



# HUMAN RIGHTS COUNCIL ELECTIONS

## 2021 CANDIDATE

## SAUDI ARABIA

**Status** - Seeking Election

**Previous Terms** - 2007-09, 2010-12, 2014-16, 2017-19

### **Key measures Saudi Arabia should commit to implement as a Human Rights Council member**

A letter with the following were sent to the UN Missions of Saudi Arabia in New York and Geneva, on behalf of: ALQST for Human Rights, Americans for Democracy & Human Rights in Bahrain (ADHRB), Amnesty International, CIVICUS:World Alliance for Citizen Participation, European Saudi Organization for Human Rights, European Centre for Democracy and Human Rights (ECDHR), Gulf Centre for Human Rights (GCHR); International Service for Human Rights; MENA Rights Group; Migrant-Rights.org; Women's March Global.

### **Human rights defenders and civic space:**

Human rights defenders, journalists and prisoners of conscience are detained for exercising their rights to freedom of expression, peaceful assembly and association, and for engaging with the UN human rights mechanisms. Some of them – including women's rights defenders and activists - have been subjected to severe acts of torture and ill-treatment as detailed in numerous reports, and perpetrators have not been held accountable. We urge Saudi Arabia to:

- Immediately release all those detained for exercising their rights, including, but not limited to, the individuals named in this letter (see annex II), to drop all charges against them, provide them with remedy in line with international standards, and hold perpetrators accountable.

### **Saudi Arabia-led Coalition in the context of the Yemen conflict:**

The Group of International and Regional Eminent Experts on Yemen have [found](#) that the governments of Yemen, the United Arab Emirates and Saudi Arabia, as well as the Houthis and affiliated popular committees, have enjoyed a "pervasive lack of accountability" for violations of international humanitarian and human rights law. We call on Saudi Arabia to:

- Heed the call by the UN Security Council on "all parties to armed conflicts to engage immediately in a durable humanitarian pause for at least 90 consecutive days, in order to enable the safe, unhindered and sustained delivery of humanitarian assistance, provisions of related services by impartial humanitarian actors and medical evacuations."
- Fully comply with the relevant provisions of international humanitarian law in the planning and execution of any military operations. They must ensure that civilians and civilian objects are not targeted, and take necessary precautions to distinguish between civilians and combatants and between civilian objects and military objectives and end indiscriminate and disproportionate attacks;
- Allow full and unfettered access to organisations providing humanitarian aid and essential services;

- Ensure that prompt and full reparation is provided to victims and families of victims of unlawful attacks which resulted in human or material damage.

### **Death penalty:**

On 26 April, the Kingdom's Human Rights Commission announced, by royal decree, reforms of the criminal justice system which curb the death penalty for some child offenders. However, the decree which has still not been officially published, contains notable exceptions which empties the reform of its substance. First, it only appears to protect child defendants sentenced to death under ta'zir (i.e. at the discretion of the judge). Citing the Juveniles Law of 2018, it therefore excludes death sentences for other categories of offences known as hudud (i.e. fixed punishments for specific crimes prescribed under the country's interpretation of Islamic law) and qisas (i.e. retributive justice – usually for murder). Furthermore, according to the published text, the latest royal decree also excludes those convicted for ta'zir under the counter-terrorism law, a law that has significant shortcomings, and criminalises acts of peaceful expression. As such, minors can still be executed under these three counts. Finally, even for those cases the royal decree appears to cover, no death sentences have yet been commuted. We call on Saudi Arabia to:

- Commute the sentences of Ali al-Nimr, Dawood al-Marhoon, Abdullah al-Zaher, and one other, who all have received ta'zir death sentences or final death sentences and could be executed at any time;
- Withdraw the request for death penalty in the trials of Mohammed al-Faraj and eight other facing death sentences for crimes committed as minors;
- Issue a public commitment to never demand the death penalty in any form whatsoever against a person for any crime they are alleged to have committed as a minor;
- Abolish the death penalty for drug offences in law and commute the death sentences of all those convicted of drug offences in line with the retrospective application of this law;
- Ratify all outstanding human rights treaties and their individual complaints mechanisms.

### **Male guardianship system:**

Women human rights defenders have long fought for their rights to seek equality in their country. On 2 August 2019, the Saudi government issued amendments to the male guardianship system published. This amendment allows women to obtain passports and travel abroad without permission of their male guardians, grant women the right to register marriages, divorces, births and deaths, to obtain family records and benefit from new protections against employment discrimination.

However, the male guardianship system has not been dismantled, but instead continues to negatively affect all aspects of women's lives, severely restricting their fundamental liberties. Women cannot freely decide about their education, employment, health or who they want to marry. In addition, Saudi women cannot pass their nationality on to their children and, in the absence of laws to protect women from domestic violence, many remain trapped in abusive relationships.

Furthermore, many of the women who have strived in parallel to end the male guardianship system and patriarchal laws for years or decades were arrested in a wide scale crackdown in 2018 prior to lifting the driving ban by Saudi Arabia. Around two dozen of those women and their supporters remain in prison, and others who were freed abide to the threat of being detained again.

We call on Saudi Arabia to fully dismantle the male guardianship system in law and practice which considers women as 'legal minors', including by moving quickly to:

- Amend policies that restrict women's access to jobs, accommodation, educational opportunities, marriage, divorce, and health care, and their ability to pass on citizenship to their children, without permission from a male guardian;
- Amend policies to allow release of women and girls from prison or shelters where they have sought protec-

tion from domestic abuse or violence without approval of their male guardians;

- Remove male guardians ability to “recall” women and girls back to their homes by filing a report of ‘uquq’ (the charge of ‘disobedience to parents’) or taghayub (absence);
- Cooperate, in good faith, with Saudi women human rights defenders to monitor and assess the implementation of these reforms.

### **Accountability for the extrajudicial killing of Jamal Khashoggi:**

The UN Special Rapporteur on extrajudicial executions has [found](#) the State of Saudi Arabia responsible for the murder of Saudi journalist Jamal Khashoggi and [concluded](#) that the trial of alleged perpetrators in Saudi Arabia was “anything but justice”. Those responsible for ordering his murder must be held accountable, in addition to those who executed him. We call on the Saudi government:

Take meaningful steps towards accountability for the murder of Jamal Khashoggi, by accepting an independent international criminal investigation in to his murder:

### **Migrants workers’ rights:**

- Migrant domestic workers, who number at least 3.6 million, endure excessive working hours without a break, are isolated, and are victims of wage theft. Domestic workers are not covered by the labour law, and encounter obstacles to accessing justice including linguistic, racial, gender and nationality discrimination. Migrant workers, especially domestic workers, are subject to losing their legal status in the country at no fault of their own. Sponsors can file absconding charges without evidence, which immediately renders these workers’ visas irregular. Irregular workers are subject to unfair trials and indefinite detention. We urge Saudi Arabia to fully incorporate domestic workers under the labour law, implement adequate enforcement mechanisms, facilitate their access to the justice system, enable workers to freely move between sponsors and leave the country at will without permission from their employer.
- Labour Courts and Ministry of Human Resources Offices should provide a welcoming, secure and culturally-appropriate environment for victims of labour abuse, especially for women. They should be equipped with translation and public defence services for those who cannot afford it. We call on Saudi Arabia to publish statistics regarding labour dispute cases, disaggregated by nationality, gender, type of work, verdict and other indicators.
- Female migrant workers are particularly vulnerable to unfair and disproportionate prosecution under Zina rules that criminalise sex outside of marriage. Zina rules are not codified and are arbitrary, falling under the complete jurisdiction of judges. Zina rules are often used to silence victims of labour and sexual abuse and can result in indefinite detention, including victims of rape. We urge Saudi Arabia to issue a moratorium on punishments under Zina rules until a penal code is codified and immediately release individuals detained under these rules.
- Millions of migrant workers are vulnerable to forced labour because of the Kafala system, which ties workers’ employment and legal residency to an individual sponsor. Workers require permission to change jobs and leave the country, making it difficult to challenge or leave abusive employment conditions. The UN Special Rapporteur on poverty has [noted](#) that women in particular are at the mercy of the employer’s own preferences and her guardian’s goodwill. He also stressed that the Government has the responsibility to provide for a legal framework that guarantees the full respect for migrants’ human rights and ensures accountability for violations. The High Commissioner after Saudi Arabia’s last UPR had also [reiterated](#) this and called for a review of the sponsorship system, in keeping with international standards. We urge Saudi Arabia to delink migrant workers from the control of a single sponsor, and abolish the Kafala system and allow for greater employment mobility for migrant workers. Workers’ resident visa status should be linked to the State, and only the work permit should be linked to the employer.
- All migrant workers require an exit visa, permission from their employer in the form of a no-objection certificate, in order to leave the country. This lends employers undue control over workers movements and can leave workers stranded in the country for years. We urge Saudi Arabia, which is the last country in the Gulf

Cooperation Council to require exit visas, to abolish this requirement and ensure all migrants enjoy freedom of movement.

- Despite modest reforms in recruitment processes, the migrant domestic labour market is rife with recruitment-related abuses. Saudi Arabia should engage with recruitment offices in the country, raise their capacity to detect and identify trafficking victims, ensure they have ethical recruitment processes and discipline any violation in this regard. Saudi Arabia should enforce its Trafficking in Persons law and amend it with a clause that explicitly criminalises forced confinement. Few cases of trafficking in persons are investigated every year despite evidence of a large number of violations of the Trafficking in Persons Law. Saudi Arabia should enhance the capacity of its labour inspectors, judiciary and law enforcement personnel to detect and identify victims of trafficking, facilitate their access to justice and redress and investigate and persecute perpetrators of human trafficking.
- Shepherds, agricultural workers work, and fishermen under gruelling conditions in remote areas of the country, and all are excluded from the labour law. These workers report forced labour, forced confinement, overwork, wage theft, unsafe working and living conditions, among other labour rights violations. We urge Saudi Arabia to fully incorporate all such workers into the labour law and ensure enforcement throughout the country.
- Saudi's Labour and Residency Laws are strict and discriminatory, with protection gaps that render migrant workers in an irregular status at no fault of their own. Migrant detention centres suffer from overcrowding, lack of hygiene, and basic essentials. Saudi Arabia should investigate and close these loopholes, provide a path for workers to regularise their status, and ensure detained migrants receive safe and fair trials. The Saudi government must not only improve the conditions of detention centres, but actively seek alternatives to the massive and aggressive administrative detention system.

### **Legal framework and due process guarantees**

The absence of a criminal code renders prosecution inherently arbitrary as prosecutors can qualify crimes on a discretionary basis. Moreover, despite the amendment made to the Code of Criminal Procedure in 2013, the latter does not uphold fundamental legal safeguards and, for example, allows security forces to hold criminal suspects in custody for up to six months without judicial review and in incommunicado detention for up to 60 days. Furthermore, broad and vague legal provisions including the Anti-Terrorism law and the Cybercrime Law, criminalise peaceful human rights activism and criticism. We urge Saudi Arabia to:

- Issue a Criminal Code to comply with the principle of *lex certa*
- Amend its Code of Criminal Procedure to put it in line with international due process and fair trial standards.
- Amend Anti-Terrorism law and the Cybercrime Law to put it in line with international due process and fair trial standards.

Finally we urge Saudi Arabia to fully implement all the UPR recommendations and provide a mid-term report on the actions taken.

## Annex II

### Women and human rights defenders (W/HRDs)

1. Abdulaziz Al Shubaily
2. Abdulaziz Al Sunaidi
3. Abdulkarim Al Khodr
4. Abdullah Al Maliki
5. Abdullah Duhailan
6. Abdulrahman Al Hamid
7. Anas Al Mazrou
8. Ayman Al Drees
9. Essa Al Nukheifi
10. Essam Koshak
11. Fadhel Al Manasef
12. Fahad Al Fahad
13. Fawzan Al Harbi
14. Issa Al Hamid
15. Khaled Al Omair
16. Loujain Al Hathloul
17. Mayaa Al Zahrani
18. Mohammad Al Bajadi
19. Mohammed Fahad Al Qahtani
20. Mohammed Al Otaibi
21. Mohammed Al Rabiah
22. Mohammad Al Mohaimeed
23. Mubarak Zuair
24. Nassima Al Sadah
25. Nouf Abdulaziz
26. Salah Haidar
27. Samar Badawi
28. Waleed Abu Al Khair
29. Yassar Al Ayyaf

### Prisoners of Conscience (PoCs)

1. Abdelrahman Farhaneh, Jordanian journalist based in Saudi Arabia
2. Abdulaziz Al Mesh'al, business men
3. Abdulaziz Al Odah, blogger
4. Abdullah Shehri, lawyer
5. Abdulrahman Al Sadhan, humanitarian aid worker
6. Adel Banaemah, preacher, author, 4Shabab TV presenter
7. Ahmad Al Sowayan, president of the Islamic Press Association
8. Aida Al Ghamdi, (mother of Abdullah Al Ghamdi)
9. Alaa Brinji, journalist
10. Al-Abbas Al Maliki (son of Hassan Al Maliki)
11. Ali Al Omari, preacher, author, 4Shabab TV presenter
12. Ali Al Saffar, writer
13. Anas Al Mazrou, academic
14. Ashraf Fayadh poet
15. Awadh Al Qarni, cleric
16. Bader Al Ibrahim, doctor, writer and journalist

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