

Joint NGO submission on Saudi Arabia's UPR mid-term reporting

A report by
ALQST for Human Rights
The Gulf Centre for Human Rights (GCHR)
The Martin Ennals Foundation

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Joint NGO submission in connection with Saudi Arabia's mid-term reporting on the implementation of the 2018 UPR recommendations

The authors of this report are the following organisations: ALQST for Human Rights, the Gulf Centre for Human Rights and the Martin Ennals Foundation.



ALQST for Human Rights

is an independent NGO founded in 2014 with the purpose of defending and promoting human rights in Saudi Arabia. 'Al-qist' means 'justice' in Arabic, and a passion for justice lies at the heart of all our work. It conducts on-the-ground research, engages in international legal and public advocacy, and campaigns on behalf of victims of human rights abuses.



The Martin Ennals Foundation

is an independent NGO that manages the Martin Ennals Award for Human Rights Defenders. The Award honors individuals and organisations that have shown exceptional commitment to defending and promoting human rights, despite the risks involved. It strives to provide them with protection, raising their public profile and amplifying their advocacy actions.



The Gulf Centre for Human Rights (GCHR)

is an independent CSO that works to provide support and protection to human rights defenders (HRDs), including independent journalists, bloggers and lawyers in the Gulf region and neighbouring countries, by promoting the freedoms of association, peaceful assembly and expression.

Introductory concerns

The Universal Periodic Review (UPR) of Saudi Arabia in 2018 has been followed both by high profile violations as well as an ongoing approach to systematically prevent any improvements. A review of the changes that have been made have shown them to be largely cosmetic. Where changes to the law have been made, they have been cancelled out by other new or existing provisions or practices.

Furthermore, there are particular concerns over the broad use of vague or ill-defined legislation, including the Counter-Terrorism and Cybercrime laws to penalise freedom of speech, particularly when it comes to challenging the political authorities. Human rights defenders and other activists have been widely targeted by the authorities and the judicial system as noted in the many examples provided below.



1. Ratification of International Treaties

Recommendations 122.3; 122.5; 122.7; 122.8 & 122.10



Findings:

Despite the country's pledges to ratify the ICCPR (Recommendation 122.3) and the ICESCR (Recommendation 122.5), no progress has been made on its implementation to this date. In light of the systematic use of incommunicado detention outlined below, we note with particular concern that the recommendation to ratify the ICCPED (122.7) was not accepted. While the recommendation (122.8) to accede to the ICRMW was not accepted, the recommendation to consider it was (122.10). To date there has been no indication of any such consideration.

2. Male guardianship system

Recommendations 122.202 – 122.219



Findings:

All recommendations from 122.202-122.219 include language to abolish the male guardianship system in some capacity. Language varies from the more vague “make progress, continue to introduce steps, move towards, build up efforts” to the more definitive “abolish (completely), eradicate, eliminate.”

While the Saudi authorities introduced a number of superficial reforms to improve the situation for women and their rights, they in fact left in place a system of control by men over women.

Although Saudi Arabia approved Recommendations 122.217 and 122.218 which indicated to “combat all forms of violence [...] against women” and “enact new laws and enforce existing laws to protect women and girls against violence”, women and girls are still vulnerable and unprotected in the face of violence. While the Saudi authorities have passed laws that criminalise gender-based violence, they are rarely implemented. The court system is controlled by male judges who often justify their judgements by reference to the strict Hanbali school of Islamic jurisprudence, which in many cases works to the detriment of

women. Moreover, at a court, a woman's testimony is worth only half that of a man, making it virtually impossible for women to win cases of domestic abuse or rape, while marital rape is not considered a crime. On the whole, women have little protection when violence is committed by their partners or family members.

Royal Decree M/134 issued in July 2019 allowed Saudi women for the first time to apply for their own passports and travel without needing permission from their male guardians. Some other changes included Saudi mothers having the possibility to be the legal guardians of their children. However, Saudi women still cannot pass their nationality on to their children as per Recommendation 122.207. Moreover, despite some reform, "disobedience" by women towards their male guardian remains a crime, ultimately rendering these new privileges null and void. Excluded from Royal Decree M/134 were any reforms hinting at greater female social and economic empowerment, as per Recommendation 122.202. Indeed, women cannot freely decide on their education, employment, health or who they want to marry. The World Bank's Global Gender Gap Index further corroborated this by ranking Saudi Arabia 143 out of 153 countries, losing 33 spots in the category "Economic Participation and Opportunity" since 2006. Women are also still subject to a dress code, with many women being reprimanded for not dressing in a manner compatible with public decency regulations, while it remains unclear what "public decency" constitutes.

Hence, we would like to reiterate the Concluding Observations from the UN Committee on the Elimination of Discrimination against Women (CEDAW) on its review of Saudi Arabia in 2018 to call on the government to repeal discriminatory laws in the Kingdom's legislation, "in particular the legal provisions relating to personal status, the Civil Status Code, the Labour Code, the Nationality Act and the system of male guardianship, which subjects women's enjoyment of most of their rights under the Convention to the authorization of a male guardian"¹.

¹ CEDAW Committee. Concluding observations on the combined third and fourth periodic reports of Saudi Arabia, March 2018.

3. Violations to the rights to freedom of expression, peaceful assembly and association

Recommendations 122.90 - 122.93; 122.42 -122.148; 122.51 - 122.153; 122.155; 122.156; 122.58; 122.160; 122.162 & 122.164



Findings:

Contrary to Recommendation 122.144, Saudi Arabia has neither strengthened nor supported civil society institutions or their independence. The 2015 Law on Associations and Foundations lays down vaguely worded grounds for denying registration to civil society organisations, including “violating Islamic Sharia”, “acting contrary to public morals” and “breaching national unity”. The Law severely restricts the formation of fully independent civil society organisations and impedes political and human rights organisations from registering. Human rights groups critical of the authorities have been systematically denied authorisation, whereupon their members have been prosecuted and detained for “establishing an unlicensed organisation”.

Despite Recommendation 122.143 asking to “ensure a safe and enabling environment for all human rights defenders”, the wave of women’s rights defenders’ arrest in 2018 paints a

much different reality. On 15 May 2018, the Saudi authorities launched a campaign of arrests of women human rights defenders as well as several men who advocated for women's rights. This crackdown on activists was unprecedented in its ferocity. It was also the first time the authorities had targeted women activists en masse, arbitrarily detaining Loujain al-Hathloul, Aziza al-Yousef and Eman al-Nafjan, as well as Mohammed al-Rabiah, in coordinated late-night raids on their homes. Further arrests followed between May and July 2018, targeting Hatoon al-Fassi, Amal al-Harbi, Maysaa al-Manea, Ruqiya al-Muhareb, Abeer Namankani, Shadan al-Onezi, Nouf Abdulaziz, Mayaa al-Zahrani, Nassima al-Sadah and Samar Badawi. The arrests occurred in the weeks just before and after the lifting on 24 June 2018 of the driving ban on women in Saudi Arabia. While on the one hand recognising women's long-denied right to drive, the authorities on the other hand took away the basic freedoms of the courageous women who had campaigned for gender equality and an end to the male guardianship system. These women had in fact been at the forefront of the women's rights movement in Saudi Arabia for many years, not only campaigning for the right to drive but also demanding full citizenship, and above all equality and respect for women in a country that treated them as minors reliant on a male guardian to manage their lives.

Following the postponement by Saudi Arabia's Supreme Judicial Council of court hearings from 15 March 2020, in light of the COVID-19 outbreak, the courts reopened in August. Several prisoners of conscience have been handed lengthy prison sentences since. On 3 September 2020, the SCC issued prison sentences against several detainees held arbitrarily since September 2017. Writer Abdullah al-Maliki was sentenced to seven years in prison on charges related to his cultural activities, such as "possession of banned books", and other charges including defending members of civil rights group ACPRA. On the same day, the court sentenced Ibrahim al-Harhi to five years, writer Ahmad al-Sawian to three years, academic Yousef al-Qassim to five years, Khaled al-Ojaimi to three years and eight months and journalist Fahad al-Sunaidi to three and a half years on charges relating to free speech.

Several prisoners of conscience were also handed prison sentences in early 2021, showing the Saudi authorities' unrelenting crackdown on peaceful activism. On 10 February, the SCC sentenced six activists, including Israa al-Ghomgham, for whom the Public Prosecutor originally demanded the death penalty, to lengthy prison terms between eight and 17 years on charges relating to their peaceful civil activities. On 22 March, the sentence of five years in prison, followed by a five-year travel ban, handed down in November 2020 against women human rights defender Nassima al-Sadah in relation to her peaceful activism, was upheld on appeal. In March, human rights defender Mohamed al-Oteibi, who had already been sentenced in 2018 to 14 years imprisonment for "forming an unlicensed [human rights] organisation", received an additional three-year sentence on appeal on charges of "fleeing justice", "going to Qatar", "communicating with foreign entities" and "interfering in public affairs", resulting in a 17-year prison term in total. On 5 April 2021, the SCC sentenced humanitarian worker

Abdulrahman al-Sadhan to 20 years in prison, to be followed by a travel ban of the same length, on charges relating to his peaceful online activism. On 20 April, the SCC sentenced human rights defender Mohammed al-Rabiah to six years in prison and a travel ban of the same length on charges relating to his peaceful activism and defence of women's rights. And on 25 April 2021, human rights defender Khaled al-Omair was sentenced by the SCC to seven years in prison and a travel ban of the same length on charges that included launching a hashtag on Twitter that read "the people want a new constitution".

While some women human rights defenders were temporarily released like Aziza al-Youssef or released on probation like Loujain al-Hathloul, it is important to note that they are not free. In fact, despite no longer residing inside a detention centre, they continue to face harsh restrictions, including travel bans and tight surveillance. This is also the case for leading human rights defender Samar Badawi, who campaigned for the abolition of the male guardianship system and the ban on women driving, and who was released on probation on 27 June 2021. In 2011, she was among the first to bring a lawsuit demanding that women be allowed to vote and stand as candidates in municipal elections. On 30 July 2018 Badawi was arrested and charged under the Anti-Cybercrime Law with "engaging in unlicensed human rights activism" and "communicating with foreign entities". During her interrogation she was subjected to beatings, sexual assault, and placed in solitary confinement for prolonged periods of time. She was also subjected to severe psychological torture by the interrogators.

Many human rights violations have been enabled by vague legislation that fail to be in line with international standards. Hence, Recommendation 122.148 which requests to "*revise all legislation that restricts the right to freedom of association and peaceful assembly as well as freedom of expression, and ensure these laws are in line with international standards*" has not been implemented.

3.1 Use of Counter-Terrorism and Anti-Cyber Crime Laws

On 1 November 2017, the Law on Combating Crimes of Terrorism and its Financing (the Counter-Terrorism Law) came into force, replacing the already repressive 2014 Counter-Terrorism Law. The new law defines terrorism in vague terms and does not require the use of violence in order to characterise an act as terrorist; in fact, it categorises a wide array of non-violent acts as terrorist, including "disturbing public order", "undermining public security" and "destabilising the state or endangering its national unity". The law also punishes anyone who "directly or indirectly" describes the King or the Crown Prince as "in any way harming religion or justice" with five to 10 years in prison. This law is used to criminalise acts that fall under the rights to freedom of opinion, expression, peaceful assembly and association. Another problematic legislation is the 2007 Anti-Cybercrime Law, which built a new framework to suppress free speech online. The vague provisions of the law are frequently

used to charge and try individuals for expressing their opinions in online publications or on social media. Article 6 of the Anti-Cybercrime Law criminalises “the production, preparation, transmission or storage of material that harms public order, religious values, public morals and privacy via an information network” with up to five years in prison and fines of up to three million Saudi riyals (US\$800,000). On these accounts, Recommendation 122.142 has not been successfully implemented.

4. Judicial system and violations to fair trial guarantees

Recommendations 122.117; 122.180; 122.188 & 122.191



Findings:

The Kingdom of Saudi Arabia still needs to undergo extensive judicial reforms if it hopes to properly abide by the recommendations it has accepted. Saudi Arabia has failed to implement Recommendation 122.180 “*ensure the necessary independence of the judiciary*” as its judicial system is overwhelmingly controlled by the executive. Judges are appointed and discharged by Royal Decree, based on a proposal of the Supreme Judicial Council and it is the King who appoints the heads of the Supreme Judicial Council and of the Supreme Court. Likewise, although Recommendation 122.117 acknowledged the need to “*ensure proper legal process*”, judicial proceedings in Saudi Arabia continue to be marred by numerous violations of international fair trial guarantees, including the denial of access to lawyers and court documents, undue delays, and the use of secret trials. Both regular criminal courts and the Specialised Criminal Court (SCC) - an exceptional jurisdiction initially set up in 2008 to try cases of terrorism, but increasingly used to prosecute peaceful dissidents - are well known for their disregard of legal safeguards.

The trial of Loujain al-Hathloul highlights the gross judicial flaws of the Saudi court system. On 25 November 2020, after months of delays and prolonged detention without her trial

proceeding, al-Hathloul's case was transferred to the Specialised Criminal Court (SCC) after the Criminal Court concluded that it was "outside its jurisdiction". During the first session of her trial to take place in the SCC on 14 December, the Public Prosecution presented an amended indictment against her, to which several changes had been made without al-Hathloul or her legal representatives being informed. The nature of the charges she faced were all based solely on her human rights activism.

Secret and indefinite detention are still widespread human rights violations, despite Recommendation 122.117. Customary international law entitles people held in custody to, promptly after their arrest, be permitted to notify a third person that they have been detained and where they are being held. Accordingly, detainees have the right to prompt access to families, lawyers, doctors, a judicial official and, if the detainee is a foreign national, to consular staff or a competent international organisation. In clear breach of customary international law, the Saudi authorities commonly place arrested individuals in incommunicado detention, whereby they are denied any contact with the outside world. In fact, the majority of people who are taken into custody undergo periods of incommunicado detention ranging from several days to many months or even years. Incommunicado detention is further facilitated by dispositions such as article 119 of the Code of Criminal Procedures (CCP), which provides that "the investigator shall be entitled to stop the accused from communicating with any other accused or detainee, and to stop any visit to such accused for a period not exceeding sixty days whenever that is deemed necessary, without prejudice to the right of the accused to communicate with his representative or attorney." Therefore, security forces are authorised to hold suspects in incommunicado detention for up to 60 days.

Even more concerning in this regard are the provisions of Saudi Arabia's Counter-Terrorism Law, with articles 19 and 20 of the law granting the SCC the power to extend the period of custody – including incommunicado detention – indefinitely. Despite the provisions of article 37 of the CCP stating that "no person may be detained or imprisoned except in places legally designated for such purpose," recent waves of arrests ordered by Mohammed bin Salman have shown that many individuals have been held in unofficial places of detention known as "guest house" or "hotel" in the case of the WHRDs, the Ritz Carlton Hotel in Riyadh in the case of several members of the royal family and business moguls, and in heavily guarded villas where other high-profile prisoners remain detained to this day.

Two cases can be used in particular to reveal the blatant disregard for recommendations concerning the judicial system: those of Abdulrahman Al Sadhan and Salman al-Odah. Al Sadhan, a Saudi humanitarian worker, was arrested in 2018 and was held incommunicado for nearly two years, during which his family was unaware of his whereabouts or if he was even alive (Recommendation 122.117 "*prevent secret and indefinite detention*"). Furthermore,

Al Sadhan was only able to meet his court-appointed lawyer 40 minutes before his trial and on multiple occasions his lawyer was not informed of a hearing and was unable to attend to defend his client (Recommendation 122.188 “right to access a lawyer”). During his detention, Al Sadhan has been subjected to torture and sexual harassment, including electrical shocks, beatings, flogging, suspension in stress-positions, solitary confinement, and verbal abuse. He went on a hunger strike at least twice to protest against his detention conditions, but was force-fed by prison authorities (Recommendation 122.116).

The case of Salman al-Odah, a prominent Saudi scholar, can also be used to show that various accepted recommendations have not been implemented. From his initial arrest in September 2017 until July 2018, al-Odah was kept in solitary confinement without charge or trial (Recommendation 122.117 “*proper legal process*”) where he experienced severe mistreatment, including sleep deprivation, repeat interrogation, and the withholding of necessary medication (Recommendation 122.116 “prevent torture and cruel treatment in prisons”). In January 2018, al-Odah was briefly hospitalised as a result of his deteriorating health. Throughout his detention, al-Odah has been denied regular contact with his family and access to a lawyer (Recommendation 122.188 “*access to lawyer*”). Additionally, observers have been denied access to all court hearings (Recommendation 122.191 “*allow diplomats to attend trials and all court sessions*”).

5. Torture and the death penalty

Recommendations 122.107; 122.116 & 122.185



Findings:

The use of torture and ill-treatment contribute to Saudi Arabia's poor human rights record. A systematic and widespread practice in Saudi Arabia, torture is used both during interrogation to extract confessions and as a form of punishment during detention². Methods of torture and ill-treatment include beating, flogging, electric shocks, sleep deprivation, exposure to extreme temperatures and stress positions, incommunicado and prolonged solitary detention, sexual assault and threats of raping or killing victims' relatives. In spite of reports by detainees indicating that they have informed courts of the acts of torture which they have endured, investigations are rarely conducted into such allegations, and coerced confessions are routinely admitted as evidence against the accused (Recommendation 122.185 "*establish a reliable complaint mechanism*").

There are several forces responsible for acts of torture including the Bureau of Investigation and Public Prosecution; the General Intelligence or al-Mabahith; as well as most recently a special squad associated with MBS. In its Concluding Observations on the second periodic report of Saudi Arabia, the UN Committee against Torture (CAT) expressed deep concern "at the numerous reports brought to its attention that torture and other ill-treatment are

² ALQST for Human Rights and Gulf Centre for Human Rights, Torture In Saudi Arabia - Impunity Reigns, 2021, <https://www.alqst.org/uploads/Torture-in-Saudi-Arabia-Impunity-Reigns-En.pdf>

commonly practised in prisons and detention centres in the State party, in particular in branches of the Criminal Investigation Department of the Ministry of the Interior and in Al-Mabahith detention centres.”³

The UN Convention Against Torture (UNCAT) requires States parties to include a definition of torture in their domestic legislation which should include, at least, all of the elements denounced in article 1 of the Convention. Saudi legislation does not explicitly define torture in accordance with article 1 of the Convention, creating a legal void that makes the elimination of this practice challenging. Presently, the only legislative provision prohibiting torture is article 2 of the CCP, which states that “an arrested person shall not be subjected to any bodily or moral harm. Similarly, he shall not be subjected to any torture or degrading treatment.” This provision offers no adequate definition of torture, does not specify the applicable punishment for the offence, nor does it provide for the different modes of participation (i.e., complicity, instigation, order) in the crime. In addition to incriminating separately acts of torture, the law should provide adequate sanctions that reflect the gravity of these acts. Therefore, this provision does not constitute an autonomous incrimination of torture as required under article 4 of the Convention. The Concluding Observations of the CAT following the country’s review in 2016 state: “The failure of Saudi Arabia to provide minimum procedural safeguards during detention and interrogation, and its judicial practice of admitting coerced confessions into evidence, strongly suggests that the practice [of torture] is officially endorsed.”⁴ Similarly, after his country visit to Saudi Arabia in 2017, the former UN Special Rapporteur on the promotion and protection of human rights while countering terrorism (SRCT) stated that “the theoretical protections enshrined in law appear illusory in practice.”⁵ The conditions within many Saudi detention facilities fail to comply with the Standard Minimum Rules for the Treatment of Prisoners. Commonly reported issues include overcrowding of prison cells; deprivation of daylight; denial of access to basic sanitary amenities; and malnutrition. Prisoners further reported being beaten, insulted and threatened.

In the months following the arrests of WHRDs in 2018, ALQST was informed that many of them faced sexual harassment, torture and other forms of ill-treatment during interrogation, including being stripped naked, groped, beaten and subjected to electric shocks. Moreover,

³ UN Committee against Torture, Concluding observations on the second periodic report of Saudi Arabia, 8 June 2016, UN Doc CAT/C/SAU/CO/2, para. 7

⁴ Kingdom of Saudi Arabia, Consideration of reports submitted by States parties under article 19 of the Convention, Second Periodic Report, CAT/C/SAU/2, 7 January 2015, para. 52

⁵ UN General Assembly, Visit to Saudi Arabia: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 13 December 2018, UN doc. A/HRC/40/52/Add.2, para. 37.

the authorities subjected the women to psychological torture, threatening them with death or rape and falsely informing one woman of a family member's death. The women were taken to unofficial places of detention nicknamed "the hotel" and the "officers' guesthouse", where high state officials including Saud al-Qahtani, a close advisor to Crown Prince Mohammed bin Salman, were present and involved in their torture.

Only one out of the 23 recommendations concerning the death penalty were supported by Saudi Arabia (Recommendation 122.107), indicating its continued firm stance on the matter. In fact, Saudi Arabia has for many years been among the countries carrying out the highest numbers of executions in the world. In 2019, 185 individuals were executed, the highest number in recent Saudi history and a total of 27 individuals were executed in 2020 according to Saudi Arabia's official Human Rights Commission, marking a significant and welcome reduction in comparison to previous years. The majority were executed on conviction for murder, but they also included cases like Abdulmohsen al-Ghamidi, executed on 8 April 2020, who was arrested while he was a minor. 2020 took the number of executions carried out since the accession of King Salman in January 2015 to more than 800, with a total of 158 executions in 2015, 154 in 2016, 146 in 2017, 150 in 2018 and 185 in 2019. A large number of these were for non-violent drug offences handed down at the discretion of the judge (ta'zir) against foreign nationals, while others were for offences described by the authorities as terrorism-related, but which in some cases merely consisted of peaceful actions.

On 18 January 2021, Saudi Arabia's Human Rights Commission announced that the reduction in 2020 was linked to a moratorium on death penalties for drug-related offences. While welcoming the news that no executions for drug-related offences have been carried out since January 2020, no change in the law has yet been published. The absence of any published change in the law means that the use of the death penalty remains at the discretion of judges and the authorities. 2021 has seen a total of 29 executions carried out (as of 15 June), surpassing the number throughout the whole of 2020.

Saudi Arabia's April 2020 announcement to halt the use of the death penalty on people below the age of 18 was another half-hearted attempt to blunt the criticism over its human rights record as in reality several problematic loopholes remain. In fact, the Royal Order excludes minors convicted of crimes under the Counter-Terrorism Law. It is in this context that Mustafa al-Darwish was executed on 15 June 2021. Al-Darwish was arrested in 2015 after allegedly participating in an anti-government riot although official charges failed to specify the date of his alleged "crimes", which most likely took place when he was only 17 years old. He was sentenced to death in 2018 by the SCC after a deeply flawed trial based on a "confession" obtained under torture and his sentence was later upheld by the Supreme Court.

6. Reprisals on human rights defenders and their families

Recommendations 122.138 - 122.140



Findings:

Saudi Arabia pledged to protect human rights defenders from possible reprisals for their human rights related activities. In reality, human rights defenders and their families continue to face strenuous retaliation for their peaceful actions. In fact, retaliation, or threats thereof, against family members is a strategy often used to manipulate the detainee in question to act in a particular way, confess, or be silenced and discouraged from future activism altogether.

Saudi Arabia has been listed in 9 out of a total of 11 reprisal reports for the engagement with the UN human rights mechanisms by the UN Secretary General, making it the country in the Middle East and North Africa region that has been listed most. In these reports, multiple allegations of reprisals were addressed by United Nations actors, including arbitrary detention, ill-treatment, torture and harassment, as a result of communication between human rights defenders and UN bodies.

Loujain al-Halhloul and Samar Badawi are two women's rights defenders whose "crimes" included engaging with the international community. Badawi was penalised for her engagement with the UN Human Rights Council, while al-Hathloul had met with British and other European diplomats, and applied for a job at the UN. Similarly, Issa al-Nukheifi is a

human rights defender who in 2018 was sentenced to six years in prison and a six-year travel ban. Through his human rights activism he had cooperated thoroughly with the international civil society and the UN. In particular, in late 2016, al-Nukheifi had been consulted during the preparation for the Special Rapporteur on Extreme Poverty's visit to Saudi Arabia in January 2017, and he had agreed to meet and further assist the team on the ground.

Reprisals against family members may vary from cyber-harassment and trolling to travel and working bans, to psychological torment. Psychological torment refers to the gruelling emotional torture endured by family members in response to the mistreatment as well as secret and arbitrary detention of a detainee. Whereas the practice of enforced disappearance, described in detail in a previous section, undoubtedly has devastating consequences on those forcibly disappeared, the psychological torment sustained by family members and loved ones of the detained is often overlooked. Relatives have reported going years without news of the whereabouts, condition, and status of their loved one after their arrest. Most cannot even be sure if a detainee is dead or alive as authorities refuse to provide any information. This form of torture is best described by the sister of Abdulrahman al-Sadhan, Areej al-Sadhan, in a piece⁶ written in the Washington Post: "After Abdulrahman was kidnapped, we had no idea what had happened to him. Finally, after almost two years, a relative in Riyadh received a call from him. He was barely able to share that Abdulrahman was being held at al-Ha'ir political prison before the call ended, and we endured another long period of silence. [...] The psychological torture my family has endured has been exacerbated by the feeling that none of us are safe, anywhere. I have faced harassment and intimidation from Saudi government-affiliated online trolls while attempting to learn more about my brother's ordeal. After attending a human rights conference in Oslo in 2019, I was followed by a man as I went to the airport early in the morning; Norwegian authorities believe he was linked to the Saudi Embassy in the city."

Indeed, psychological distress is not the only form of reprisal faced by family members of human rights defenders and prisoners of conscience. Many relatives of Saudi political prisoners are subject to travel bans and work bans themselves. Other times, the fear of reprisal forces them into self-imposed exile, which warrants further distance between them and the detainee. Scholar Salman Al Odah's family has been heavily subjected to these types of reprisals. Indeed, 17 members of his family are now banned from travelling. Furthermore, Al Odah's son, Abdullah Alaoudh, who advocates for his father's release from abroad, has also reported feeling intimidation after being told by the Saudi embassy in the US to return to Saudi Arabia to "renew" his passport.

⁶ Areej Al-Sadhan, Washington Post, Saudi Arabia sentenced my brother to 20 years for tweeting, 2021, <https://www.washingtonpost.com/opinions/2021/05/03/abdulrahman-al-sadhan-sister-areej-saudi-arabia/>

Cyber-harassment and hacking are common forms of reprisals used on human rights defenders and their families. Omar Abdulaziz is a vocal critic of the Saudi government who, in the face of strong pressure, in 2014 sought asylum in Canada. In August 2018, Saudi authorities threatened his brother with jail time in what Abdulaziz believes was an attempt to pressure him into silence. When he continued speaking out, two of his brothers and several of his friends in Saudi Arabia disappeared and were later arrested. In October 2018, it was reported that Abdulaziz's phone was being hacked by a Saudi entity through the NSO's Pegasus spyware.

In 2020, a newer form of reprisal has materialized as COVID-19 justified repression has denied detainees contact with the outside world. In June 2020, family and friends of detainees held in al-Ha'ir reported their fears had spiked over the prior weeks, amid reports of two cases of COVID-19 inside the prison. Al-Ha'ir prison is a 19m-sq-ft maximum-security facility south of the capital Riyadh, housing an estimated 5,000 prisoners. The wing of the facility housing political prisoners including Loujain al-Hathloul is controlled by the Mabath, a branch of the Saudi Arabian secret police that handles domestic intelligence. Al-Hathloul's family say the 30-year-old was censored during her previously regular phone calls. Her brother, Walid al-Hathloul reported⁷ that Loujain was unable to share anything about the negative conditions or issues inside the prison. If she did, the authorities cut the call. Her family was unable to contact her for weeks without an explanation by the prison authorities.

Loujain al-Hathloul's case is particularly instrumental in illustrating the practice of reprisal against human rights defenders and their families in Saudi Arabia. Loujain was released on probation on February 10, 2021 but is subject to a travel ban for the next five years. Moreover, she is unable to continue her activism under the grounds of her three-year probation period during which any perceived criminal activity can lead to her re-imprisonment. Not only is Loujain subject to continued harassment but so is her family. Family members inside Saudi Arabia are subject to a travel ban, while her siblings abroad have not been able to reunite with their family in Saudi Arabia since early 2018 out of fear of arrest or being placed on a travel ban. The constant online harassment leads them to fear for Loujain's safety as well as their own.

⁷ The Guardian, Family fears grow for activists detained in notorious Saudi prison, 2020, <https://www.theguardian.com/global-development/2020/jun/05/family-fears-grow-for-activists-detained-in-notorious-saudi-prison>

7. Annex: Recommendations accepted by Saudi Arabia in its 2018 UPR review

Ratification of International Treaties:

- **Recommendation 122.3:** Ratify the International Covenant on Civil and Political Rights (Mexico) (France) (Morocco) (Latvia) (Estonia) (Portugal); Accede to the International Covenant on Civil and Political Rights (Costa Rica) (Ukraine) (Romania); Become a party to the International Covenant on Civil and Political Rights (New Zealand);
- **Recommendation 122.5:** Ratify the International Covenant on Economic, Social and Cultural Rights (Mexico) (France) (Morocco) (Portugal); Accede to the International Covenant on Economic, Social and Cultural Rights (Costa Rica) (Ukraine); Become a party to the International Covenant on Economic, Social and Cultural Rights (New Zealand);
- **Recommendation 122.7:** Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Mexico);
- **Recommendation 122.8:** Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Mexico);
- **Recommendation 122.10:** Consider accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Afghanistan);

Male guardianship system:

- **Recommendation 122.202:** Implement further reforms to improve women's social and economic empowerment; including dismantling the system of male guardianship in law and practice (Australia)

- **Recommendation 122.203:** Build upon efforts towards greater gender equality, including by removing barriers under the guardianship system (Canada)
- **Recommendation 122.204:** Move forwards with legal reforms aimed at achieving gender equality between men and women, by repealing the system of guardianship and curatorship imposed on women so that they can act autonomously (Chile)
- **Recommendation 122.205:** Eliminate the system of guardianship for women and continue moving towards consolidating the full exercise and enjoyment of their rights, as previously recommended (Costa Rica)
- **Recommendation 122.206:** Strengthen its efforts to abolish the male guardianship system (Republic of Korea); Abolish the system of guardianship of women (Denmark); Abolish the male guardianship system (Iceland); Abolish male guardianship (Sweden)
- **Recommendation 122.207:** Continue reforms aimed at reducing the gap between the rights of women and men, including with regard to citizenship; abolish in particular the male guardianship system (France)
- **Recommendation 122.208:** Continue to reform the male guardianship system to reduce the areas in which men and women are legally treated differently (Germany)
- **Recommendation 122.209:** Proceed with the necessary legal reforms aiming to abolish the male guardianship system (Greece)
- **Recommendation 122.210:** In spite of measures taken to limit its scope to follow-up to the recommendations in paragraphs 138.100, 138.101, 138.102, 138.103, 138.106, 138.107, 138.108 and 138.111 of the report of the Working Group from the second cycle (A/HRC/25/7), abolish the male guardianship system (mehram) as soon as possible (Haiti)
- **Recommendation 122.211:** Abolish the guardianship system and provide legal equality for women in Saudi legislation (Slovenia)

- **Recommendation 122.212:** Abolish completely the guardianship system for women as well as all laws discriminating against women and girls, as previously recommended (Switzerland)
- **Recommendation 122.213:** Abolish male guardianship over women and adopt measures to increase the effective participation of women in all areas (Spain)
- **Recommendation 122.214:** Continue to introduce steps to achieve gender equality, in particular the abolishment of male guardianship (New Zealand)
- **Recommendation 122.215:** Adopt measures to eliminate all remaining forms of discrimination against women, including abolishing the guardianship system (Norway)
- **Recommendation 122.216:** Make substantive progress in the field of women's rights, including by a complete review of the guardianship system (Austria)
- **Recommendation 122.217:** Intensify efforts to prevent and combat all forms of violence and discrimination against women and further promote and protect women's rights, in particular by repealing the legal guardianship system and by combating child, early and enforced marriages (Italy)
- **Recommendation 122.218:** Review the male guardianship system and reject amendments to laws when those amendments discriminate against women and girls, and enact new laws and enforce existing laws to protect women and girls against violence, including when that violence is committed by their partners or members of the family (Mexico)
- **Recommendation 122.219:** Step up efforts to eradicate discrimination against women in the legal sphere and put an end to the practices and stereotypes that discriminate against women, such as the male guardianship system, as recommended previously (Uruguay)

Violations of the rights to freedom of expression, peaceful assembly and association:

- **Recommendation 122.90:** Ensure that the country's counter-terrorism legislation complies with international human rights norms, including by revising the broad definition of terrorism and no longer making it applicable to non-violent expressions (Norway);
- **Recommendation 122.91:** Amend the legal definition of terrorism to ensure that it does not lead to the prosecution of women's rights defenders, non-violent human rights activists, political dissenters and other persons merely for exercising their human rights (Austria);
- **Recommendation 122.92:** Ensure that the treatment of persons suspected of acts of terrorism strictly complies with international human rights law and abolish the public prosecutor's discretion to forbid detainees' access to a lawyer (Austria);
- **Recommendation 122.93:** Narrowly define "terrorist", "terrorism", and "public order" in the counter-terrorism and cybercrime laws so as not to criminalize expression, association or peaceful assembly (United States of America);
- **Recommendation 122.142:** Eliminate all legal and practical obstacles to the freedom of expression and conscience of human rights defenders, thereby reconsidering the charges against prisoners who were convicted for their commitment to promoting and protecting women's rights (Netherlands);
- **Recommendation 122.143:** Ensure a safe and enabling environment for all human rights defenders, in particular for women human rights defenders and journalists (Norway);
- **Recommendation 122.144:** Continue to support civil society institutions and strengthen their independence, which guarantees their ability to contribute in promoting and protecting human rights (Sudan);
- **Recommendation 122.145:** Take urgent action to improve the protection of human rights defenders (Sweden);

- **Recommendation 122.146:** Make additional efforts to promote freedom of opinion and expression (Comoros);
- **Recommendation 122.147:** Guarantee the exercise of freedom of expression and association and release detained human rights defenders (Costa Rica);
- **Recommendation 122.148:** Revise all legislation that restricts the right to freedom of association and peaceful assembly as well as freedom of expression, and ensure these laws are in line with international standards (Czechia);
- **Recommendation 122. 151:** Bring national legislation into line with international human rights standards with regard to freedom of expression and freedom of the press, and protect journalists and human rights defenders from intimidation, threats and arbitrary arrests (Germany);
- **Recommendation 122. 152:** Enhance measures to protect and promote freedom of opinion and expression (Nepal);
- **Recommendation 122.153:** Continue to promote freedom of opinion and expression, including the rights of human rights defenders and non-governmental organizations (Ghana);
- **Recommendation 122.155:** Guarantee freedom of opinion and expression and safeguard the activity of human rights defenders and journalists, also by creating an environment in which they all can freely operate according to international standards (Italy);
- **Recommendation 122.156:** Further actions to promote freedom of expression, including for journalists (Japan);
- **Recommendation 122.158:** Continue the steps aimed at eliminating the restrictions on freedom of expression (Romania);
- **Recommendation 122.160:** Take urgent action towards media freedom in the country, including by reviewing the 2007 anti-cybercrime law (Sweden);

- **Recommendation 122.162:** Adopt all necessary measures to guarantee the free exercise of freedom of expression and press in the country, as well as to protect journalists from any act of intimidation or reprisal (Uruguay);
- **Recommendation 122.164:** Take further measures to fully guarantee freedom of assembly, expression and belief (Portugal)

Judicial system and violations to fair trial guarantees:

- **Recommendation 122.117:** Implement legal reforms to ensure proper legal process and to prevent secret and indefinite detention (Australia);
- **Recommendation 122.180:** Ensure the necessary independence of the judiciary, which is an indispensable requirement to guarantee the rule of law (Peru);
- **Recommendation 122.188:** Promote further the principle of public trials, the right to access to a lawyer and other guarantees provided for in the Code of Criminal Procedure (United Arab Emirates);
- **Recommendation 122.191:** Allow diplomats to attend trials and court sessions as was done in 2013 (United States of America);


Torture and the death penalty:

- **Recommendation 122.107:** Forgo the application of the death penalty or at least restrict it to the most serious crimes (Germany)
- **Recommendation 122.116:** Adopt further steps to prevent torture, cruel and degrading treatment in prisons and detention centres (Belarus)

- **Recommendation 122.185:** Establish a reliable complaint mechanism for detained persons and include in the national legislation clear provisions for the compensation of victims of torture within detention units (Serbia)

Reprisals on human rights defenders and their families:

- **Recommendation 122.138:** Take steps to guarantee the exercise of the rights to freedom of expression and opinion without fear of reprisal, giving due consideration to women and girls (Brazil)
- **Recommendation 122.139:** Protect the freedom of expression of all human rights defenders and foster an environment which is conducive to open debate, tolerant of dissenting voices, and protects individuals against retribution (Canada)
- **Recommendation 122.140:** Take meaningful steps to ensure that human rights defenders, journalists and representatives of non-governmental organizations are able to freely and fully exercise their rights to freedom of expression, opinion and association, including online, without threats or harassment (Estonia)



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A report by

ALQST for Human Rights
The Gulf Centre for Human Rights (GCHR)
The Martin Ennals Foundation

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