



UNIVERSAL PERIODIC REVIEW

SAUDI ARABIA

THIRD CYCLE

SUBMISSION TO THE STAKEHOLDERS' SUMMARY

Alkarama Foundation, 29 March 2018

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1 GENERAL CONTEXT AND RECENT DEVELOPMENTS

1. This contribution to the Office of the High Commissioner for Human Rights' summary of stakeholders' information is made in the context of the third cycle of the Universal Periodic Review (UPR) of Saudi Arabia. Alkarama will assess the implementation of previous recommendations as well as the general situation of human rights in the country, the latter of which has witnessed a significant deterioration since the 2013 UPR.
2. Despite ambitious economic projects including "Vision 2030" and recent and superficial reforms to grant women the right to drive and attend sports stadiums,¹ fundamental civil and political rights continue to be systematically violated and denied.
3. In the absence of a formal constitution and a codified penal code, the Saudi criminal system lacks legal certainty and bestows large discretionary powers upon a non-independent judiciary to retroactively qualify peaceful acts as crimes.

1.1 Scope of international obligations

4. Despite a commitment made during the last UPR,² Saudi Arabia has not yet ratified some of the main international instruments on human rights, such as the International Covenant on Civil and Political Rights (ICCPR), the International Convention for the Protection of All People from Enforced Disappearance (ICPPED), and the Optional Protocol of the Convention against Torture (OPCAT).

RECOMMENDATION

- a) Ratify the ICCPR, ICPPED and OPCAT.

1.2 Constitutional and legislative framework

5. To this day, Saudi Arabia has not taken any steps to bring its criminal system in line with international standards. It has not yet promulgated a penal code and while the Code of Criminal Procedure (CCP) was amended on 4 December 2013, it does not uphold due process guarantees.

¹ BBC, *Saudi Arabia to allow women into sports stadiums*, 29 October 2017, <http://www.bbc.com/news/world-middle-east-41798481> (accessed on 15 March 2017).

² Recommendation 138.11 (Iraq); 138.12 (Romania); 138.17 (Japan); 138.18 (Spain).

6. On 30 November 2015, and for the very first time, Saudi Arabia adopted a Law on Associations and Foundations in compliance with the recommendations accepted during the last UPR.³ However, the law restricts the registration of independent human rights organisations.
7. On 31 October 2017, the Saudi Council of Ministers adopted a new Law on Combating Terrorism and its Financing.⁴ The new law provides few legal safeguards and criminalises a large number of non-violent acts of criticism.

RECOMMENDATIONS

- a) Promulgate a criminal code and amend the CCP as well as the Anti-Terrorism Law to comply with international human rights law;
- b) Amend the 2015 Law on Associations to allow the registration of all independent civil society organisations.

1.3 Human rights infrastructure

8. The Saudi Council of Ministers established the Human Rights Committee – the kingdom's official human rights institution – on 12 September 2005. The Committee cannot be considered as independent from the executive as it reports directly to the king, who appoints all of its 24 members.
9. Another human rights institution, the National Society for Human Rights (NSHR), was established on 9 March 2004. Although it does not have a formal link to the executive branch, the NSHR is financed mainly by the government.
10. Despite the Saudi authorities accepting a recommendation to establish a National Human Rights Institution (NHRI) in accordance with the Paris Principles during the last UPR,⁵ no measure has been taken to this end. Neither of the abovementioned organisations has made a request for accreditation to the Global Alliance of National Human Rights Institutions.

RECOMMENDATION

- a) Establish an independent NHRI in line with the Paris Principles.

³ Recommendation 138.48 (Palestine); 138.49 (Germany); 138.51 (Lithuania); 138.53 (Czech Republic); 138.172 (Belgium).

⁴ Alkarama, *An analysis of the law on combating terrorism and its financing adopted by the Saudi council of ministers on 31 October 2017*, 12 December 2017, <https://www.alkarama.org/en/documents/analysis-law-combating-terrorism-and-its-financing-adopted-saudi-council-ministers-31> (accessed on 15 March 2018).

⁵ Recommendation 138.59 (Uruguay).

2 COOPERATION WITH INTERNATIONAL HUMAN RIGHTS MECHANISMS

2.1 Cooperation with the Treaty Bodies

11. In 2015 and 2016, Saudi Arabia submitted long overdue state reports to UN Treaty Bodies including the Committee against Torture (4 years and 5 months overdue) and the Committee on the Rights of the Child (2 years and 6 months overdue).
12. While Saudi Arabia ultimately complied with its reporting obligations, it has failed to effectively implement the recommendations made by Treaty Bodies. Among others, Saudi Arabia refused to abolish corporal punishment such as lashing, stoning or amputation of limbs⁶ and failed to abstain from executing juveniles.⁷

RECOMMENDATION

- a) Set up mechanisms to monitor the implementation of relevant recommendations issued by Treaty Bodies.

2.2 Cooperation with the Special Procedures

13. Since the last UPR, Saudi Arabia has only accepted the visit requests of the Special Rapporteur on extreme poverty and the Special Rapporteur on the promotion and protection of human rights while countering terrorism, both of which were carried out in 2017.
14. Saudi Arabia has 13 pending requests for country visits, some dating back as far as 2004. Among others, Saudi Arabia has accepted the request for a visit of the Special Rapporteur on the situation of human rights defenders in 2015, but failed to set a date since, indefinitely postponing the visit.
15. Furthermore, over the past five years, 13 Opinions on Saudi Arabia have been adopted by the UN Working Group on Arbitrary Detention, calling for the immediate release of 21 individuals, the vast majority of whom remain detained to date.

⁶ Committee against Torture, *Concluding observations on the second periodic report of Saudi Arabia* (CAT/C/SAU/CO/2), 8 June 2016.

⁷ Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Saudi Arabia* (CRC/C/SAU/CO/3-4), 25 October 2016.

RECOMMENDATIONS

- a) Accept all pending requests for country visits and set without delay a date for the visit of the Special Rapporteur on human rights defenders;
- b) Implement all WGAD Opinions calling for the release of individuals arbitrarily deprived of their liberty.

3 IMPLEMENTATION OF HUMAN RIGHTS OBLIGATIONS

3.1 Right to life, liberty and personal security

3.1.1 Death penalty and corporal punishment

16. The death penalty has been used increasingly over the past five years with the number of executions per year reaching a peak in 2015 (158 executions), twice as many as in 2013 (79 executions).
17. Saudi courts continue to issue death sentences following severely flawed trials, including for non-violent offenses such as drug-related crimes, witchcraft and apostasy.
18. With several recommendations merely noted during the last UPR,⁸ the Saudi authorities continue to apply the death penalty for individuals under the age of 18. An example is the case of Ali Al Nimr, Dawood Almarhoon and Abdullah Zaher, who were arrested in 2012 and have been sentenced to death for participating in demonstrations.⁹
19. Furthermore, Saudi courts continue to impose corporal punishment, even for acts which do not constitute crimes under sharia law, contravening its obligations under the UNCAT.
20. As a result of peacefully expressing his views on the internet, Saudi blogger Raif Badawi was sentenced to ten years' imprisonment and 1000 lashes, 50 of which he received on 9 January 2015.¹⁰

RECOMMENDATIONS

- a) Amend all existing legislation to limit the application of death penalty to the most serious crimes and prohibit the execution of minors;

⁸ Recommendations 138.126 (Switzerland) (Austria); 138.130 (Norway); 138.124 (Lithuania); 138.125 (France).

⁹ European Saudi Organisation for Human Rights, *Ali Al-Nimr: Six Years Between the Sword and Freedom*, 15 February 2018, <http://www.esohr.org/en/?p=1275> (accessed on 17 March 2018).

¹⁰ Alkarama, *Saudi Arabia: Raif Badawi's Flogging Not Carried Out Today but Blogger's Flogging May Resume Any Time and 10-Year Prison Sentence Confirmed*, 12 June 2015, <https://www.alkarama.org/en/articles/saudi-arabia-raif-badawis-flogging-not-carried-out-today-bloggers-flogging-may-resume-any> (accessed on 15 March 2018).

- b) Abolish corporal punishment in law and in practice.

3.1.2 Extra-territorial executions

21. Since March 2015, Saudi Arabia has been leading a military campaign against Houthi forces in Yemen that has been repeatedly denounced by the UN, international aid agencies and human rights organisations as a result of systematic human rights violations committed against civilians. A 2017 report by the UN Office for the High Commissioner for Human Rights found that Saudi-led coalition airstrikes were the principle cause of child casualties as well as overall civilian casualties in the conflict.¹¹

RECOMMENDATION

- a) Put an end to all violations of international humanitarian and human rights law.

3.1.3 The practice of torture

22. The Bureau of Investigation and Public Prosecution (BIPP) and the Intelligence services (“Al Mabahith Al ‘Ama”) – the latter of which is tasked with investigating “security-related” crimes – both continue to use torture systematically to extract confessions during investigations. Numerous cases of torture and ill-treatment have been reported since the last UPR, and techniques include severe beatings and flogging, hanging by the hands and feet, beatings on the soles of the feet (falaqa), sleep, food and light deprivation, exposure to extreme temperatures, the use of prolonged solitary confinement, and electric shocks.
23. Despite accepting recommendations to adopt a legislative framework to eradicate torture and abusive treatment in custody,¹² a number of fundamental legal safeguards have not yet been enshrined in domestic law, including the exclusionary rule, i.e. that statements obtained under torture are inadmissible in court, and the absolute prohibition and criminalisation of torture.
24. Salim Abu Abdullah¹³ – subject of Opinion No. 10/2017 by the Working Group on Arbitrary Detention – was beaten and shot during his arrest by the intelligence services on 11 December 2014, during which he was neither presented with a warrant nor informed of the reason for his arrest. Abu Abdullah was kept in prolonged *incommunicado* detention

¹¹ OHCHR, *Yemen: An “entirely man-made catastrophe” – UN human rights report urges international investigation*, 5 September 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22025&LangID=E> (accessed on 15 March 2018).

¹² Recommendations 138.153 (Australia); 138.151 (France).

¹³ Alkarama, *Saudi Arabia: UN Experts Declare Salim Abdullah’s Detention Arbitrary*, 26 May 2017, <https://www.alkarama.org/en/articles/saudi-arabia-un-experts-declare-salim-abu-abdallahs-detention-arbitrary> (accessed on 3 March 2018).

and solitary confinement, and detained for more than two years at Dammam Central Prison without access to a lawyer and without being brought before a judicial authority. He was subjected to psychological and physical torture such as electrocution, cigarette burns, severe beating and water-boarding in order to extract coerced confessions.

25. Furthermore, impunity for perpetrators of torture prevails, as both monitoring and complaint mechanisms in places of detention fall under the authority of the BIPP, which thus becomes both judge and party. Under the control of the Ministry of Interior, the BIPP is responsible for the arrest, questioning, detention, investigation and prosecution of individuals as well as the monitoring of these stages. Moreover, torture allegations raised before courts routinely fail to be investigated and judges systematically admit confessions extracted under torture as evidence.

RECOMMENDATIONS

- a) Define and criminalise torture in line with the UN Convention against Torture;
- b) Ensure that all allegations of torture and ill-treatment are effectively investigated and perpetrators prosecuted.

3.1.4 Arbitrary detention

26. The practice of arbitrary detention, already widespread and systematic in the country, peaked when more than 200 public figures, activists, scholars, businessmen and members of the royal family were arrested between September 2017 and January 2018 under as the pretext of "fighting corruption" and/or "protecting national security".¹⁴
27. Since the last UPR, arbitrary detention has continued to be practised systematically. The security forces and intelligence services carry out arrests without warrants, and without informing individuals of the reasons for their arrest. Individuals are held in prolonged custody without access to a lawyer or their family and without the opportunity to challenge the legality of their detention. In numerous cases documented by Alkarama, individuals – including minors – were detained without charge for periods ranging from several months to several years. This is the case of Murtaja Algariras,¹⁵ who was arrested in 2014 at age 13 and held without charge for two years and eight months.
28. Despite the amendment made to the CCP in December 2013, the latter does not uphold fundamental legal safeguards as it still fails to clearly guarantee the right to *habeas*

¹⁴ Reuters, *Future Saudi king tightens grip on power with arrests including Prince Alwaleed*, 5 November 2017 <https://www.reuters.com/article/us-saudi-arrests/future-saudi-king-tightens-grip-on-power-with-arrests-including-prince-alwaleed-idUSKBN1D506P> (accessed on 15 March 2018).

¹⁵ Alkarama, *Saudi Arabia: A 15-year-old boy detained since 2014 for participating in peaceful protests*, 31 August 2016, <https://www.alkarama.org/en/articles/saudi-arabia-15-year-old-boy-detained-2014-participating-peaceful-protests> (accessed on 20 March 2018).

corpus. Moreover, the law allows security forces to hold criminal suspects in custody for up to six months without judicial review – i.e. without charge¹⁶ – and in *incommunicado* detention for up to 60 days.¹⁷

29. Once suspects are charged, trials are systematically flawed. The absence of a criminal code renders prosecution inherently arbitrary as prosecutors can qualify crimes on a discretionary basis. Moreover, during trial, defendants and their lawyers are commonly denied access to their files and notified of hearings with exceedingly short notice. Lastly, the court can close proceedings for “security reasons, or for the maintenance of public morality if it is deemed necessary for determining the truth”.¹⁸
30. While some victims are released after months or even years without charge or any judicial procedure, others are subjected to unfair trials and sentenced to lengthy prison terms or the death penalty.
31. One such example is that of Badr Halal Jasem Al Taleb,¹⁹ who was arrested in 2013 and detained *incommunicado* for two months, during which he was severely tortured in order to extract confessions. Detained for over three years without charge and without being presented before a judicial authority, Al Taleb was first presented before the Specialised Criminal Court in Riyadh on 21 February 2016 together with 31 co-accused. Fifteen of the men were convicted of “spying for Iran”, “financing terrorism” and “spreading the Shia faith” and were sentenced to death in December 2016. Despite a severely flawed trial and the admission of confessions extracted under torture into evidence, the death sentences were upheld in 2017.

RECOMMENDATION

- a) Eradicate the practice of arbitrary detention and effectively afford individuals deprived of their liberty all fundamental legal safeguards and fair trial rights.

3.2 Rights to freedom of expression, peaceful assembly and association

32. Domestic legislation in Saudi Arabia criminalises peaceful dissent. Since the last UPR, numerous activists and individuals have been arrested for posting critical publications on

¹⁶ Law of Criminal Procedures, article 114.

¹⁷ Law of Criminal Procedures, article 119.

¹⁸ Law of Criminal Procedures, article 155.

¹⁹ See: OHCHR, *UN experts urge Saudi Arabia to halt executions on spying, spreading Shia faith charges*, 15 March 2018, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22829&LangID=E> (accessed on 15 March 2018).

social networks, convicted under vague charges such as “publishing material impinging on public order, religious values, public morals, and privacy”, and punished with five years in prison under article 6 of the 2007 Cybercrime Law.

33. Moreover, the 2015 law on associations impedes political and human rights organisations from registering. Article 8 (2) prohibits the registration of organisations which “contradict Islamic sharia, public order, public morals, or national unity”. Moreover, human rights groups critical of the authorities have been systematically denied authorisation, while their members have been prosecuted and sentenced to harsh prison sentences under charges of “establishing an unlicensed organisation”.
34. Such is the case of Mohammad Al Otaibi, a Saudi human rights defender, who, after an unfair trial, was sentenced on 25 January 2018 to 14 years in prison by the Specialised Criminal Court (SCC) for peacefully promoting fundamental liberties and having established a human rights association in 2013.²⁰
35. Lastly, the right to peaceful assembly is not recognised in the kingdom. Several activists and individuals in the Eastern Province have been arrested and tried by the SCC for “inciting and participating in demonstrations”, including peaceful activist Fadhel Al Manasif, who was sentenced to 15 years of imprisonment in mid-March 2014.²¹
36. Over the past five years, the Saudi authorities have severely increased their crackdown on human rights defenders, such as the 11 members of the Saudi Civil and Political Rights Association (ACPRA), subject of numerous UN actions,²² who have all been sentenced to between 5 to 15 years' imprisonment, followed by equally long travel bans, for their peaceful human rights activism. ACPRA has worked relentlessly to denounce human rights violations within the kingdom and has helped victims file legal claims against the authorities responsible. The association has also advocated for a constitutional monarchy, an independent judiciary, broader freedoms, and repeatedly called upon the authorities to respect the fundamental civil and political rights of all Saudi citizens.

²⁰ IFEX, *Saudi Arabia: UN Human Rights Council member blatantly violates human rights on a daily basis*, 2 March 2018, https://www.ifex.org/saudi_arabia/2018/03/02/human-rights-violations/ (accessed on 15 March 2018).

²¹ The UN Working Group on Arbitrary Detention issued Opinion No. 38/2015 demanding his immediate release (A/HRC/WGAD/2015).

²² UN Secretary General, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/27/38)*, 27 August 2014, para. 30;

UN Working Group on Arbitrary Detention, *Opinion 38/2015*, 24 November 2015;

Communication to the Government of Saudi Arabia, UA SA 11/2014, 3 October 2014;

OHCHR, *Saudi Arabia: Pillay concerned by harsh sentences against human rights defenders*, 10 July 2014,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14846&LangID=E#sthash.AgiofAlu.dpuf> (accessed on 3 March 2018).

RECOMMENDATION

- a) Amend the Cybercrime Law and other domestic legislation limiting the peaceful exercise of the right to freedom of expression, association and peaceful assembly and release all prisoners of conscience.

3.3 Human rights and counter-terrorism

37. Despite previous commitments to ensure the respect of human rights while countering terrorism,²³ fundamental rights and freedoms are systematically violated under the pretext of fighting terrorism.
38. The SCC – set up in 2008 by the Supreme Judicial Council upon the decision of the Ministry of Interior to try cases of terrorism – has been increasingly used to prosecute acts of peaceful dissent in proceedings that violate fair trial guarantees.
39. Lawyers defending cases before the SCC have been barred from entering the courtroom and are often pressured to resign from cases, if they do not become the subject of prosecution themselves if they are considered to be “disloyal to the State”.
40. In 2014, a repressive Anti-Terrorism Law was promulgated, which contains an extremely vague definition of terrorism, criminalises non-violent acts of criticism and fails to uphold due process guarantees. This law was used by the SCC to sentence peaceful dissidents to harsh prison sentences.²⁴
41. The new Law on Combating Crimes of Terrorism and its Financing adopted in November 2017 still lacks legal certainty and criminalises a wide spectrum of acts falling under the rights to freedom of opinion, expression, peaceful assembly and association as well as the freedom of thought, conscience and religion.
42. Articles 19 and 20 of the Anti-Terrorism Law grant the SCC the power to extend the period of custody – including incommunicado detention – indefinitely. Moreover, the law grants large discretionary powers to the newly established Presidency of State Security. This all-encompassing security agency, which reports directly to the king, can conduct “search,

²³ Recommendation 138.216 (Mexico).

²⁴ Such is the case of Jaber Al Amri, subject of Opinion No. 63/2017 of the Working Group on Arbitrary Detention, who was arrested on 12 April 2014, detained *incommunicado* for three months and sentenced in May 2015 by the Specialised Criminal Court (SCC) to seven years in prison followed by a seven year travel ban as well as a fine of 50000 Riyals for having posted a Youtube video, in which he criticises the authorities. He was charged with “inciting rebellion against the ruler; stirring up dissent; and turning people against the state, rejecting its authority and calling it repressive” on the basis of the 2014 Anti-Terrorism Law as well as “producing, storing and sending a video clip prejudicial to public order” under the Cybercrime Law.

investigation, seizure, criminal and administrative prosecution" without any judicial oversight.

43. Lastly, human rights defenders and peaceful dissidents are being sent to "counselling centres for de-radicalisation" after serving their sentences following an administrative decision that cannot be appealed, thus denying individuals the right to challenge the legality of their detention. Article 88 of the Law on Combating Crimes of Terrorism and its Financing of 2017 clarifies that counselling centres (Munasaha Centre or "مركز المناصحة") are aimed at "[correcting] their ideas and [deepening] their national affiliation".

RECOMMENDATION

- a) Amend anti-terrorism legislation to bring it into line with international standards and refrain from subjecting peaceful dissidents to reprisals under the pretext of counterterrorism.