they must be held to account at a very high level. And that needs to be the message. And it is us who are going to bring that message home.

So thank you very much. (Applause)

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