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Americans for Democracy & Human Rights in Bahrain AND

International Federation for Human Rights (FIDH), within the framework of the Observatory for the Protection of Human Rights Defenders AND

World Organization against Torture (OMCT), within the framework of the Observatory for the Protection of Human Rights Defenders

Contribution to the 31st session of the Working Group of the Universal Periodic Review Submission on Saudi Arabia

**Concerning Systematic Restrictions on Women's Rights, on Human Rights Defenders and Counter-terrorism, and on Torture in the Kingdom of Saudi Arabia**

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# I. Introduction

## 1. Reporting Organizations

Americans for Democracy & Human Rights in Bahrain (ADHRB) fosters awareness of, and support for, democracy and human rights in Bahrain and the Middle East.

The International Federation for Human Rights Leagues (FIDH) is an international human rights non-governmental organization and federation of 184 organizations from 112 countries. Since 1922, FIDH has been defending all civil, political, economic, social and cultural rights as set out in the Universal Declaration of Human Rights.

Created in 1985, the World Organisation Against Torture (OMCT) is a coalition of 311 international non-governmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment.

## 2. Summary

FIDH and ADHRB welcome the opportunity to assess the Government of the Kingdom of Saudi Arabia's implementation of its 2<sup>nd</sup> Cycle Universal Periodic Review recommendations. This submission examines Saudi Arabia's implementation of its recommendations on protecting and promoting women's rights, on human rights defenders and the kingdom's counterterrorism legislation which is used to target human rights defenders, and the government's use of torture against imprisoned activists and dissidents.

# II. Women's Rights in Saudi Arabia

## 3. 2<sup>nd</sup> Cycle Universal Periodic Review Recommendations

During its 2<sup>nd</sup> cycle Universal Periodic Review (UPR) in October 2013, the Government of the Kingdom of Saudi Arabia received 11 recommendations pertaining to protecting and promoting women's rights.

**138.100** Take urgent steps to abolish the system of guardianship (Denmark);

**138.101** Continue to make efforts to abolish the practice of male guardianship over women (Republic of Korea);

**138.102** Dismantle the system of male guardianship and allow women to freely travel, work, study, marry, and access health care and other public services (Australia);

**138.103** Continue the progress underway and introduce further steps to achieve gender equality, in particular the abolishment of the system of male guardianship (New Zealand);

**138.105** Take steps to remove the guardianship system, when it results in a limitation of the full exercise and enjoyment of the rights and freedom of women (Costa Rica);

**138.106** Proceed with the promulgation of the necessary laws in order to abolish the male guardianship system while, in parallel, the stereotypes affecting women’s enjoyment of their rights, including their personal status law, should be remedied (Greece);

**138.107** Repeal the legal guardianship system for adult women (Italy);

**138.108** As a step to advance the situation of women, abolish the principle of guardianship over women (Sweden);

**138.109** Take measures to end the practice of guardianship and abolish existing legal provisions that require a guardian’s authorization (Senegal);

**138.110** Intensify efforts to put an end to the male guardianship system over women, modify negative stereotypes and cultural practices the discriminate against women and carry out the necessary legislative changes, including to make it possible for women to drive vehicles (Uruguay);

**138.111** Allow women to participate fully and equally in society by abolishing the guardianship system, appointing more women to positions of authority, and increasing freedom of movement (United Kingdom of Great Britain and Northern Ireland).

The Saudi government fully accepted eight recommendations pertaining to the system of male guardianship over women: **138.100**, **138.101**, **138.102**, **138.103**, **138.105**, **138.106**, **138.107**, and **138.108**. In accepting these recommendations, the government committed to “dismantling the system of male guardianship and allowing women to freely travel, work, study, marry, and access health care and other public services.” The government partially accepted the last three recommendations: **138.109**, **138.110**, and **138.111**.

While Saudi Arabia fully and partially accepting all of these recommendations, the government has largely failed to implement them. Saudi Arabia has made some progress in advancing women’s rights, in particular through specific legislation allowing women to study within the kingdom, work in certain circumstances, and access healthcare. Despite this, the government has refused to address the fundamental cause of gender inequality and the structural restrictions responsible for keeping women second class citizens: the system of male guardianship over women. In this way, as long as the Saudi government refuses to fully and seriously address the male guardianship system and its myriad effects on gender equality and women’s rights, it will fail to make strides in these fields.

#### **4. The Male Guardianship System**

Saudi Arabia is one of the most restrictive countries in the world for women. Women face numerous restrictions on their daily actions throughout Saudi society. These restrictions stem from Saudi Arabia’s system of male guardianship over women. The guardianship system is a “set of bylaws and state discriminatory policies and practices that restrict a women’s ability to make a wide range of choices independently of her male guardian.”<sup>1</sup> The system is not set in law, but is a set of regulations that act as *de facto* law. Under this system, every woman must have a male guardian – often a father or husband,

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<sup>1</sup> Hala al-Dosari, “Saudi male guardianship laws treat women as second-class citizens,” The Guardian, 7 October 2016, <https://www.theguardian.com/commentisfree/2016/oct/07/saudi-arabia-women-rights-activists-petition-king>.

but sometimes a brother or son – who is empowered to make important decisions on her behalf, including travelling internationally, marrying, or even getting out of jail.<sup>2</sup> The cumulative impact of this system takes away women and girls’ autonomy and inhibits their ability to act independently; ultimately reducing Saudi women and girls to second-class citizens.

Beginning in 2016 and continuing into 2018, the Saudi government has begun to institute a number of nominal reforms meant to restrict the power of male guardians and grant women more rights and the power to make more decisions for themselves. Despite these ostensibly positive developments, however, the Saudi government has not taken any steps to directly weaken the guardianship system, nor has it taken steps towards abolishing the system.

## **5. Participation in Municipal Elections**

Over the past several years, most notably since 2011, Saudi Arabia has addressed restrictions to women by passing decrees and laws expanding their ability to engage with society. One significant development was the decision in 2011 to grant women the right to vote and stand as candidates in the kingdom’s re-instated municipal council elections in September 2011. However, the government reneged on its promise and refused to allow women to vote during the 2011 election cycle citing “logistical difficulties.”<sup>3</sup> It was not until the next municipal elections were held in 2015 that women could participate as voters and candidates. On 12 December 2015, over 100,000 women voted in the municipal elections, with 21 women winning their elections.

Granting women the right to vote was a step towards including women in Saudi Arabia’s nominal political process. However the impact of this decision was blunted by municipal councils’ lack of power and influence, thereby restricting the effects women can have on national politics, including bringing about gender equality reform. In addition, the government placed several restrictions on female participants during the voting process that prevented wider voter turnout and constricted women’s participation. For example, female candidates could not speak directly to men, but had to hire a male intermediary to speak on their behalf. Furthermore, the government only granted citizens a three-week window in which to register to vote. This negatively affected women in particular because restrictions on their freedom of movement, especially the ban on women driving, meant many women were unable to travel to voting registration areas to register in time. Moreover, the voting registration bureaucracy was ill-equipped to assist and provide for women who did not have personal identifying documents – a result of authorities’ refusal to allow women to have their own identification cards.

## **6. Women Driving**

On 27 September 2017, the king passed a decree granting women the right to drive. This marks the first time in the history of the kingdom that women will be able to legally drive. However, the decree mandates that the order comes into force on 24 June 2018.<sup>4</sup> On 9 October, only days after the king passed the decree, police penalized a woman filmed driving a car, saying that she was “flouting traffic

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<sup>2</sup> “Boxed In: Women and Saudi Arabia’s Male Guardianship System,” Human Rights Watch, 16 July 2016, <https://www.hrw.org/report/2016/07/16/boxed/women-and-saudi-arabias-male-guardianship-system>.

<sup>3</sup> Hala Aldosari, “Analysis: The value of women voting in Saudi Arabia,” *Al-Jazeera*, 13 December 2015, <http://www.aljazeera.com/news/2015/12/analysis-women-voting-saudi-arabia-151213055435453.html>.

<sup>4</sup> “Saudi Arabia driving ban on women to be lifted,” BBC, 27 September 2017, <http://www.bbc.com/news/world-middle-east-41408195>.

regulations.”<sup>5</sup> It is unclear whether the government will follow through with the decree or whether authorities will place restrictions on women’s ability to drive.

## 7. Access to Identification Cards

On 13 October 2015, the Shura Council – Saudi Arabia’s 150-member consultative body appointed by the king that can recommend new laws and regulations, but which cannot legislate – voted 96 to 28 to amend the kingdom’s Civil Status Law to make it easier for divorced or widowed women to complete government, administrative, and legal procedures without requiring a male guardian. The Shura Council also voted to allow some women to receive their own identification cards.<sup>6</sup> Until this vote, women were not granted their own identification cards. Instead they were listed on the identity cards of their male next-of-kin, often their husband or father.<sup>7</sup>

## 8. Detention, Intimidation, and Arrests of Women Activists

Even as Saudi Arabia has decreed a number of structural reforms, authorities have targeted, intimidated, and detained a number of women, including activists and human rights defenders. For example, on 3 December 2014 airport officials at Jeddah’s King Abdulaziz International Airport informed activist Samar Badawi that she was banned from travelling internationally for an indefinite period. As a result, she was unable to attend the European Union NGO forum in Brussels to which she had been formally invited. The Ministry of Interior had ordered the travel ban after she had spoken at the 27<sup>th</sup> session of the United Nations (UN) Human Rights Council (HRC) on 16 September 2014. At the UN HRC, Badawi had called for the release of her husband and human rights defender Waleed Abu al-Khair, other human rights activists and prisoners of conscience, and an end to restrictive policies towards women.<sup>8</sup> Officials arrested her on 12 January 2016 because of her human rights work, although she was released on 13 January. On 13 February, Saudi authorities again called her in for questioning, although they released her soon after.<sup>9</sup>

Authorities have targeted Loujain al-Hathloul several times. In November 2014, Al-Hathloul and Maysaa al-Amoudi attempted to drive from the United Arab Emirates into Saudi Arabia in defiance of the ban on women driving.<sup>10</sup> They were detained for 73 days before being released.<sup>11</sup> On 4 June 2017, Saudi officials

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<sup>5</sup> “Saudi woman is penalised for driving car before ban is lifted,” *The Guardian*, 9 October 2017, <https://www.theguardian.com/world/2017/oct/09/saudi-arabia-woman-penalised-driving-car-before-ban-lifted>.

<sup>6</sup> Hatoun al-Fassi, “Finally, Saudi women have their own ID cards!” *Saudi Gazette*, 31 October 2015, <http://saudigazette.com.sa/article/141549/Finally-Saudi-women-have-their-own-ID-cards!>; Habib Toumi, “Saudi women now allowed family ID cards,” *Gulf News*, 27 January 2017, <http://gulfnews.com/news/gulf/saudi-arabia/saudi-women-now-allowed-family-id-cards-1.1661032>.

<sup>7</sup> David Hirst, “Progress as Saudi women get ID cards,” *The Guardian*, 9 November 1999, <https://www.theguardian.com/world/1999/nov/10/saudi-arabia>.

<sup>8</sup> “Case History: Samar Badawi,” Frontline Defenders, accessed 3 January 2018, <https://www.frontlinedefenders.org/en/case/case-history-samar-badawi>.

<sup>9</sup> *Ibid.*

<sup>10</sup> “Saudi woman ‘arrested’ for driving,” AlJazeera, 5 December 2014, <http://www.aljazeera.com/news/middleeast/2014/12/saudi-woman-arrested-driving-2014121165739368209.html>.

<sup>11</sup> “Saudi Arabia detains rights activist who defied women’s driving ban,” Amnesty International, 5 June 2017, <https://www.amnesty.org/en/latest/news/2017/06/saudi-arabia-detains-rights-activist-who-defied-womens-driving-ban/>.

again detained al-Hathloul, this time at the King Fahd International Airport in Dammam, although she was released on 7 June without further charges against her.<sup>12</sup>

On 19 April 2017, Saudi authorities arrested and imprisoned human rights defender and social media activist Mariam al-Otaibi for disobeying her father when she moved out of his house without permission.<sup>13</sup> Al-Otaibi had asked authorities to protect her from domestic violence, before fleeing her abusive family members and moving from al-Qassim Province to Riyadh.<sup>14</sup> However, after her father filed a “disobedience” case against her, officials detained her in a women’s prison for 104 days. Before she was released into her family’s custody, she was forced to drop the domestic violence charges.<sup>15</sup>

On 11 April 2017, only a week before officials detained Mariam al-Otaibi, several Saudi men, with the apparent tacit assistance of Filipino airline officials, forcibly repatriated 24-year-old Dina Ali Lasloom to Saudi Arabia as she was waiting for her flight from Manila to Australia.<sup>16</sup> Lasloom, a Saudi citizen, was attempting to flee her family in Kuwait for asylum in Australia.<sup>17</sup> In 2017, Amna AlJuaid fled her home to escape physical violence and emotional abuse from her father and brother. The abuse largely stemmed from the fact that she holds more progressive religious views than her family – AlJuaid self-defines as an atheist, while her family is religious-conservative. After she fled, her father hired a private detective to locate her and she subsequently went missing on 14 October 2017.<sup>18</sup> Although her whereabouts remain unknown, ADHRB and FIDH believe that she is in a women’s reformatory center, which functions as a prison.

### III. Human rights defenders and Counterterrorism

9. During its 2<sup>nd</sup> Cycle UPR, Saudi Arabia received three recommendations concerning human rights defenders and civil society.

**138.48** Accelerate the issuance of civil society regulations to activate civil work in the areas of protecting and promoting human rights and develop the capacities of the workers in the area of human rights and guarantee their work in freedom and independence (State of Palestine);

**138.137** Reiterate its recommendations to guarantee the right to freedom of expression and conscience of all representatives of civil society, including religious minorities, and the revise the

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<sup>12</sup> *Ibid*; “Update: Saudi Arabia: Women’ rights activist Loujain Al-Hathloul has been released,” Gulf Centre for Human Rights, 8 June 2017, <http://www.gc4hr.org/news/view/1618>.

<sup>13</sup> “Saudi Arabia: Gulf Centre for Human Rights supports campaign to end male guardianship system of women,” Gulf Centre for Human Rights, 21 February 2017, <http://www.gc4hr.org/news/view/1501>.

<sup>14</sup> Adam Coogle, “How was Saudi Arabia Voted onto a UN Women’s Panel?,” Human Rights Watch, 28 April 2017, <https://www.hrw.org/news/2017/04/28/how-was-saudi-arabia-voted-un-womens-panel>.

<sup>15</sup> Bethan McKernan, “Saudi Arabia: Women’s rights activist freed after 104 days of detention without her male guardian,” The Independent, 31 July 2017, <http://www.independent.co.uk/news/world/middle-east/saudi-arabia-women-right-activist-free-name-no-male-guardian-100-days-detention-maryam-al-otaibi-ar-a7869371.html>.

<sup>16</sup> “Fleeing Woman Returned to Saudi Arabia Against Her Will,” Human Rights Watch, 14 April 2017, <https://www.hrw.org/news/2017/04/14/fleeing-woman-returned-saudi-arabia-against-her-will>.

<sup>17</sup> Katie Paul, “Saudi woman seeking asylum in Australia returned to Saudi Arabia,” Reuters, 12 April 2017, <https://www.reuters.com/article/us-saudi-women-rights/saudi-woman-seeking-asylum-in-australia-returned-to-saudi-arabia-idUSKBN17E1WP>.

<sup>18</sup> “#SaveAmna: Saudi Twitter rallies to help find abused woman gone missing,” The New Arab, 27 October 2017, <https://www.alaraby.co.uk/english/Blog/2017/10/27/Saudi-Twitter-rallies-to-help-find-missing-abused-woman>.

judgements against the prisoners who were convicted for having freely expressed their opinion (Switzerland);

**138.164** Remove all obstacles to freedom of expression and movement against human rights defenders, including travel bans (Norway).

The government fully accepted recommendation **138.48** and partially accepted recommendations **138.137** and **138.164**. It committed to accelerating the issuance of civil society regulations in promoting and protecting human rights work and guaranteeing the freedom and independence of human rights defenders. The government partially committed to “removing all obstacles to freedom of expression and movement against human rights defenders, including travel bans” and “developing the capacities of the workers in the area of human rights and guarantee their work in freedom and independence.” Despite this, the government has failed to effectively implement these recommendations. It technically implemented one aspect of the State of Palestine’s recommendation by issuing regulations governing the work of civil society, however authorities use the regulations to regulate and restrict the work of civil society and human rights defenders, rather than protecting and promoting it.

Article 12 of the UN Declaration on Human Rights mandates states to take necessary measures to ensure protection for human rights defenders. However, Saudi Arabia has not promulgated legislation protecting human rights defenders or civil society activists. Rather, under the auspices of the 2013 and 2017 counterterror laws, the 2015 Law on Associations, the 2007 cybercrime law, and the 2003 publications law, authorities target and prosecute human rights defenders and civil society activists on free expression and free association charges.

## **10. Restrictive 2013 and 2017 counterterror Laws**

Saudi Arabia promulgated its first counterterror law, the Law on Terrorism and Its Financing, on 16 December 2013, and it entered into force on 2 February 2014. The 2014 Counterterror law broadly defines terrorism, granting the government extraordinary power to jail human rights defenders and activists and criminalize free expression, opinion, assembly, and association. Article 1 of the 2014 law classifies terrorism as

“Any act carried out by an individual or collective criminal project, whether directly or indirectly, towards the purpose of disrupting public order; harming the security and stability of the community risking national unity; disabling the Basic Law or any of its articles; harming the reputation or status of the country; [...] or threatening or inciting the commission of any of the aforementioned acts.”

Article 3 allows authorities to apply the law towards individuals intending to commit, establish, or incite “changing the ruling system of the kingdom” or “harming the interests, economy, and national and social security of the kingdom.” Because it does not link terrorism with violence, the law can be interpreted to encompass peaceful expression and activism.

This broad definition grants the government extraordinary power to criminalize freedom of speech and opinion and freedom of assembly and association and prosecute dissidents and critics of the government. Additionally, Article 3 states that authorities can apply the law to individuals intending to commit, establish, or incite “changing the ruling system of the kingdom” or “harming the interests,

economy, and national and social security of the kingdom.” Because the law does not define terrorism as a violent act, the government utilizes these provisions against activists and human rights defenders.

From Saudi Arabia’s 2<sup>nd</sup> UPR Cycle until the passage of the 2017 Counterterror law, the government has employed the vague language of the 2014 Counterterror law to bring terror charges against numerous human rights defenders, journalists, and peaceful dissidents, most of who are tried in the Specialized Criminal Court (SCC). The SCC is Saudi Arabia’s counterterror court, founded in 2008 to try members of al-Qaeda, but used since 2011 to prosecute human rights activists and peaceful dissidents under the counterterror law.

On 1 November 2017, Saudi Arabia issued a new Law on Combatting Terrorist Crimes and Financing. Like the 2013 law, the 2017 law defines terror crimes broadly, as any conduct which, whether directly or indirectly “aims to infringe public order, or destabilize the security of the community and the State’s stability or threaten national unity, or disable the Basic Law of Governance or some of its provisions” as well as any attempts to do or incite such actions. Importantly, Article 30 of the law prescribes imprisonment of 5 – 10 years for “any individual who has ever described – directly or indirectly – the King or the Crown Prince with an offensive description to religion or justice.” Articles 40, 41, and 50 prescribe a mandatory death sentence for committing certain terror crimes. More broadly, however, like its predecessor, the 2017 law does not require a terror crime to be violent, but allows for the prosecution of intent to commit a terror act, which the government often applies to peaceful dissent.

### **11. The 2007 Anti-Cybercrime Law**

Saudi Arabia’s Anti-Cybercrime Law was passed on 26 March 2007. Article 6 of the law is the most pertinent, stating that it is illegal to “produce, prepare, transmit, or store material impinging on public order, religious values, public morals, and privacy through the information network or computers.” The government further increased restrictions on online content with the passage in January 2011 of the Executive Regulations for Electronic Publishing Activity, which bring online publications under the remit of the 2000 Press and Publications Law. The Executive Regulations require all online operators including website managers, discussion forums, blogs, personal websites and anyone publishing information via text messages or group emails to have a license or registration from the Ministry of the Interior.<sup>19</sup> In 2014, the government amended the Cybercrime law to include social media and social networks and it raises the fine to 500,000 Saudi riyals (\$133,000).

### **12. The 2003 Press and Publications Law**

On 29 November 2000, the Saudi government promulgated the Law of Printed Materials and Publications, also known as the Law on Press and Publications. The law governs the circulation and content of printed materials, bookstores, foreign media offices, printing presses, television, and radio. The law restricts the content media outlets can publish, requiring all forms of media to have a license from the Ministry of Information in order to operate (Article 4). It also limits freedom of expression to “within the limits of Sharia rulers and law,” although the law does not define these limits (Article 8). Article 9 adds that approved printed material cannot “lead to a breach of public security, public policy, conflict with national interest, stir up discord among citizens, lead to approval and incitement of criminal conduct, injure the economic or health situation of the country,” and that it must “observe objective

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<sup>19</sup> Salah Deeb, “Saudi Arabia – New Web Publishing Law,” AlTamimi & Co, February 2011, <http://www.tamimi.com/law-update-articles/saudi-arabia-new-web-publishing-law/>.



and constructive criticism that aims at public interest and which is based on facts and evidence.” Article 18 enumerates that “external printed matters shall be approved if free from anything insulting to Islam or the system of Government of injurious to high interests of the state or scarify public morality and conflict with ethical standards.” Article 38 states the government can fine violators up to 50,000 Saudi riyals for breaking the law (\$13,000) and also to temporarily close a media establishment for up to two months or shutter it permanently if it does not abide by the law.

### **13. The 2015 Law on Associations**

In addition to using the Counterterror laws, Cybercrime law, and Publications law to target human rights defenders, the Saudi government also uses the 2015 Law on Associations to maintain strict control over civil society space and civil society and non-governmental organizations. Passed on 30 November 2015, the law is the kingdom’s comprehensive legal framework “governing the establishment, operation, and supervision of associations and foundations.” It allows the government to prohibit the formation of an association which doesn’t respect the principles of Sharia and whose principles “contradict with public order or public ethics, or disrupt the national unity” (Article 8). The government uses these open-ended restrictions to categorically refuse to officially license human rights organizations. The law also allows the government to interfere in the internal work of any association, including an association’s elections of board members (Article 18) and the appointment of their board members (Article 19).

Due to these restrictions, according to Hala Aldosari, a Saudi women’s activist, “five different structures can be observed in Saudi Arabia: charitable organizations licensed by the [Ministry of Labor and Social Development], specialized/professional CSOs operating under other government entities, the business-affiliated charities, semi-governmental structures under the patronage of members of the royal family, and informal CSOs functioning without state permission.”<sup>20</sup> According to the Civic Freedom Monitor, as of April 2016, there are 736 registered associations and 164 registered foundations in Saudi Arabia.<sup>21</sup> However, there are no human rights or independent civil society organizations.

### **14. Use of Restrictive Legislation against Activists**

The government utilizes the web of Counterterror, Cybercrime, Associations, and Publications laws to criminalize the rights to free expression, association, and assembly, and to target and arrest activists and human rights defenders. For example, the government refused to license the Saudi Civil and Political Rights Association (ACPRA), forcing it to operate illegally, before targeting the organizations members under the 2013 Counterterror law and 2007 Anti-cybercrime law. As a result of this targeted suppression, most of ACPRA’s members are in prison.

Since Saudi Arabia’s 2<sup>nd</sup> Cycle UPR in October 2013, authorities have sentenced ACPRA members Fowzan al-Harbi, Abdulkareem al-Khoder, Dr. Abdulrahman al-Hamid, and Issa al-Hamid and Abdulaziz al-Shubaily to lengthy prison sentences, where they join many of ACPRA’s other members. On 19 November 2014, a court increased al-Harbi’s sentence from one year in prison and a six-year suspended

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<sup>20</sup> Hala Aldosari, “New Saudi Law Maintains State Control Over Civil Society Organizations,” Arab Gulf States Institute in Washington, 27 December 2015, <http://www.agsiw.org/new-saudi-law-maintains-state-control-over-civil-society-organizations/>.

<sup>21</sup> “Civic Freedom Monitor: Saudi Arabia,” International Center for Not-for-Profit Law (ICNPL), updated 18 October 2017, <http://www.icnl.org/research/monitor/saudiarabia.html>.

sentence to 10 years in prison and a ten-year travel ban on charges of “inciting disobedience to the ruler by calling for demonstrations” and “accusing the judiciary of being incapable of delivering justice.”<sup>22</sup> In mid-October 2015, the SCC sentenced Dr. Abdulrahman al-Hamid to nine years in prison and a nine-year travel ban on charges including “spreading chaos by calling for demonstrations” and “participating and setting up an unlicensed organization – ACPRA.” Then in May 2016, the SCC sentenced Abdulaziz al-Shubaily to eight years in prison and an eight-year travel ban on charges including “spreading a statement which calls for continuous demonstrations” and “accusing security forces and senior officials of suppression, torture, assassination, enforced disappearance, and violating human rights.” On 1 December 2016, an appeals court increased Issa al-Hamid’s sentence to 11 years in prison, an 11-year travel ban, and a fine of 100,000 Saudi riyals (\$26,600).

On 9 January 2017, Saudi Arabia’s Bureau of Investigation and Public Prosecution detained Essam Koshak, a human rights defender who has been vocal on issues of corruption, freedom of expression, and the campaign to end the kingdom’s system of male guardianship, in Riyadh’s al-Ha’ir Prison after he responded to a summons to appear before the Bureau. His trial began on 4 October in front of the SCC and he was accused of “inciting public opinion” and of illegally supporting an end to the male guardianship system.<sup>23</sup> On 28 February, the SCC sentenced him to four years in prison.<sup>24</sup>

On 18 December 2016, officials arrested human rights defender Issa al-Nukheifi, when he responded to a summons for questioning and arrived at the al-Nozha police station in Mecca. The Bureau of Investigation and Prosecution interrogated him multiple times without his lawyer present about his human rights activism and contact with international human rights organizations. His trial began on 21 August 2017 in the SCC on charges that included “insulting the rulers, government and security forces,” and “communicating with foreign groups that are hostile to the Kingdom and receiving funding from them” and that stem from his social media activism and calls for the release of prisoners of conscience and establishment of a democratic parliament and representative government.<sup>25</sup> On 28 February 2018, the SCC sentenced him to six years in prison.<sup>26</sup>

Authorities have also prosecuted activist Naimah al-Matrood because of her alleged participation in demonstrations and rallies in the kingdom’s Eastern Province. She was arrested for the first time on 23 February 2016, released, and then arrested again on 13 April 2016.<sup>27</sup> She was tried in the SCC on charges including participating in anti-state demonstrations and rallies, and violating public order by creating

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<sup>22</sup> “Saudi Arabia: Human rights defender Fawzan Al-Harbi imprisoned for ten years,” Gulf Center for Human Rights (GCHR), 20 November 2014, <http://www.gc4hr.org/news/view/821>.

<sup>23</sup> “Essam Koshak,” Frontline Defenders, accessed 14 December 2017, <https://www.frontlinedefenders.org/en/case/essam-koshak-detained-saudi-authorities>.

<sup>24</sup> “Saudi Arabia sentences two rights activists to years in jail,” Middle East Eye, 28 February 2018, <http://www.middleeasteye.net/news/saudi-arabia-sentences-two-rights-activists-years-jail-178008097>.

<sup>25</sup> “Saudi Arabian Prisoner of Conscience on Trial: Issa al-Nukheifi,” Amnesty International, 7 September 2017, <https://www.amnesty.org/en/documents/mde23/7039/2017/en/>.

<sup>26</sup> “Saudi Arabia sentences two rights activists to years in jail,” Middle East Eye, 28 February 2018, <http://www.middleeasteye.net/news/saudi-arabia-sentences-two-rights-activists-years-jail-178008097>.

<sup>27</sup> “Saudi Arabia: Trial of Internet activist Naimah Al-Matrood continues,” Gulf Centre for Human Rights, 17 April 2017, <http://www.gc4hr.org/news/view/1551>.

two social networking accounts on Twitter and Facebook to demand the release of detained.<sup>28</sup> She was sentenced to six years in prison and a six-year travel ban on 10 November 2017.<sup>29</sup>

## IV. Torture

15. During its 2<sup>nd</sup> Cycle UPR, the Kingdom of Saudi Arabia received three recommendations concerning the use of torture and cruel, inhuman, and degrading treatment and calling on the government to prohibit torture.

**138.7** Make further advances through the accession to ICCPR; ICESCR, OP-CAT and OP-CEDAW (Czech Republic); Accepted in part,

**138.151** Guarantee due process, prohibit in law the use of torture and other forms of cruel treatments, in accordance with the Convention against Torture (France). Fully accepted

**138.153** Implement legal reforms to promulgate a criminal code, ensure transparent and fair criminal trials, and prevent arbitrary, secret and indefinite detention and torture in custody (Australia). Fully accepted

The Saudi government fully accepted recommendations **138.151** and **138.153** and partially accepted recommendation **138.7**. It committed to “guaranteeing due process, [and] prohibiting in law the use of torture and other forms of cruel treatment” in accordance with its treaty obligations under the Convention against Torture. Despite accepting two out of three recommendations, the Saudi government has failed to implement the recommendations. On the contrary, torture and abuse remain rampant in Saudi prisons and detention centers.

Saudi Arabia ratified the UN Convention against Torture (CAT) on 23 September 1997. In accordance with provisions of the treaty, each member country must submit a report to the UN Committee against Torture within one year of ratification. In addition to the initial report, all State Parties should submit follow up reports “every four years unless the Committee requests other reports.” Saudi Arabia’s first report was due on 21 October 1998.<sup>30</sup> However the government did not submit its report until 27 February 2001.<sup>31</sup> Saudi Arabia was due to submit a second report on 30 September 2010,<sup>32</sup> but the government made this submission in January 2015.<sup>33</sup> Even as Saudi Arabia has been late in its reporting to the Committee against Torture, it has not yet acceded to the Optional Protocol on Torture.

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<sup>28</sup> “Naimah AlMatrod: Saudi Arabia uses counter-terror law to unfairly sentence human rights defender to six years in prison for her peaceful activism,” European Saudi Organisation for Human Rights, 18 December 2017, <http://www.esohr.org/en/?p=1235>; “Saudi Arabia: Trial of Internet activist Naimah Al-Matrod continues,” Gulf Centre for Human Rights, 17 April 2017, <http://www.gc4hr.org/news/view/1551>.

<sup>29</sup> “Saudi Arabia: Internet activist Naimah Al-Matrod sentenced to six years in prison,” Gulf Centre for Human Rights, 15 November 2017, <http://www.gc4hr.org/news/view/1731>.

<sup>30</sup> “Report of the Committee against Torture: Twenty-third Session (8-19 November 1999), Twenty-fourth Session (1-19 May 2000),” UN General Assembly Official Records, Fifty-fifth Session, Supplement No. 44 (A/55/44), 2000, <http://www.un.org/documents/ga/docs/55/a5544.pdf>.

<sup>31</sup> OHCHR: Ratification, Reporting & Documentation for Saudi Arabia: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx).

<sup>32</sup> *Ibid.*

<sup>33</sup> “Ratification Status for Saudi Arabia,” OHCHR, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=152&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=152&Lang=EN).

Abuse and torture are widespread in Saudi Arabia's prisons and detention centers and the kingdom's criminal justice system accepts confessions obtained under torture as a valid form of evidence in trials. Courts often use defendants' "confessions" to sentence them to lengthy prison terms or capital punishment, even when prisoners state before the court that officials tortured them into signing a false confession. For example, officials tortured Ali al-Nimr, Dawood al-Marhoon, and Abdullah al-Zaher until they signed false confessions, which the prosecution used as evidence to obtain a death sentence, although al-Nimr, al-Marhoon, and al-Zaher stated before the judge that they had been tortured into signing the confessions.

On 2 January 2016, authorities executed Ali Saeed al-Rebh along with 46 others. Officials arrested al-Rebh when he was 18-years-old and a prosecutor charged him with participating in the Arab Spring protests of 2011/2012.<sup>34</sup> While in prison, authorities tortured him, causing a number of long-term injuries, including back pains, headaches, and weight loss. After five hearings, a court sentenced him to death.<sup>35</sup> Saudi authorities also executed Mohammad Faisal al-Shioukh on 2 January 2016. They arrested him when he was 19-years-old for his participation in the Arab Spring protests. During his detention, officials tortured al-Shioukh. They beat him with batons and electric cables in an attempt to force him to confess. He later confessed to the charges put to him.<sup>36</sup> The torture reportedly caused a number of permanent injuries, including damage to his heart valves, weakened eyesight, and complications from a broken jaw. Mohammed al-Swaymil was also executed by the Saudi government on 2 January 2016. Authorities arrested him on 5 April 2011 allegedly in connection to the peaceful protests taking place in Awamiyah. According to his family, during al-Swaymil's first night in Dammam's Ministry of Interior-run intelligence prison, 20 masked officers beat him until he lost consciousness. At midnight, officers tortured him by shocking him with electric shocks that they applied to sensitive parts on his body. They also beat him while he was blindfolded. Munir Al-Adam, Abdullah al-Tareef, Mujtaba al-Suwaiket, Hussein al-Rabee, and Fadel al-Labad were also sentenced to death based on confessions they reportedly gave under torture. Because of the torture, Al-Adam is completely deaf in one ear while al-Labad suffers from chronic back pain.

## **VI. Recommendations to the Kingdom of Saudi Arabia**

### **16. Concerning Women's Rights**

- Immediately abolish the system of male guardianship and pass a law banning the guardianship system and ensuring gender equality throughout Saudi Arabia;
- Unconditionally release all women detained for their activism and drop all charges against them;
- Extend an open invitation to the mandates of the Special Rapporteur on Violence against Women and the Working Group on Discrimination against Women and ensure the mandates have open access to women's rights activists.

### **17. Concerning Human Rights Defenders and Countering Terrorism**

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<sup>34</sup> Miriam Wells and Namir Shabibi, "These are the Juvenile 'Offenders' Saudi Arabia Executed in January," *Vice*, 26 April 2016, <https://news.vice.com/article/these-are-the-juvenile-offenders-saudi-arabia-executed-in-january>.

<sup>35</sup> *Ibid.*

<sup>36</sup> Chris Green, "Saudi Arabia executions: The political prisoners who were killed—and those still on death row," *Independent*, 3 January 2016, <http://www.independent.co.uk/news/world/middle-east/saudi-arabia-executions-the-political-protesters-who-were-killed-and-those-still-on-death-row-a6795016.html>.

- Immediately release all activists and human rights defenders imprisoned because of their activism and on charges of free expression, free assembly, and free association;
- Reform the counterterrorism, associations, cybercrime, and publication laws to lift restrictions on human rights defenders and activists;
- Promulgate legislation protecting human rights defenders and promoting their work;
- Strictly define terrorism as a violent crime to ensure that peaceful criticism is not legally classified as terrorism;
- Remove articles in the counterterrorism, associations, cybercrime, and publication laws that criminalize the freedom of expression, assembly, and association;
- Extend an open visit request to the Special Rapporteur on the situation of human rights defenders and ensure that the Rapporteur has open access to members of civil society;
- End reprisals against human rights defenders and activists for their engagement with international human rights mechanisms and organizations and initiate transparent and impartial investigations into reprisals, while compensating defenders as relevant.

### **18. Concerning Torture**

- Immediately end torture by promulgating and enforcing legislation in line with international standards;
- Prosecute officials engaged in torture, mistreatment, or abuse to the full extent of the law in transparent trials according to international standards of due process and fair trials;
- Extend an open invitation to the Special Rapporteur on torture and ensure the Rapporteur has open access to rights defenders and victims of torture and fully implement any and all recommendations made by these mandates;
- Release all prisoners who were convicted based on confessions obtained under torture, and try them again if necessary in open and transparent courts with international observers present, according to international standards of due process and fair trials.

### **Annex: Recommendations made to the Government of Saudi Arabia during its 2<sup>nd</sup> Cycle UPR**

#### **Concerning Women's Rights<sup>37</sup>**

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<sup>37</sup> See section II. For concerns over the guardianship system, see section II, paragraph 4.

<b>Recommendation Number</b>	<b>Recommendation and State</b>	<b>2<sup>nd</sup> Cycle Status</b>	<b>2<sup>nd</sup> Cycle Implementation</b>	<b>Progress</b>	<b>Current Assessment</b>
<b>138.100</b>	Take urgent steps to abolish the system of guardianship ( <b>Denmark</b> )	Accepted	Not implemented	No perceived progress	Not implemented
<b>138.101</b>	Continue to make efforts to abolish the practice of male guardianship over women ( <b>Republic of Korea</b> )	Accepted	Not implemented	No perceived progress	Not implemented
<b>138.102</b>	Dismantle the system of male guardianship and allow women to freely travel, work, study, marry, and access health care and other public services ( <b>Australia</b> )	Accepted	Not implemented	Some perceived progress	Partially implemented <sup>38</sup>
<b>138.103</b>	Continue the progress underway and introduce further steps to achieve gender equality, in particular the abolishment of the system of male guardianship ( <b>New Zealand</b> )	Accepted	Not implemented	Some perceived progress	Partially implemented <sup>39</sup>
<b>138.105</b>	Take steps to remove the guardianship system, when it results in a limitation of the full exercise and enjoyment of the rights and freedom of women ( <b>Costa Rica</b> )	Accepted	Not implemented	No perceived progress	Not implemented
<b>138.106</b>	Proceed with the promulgation of the necessary laws in order to abolish the male guardianship system while, in parallel, the stereotypes affecting women's enjoyment of their rights, including their personal status law, should be remedied ( <b>Greece</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>40</sup>
<b>138.107</b>	Repeal the legal guardianship system for adult women ( <b>Italy</b> )	Accepted	Not implemented	No perceived progress	Not implemented
<b>138.108</b>	As a step to advance the situation of women, abolish	Accepted	Not implemented	No perceived	Not implemented

<sup>38</sup> See section II paragraphs 4, 6, and 8 concerning the guardianship system broadly, access to the political system, and international travel un-sanctioned by a guardian.

<sup>39</sup> See section II for a discussion of the developments in women's rights as well as the kingdom's failure to address the guardianship system more broadly.

<sup>40</sup> For personal status law and the question of identification cards, see section II, paragraph 7. For ongoing concerns over the guardianship system, see section II, paragraph 4.

	the principle of guardianship over women ( <b>Sweden</b> )			progress	
<b>138.109</b>	Take measures to end the practice of guardianship and abolish existing legal provisions that require a guardian's authorization ( <b>Senegal</b> )	Partially Accepted	Not implemented	No perceived progress	Not implemented
<b>138.110</b>	Intensify efforts to put an end to the male guardianship system over women, modify negative stereotypes and cultural practices that discriminate against women and carry out the necessary legislative changes, including to make it possible for women to drive vehicles ( <b>Uruguay</b> )	Partially Accepted	Not implemented	Some perceived progress	Partially implemented <sup>41</sup>
<b>138.111</b>	Allow women to participate fully and equally in society by abolishing the guardianship system, appointing more women to positions of authority, and increasing freedom of movement ( <b>United Kingdom of Great Britain and Northern Ireland</b> )	Partially Accepted	Not implemented	Some perceived progress	Partially implemented <sup>42</sup>

### Concerning Human Rights Defenders and Counterterrorism

<b>Recommendation Number</b>	<b>Recommendation and State</b>	<b>2<sup>nd</sup> Cycle Status</b>	<b>2<sup>nd</sup> Cycle Implementation</b>	<b>Progress</b>	<b>Current Assessment</b>
<b>138.48</b>	Accelerate the issuance of civil society regulations to activate civil work in the areas of protecting and promoting human rights and develop the capacities of the workers in the area of human rights and guarantee their work in freedom and independence	Accepted	Not implemented	Some perceived Progress	Partially implemented <sup>43</sup>

<sup>41</sup> In September 2017, the king decreed that women can drive beginning in June 2018, however it remains to be seen whether the kingdom will follow through. Saudi Arabia has not taken steps to end the guardianship system or modify negative stereotypes and cultural understandings about a woman's place in society. See section II, paragraph 6.

<sup>42</sup> The government has appointed women to more positions of authority and women have more freedom of movement domestically, but women do not have the freedom of international travel, nor has the guardianship system been addressed.

<sup>43</sup> The government passed civil society regulations, but rather than promote and protect human rights, the government uses the law to criminalize the formation of human rights organizations. See section III, paragraphs 13 and 14.

	<b>(State of Palestine);</b>				
<b>138.137</b>	Reiterate its recommendations to guarantee the right to freedom of expression and conscience of all representatives of civil society, including religious minorities, and the revise the judgements against the prisoners who were convicted for having freely expressed their opinion <b>(Switzerland)</b>	Partially Accepted	Not implemented	No perceived progress	Not implemented
<b>138.164</b>	Remove all obstacles to freedom of expression and movement against human rights defenders, including travel bans <b>(Norway)</b>	Partially Accepted	Not implemented	No perceived progress	Not implemented

#### Concerning Torture

<b>Recommendation Number</b>	<b>Recommendation and State</b>	<b>2<sup>nd</sup> Cycle Status</b>	<b>2<sup>nd</sup> Cycle Implementation</b>	<b>Progress</b>	<b>Current Assessment</b>
<b>138.7</b>	Make further advances through the accession to ICCPR; ICESCR, OP-CAT and OP-CEDAW <b>(Czech Republic)</b>	Partially Accepted	Not implemented	No perceived progress	Not implemented
<b>138.151</b>	Guarantee due process, prohibit in law the use of torture and other forms of cruel treatments, in accordance with the Convention against Torture <b>(France)</b>	Accepted	Not implemented	No perceived progress	Not implemented
<b>138.153</b>	Implement legal reforms to promulgate a criminal code, ensure transparent and fair criminal trials, and prevent arbitrary, secret and indefinite detention and torture in custody <b>(Australia)</b>	Accepted	Not implemented	No perceived progress	Not implemented