

# BRIEFING PAPER

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# THE SITUATION OF HUMAN RIGHTS DEFENDERS IN SAUDI ARABIA

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In its October 2013 Universal Periodic Review (UPR), Saudi Arabia accepted 240 of 348 recommendations made by States – but none focusing on human rights defenders (HRDs). It accepted 7 recommendations on the rights to freedom of opinion and expression and freedom of association and peaceful assembly, including several calling for the protection of individuals who exercise these rights; and for the definition of laws that enable civil society organisations (CSOs) to work without undue interference.

### RISKS FACING HUMAN RIGHTS DEFENDERS

- Gulf Center for Human Rights (GCHR) reported that Saudi Arabia often violates its UNCAT obligations by subjecting HRDs in detention to ill treatment.<sup>1</sup> HRD Issa Al Marzog Al-Nukhaifi, released April 2016, faced torture and solitary confinement after initiating a hunger strike while in detention.
- In July 2017, four men were executed after being arrested for participating in protests.<sup>2</sup> That same month, the Saudi Arabian Supreme Court upheld the death sentences of 14 men for protest-related activities following a mass trial, which used confessions extracted through torture and ill treatment.<sup>3</sup> They face imminent execution.
- Raif Badawi, founder of the Saudi Liberal Network, was sentenced in 2013 for pro-democracy and pro-secularism online comments. In May 2014, an appeals court changed his sentence from seven years to ten years, increased his lashings from 600 to 1,000, and fined him one million Saudi riyals. The first 50 lashes were carried out in front of a crowd.<sup>4</sup>
- Fadhil al-Manasif was arrested in 2011 for relaying information about protests to human rights groups and social media channels. In April 2014, the Specialised Criminal Court (SCC)— set up in 2008 to address cases of terrorism and national security— sentenced him to 15 years in prison. His charges were ‘breaking allegiance with the ruler,’ contacting foreign news outlets to harm the reputation of the State & communicating with human rights NGOs.<sup>5</sup>

### OFFICIAL RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- The Anti-Cyber Crime Law<sup>6</sup>, which criminalises the production, storage, or transmission of material that harms ‘public order, religious values, public morals, and privacy’ via ‘information network or computers,’ has been used against HRDs who used social media or created websites to document human rights abuses.<sup>7</sup> Under this law, HRD Waleed Abu Al-Khair was fined 3 million Saudi riyals and given 5 additional years in prison (for a total sentence of 15 years).
- In November 2015, the Saudi cabinet approved a Law of Associations for civil society organisations, which restricts independent CSOs. Associations’ bylaws cannot be inconsistent with Islamic Sharia,

contradict public morals, infringe upon national unity, or contradict Saudi laws and regulation. According to the International Center for Not-for-Profit Law (ICNL) foreign branches cannot be registered in Saudi Arabia. The government gains some control over the internal affairs of associations — which cannot work outside of their area of registration, must provide the Ministry of Labour & Social Development with annual financial statements, meeting notes, and voting records, and require permission to seek foreign funding. Government representatives may also attend internal meetings.<sup>8</sup>

- The new 2017 Penal Law for Crimes of Terrorism and its Financing includes broad definitions of acts of terrorism. According to Human Rights Watch it undermines freedom of expression by considering criticism of the king or the crown prince an act of terrorism. Other qualifying acts include ‘shaking the security of the community and the stability of the State,’ and endangering the State’s ‘national unity.’<sup>9</sup> These definitions have been used previously to detain peaceful activists.
- The 2000 Press and Publications Law limits the right to press freedom and gives the government significant oversight over the press. According to Americans for Democracy and Human Rights in Bahrain (ADHRB), the law requires that media outlets obtain a license to operate, and that published material cannot be in conflict with Sharia rules, or offend Islam or the Saudi government.<sup>10</sup> In June 2017, Saudi Arabia revoked the license of Al-Jazeera.<sup>11</sup>

### ATTACKS ON CIVIL SOCIETY ORGANISATIONS

- ADHRB reports<sup>12</sup> that in 2013 a judge ordered the closure of the Saudi Civil and Political Rights Association (ACPRA) - which focused on the rights of political prisoners - the confiscation of its property, and the removal of its social media accounts. Since 2011, all 11 of ACPRA’s founding members have been targeted by authorities and since Saudi Arabia’s last UPR, two co-founders Issa Al-Hamid and Abdulaziz Al-Shubaily were arrested<sup>13</sup>. Fowzan Mohsen al-Harbi was released June 2014 on the condition that he cease participating in human rights activities, refrain from using social media, and observe a 7-year travel ban<sup>14</sup>, while Sheikh Sulaiman

Al-Rashudi was released in December 2017 at the age of 82 after serving 5 years of a 15-year sentence<sup>15</sup>. The other 6 cofounders were re-sentenced by the terrorism-focused SCC under the 2014 counter-terror law.<sup>16</sup> Cofounders have faced unfair trials, charges of incitement under counterterrorism laws, charges of ‘forming an unlicensed organisation,’ ill-treatment, incommunicado detention, lengthy prison terms & travel bans, and large fines of over 13,000 USD, according to ADHRB<sup>17</sup> and Amnesty International<sup>18</sup>.

- The Union for Human Rights was formed in 2013 but - as an independent human rights NGO - was unable to attain a licence to operate. It was forced to close and in October 2016 founder Mohammad al-Oteibi was charged with forming an unlicensed organisation.<sup>19</sup> He left the country to escape prosecution but was deported from Qatar in May 2017 as he attempted to flee to Norway to seek asylum.<sup>20</sup> In January 2018, al-Oteibi was sentenced to 14 years in prison by the SCC.<sup>21</sup>

#### INTIMIDATION AND REPRISALS FOR ACCESSING INTERNATIONAL AND REGIONAL MECHANISMS

- After speaking at the 27<sup>th</sup> session of the Human Rights Council in Geneva on human rights in Saudi Arabia, HRD Samar Badawi was banned from traveling in December 2014. The travel ban was issued by the Ministry of Interior for an indefinite time period.<sup>22</sup>
- Saudi Arabia is not a party to the International Covenant on Civil and Political Rights.<sup>23</sup> Saudi Arabia was cited in the 2013, 2014, 2015, and 2017 reports on reprisals for cooperation with the UN, its representatives, and mechanisms in the field of human rights.<sup>24</sup> Saudi Arabia has issued no response to these allegations.
- A March 2016 communication to Special Procedures concerned the interrogation of an unnamed woman HRD, questioned regarding her communication with international human rights organisations and UN human rights mechanisms. She was subsequently arrested, and the following day was released without charges. Special procedures noted grave concern over retaliation for her legitimate human rights work, noting that this may constitute a reprisal.<sup>25</sup> Saudi Arabia replied that the allegations were inaccurate and no laws were breached in her detention.<sup>26</sup>

#### HUMAN RIGHTS DEFENDERS FACING PARTICULAR RISKS

- In January 2018, writer Nadhir al-Majed was sentenced to 7 years in prison followed by a 7-year travel ban by the SCC. The charges arose from his peaceful protest of discrimination against the minority Shia community, a subject of Al Majed’s

writing. He was also charged with communicating with human rights NGOs.<sup>27</sup>

- HRD Lujain al-Hathloul has been active in the campaign to end the ban on women driving. She was detained for 73 days for driving from Abu Dhabi to the Saudi border. In June 2017, she was arrested & taken to Riyadh for questioning. No reason for her arrest was made public and she was not given access to a lawyer.<sup>28</sup>
- In October 2014, Suad al-Shammari was arrested in connection to social media comments that criticised religious authorities and called for a women’s right to drive. She was released 3 months later, after being forced to sign a document promising to refrain from her activism. She remains under a travel ban.<sup>29</sup>
- Journalist Alaa Brinji was arrested in May 2014 in response to tweets that criticised the imprisonment of HRDs and supported women’s rights. He was charged with insulting Saudi rulers and inciting public opinion. In March 2016, he was sentenced to 5 years in prison, an 8-year travel ban, and a fine of 50,000 Saudi riyals.<sup>30</sup>
- CIVICUS reports that Saudi authorities continue to target women HRDs working on gender equality, including those involved in the #IAmMyOwnGuardian campaign (against male guardianship). In April 2017 HRD Mariam Al-Otaibi was arrested for being absent from her house. She had previously asked the Saudi government for protection from harassment by her family.<sup>31</sup>
- Naimah Almatrod, an online blogger who monitored and documented violations against HRDs and protestors, was arrested in 2016 and held incommunicado for the first two weeks. She was denied the right to legal representation. In 2017, Almatrod was tried in the SCC, prosecuted under the counter-terror law, and sentenced to six years in prison for her peaceful activism.<sup>32</sup>

#### THE RESPONSE OF THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- The Special Rapporteur on human rights and counter-terrorism, Ben Emmerson, urged Saudi Arabia to stop using counter-terrorism laws against HRDs for exercising their right to freedom of expression, association, and assembly. Emmerson noted that the 2014 counter-terror law does not comply with international standards and contains an overly broad definition of terrorism.<sup>33</sup> An amended version replaced the law in 2017 removing some of the broad language, including ‘insulting the reputation of the State,’ however the definition of terrorism remains vague.<sup>34</sup>

- Since October 2013, the Special Rapporteur on HRDs has sent 19 communications to the Saudi government, 14 have received a reply.
- Saudi Arabia became a Human Rights Council member in 2006 and was elected to the Council for the fifth time in 2016. As a Council member, Saudi Arabia is expected to cooperate fully with international human rights systems. Saudi Arabia has not issued a standing invitation to special

procedures mandate holders; has replied to less than half of communications received by special procedures and has completed 4 of 14 visit requests. The longest outstanding visit request is from the special rapporteur on freedom of expression, issued 2004.<sup>35</sup> In February 2015, Saudi Arabia accepted the visit request of the Special Rapporteur on HRDs; the visit is yet to take place.<sup>36</sup>

#### RECOMMENDATIONS TO THE GOVERNMENT OF SAUDI ARABIA:

- Refrain from criminalising the legitimate activities of HRDs and repeal all laws and policies that restrict their activities and rights, including the 2007 Anti-Cyber Crime Law, the 2015 Law of Associations, the 2017 Penal Law for Crimes of Terrorism and its Financing, and the 2000 Press and Publications Law.
- Ensure that the application of national legislation designed to guarantee public safety and public order does not discriminate against HRDs particularly in their exercise of the rights to freedom of expression, association, and peaceful assembly.
- Desist from restricting or criminalising the work of HRDs and immediately and unconditionally release all HRDs detained in association with the exercise of their rights to freedom of expression, association or peaceful assembly.
- Demonstrate strong, high-level political support for HRDs through public statements by State officials, which raise awareness about, recognise, and support their vital and legitimate work.
- Enact laws and policies that give full force and effect to the UN Declaration on Human Rights Defenders, safeguard the right to safe and unhindered access to international human rights mechanisms, and prohibit acts of intimidation and reprisals against HRDs who engage with the UN and regional human rights systems.
- Publicly affirm the legitimate role of women HRDs and those working on women's rights. Protect them from violations by State and non-State actors by acknowledging such violations and implementing security measures.
- Issue a standing invitation to the Special Procedures of the Human Rights Council, as well as relevant regional mandate holders, and specifically invite and facilitate visits from the UN Special Rapporteur on the Situation of HRDs, the UN Special Rapporteur on Freedom of Opinion and Expression and the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.

#### ABOUT THIS BRIEFING PAPER

ISHR, the Gulf Center for Human Rights and Americans for Democracy & Human Rights in Bahrain encourage States to consult UPR submissions by local activists and make recommendations to Saudi Arabia regarding the protections of HRDs. This paper is a result of compiling public information and direct contact and experience in the protection of HRDs. Readers should consult sources provided for additional information.

<sup>1</sup> Gulf Center for Human Rights, 'Special Report: Torture in Saudi Arabia,' <http://bit.ly/2G9XeFx>

<sup>2</sup> CIVICUS, 'Saudi authorities execute four men for participating in protests,' <http://bit.ly/2FUIVpz>

<sup>3</sup> Amnesty International, 'Fourteen men at imminent risk of beheading as Saudi Arabia continues bloody execution spree,' <http://bit.ly/2uTUvtO>

<sup>4</sup> The Guardian, 'Saudi blogger receives first 50 lashes of sentence for insulting Islam,' <http://bit.ly/2pqu8aC>

<sup>5</sup> Human Rights Watch, 'Saudi Arabia: Protest Convictions Flawed, Unfair,' <http://bit.ly/2IBQD57>

<sup>6</sup> Communications and Information Technology Commission, 'The Anti-Cyber Crime Law,' <http://bit.ly/2ovxLuB>

<sup>7</sup> Freedom House, 'Freedom on the Net 2017,' <http://bit.ly/2HJ0NzF>

<sup>8</sup> ICNL, 'Civic Freedom Monitor: Saudi Arabia,' <http://bit.ly/1O3HmRh>

<sup>9</sup> Human Rights Watch, 'Saudi Arabia: New Counterterrorism Law Enables Abuse,' <http://bit.ly/2A1XXVR>

<sup>10</sup> ADHRB, 'Mapping the Saudi State, Chapter 4: Media Censorship' <http://bit.ly/2lDwvzu>

<sup>11</sup> Committee to Protect Journalists, 'Saudi Arabia orders Al-Jazeera bureau closed,' <http://bit.ly/2GIHC9Y>

<sup>12</sup> ADHRB, 'Roads to Reform: The Enduring Work of the Saudi Association for Civil and Political Rights,' <http://bit.ly/2ptSMY3>

<sup>13</sup> Reuters, 'Saudi Arabia arrests two rights campaigners: Amnesty International,' <http://reut.rs/2GKZ4L6>

<sup>14</sup> Front Line Defenders, 'Fowzan Al-Harbi,' <http://bit.ly/2ppYTwo>

<sup>15</sup> Gulf Center for Human Rights, 'Saudi Arabia: Prominent human rights defender Sulaiman Al-Rashudi released,' <http://bit.ly/2DG5AZh>

<sup>16</sup> Amnesty International, 'Saudi Arabia: UN expert working group highlights appalling record on unlawful detention of peaceful activists,' <http://bit.ly/1Lx6GtB>

<sup>17</sup> ADHRB, 'ADHRB submits written statement on Saudi Arabia to the HRC,' <http://bit.ly/2ptT6Gf>

<sup>18</sup> Amnesty International, 'Saudi Arabia's ACPRA: How the kingdom silences its human rights activists,' <http://bit.ly/2GIYbTd>

<sup>19</sup> Human Rights Watch, 'Saudi Arabia: Prosecution for Forming Human Rights Group,' <http://bit.ly/2gcA7yb>

<sup>20</sup> Reuters, 'Qatar departs Saudi asylum-seeker to Saudi Arabia: Amnesty,' <http://reut.rs/2FLN7rg>

<sup>21</sup> Gulf Center for Human Rights, 'Saudi Arabia: Authorities continue systematic targeting of human rights defenders,' <http://bit.ly/2FNzSpl>

<sup>22</sup> Gulf Center for Human Rights, 'Saudi Arabia: Human rights defender Samar Badawi banned from travel prior to EU meeting,' <http://bit.ly/2HJroMQ>

<sup>23</sup> Your HRC, 'Saudi Arabia,' <http://bit.ly/2GK9hXZ>

<sup>24</sup> OHCHR, 'Reporting mandate of the Secretary-General on intimidation and reprisals for cooperation with the UN in the field of human rights,' <http://bit.ly/2G6UrwM>

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<sup>25</sup>‘Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders,’ <http://bit.ly/2FVQLe7>

<sup>26</sup> ‘Permanent Mission of the Kingdom of Saudi Arabia to the United Nations,’ <http://bit.ly/2IE5PyE>

<sup>27</sup> Human Rights Watch, ‘Saudi Arabia: Intensified Repression of Writers, Activists,’ <http://bit.ly/2jUCibt>

<sup>28</sup> Independent, ‘Saudi Arabia jails human rights activist who defied women’s driving ban,’ <https://ind.pn/2r2rBH5>

<sup>29</sup> Human Rights Watch, ‘Suad al-Shammari,’ <http://bit.ly/2DFicad>

<sup>30</sup> Amnesty International, ‘Saudi Arabia: Journalist sentenced to five years in prison for tweets latest victim of crackdown,’ <http://bit.ly/1SkXj6x>

<sup>31</sup> CIVICUS, ‘#IAmMyOwnGuardian activists detained and harassed for defending women’s rights,’ <http://bit.ly/2FO5vzP>

<sup>32</sup> ESOHR, ‘Naimah Almatrod: Saudi Arabia uses counter-terror law to unfairly sentence human rights defender to six years in prison for her peaceful activism,’ <http://bit.ly/2CGzaVn>

<sup>33</sup> OHCHR, ‘Saudi Arabia must reform counter-terror law and free peaceful critics, says UN rights expert,’ <http://bit.ly/2ggFHnx>

<sup>34</sup> Human Rights Watch, ‘Saudi Arabia New Counterterrorism Law Enables Abuse,’ <http://bit.ly/2A1XXVR>

<sup>35</sup> Your HRC, ‘Saudi Arabia,’ <http://yourhrc.org/country-detail/?country=saudi-arabia>

<sup>36</sup> OHCHR, <http://bit.ly/2HMUUBo>