



Kingdom of Saudi Arabia

Joint Submission to the UN Universal Periodic Review

31<sup>st</sup> Session of the UPR Working Group

Submitted 29 March 2018

Submission by **CIVICUS: World Alliance for Citizen Participation, NGO in General Consultative Status with ECOSOC**

And

**Americans for Democracy & Human Rights in Bahrain (ADHRB), NGO in General Consultative Status with ECOSOC**

And

**European Saudi Organisation for Human Rights (ESOHR)**

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## 1. (A) Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we have members in more than 170 countries.
- 1.2 European Saudi Organisation for Human Rights (ESOHR) is a non-profit organisation established by a group of activists with the aim of strengthening the commitment to human rights principles in Saudi Arabia.
- 1.3 Americans for Democracy & Human Rights in Bahrain (ADHRB) fosters awareness of, and support for, democracy and human rights in Bahrain and the Middle East.
- 1.4 In this document, CIVICUS, ESOHR and ADHRB examine the Government of Saudi Arabia's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. In particular, we examine Saudi Arabia's fulfilment of recommendations concerning the rights to the freedoms of association, peaceful assembly and expression, and unwarranted restrictions on human rights defenders (HRDs) since its previous Universal Periodic Review (UPR) examination in October 2013. To this end, we assess Saudi Arabia's implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues, and provide a number of specific, action-oriented follow-up recommendations.
- 1.5 We are deeply concerned by Saudi Arabia's continued denial of citizens' rights to assemble and associate freely, and in particular their right to form human rights and political organisations.
- 1.6 We are further alarmed by Saudi Arabia's continued targeting and detention of civil society and human rights activists, particularly under the auspices of its counter-terror laws, as well as its persecution of writers and dissidents, which severely undermines the freedom of expression.
  - Section 2 of this submission examines Saudi Arabia's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association;
  - Section 3 examines Saudi Arabia's counter-terror laws, which the government uses to target and prosecute HRDs, journalists and activists;
  - Section 4 examines Saudi Arabia's implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly;
  - Section 5 examines Saudi Arabia's implementation of UPR recommendations and compliance with international human rights standards protecting the freedom of expression, access to media and the protection of journalists;
  - Section 6 contains a number of recommendations to address the concerns set out in this submission about Saudi Arabia's refusal to accept and implement the recommendations it received under the 2<sup>nd</sup> cycle;
  - Section 7 contains an annex on the implementation of 2<sup>nd</sup> cycle UPR recommendations related to civic space.

## 2. (B) Freedom of association

- 2.1** During Saudi Arabia's review under the 2<sup>nd</sup> UPR cycle, the Saudi government received 11 recommendations on the right to the freedom of association. Of these recommendations, the government accepted five and noted six. Among other recommendations, the government committed to ensuring that it would "adopt laws to protect freedoms of association, expression, and religions, and give all individuals a legal basis to form NGOs without interference." A second recommendation the government accepted committed it to "[taking] measures to foster an enabling environment for civil society, including through enacting and implementing before the next UPR a law on associations that allow for the legal creation and registration of independent civil society associations and organizations."
- 2.2** Despite its acceptance of five recommendations pertaining to the freedom of association, the government has only fully implemented one, to "intensify its efforts to pass a law on associations." It has failed to take adequate measures to implement fully the four other recommendations it accepted, both in spirit and in practice.
- 2.3** Saudi Arabia's 1992 Basic Law of Governance, its quasi-constitution, does not guarantee the right to the freedom of association. Saudi Arabia is also not a party to the International Covenant on Civil and Political Rights (ICCPR). As a result, Saudi domestic law does not protect residents' right to form associations freely. Rather, authorities restrict these rights and criminalise specific forms of associations.
- 2.4** Saudi Arabia's Law on Associations and Institutions (also known as the Law on Associations and Foundations, or the Law on Associations) outlines the rules and regulations that govern the formation and function of CSOs, including non-governmental organisations (NGOs). Saudi Arabia's Council of Ministers approved the Law on Associations on 30 November 2015. A draft of the law had previously been submitted in 2006 by the Ministry of Social Affairs (MoSA, now part of the Ministry of Labor and Social Development, MLSA) to the Shura Council - the kingdom's 150-member consultative body appointed by the king that can recommend new laws and regulations, but which cannot legislate. In 2008, the Shura Council submitted a revised draft to the Council of Ministers, which used its authority to pass laws and regulations under the king's stewardship to pass the Law in 2015.
- 2.5** The Law on Associations provides a comprehensive legal framework on the establishment, operation and supervision of associations and foundations. It provides a single set of guidelines for the registration, administration and supervision of charity and non-charity organisations. As set out by the Law, any organisation that wishes to operate must first register with the government and receive a licence. The application process for organisational registration is overseen by the MLSA. If an organisation is a charitable organisation, it must also apply to the Ministry of Islamic Affairs, Endowments, Advocacy and Guidance. In an effort to streamline and increase the efficiency of the application process, the law stipulates that the MLSA must process an organisation's licence within 60 days of receiving an application.

- 2.6** Despite the existence of clear guidelines on registration and licensing, organisations that apply face a number of restrictions. An organisation must meet several criteria before it can apply. Under Article 8, an organisation must have at least 10 founding members, who must all be Saudi nationals. The members must be at least 18 years old and without a criminal record. The founders must deposit 5 million Saudi riyals (approximately US\$1.3 million) into the organisation's bank account in the first year of operation. Further, despite the requirement that the MLSD should process an application within 60 days, in practice registration can be cumbersome and take multiple years. If an organisation's application is approved and it receives a licence to operate, the MLSD obtains a level of control over the organisation's board members, funding and intended public activities.
- 2.7** Article 8 of the law also grants the MLSD wide latitude to deny a CSO an operating licence or disband an organisation if the Ministry deems that its actions or mission conflict with Sharia, contradict the public order or public ethics, or disrupt national unity.
- 2.8** According to Hala Aldosari, a Saudi women's activist, "five different structures can be observed in Saudi Arabia: charitable organizations licensed by the [MLSD], 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>1</sup> According to the Civic Freedom Monitor, as of April 2016, there are 736 registered associations and 164 registered foundations in Saudi Arabia.<sup>2</sup> However, as discussed below, no independent CSOs or human rights organisations are able to register in the country.
- 2.9** Prior to the law's passage in November 2015, the Saudi government regularly refused to issue operating licences to independent CSOs, including human rights organisations. This forced these organisations to operate illegally and risk being shut down and have their members imprisoned. According to Article 8 of the law, establishing or operating an organisation without a licence is a criminal offence. However, because Saudi authorities refuse to license independent CSOs and human rights organisations, these organisations are forced to operate illegally. As a result, officials cite the Law on Associations as they disband these organisations.
- 2.10** The Saudi Civil and Political Rights Association (ACPRA) was one of Saudi Arabia's most prominent human rights organisations. It was founded in 2009 by 15 activists. At its inception, MoSA refused to grant ACPRA a licence to operate. For a brief period of time, the organisation was allowed to function informally and largely without interference, but in early 2011, the government arrested ACPRA member Mohammed al-Bajadi, signalling the beginning of a campaign to suppress the organisation. In June 2012, the government arrested two of ACPRA's most prominent members – Mohammed al-Qahtani and Abdullah al-Hamid – and in March 2013 sentenced them to 10 and 11 years in prison respectively, while ordering ACPRA to disband.

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<sup>1</sup> 'New Saudi Law Maintains State Control Over Civil Society Organizations', Hala Aldosari, Arab Gulf States Institute in Washington, 27 December 2015, <http://www.agsiw.org/new-saudi-law-maintains-state-control-over-civil-society-organizations>

<sup>2</sup> 'Civic Freedom Monitor: Saudi Arabia', International Center for Not-for-Profit Law (ICNL), updated 18 October 2017, <http://www.icnl.org/research/monitor/saudiArabia.html>.

Most of the 15 founding members are currently in prison. Since Saudi Arabia's 2<sup>nd</sup> Cycle UPR in October 2013, the authorities have sentenced Fowzan al-Harbi, Abdulkareem al-Khoder, Dr Abdulrahman al-Hamid, Issa al-Hamid and Abdulaziz al-Shubaily to lengthy prison sentences, where they join many of ACPRA's other members.

**2.11** The Adala Center for Human Rights was a human rights organisation founded on 10 December 2011 and based in the Eastern Province.<sup>3</sup> When the Adala Center applied for a licence, its application was rejected by MoSA, because its mission and objectives were deemed "not in line with the regulations on charitable foundations and associations." On 27 May 2013, after 13 months of litigation, a panel of three administrative judges unanimously rejected the Adala Center's appeal. The Center was forced to close when an appeals court upheld the administrative court's decision on 28 August 2013. Since its closure, the authorities have targeted its members, including Fadhil al-Manasif and Ahmed Al-Mushaykhis.

### **3. (C) Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

**3.1** The Saudi government uses counter-terror legislation to criminalise the work of HRDs and journalists as well as demonstrators. On 1 November 2017, the Saudi government passed a new counter-terror law, replacing the previous law, which had come into force on 2 February 2014. As discussed below in Section 5, authorities also use the 2007 Cybercrime Law to criminalise certain forms of expression, restrict the free flow of information and prosecute HRDs.

**3.2** Article 1 of the 2014 Counter-terror law classified 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 allowed authorities to apply the law against 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 did not link terrorism with violence, the law could be interpreted to encompass peaceful expression and activism.

**3.3** Between Saudi Arabia's 2<sup>nd</sup> UPR Cycle and the passage of the 2017 Counter-terror law, the government employed the vague language of the 2014 Counter-terror law to bring terror charges against numerous HRDs, journalists, protesters and peaceful dissidents, most of who were tried in the Specialized Criminal Court (SCC). The SCC is Saudi Arabia's counter-terror court system set up in 2008 to try terrorists, in particular members of al-Qaeda, but it has increasingly been used to try HRDs and activists. The SCC operates within the parameters of Saudi Arabia's counter-terror law. In addition to convicting activists such as Waleed Abu al-Khair and the members of ACPRA, in December 2014, the SCC condemned women's rights activists Maysaa al-

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<sup>3</sup> Al Adala Center for Human Rights Facebook page, founded on 10 December 2011, [https://www.facebook.com/pg/AladalaHR/about/?ref=page\\_internal](https://www.facebook.com/pg/AladalaHR/about/?ref=page_internal).

Amoudi and Loujain al-Hathloul for breaching the ban on women driving.<sup>4</sup> In October 2014, the SCC tried and sentenced three lawyers, Abdulrahman al-Subaihi, Bander al-Nogaithan and Abdulrahman al-Rumaih, to between five and eight years in prison for “contempt of the judiciary, interfering with its independence, criticizing the justice system and the judiciary.”

- 3.4** On 11 May 2013, the Bureau of Investigation and Prosecution (BIP) – the kingdom’s public prosecutor – summoned Fowzan al-Harbi for interrogation. Officers charged him with crimes related to free expression and free association, including “inciting disobedience to the ruler by calling for demonstrations” and “accusing the judiciary of being incapable of delivering justice.”<sup>5</sup> Al-Harbi was tried in front of the SCC on 4 December 2013. On 25 June 2014, the SCC convicted al-Harbi and sentenced him to a year in prison, with a six-year suspended sentence if he refused to stop his human rights activity. On 19 November 2014, a court increased al-Harbi’s sentence to 10 years in prison followed by a 10-year travel ban.
- 3.5** On 14 April 2014, Saudi authorities arrested Dr Abdulrahman al-Hamid, the brother of HRDs and ACPRA members Abdullah al-Hamid and Issa al-Hamid when he reported to the Criminal Investigation Department in al-Qassim Province responding to a summons. Officials held him in *incommunicado* detention, allowing him to receive visits from his family and lawyer only after he launched a hunger strike. Al-Hamid’s trial at the SCC began in July 2014. In late October 2015, the SCC convicted him of several charges related to free expression and free association, including “spreading chaos by calling for demonstrations” and “participating and setting up an unlicensed organization – ACPRA.” The SCC sentenced him to nine years in prison followed by a nine-year travel ban.<sup>6</sup>
- 3.6** In November 2013, BIP summoned Abdulaziz al-Shubaily for interrogation about his work with ACPRA and statements he had made defending the right to protest peacefully. After he refused to stop his human rights work, a court charged him in July 2014 with several crimes related to free expression and free assembly, 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 29 May 2016, the SCC sentenced him to eight years in prison and an eight-year travel ban. Authorities, however, did not arrest him until 18 September 2017, when he began to serve his sentence.
- 3.7** In November 2013, BIP officials summoned Issa al-Hamid for interrogation. They charged him with crimes relating to free expression and free association, including “spreading chaos by participating in the drafting and publishing of a statement calling for demonstrations” and “participating in setting up an unlicensed organization.” His trial began in June 2014 before a Buraydah criminal court, before his case was transferred to the SCC. On 24 April 2016, the SCC sentenced him to nine years in prison followed by a nine-year travel ban.<sup>7</sup> On 1 December 2016, an appeals court increased his sentence to 11 years in prison, an 11-year travel ban, and a fine of

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<sup>4</sup> ‘Saudi women driving activists released from prison’, AlJazeera, 14 February 2015,

<https://www.aljazeera.com/news/2015/02/saudi-women-driving-activists-released-prison-150213075642894.html>.

<sup>5</sup> ‘Saudi Arabia: Human rights defender Fawzan Al-Harbi imprisoned for ten years’, Gulf Centre for Human Rights (GCHR), 20 November 2014, <http://www.gc4hr.org/news/view/821>.

<sup>6</sup> ‘Dr. Abdulrahman al-Hamid’, Al-Qst, 19 October 2015, <https://alqst.org/eng/dr-abdulrahman-al-hamid>.

<sup>7</sup> ‘Issa al-Hamid sentenced’, Al-Qst, 24 April 2016, <https://alqst.org/eng/issa-al-hamid-sentenced>.

100,000 Saudi riyals (approximately US\$26,605), but released him on bail.<sup>8</sup> On 18 September 2017, officials arrested al-Hamid and he began to serve his sentence.

- 3.8** Police arrested Fadhil al-Manasif, an activist with the Adala Center in May 2011 for reporting on street protests in the Eastern Province and working with international news outlets. He was tried by the SCC on charges including “disobeying the ruler, participating in demonstrations, and inciting public opinion.” On 17 April 2014, the SCC sentenced him to 15 years in prison, a 15-year travel ban and a 100,000 Saudi riyal fine (approximately US\$26,660), although his sentence was reduced to 14 years on appeal.<sup>9</sup> More recently, on 5 January 2017, officials detained Ahmed Al-Mushaykhis. Three days later, authorities transferred him to the al-Dammam police station for interrogation by BIP, before releasing him. However, since his release there has been a significant shift in his language as comments he made became more compatible with the Saudi government.
- 3.9** Waleed Abu al-Khair, a human rights lawyer who provided legal counsel to victims of human rights abuses and members of ACPRA, founded the Monitor of Human Rights in Saudi Arabia in 2008. He was arrested in October 2013 and tried in July 2014 in the SCC on terrorism charges, including “founding an unlicensed organisation”, “harminig public order”, “inflaming public opinion”, and “undermining the regime”. On 6 July 2014, he was sentenced to 15 years in prison, a 15-year travel ban and a fine of 200,000 Saudi riyals (approximately US\$53,300).
- 3.10** In April 2013, Mohammed Abdullah al-Otaibi, Abdullah al-Attawi, Abdullah al-Harbi and Mohammed Ayeth al-Otaibi formed Union for Human Rights.<sup>10</sup> When they applied for a licence, MoSA refused, saying that the group’s application was not “in line with the regulation on charitable foundations and associations.” Twenty-eight days after the founding of the organisation, BIP summoned Mohammed Abdullah al-Otaibi for interrogation and detained him. He was tried in December 2016 by the SCC on charges that included “working in an unlicensed society”, spreading chaos and inciting public opinion”, and “re-tweeting a tweet on Twitter after it was published by a member of” ACPRA. He fled to Qatar on 30 March 2017 to escape the charges, but was deported back to Saudi Arabia in May 2017 despite concerns of torture and ill-treatment and in contravention of the principle of *non-refoulement*. On 25 January 2018, the SCC sentenced him to 14 years in prison and Abdullah al-Attawi to seven years in prison.<sup>11</sup>
- 3.11** The new Law on Combatting Terrorist Crimes and Financing, passed in 2017, defines a terror crime as any conduct that, whether directly or indirectly, “aims to infringe public order, shake the security of society and stability of the state or endanger its national unity, impede [the functioning] of the Basic Law on Governance or a part of its provisions,” as well as any attempts

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<sup>8</sup> ‘Saudi Arabia: Human rights defender Issa al-Hamid sentenced to two more years in prison’, GCHR, 5 December 2016, <http://www.gc4hr.org/news/view/1436>.

<sup>9</sup> ‘Saudi Arabia: Human rights defender Fadhil Al-Manasef sentenced to 15 years in prison, 15-year travel ban and fine’, GCHR, 19 April 2014, <http://www.gc4hr.org/news/view/640>.

<sup>10</sup> ‘Saudi Arabia: Human rights defender Mohammed Abdullah al-Otaibi calls on the international community to protect him’, GCHR, 23 April 2017, <http://www.gc4hr.org/news/view/1557>.

<sup>11</sup> ‘Saudi Arabia: Prosecution for Forming Human Rights Group’, Human Rights Watch (HRW), 15 November 2016, <https://www.hrw.org/news/2016/11/15/saudi-arabia-prosecution-forming-human-rights-group>; ‘Saudi Arabia: Authorities continue systematic targeting of human rights defenders’, GCHR, 26 January 2018, <http://www.gc4hr.org/news/view/1775>.

to do or incite such actions. The 2017 Law does not require a terror crime to be violent, and allows for the prosecution of intent to commit a terror act. The Law allows government agents to judge intent. The Law is therefore vague and provides an overly broad definition of terrorism.

- 3.12** The 2017 Law strips extensive powers from the Interior Ministry and transfers them to the Public Prosecution and Presidency of State Security, which reports directly to the king. The Law additionally imposes mandatory travel bans for an equal duration as the length of the sentence as well as a mandatory death sentence for some terror crimes.
- 3.13** Since its passage, the government has prosecuted several HRDs and civil society activists under the 2017 Law. Among them are Mohammed Abdullah al-Otaibi and Abdullah al-Attawi, Essam Koshak and Issa al-Nukheifi, as well as HRD Naimah al-Matrood, the first woman to be tried by the SCC. On 10 November 2017, she was sentenced to six years in prison, followed by a six-year travel ban, because of her participation in protests and her work on behalf of victims of abuse.<sup>12</sup>

#### **4. (D) Freedom of peaceful assembly**

- 4.1** During Saudi Arabia's examination under the 2<sup>nd</sup> UPR cycle, the government received two recommendations on the right to the freedom of peaceful assembly. The government accepted one recommendation, committing to revising its law to guarantee the freedom of peaceful assembly, as well as to bring its domestic legislation in line with the rights to the freedom of peaceful assembly. However, the government has failed to implement this recommendation.
- 4.2** Saudi Arabia's Basic Law does not provide for or protect the freedom of peaceful assembly. Prospective public rallies and assemblies must receive a government permit. The authorities categorically prohibit political protests or unauthorised assemblies.
- 4.3** On 5 March 2011, the Minister of the Interior announced on state television that all protests and marches are banned, stating that "state security forces would use all measures to prevent any attempt to disrupt public order." The following day, the Council of Senior Religious Scholars – Saudi Arabia's highest body for interpreting Islamic law and the body empowered to grant religious justification for political decisions – endorsed this position.<sup>13</sup> The ban remains in position, and security forces have arrested protesters, in particular in the country's Eastern Province, where Saudi Arabia's largest community of Shia Muslims faces particular discrimination.
- 4.4** At least 17 individuals are on death row because of their participation in peaceful protests in the Eastern Province. In September 2015, the Supreme Court upheld the 2014 death sentence of Ali al-Nimr, who is the nephew of the executed prominent Shia cleric, peaceful dissident and social justice activist Sheikh Nimr al-Nimr, and who was a minor at the time of his alleged crime. Ali al-

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<sup>12</sup> 'Saudi Arabia: Internet activist Naimah Al-Matrood sentenced to six years in prison', GCHR, 15 November 2017, <http://www.gc4hr.org/news/view/1731>.

<sup>13</sup> 'Saudi scholars forbid protest calls', Al-Jazeera, 10 March 2011, <https://www.aljazeera.com/news/middleeast/2011/03/201136154752122275.html>.

Nimr was charged under the 2014 Counter-terror law with participating in protests and using petrol bombs, although he confessed to his crimes under torture. In September and October 2015, the Supreme Court upheld the capital punishment sentences of Dawood al-Marhoon and Abdullah al-Zaher, who were also sentenced to death for their participation in protests. In May 2017, the Court of Appeal for the SCC upheld the death sentences of 14 individuals, all of whom are Shia followers. They were convicted by the SCC on 1 June 2016 of terror charges under the 2014 Counter-terror law, including participating in protests. They had all been tortured into confessing to their charges.<sup>14</sup>

## 5. (E) Freedom of Expression, Independence of the Media, Access to Information and Attacks on Journalists

- 5.1** During Saudi Arabia’s previous UPR review, the government received and partly accepted two recommendations on protecting and promoting the right to the freedom of expression, committing to “removing all obstacles to freedom of expression and movement against human rights defenders, including travel bans” and “guaranteeing the right to freedom of expression and conscience of all representatives of civil society.” The government has not implemented either recommendation.
- 5.2** Saudi Arabia’s Basic Law does not guarantee the freedom of the press and the government does not recognise the right to the freedoms of opinion and expression.
- 5.3** The government maintains tight control of the media. The Saudi Broadcasting Corporation (SBC) is affiliated with the Ministry of Culture and Information (MoCI), and operates almost all domestic broadcasting outlets, including the country’s television and radio broadcasting services. The government only allows SBC and SBC-approved channels to broadcast from Saudi soil.<sup>15</sup> As a result, news reports and programmes do not deviate from official government positions. However, Saudi Arabia remains a major market for pan-Arab satellite television and many Arab television channels have offices in Saudi Arabia. Saudi businessmen and members of the royal family own some of the most popular television stations in the kingdom, such as Middle East Broadcast Channel, al-Arabiya and Rotana.<sup>16</sup>
- 5.4** Newspapers in the kingdom are privately owned, but are subsidised and closely monitored by the government.<sup>17</sup> The king must approve the creation of any new newspapers and the MoCI must approve the appointment of editors-in-chief.<sup>18</sup> Further, all online news outlets or bloggers must obtain a permit to operate from the MoCI.<sup>19</sup>

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<sup>14</sup> ‘Saudi Arabia: 14 Protesters Facing Execution After Unfair Trials’, HRW, 6 June 2017,

<https://www.hrw.org/news/2017/06/06/saudi-arabia-14-protesters-facing-execution-after-unfair-trials>.

<sup>15</sup> ‘Saudi Arabia profile – Media’, BBC News, 23 January 2015, <http://www.bbc.com/news/world-middle-east-14703480>.

<sup>16</sup> ‘Global media and national policies: the return of the state’, Terry Flew, Petros Iosifidis and Jeanette Steemers, 2016, p. 178.

<sup>17</sup> ‘Encyclopedia of Censorship’, Jonathon Green and Nicholas J Karolides, Facts on File, 2005, pp. 493-494.

<sup>18</sup> BBC News, 23 January 2015, op. cit.; ‘Saudi Arabia: Rescind New Online Restrictions’, HRW, 7 January 2011, <https://www.hrw.org/news/2011/01/07/saudi-arabia-rescind-new-online-restrictions>.

<sup>19</sup> ‘Freedom of the Press 2015: Saudi Arabia’, Freedom House, 2016, <https://freedomhouse.org/report/freedom-press/2015/saudi-arabia>.

- 5.5** The government's control over the media is buttressed by the 2003 Press and Publications Law and the 2007 Cybercrime Law which regulate media content. As a result, in order to avoid official persecution, many news and media outlets practise self-censorship. Journalists, bloggers and writers who do not abide by government regulations and strictures in content are often targeted and prosecuted under the Press and Publications Law, the Cybercrime Law and the Counter-terror law.
- 5.6** Article 6 of the Cybercrime Law states 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." In 2014, the government amended the Cybercrime Law to include social media and social networks and raised the fine to 500,000 Saudi riyals (approximately US\$133,000).
- 5.7** Among those whom the government has targeted under the auspices of the Cybercrime Law is blogger and activist Raif Badawi. On 17 June 2012, Saudi authorities arrested Badawi for violating the Cybercrime Law and for charges of apostasy due to posts he published on his blog Free Saudi Liberals. While the court dropped the charge of apostasy, it sentenced him to seven years in prison and 600 lashes. The sentence was increased on 7 May 2014 to 10 years in prison, 1,000 lashes and a fine of 1 million Saudi riyals (approximately US\$266,000).<sup>20</sup>
- 5.8** Saudi authorities have imprisoned journalist Alaa Brinji, a writer who worked for the online journals Al-Sharq and Okaz. In late December 2015, the SCC convicted him of violating Article 6 of the Cybercrime Law on charges related to his criticism of religious scholars, his support for protests and human rights activists, and for "accusing members of the security forces of killing demonstrators" in the Eastern Province town of Awamiyah.
- 5.9** Saudi authorities also prosecuted Dr Zuhair Kutbi, a writer, for pro-reform statements he made on television.<sup>21</sup> He was detained on 15 July 2015, and on 21 December 2015, the SCC sentenced him under the 2014 Counter-terror law and Article 6 of the Cybercrime Law to four years in prison, followed by a five-year travel ban, along with a fine of 100,000 Saudi riyals (approximately US\$26,600) and a 15-year ban on writing and giving interviews.<sup>22</sup> On 23 June 2017, Saudi authorities released Dr Kutbi, although he remains banned from travelling and writing on social media.<sup>23</sup>
- 5.10** On 18 January 2017, the SCC found Nadhir al-Majed, a prominent writer, guilty of violating Article 6 of the Cybercrime Law, and sentenced him to seven years in prison and a seven-year travel ban. He was convicted for participating in protests in the Eastern Province in 2011,

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<sup>20</sup> 'Case History: Raif Badawi', Frontline Defenders, accessed 8 February 2018, <https://www.frontlinedefenders.org/en/case/case-history-raif-badawi>.

<sup>21</sup> 'Saudi Arabia: Human rights defender Zuhair Al-Kutbi handed down heavy sentence following calls for reform on television', GCHR, 22 December 2015, <http://www.gc4hr.org/news/view/1148>

<sup>22</sup> 'Saudi Arabia: Prominent writer detained', HRW, 10 August 2015, <https://www.hrw.org/news/2015/08/10/saudi-arabia-prominent-writer-detained>.

<sup>23</sup> 'Urgent Action Victory! Saudi Arabian writer Zuhair Kutbi released', Amnesty International, 11 July 2017, <https://www.amnestyusa.org/urgent-actions/urgent-action-victory-saudi-arabian-writer-zuhair-kutbi-released-saudi-arabia-ua-188-15>.

communicating with international media and human rights organisations, and writing articles supporting the protests and calling for an end to discrimination against the country's Shia minority.<sup>24</sup>

**5.11** In June 2017, the Ministry of Media revoked the license of Qatari news site Al-Jazeera – forcing it to close its Saudi offices – and blocked its Arabic, English and documentary channels. The Ministry accused Al-Jazeera of “promoting the plans of terrorist groups, inciting separatism, and threatening the kingdom’s sovereignty.”<sup>25</sup> The Committee to Protect Journalists reported that Saudi authorities also blocked the website of the Qatari state news agency, QNA, and the websites of the daily newspapers Al-Watan, Al-Raya, Al-Arab and Al-Sharq.<sup>26</sup>

## **6. (F) Recommendations to the Government of Saudi Arabia**

CIVICUS, ESOHR and ADHRB call on the Government of Saudi Arabia to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights and Human Rights Council Resolutions 22/6, 27/5, and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding, and the state’s duty to protect. In light of this, the following specific recommendations are made:

### **6.1 Regarding the freedom of association**

- Reform the 2015 Law on Associations to remove onerous restrictions on forming CSOs, including the requirement for the founders to deposit 5 million Saudi riyals upon an organisation’s formation;
- Strictly define ‘public order’, ‘public ethics’, and ‘national unity’ in the 2015 Law on Associations so as to allow for the registration and legal operation of fully independent political and human rights-oriented CSOs, both at the legal and practical level;
- Reform the 2015 Law on Associations to take into account the views of civil society stakeholders and provide an enabling framework for the development of civil society in Saudi Arabia;
- Abolish criminal responsibility for organising and participating in the activities of non-registered organisations, and lift the ban on the activities of non-registered organisations;
- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities,

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<sup>24</sup> ‘Saudi Arabia: Intensified repression of writers, activists’, HRW, 6 February 2017, <https://www.hrw.org/news/2017/02/06/saudi-arabia-intensified-repression-writers-activists>.

<sup>25</sup> ‘Saudi Arabia orders Al-Jazeera bureau closed’, Committee to Protect Journalists (CPJ), 7 June 2017, <https://cpj.org/2017/06/saudi-arabia-orders-al-jazeera-bureau-closed.php>.

<sup>26</sup> ‘The five most bizarre decisions in Gulf-Qatar crisis’, AlJazeera, 12 June 2017, <https://www.aljazeera.com/indepth/features/2017/06/bizarre-decisions-gulf-qatar-crisis-170611075123926.html>.

and instead promote a meaningful political dialogue that allows and embraces diverging views, including those of HRDs, CSOs, journalists, political activists and others;

- Immediately grant all CSOs that have been arbitrarily denied licences to operate a licence to function legally;
- Immediately release all HRDs, prisoners of conscience and activists who were arrested for crimes related to the peaceful freedom of association, and drop all charges against them.

## **6.2 Regarding the protection of human rights defenders**

- Provide civil society members, journalists and HRDs a safe and secure environment to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment;
- Establish a fully independent and impartial commission to conduct thorough and effective investigations into all cases of attacks, harassment and intimidation against civil society members, journalists and HRDs, and bring perpetrators of such offences to justice;
- Immediately and unconditionally release all HRDs, civil society members, journalists and bloggers who were detained for exercising their right to the fundamental freedoms of association, peaceful assembly and expression, and review their cases to prevent further harassment;
- Remove Article 30 from the 2017 Counter-terror law, which expressly criminalises certain forms of peaceful dissent, and amend the law to ensure protections for the freedom of expression;
- Remove Article 6 from the 2007 Cybercrime Law and amend the law to ensure that HRDs, civil society activists, journalists and bloggers are protected from prosecution;
- Promulgate legislation promoting and protecting HRDs and civil society members and establish an independent and impartial mechanism to protect activists, in accordance with Human Rights Council resolution 27/31.

## **6.3 Regarding the freedom of peaceful assembly**

- Promulgate a law granting residents the right to peaceful assembly;
- Immediately and unconditionally release all demonstrators, journalists and HRDs detained for exercising their right to the freedom of peaceful assembly;
- Immediately and impartially investigate the use of excessive force and extrajudicial killings against peaceful protesters and prosecute those responsible;
- Adopt best practices on the freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association in his 2012 annual report, which calls for procedures in which there is simple notification of assemblies being held, rather than explicit permission being needed to assemble;

#### **6.4 Regarding the freedom of expression, independence of the media and access to information**

- Amend the 2003 Press and Publication Law, 2007 Cybercrime Law and 2017 Counter-terror law to enshrine protections for free and peaceful expression and dissent and to ensure these laws are in line with international standards;
- Immediately and unconditionally release all journalists, bloggers and writers imprisoned because of their writings;
- Reform defamation, blasphemy and apostasy legislation, and bring such legislation into conformity with article 19 of the ICCPR;
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics the government may find sensitive;
- Adopt a framework for the protection of journalists from persecution, intimidation and harassment;
- Refrain from censoring social and conventional media and ensure that the freedom of expression is safeguarded in all forms, including in the arts.

#### **6.5 Regarding access to UN Special Procedures mandate holders**

- Extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits with the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on the Independence of Judges and Lawyers; 5) Special Rapporteur on extrajudicial, summary or arbitrary executions; 6) Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment; 7) Special Rapporteur on the rights to privacy; and 8) Working Group on Arbitrary Detention.

#### **6.6 Regarding state engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy;
- Include independent CSOs in the UPR process before finalising and submitting the national report;
- Systematically consult with civil society on the implementation of the UPR, including by holding periodical comprehensive consultations with a diverse range of civil society sectors;

- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

7. (G) Annex: Assessment of Implementation of civic space recommendations under the 2<sup>nd</sup> cycle

Recommendation Number	Recommendation and State	2 <sup>nd</sup> Cycle Status	2 <sup>nd</sup> Cycle Implementation	Progress	Current Assessment
138.46	Enhance legislative reforms amongst others by taking measures to ensure in the short term, as well as legally and in practice, the registration of fully independent human rights NGOs ( <b>Netherlands</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>27</sup>
138.47	Adopt laws to protect freedoms of association, expression, and religions, and give all individuals a legal basis to form NGOs without interference ( <b>United States of America</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>28</sup>
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 ( <b>State of Palestine</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>29</sup>
138.49	Adopt an NGO law which should take into account the views of civil society stakeholders and provide an enabling framework for the development of civil society in Saudi Arabia ( <b>Germany</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>30</sup>
138.50	Set a time frame for the enactment and implementation of a law on	Noted	Not implemented	No perceived progress	Not implemented <sup>31</sup>

<sup>27</sup> See paragraphs 2.6 – 2.11.

<sup>28</sup> See paragraphs 2.3, 2.11, 3.1, and 5.4 – 5.6.

<sup>29</sup> See paragraphs 2.4 – 2.9.

<sup>30</sup> See paragraphs 2.8 – 2.9.

<sup>31</sup> While Saudi Arabia has a Law on Associations, it is not in line with international standards of protecting and promoting free association and the work of independent CSOs. See paragraphs 2.6 – 2.7, and 2.9.

	associations which respects international human rights standards ( <b>Ireland</b> )				
<b>138.51</b>	Intensify its efforts to pass a law on associations ( <b>Lithuania</b> )	Accepted	Not implemented	Perceived progress	Implemented <sup>32</sup>
<b>138.52</b>	Revise the 2011 law in order to guarantee freedom of opinion and expression, as well as freedom of association and peaceful assembly ( <b>France</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>33</sup>
<b>138.53</b>	Bring its domestic legislation in line with the rights to freedom of expression, association, and assembly, and to enact and implement a law of association enabling all NGOs to operate legally without harassment and undue government interference ( <b>Czech Republic</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>34</sup>
<b>138.54</b>	Take measures to foster an enabling environment for civil society, including through enacting and implementing before the next UPR a law on associations to allow for the legal creation and registration of independent civil society associations and organizations ( <b>Canada</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>35</sup>
<b>138.172</b>	Allow the registration of NGOs that are active in the human rights area, both at the legal and practical level ( <b>Belgium</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>36</sup>
<b>138.173</b>	Strengthen human rights training for NGOs and help them to carry out their work professionally and objectively ( <b>China</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>37</sup>

<sup>32</sup> The government promulgated its Law on Associations after the 2<sup>nd</sup> cycle UPR. See paragraph 2.4.

<sup>33</sup> The freedoms of association, opinion and expression, and peaceful assembly remain criminalised. See paragraphs 2.3, 3.2, 4.2, and 5.2.

<sup>34</sup> See paragraphs 2.3, 3.2, 4.2, and 5.2 for the criminalisation of association, expression, and assembly and paragraphs 2.9 – 2.11 about restrictions on NGO operations.

<sup>35</sup> See paragraphs 2.6 – 2.11.

<sup>36</sup> See paragraphs 2.7 – 2.11.

<sup>37</sup> See paragraphs 2.7 – 2.9.

## 7.2 Recommendations pertaining to free assembly

Recommendation Number	Recommendation and State	2 <sup>nd</sup> Cycle Status	2 <sup>nd</sup> Cycle Implementation	Progress	Current Assessment
138.52	Revise the 2011 law in order to guarantee freedom of opinion and expression, as well as freedom of association and peaceful assembly ( <b>France</b> )	Accepted	Not Implemented	No perceived progress	Not implemented <sup>38</sup>
138.53	Bring its domestic legislation in line with the rights to freedom of expression, association, and assembly, and to enact and implement a law of association enabling all NGOs to operate legally without harassment and undue government interference ( <b>Czech Republic</b> )	Accepted	Not implemented	No perceived progress	Not implemented <sup>39</sup>

## 7.2 Recommendations pertaining to human rights defenders, journalists, civil society members

Recommendation Number	Recommendation and State	2 <sup>nd</sup> Cycle Status	2 <sup>nd</sup> Cycle Implementation	Progress	Current Assessment
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 judgements against the prisoners who were convicted for having freely expressed their opinion ( <b>Switzerland</b> )	Partially Accepted	Not implemented	No progress	Not implemented <sup>40</sup>
138.164	Remove all obstacles to freedom of expression and movement against human rights defenders, including travel bans ( <b>Norway</b> )	Partially Accepted	Not implemented	No progress	Not implemented <sup>41</sup>

<sup>38</sup> The freedoms of association, opinion and expression, and peaceful assembly remain criminalised. See paragraphs 2.3, 3.2, 4.2, and 5.2.

<sup>39</sup> See paragraphs 2.3, 3.2, 4.2, and 5.2 for the criminalisation of association, expression, and assembly and paragraphs 2.9 – 2.11 about restrictions on NGO operations.

<sup>40</sup> See paragraphs 3.1 and 5.2 concerning the criminalisation of freedom of expression and see paragraphs 3.4 – 3.8 and 5.7 – 5.11 for lengthy sentences for crimes related to freedom of expression.

<sup>41</sup> Free expression remains criminalised and the 2017 Counter-terror law explicitly mandates travel bans for those convicted of terror crimes. See paragraphs 3.1 and 5.2 concerning the criminalisation of free expression and 3.12 concerning travel bans.