



UNIVERSAL PERIODIC REVIEW

SAUDI ARABIA

FOURTH CYCLE

SUBMISSION TO THE STAKEHOLDERS' SUMMARY

Alkarama Foundation, 18 July 2023

Table of contents

1	General context and recent developments.....	2
1.1	Scope of international obligations	2
1.2	Constitutional and legislative framework	2
1.3	Human rights infrastructure	3
2	Cooperation with international human rights mechanisms.....	4
2.1	Cooperation with the Treaty Bodies	4
2.2	Cooperation with the Special Procedures	4
3	Implementation of human rights obligations	5
3.1	Right to life, liberty and personal security	5
3.2	Rights to freedom of expression, peaceful assembly and association	7
3.3	Right to freedom of religion	8
3.4	Human rights and counterterrorism	9

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 fourth cycle of the Universal Periodic Review (UPR) of Saudi Arabia. Alkarama will assess the implementation of previous recommendations as well as the overall human rights situation in the country, which has significantly deteriorated since the 2018 UPR.
2. Saudi Arabia's recent amendments to its legislation have failed to address the serious human rights concerns highlighted by various United Nations human rights mechanisms and Member States alike. While fundamental civil and political rights continue to be systematically violated and denied, repression has increased in defiance of international law.
3. Because of the absence of a codified penal and despite the Basic Law of Saudi Arabia (a charter similar to a constitution) the Saudi penal system continues to lack legal certainty and confers wide discretionary powers on a non-independent judiciary.

1.1 Scope of international obligations

4. Although Saudi Arabia has expressed the possibility of acceding to some of the most important international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR),¹ none of them has been ratified to date.

RECOMMENDATION

- a) Ratify the ICCPR, ICESCR and the International Convention for the Protection of All People from Enforced Disappearance (ICPPED).

1.2 Constitutional and legislative framework

5. Despite Saudi Arabia's announcements regarding the justice reforms,² including a forthcoming penal code, no legislative reform has been completed to this day. Saudi

¹ A/HRC/WG.6/31/SAU/1, para.28.

² "Saudi Crown Prince announces new draft laws to reform judicial institutions", February 2021, Reuters, <https://www.reuters.com/world/saudi-crown-prince-announces-new-draft-laws-reform-judicial-institutions-2021-02-08/>

Arabia has not yet promulgated a penal code nor amended the Code of Criminal Procedure (CCP) to provide sufficient due process guarantees.

6. Saudi Arabia's Law on Associations and Foundations considerably restricts freedom of assembly and association. Notably, associations must be licensed by the Ministry of Human Resources and Social Development. Furthermore, associations cannot engage in civil and political rights advocacy. All forms of participation in political movements or unauthorised public assemblies are strictly forbidden.
7. The Law on Combating Terrorism and its Financing fails to protect fundamental rights and guarantees in detention and criminalises a wide range of peaceful acts of criticism. This legislation criminalises peaceful dissent and leads to arbitrary arrests to silence dissent under the pretext of fighting terrorism.

RECOMMENDATIONS

- a) Promulgate a criminal code and amend the CCP as well as the Anti-Terrorism Law to comply with international human rights standards on detention and fair trial;
- b) Amend the 2015 Law on Associations to allow the registration of all independent civil society organisations, including those advocating for civil and political rights.

1.3 Human rights infrastructure

8. The Saudi Human Rights Commission (HRC), the kingdom's official human rights institution, has not been restructured in order to ensure its independence from the executive. The HRC Board members (24) as well as its Chairman and Vice Chairman are still all appointed by the king to whom they directly report.³
9. Therefore, the Saudi NHRI is not in line with the Paris Principles and no measures have been taken to ensure its compliance with these Principles. No request for accreditation to the Global Alliance of National Human Rights Institutions has been filed to date.
10. Furthermore, although the National Society for Human Rights (NSHR) does not have a formal link to the executive branch, it is still financed mainly by the government while presented by the latter as an independent civil society organisation.

RECOMMENDATION

- a) Ensure that the Saudi Human Rights Commission is able to work independently and is in line with the Paris Principles

³ <https://www.hrc.gov.sa/website/council-structure>

2 COOPERATION WITH INTERNATIONAL HUMAN RIGHTS MECHANISMS

2.1 Cooperation with the Treaty Bodies

11. Saudi Arabia has failed to effectively implement the recommendations made by the UN Committee against Torture (CAT) in its concluding observations following its second periodic review, including to ensure that torture is criminalised in accordance with the convention and its prohibition made non-derogable, and that all persons deprived of their liberty have access to fundamental guarantees in detention.⁴

RECOMMENDATION

- a) Ensure the implementation of recommendations issued by the CAT in the latest Concluding observations.

2.2 Cooperation with the Special Procedures

12. 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 have led to reprisals against individuals who cooperated with the UN experts.
13. Saudi Arabia has 7 pending country visit requests. While it accepted the request for a visit by the Special Rapporteur on the situation of human rights defenders in 2017, the Kingdom has since failed to implement the recommendations made.
14. Over the past five years, 19 Opinions on Saudi Arabia have been adopted by the UN Working Group on Arbitrary Detention (WGAD),⁵ none of which have been implemented to date.

RECOMMENDATIONS

⁴ CAT/C/SAU/CO/2

⁵ [A/HRC/WGAD/2018/68](#), [A/HRC/WGAD/2019/22](#), [A/HRC/WGAD/2019/26](#), [A/HRC/WGAD/2019/56](#),
[A/HRC/WGAD/2019/71](#), [A/HRC/WGAD/2020/33](#), [A/HRC/WGAD/2020/86](#), [A/HRC/WGAD/2020/92](#),
[A/HRC/WGAD/2022/30](#), [A/HRC/WGAD/2021/34](#), [A/HRC/WGAD/2021/59](#), [A/HRC/WGAD/2021/72](#),
[A/HRC/WGAD/2022/29](#), [A/HRC/WGAD/2022/36](#), [A/HRC/WGAD/2022/62](#), [A/HRC/WGAD/2022/84](#),
[A/HRC/WGAD/2023/17](#), [A/HRC/WGAD/2023/26](#), [A/HRC/WGAD/2023/27](#)

- a) Accept all outstanding requests for country visits and implement without delay the recommendations made in 2017 by the Special Rapporteur on human rights defenders;
- b) Implement all WGAD opinions calling for the release and reparation of persons arbitrarily deprived of their liberty.

3 IMPLEMENTATIONS OF HUMAN RIGHTS OBLIGATIONS

3.1 Right to life, liberty and personal security

3.1.1 *Arbitrary indefinite detention in the “Munasaha” (Counselling) centres*

15. The practice of arbitrary detention remains widespread and systematic in the country. Using the Anti-Terrorism Law, which criminalises peaceful criticism, the authorities' resort to arbitrary detention to repress human rights defenders and peaceful dissidents.
16. Examples of such practices include peaceful human rights defenders under the Anti-Terrorism Law for expressing criticism of the royal authorities. The case of Mr. Mohammed Al-Qahtani illustrates these practices. Among the founders of the Saudi Civil and Political Rights Association, which was dissolved in 2013, he was sentenced to 10 years in prison for allegedly providing false information to outside sources, including UN human rights mechanisms. Alkarama expressed its concerns about his situation after his transfer in a section reserved for detainees suffering from psychological disorders.⁶
17. Lastly, the Special Rapporteur on the situation of human rights defenders also expressed her concerns regarding his health and life adding that “she is gravely concerned about the use of incommunicado detention as it represents a violation of detainees' rights under international law.”⁷
18. The “Munasaha Programme”, launched in 2007, is presented by the Saudi authorities as a reintegration and rehabilitation programme for convicted “terrorists”. According to the government, these centres provide therapy and treatment “consisting of psychological, social and religious sessions aimed at eradicating terrorist and extremist ideologies” on the basis of “fear of committing a terrorist offence upon release from prison” and “threat

⁶ <https://www.alkarama.org/en/articles/saudi-arabia-special-rapporteur-against-torture-seized-case-mohammed-al-qahtani>

⁷ <https://www.ohchr.org/en/press-releases/2022/11/saudi-arabia-allow-immediate-contact-human-rights-defender-held>

to public security". It is up to the Ministry of the Interior to determine the eligibility of such persons for release.

19. Nevertheless, these centres arbitrarily detain many individuals past their sentences without judicial review on the pretext that they may continue to pose a future "threat". As peaceful dissidents are detained under the anti-terrorism legal regime, in practice the Munasaha centres are designed to coerce political prisoners into expressing absolute loyalty to the royal authority.
20. In practice, the Munasaha centres are used to continue detaining peaceful dissidents who have served their arbitrary sentences but who still are considered a threat to the regime because they may continue to express dissident views after their release.
21. One such example is that of Abdulkarim AL KHODR and Jaber Suleiman AL AMRI⁸, who were arbitrarily detained despite the Working Group's Opinions request to release them. Condemned following parody of trials, which continue to this day, both were condemned to harsh prison sentences under the vague and preoccupying anti-terrorism law. Although both of them have served their sentence, they are still being detained in "Munasaha centres".

RECOMMENDATION

- a) End the practice of arbitrary and indefinite detention in Munasaha centres and release all those detained beyond their sentences in these centres.

3. 1. 2 The practice of torture

22. Since the last UPR, numerous cases of torture and ill-treatment have been reported showing a systematic use of such practices to extract confessions during investigations, particularly in the facilities of the Bureau of Investigation and Public Prosecution (BIPP) and the intelligence services ("Al Mabahith") – the latter of which is tasked with investigating "security-related" crimes.
23. While Saudi Arabia accepted recommendations to ensure that its legal framework applicable to detention provides sufficient safeguards against torture and ill-treatment in custody,⁹ no such safeguards have been implemented since. Saudi Law still does not criminalise torture and does not ensure its absolute prohibition. Safeguards such as

⁸ 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). The case of Jaber Al Amri, subject of Opinion No. 63/2017 of the Working Group on Arbitrary Detention.

⁹ Recommendations 138.153 (Australia); 138.151 (France)

access to the outside world, habeas corpus, and the exclusion of statements obtained under torture, are not implemented in Saudi law.

24. Documented acts include¹⁰, *inter alia*, electric shocks, 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, and use of prolonged solitary confinement.
25. As an illustration of the seriousness of this practice, Abdulsamed Esmail Mohammed SALEM, a Yemeni businessman, was tortured to death by members of the Saudi security services during his detention at the General Administration for Drug Control Centre in Jazan (southwest) following his arrest on 9 September 2021, during which he was not presented with an arrest warrant or informed of the reason for his arrest. He was held incommunicado and denied the right to challenge the legality of his detention before a judicial authority. After being subjected to physical torture, he was transferred to Abu Arish Hospital in Jazan on 9 September 2021. Upon his arrival, the forensic report noted “scattered bruises”, “accumulation of blood on the left upper limb and on the left side of the chest and abdomen” and “several rib fractures”. On the evening of 12 September 2021, Mr Salem died “as a result of a pulmonary embolism”. The complaints filed with the Public Prosecutor’s Office and the Kingdom’s Complaints Council have not resulted in any investigation, despite evidence of a causal link between Salem’s death and the torture he suffered during his detention.
26. Also contributing to impunity for perpetrators of torture is the lack of independent monitoring and complaints mechanisms in places of detention, which are all under the authority of the executive. Moreover, allegations of torture brought before the courts are routinely not 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.
- c) Ensure that confessions made under torture are systematically excluded from trials.

3.2 Rights to freedom of expression, peaceful assembly and association

¹⁰https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FCO%2FSAU%2FCO%2F2&Lang=fr

27. Saudi Arabia's domestic laws criminalise peaceful dissent. Despite numerous recommendations made at the third UPR to lift restrictions on freedom of expression and association, and end intimidation and reprisals, peaceful activists and dissenters are systematically arrested for peacefully exercising their right to freedom of expression, assembly and association. The situation of Saudi human rights defenders and journalists remains worrying. They remain under close surveillance, even abroad. Since 2017, the number of journalists and bloggers behind bars has more than tripled.
28. Under the anti-terrorism laws and cyber-crime laws, journalists can be prosecuted for having expressed critical comments¹¹ (on the grounds of "blasphemy", "inciting chaos", "endangering national unity" or "damaging the image and reputation of the King and the State")¹². The online expression of opinions is monitored by "electronic brigades", which are very active on social networks to spot online dissenters, leading to their arrest and prosecutions.
29. For example, Awad Al-Qarni, a 65-year-old law professor and prominent Saudi scholar was arrested by the intelligence services (Mahabith) in 2017 during the vast campaign of repression against dissenting religious scholars, human rights defenders, journalists and businessmen. He was accused of using social networks (Twitter and WhatsApp) to disseminate information interpreted as "hostile" to the Saudi Royal authorities. Arbitrarily detained since his arrest, Awad Al Qarni¹³ now faces the death penalty for peacefully expressing his dissenting views on social networks.

RECOMMENDATIONS

- a) Release all individuals detained solely for exercising their rights to freedom of expression, association and peaceful assembly;
- b) Amend the Cybercrime Act, the Anti-terrorism Law to repeal dispositions criminalising the peaceful exercise of the right to freedom of expression, association and peaceful assembly.

3.3 Right to freedom of religion

30. Over the last years, numerous foreign peaceful opponents and human rights defenders have been arbitrarily detained and/or extradited in violation of non-refoulement while on their way to perform their religious pilgrimage in Saudi Arabia. These arrests mostly

¹¹ <https://www.ohchr.org/en/statements/2022/03/comment-un-high-commissioner-human-rights-michelle-bachelet-execution-81-people?sub-site=HRC>

¹² A/HRC/40/52/Add.2 para.15 and 17

¹³ <https://www.alkarama.org/en/articles/saudi-arabia-awad-al-garnis-arbitrary-detention-un-experts>

target foreigners considered as opponents to the Saudi authorities or exiled peaceful foreign opponents targeted by their own countries.

31. Alkarama referred to the United Nations Special Procedures, the cases of Abdullah Moqbel Zayed Al OSIMI, Hemyar Abdullah Moqbel Al OSIMI, Mahmood Hamid Qaid AL BROUSHI and Arhan Moqbel Zayed Moqbel HAMAEEELAH, four Yemeni nationals were arrested by the police on 23 April 2022 in the Taif region of southern Saudi Arabia under the pretext of being affiliated with the Houthi group in Yemen while on their way to "Umrah" to Mecca.¹⁴ While three of them have been released one still arbitrary detained.
32. Only recently, two Chinese pilgrims of Uyghur origin living in Istanbul, Aimidoula WAILI and Nuermaimaiti RUZE were arrested in Mecca by the Saudi police. Transferred to Riyadh in March 2023 and their families have not received any news since and fear their forced transfer to China, where they risk deportation and torture.

RECOMMENDATION

- a) Put an immediate end to the repeated arrest of pilgrims and ensure a safe access to all Muslims to the holy sites of Saudi Arabia regardless of their real or perceived political opinions.
- b) Release immediately all pilgrims arrested while on their way to perform their religious pilgrimage based on their real or perceived political opinions.

3.4 Human rights and counterterrorism

33. The 2017 Anti-Terrorism Law, which contains an extremely broad definition of terrorism, criminalises peaceful acts of criticism while failing to uphold due process guarantees.
34. This law is systematically used to prosecute dissidents for peaceful acts of criticism of the royal authorities.¹⁵ The Specialised Criminal Court (SCC) – a court of exception acting under the control of the royal authorities – has jurisdiction to try terrorism cases and systematically sentences dissenters to harsh prison sentences as well as the death penalty, in violation of fair trial rights.¹⁶

¹⁴ <https://www.alkarama.org/en/articles/saudi-arabia-arbitrary-detention-yemeni-pilgrims-brought-un>

¹⁵ See for example 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.

¹⁶ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/40/52/Add.2

35. 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 Presidency of State Security. This all-encompassing security agency, which reports directly to the king, can conduct “search, investigation, seizure, criminal and administrative prosecution” without any judicial oversight.
36. Lastly, human rights defenders and peaceful dissidents are being sent to “Munasaha centres” after serving their lengthy arbitrary sentences following an administrative decision that cannot be appealed, thus denying them the right to challenge the legality of their detention.

RECOMMENDATION

- a) Amend the legal definition of terrorism to ensure that it does not lead to the prosecution of [...], non-violent human rights activists, political dissenters and other persons merely for exercising their human rights¹⁷.

¹⁷ Report of the Working Group on the Universal Periodic, A/HRC/40/4, para. 122.91. Austria