

Silenced Voices: Judicial targeting of human rights defenders in Saudi Arabia



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1. Overview

Saudi Arabia is a member state of the United Nations and therefore committed to uphold and respect the basic tenets of the Universal Declaration of Human Rights without reservations. Over the past decade, the UN Human Rights Council's Universal Periodic Review and the efforts extended by independent human rights organizations and citizens have brought to light the grave situations of human rights defenders (HRDs) in Saudi Arabia. Systematic targeting of HRDs showed that the Saudi authorities equate their work with that of the militant opposition; particularly when the work of HRDs involves carrying out advocacy with the public or the international media for reforms related to human rights. Several tactics have been used by the authorities to silence activists, including the imposition of travel bans, arbitrary detention, defamation, legal intimidation and prosecution and lengthy sentencing, fines and flogging.

In particular, two laws are used systematically by State Prosecution to target activists; the Anti-Terror Law and the Anti-Cybercrimes Law. Article one of the Anti-Terror Law defines a terror crime broadly as “any act intended to violate public order, destabilize the societal security or the state stability, endanger the national unity, obstruct the basic system of governance or some of its articles, offend the state’s reputation or status, forcing the state to do or abstain from certain action or threaten or incite others of such actions.”

Article six (1) of the Anti-Cybercrimes law criminalizes “producing online or computer materials aimed at impinging on the public order, religious values, public morals or privacy.” The broad language of these two articles has been used by the Saudi prosecution representatives to target HRDs for a wide scope of peaceful human rights activities, including establishing a human rights organization, empathizing with convicted or targeted activists, criticizing the State’s record of human rights, calling for constitutional monarchy or for State reforms, supporting public campaigns to empower men and women - like the women driving campaigns, speaking to regional or international human rights organizations, calling for or participating in protests or demonstrations, among many other peaceful advocacy activities.

The trials of HRDs are carried out in a Specialized Criminal Court (SCC) in Riyadh and overseen by judges appointed by the Minister of the Interior personally. Individuals accused of “terror” based on their human rights activities are treated as enemies of the state in the same manner as those accused of violent and terror-related crimes. The Saudi legal system is based on religious Islamic jurisprudence or *Sharia’a* without any codification of crimes and punishment. The only codified laws are the procedural laws. Ironically, procedural law is repeatedly violated when HRDs are legally prosecuted without any legitimate reference to clearly codified crimes or violations. In the absence of a clearly written law criminalizing the acts of HRDs, judges refer to the dated principle of “disobedience of the rulers (*Wali Ul-Umr*)” to justify punishing HRDs for activities deemed to violate the absolute obedience expected in the ancient Islamic era. The principle of *Ta’azir*, a discretionary authority of judges to issue appropriate punishment, is frequently used to sentence HRDs to lengthy prison sentences, lashes, fines or even the death penalty.

2. Patterns of Targeting Human Rights Defenders

Local, regional and international human rights organizations have documented landmark cases of HRDs being targeted by the Saudi authorities in great detail.ⁱ However, the lack of official transparency renders estimates of the exact number and nature of cases linked to human rights activities rather difficult. Moreover, authorities threaten activists and their families with more serious consequences if they disclose any information related to their detention, interrogations or trials to anyone. However, some courageous activists like the members of the Association for Civil and Political Rights (ACPRA) have uploaded all the documents related to their arrests and a narrative of the proceedings of the trials on their website.ⁱⁱ Index cases of prominent HRDs are indicative of the pattern of legal intimidation and targeting at the hands of the authorities. In the following brief, we will attempt to outline the main actions of HRDs used by the court to justify punishments in those index cases.

2.1. Establishing a human rights organization

Members of ACPRA have been operative since 2009. The eleven members called for a constitutional monarchy and an end to the violations of due process. They have documented grave legal violations ranging from torture in prisons, arbitrary detentions, lengthy imprisonment without legal redress and even death in custody, among many other violations. They held public meetings to educate the public of the importance of due process and progressive Islamic views of human rights that are compatible with International law and democracy. In 2013ⁱⁱⁱ, members of ACPRA were subjected to trials at the SCC for their peaceful demands for human rights in which both the Anti-Terror Law and Anti-Cybercrimes Law were cited by the prosecution. They were fined for operating an unlicensed human rights organization despite notifying the King of their intention and the fact that they were operative for a few years before their arrests and the ACPRA website was ordered to be shut down.

Needless to say, civil society organizations (CSOs) are banned in Saudi Arabia and the law that regulates CSOs was passed late in 2015 with no article allowing human rights organizations to operate.^{iv} For instance, the court statement against the thirty-six-year-old engineer **Fawzan Al-Harbi**, a member of ACPRA, cited the following charges against him:

“1) Incitement of the public to participate in a protest; thus disobeying *Wali-UI-Umr* (the ruler) and his supreme scholar’s ban of protests, which in turn weakens the unity of the public with their leader;

2) signing on several public declarations calling for disobedience of *Wali UI-Umr* and inciting public opinion against the state’s authority and accusing the state of oppression, assassinations and violation of human rights;

- 3) Slander of the religious supreme scholars by accusing them of being a tool for political means;
- 4) Falsely accusing the Saudi political system of abusing religion and judiciary for its systematic oppression and violations of human rights;
- 5) Accusing the Saudi judiciary of injustice for violations of Islamic principles;
- 6) Participation in an unlicensed civil organization to spread false accusations of injustice against the state officials and institutions; and interfering with the authorities of the state apparatus and the official state human rights organizations; and
- 7) Publicizing the proceedings of the trial and interrogation in violations of pledges taken by the authorities not to publish any of the case proceedings.^v

2.2. Criticizing the extreme religious establishments or opinions

The wave of extreme religious militancy sweeping the Middle East can only be confronted by moderate and reformist individuals who publicly confront the extremists, refute their arguments and defend human rights for all without discrimination. **Raif Badawi** and **Alaa Brinji** are two Saudi citizens, out of many, who were targeted for online expression of opinions criticizing extreme religious orthodoxy.

Badawi established a website for the liberal discussion of ideas and was sentenced to 1000 lashes and ten years' imprisonment^{vi}. An International outcry and diplomatic intervention lead to stopping of the intended lashing after a video was leaked of Badawi receiving his first fifty lashes.^{vii}

Brinji, a young journalist, was detained for interrogation by the Special Interrogation Department early in 2014.^{viii} Two years later, his trial began at the SCC for tweets and Facebook posts used by the prosecution to charge him with apostasy for “promoting freedom of belief, expressing empathy with other convicted HRDs, supporting campaigns to lift the driving ban on women and inciting public opinion against the Saudi Monarch by accusing the government of arbitrary detention, targeting individuals for their beliefs and of refusing to initiate reforms.” On 24 March 2016, Brinji was sentenced to five years in jail, an eight-year travel ban and a fine of 50,000 Saudi riyals. The court ordered his Twitter account shut down.

2.3. Calling for political or social reforms

The State has systematically targeted HRDs who peacefully raise concerns regarding lack of reforms or who have made public schemes of corruption by state officials. Numerous reports have been written on journalists, youth, religious figures and community leaders who had their programs shut down, had their positions revoked, were banned from writings or detained and sentenced with varying legal punishments.^{ix}

Two prominent examples are those relating to the case of **Dr. Zuhair Kutbi** and **Issa Al-Nukhaifi**.

Dr. Kutbi, 62 years old, is a prominent writer and a long-time activist who was continuously prosecuted and repeatedly imprisoned for his demands for political reforms. In 2015, Dr. Kutbi appeared in an interview on a national TV show calling for necessary political reforms, in which he spoke of all the hardship he had endured at the hands of the State because of his activism. Dr. Kutbi was then detained, imprisoned and sentenced to four years' imprisonment, banned from writing afterwards or from appearing in any media and a travel ban was issued by the court to come into force on his release. The TV show was ordered to be shut down and the interviewing journalist was relieved from his job. During his detention, Dr. Kutbi experienced serious medical problems as his health deteriorated and there was a lack of good hygiene and poor access to medical care in the prison.^x

Al-Nukhaifi is a community social activist who protested against the government policy of displacing families from the Saudi-Yemeni borders for security measures without proper compensation for their land or property. He was then sentenced to three years and eight months in prison and has been released on 06 April 2016, having served his sentence. His family reported he was tortured and placed in solitary confinement after he started a hunger strike to demand justice.^{xi}

Expressing the position of the Saudi state from demands of accountability and reforms, Prince Mohammad Bin Nayef, the crown prince and the Minister of Interior, stated in a televised interview that citizens should not interfere with or comment on the public affairs of their own country.

2.4. Cooperation with international human rights organizations/media

Several prominent HRDs have been punished by the legal system for cooperating with international and regional human rights organizations, commenting on the situation of human rights in the media and attending regional meetings with HRDs. The stark example is the prominent HRD **Waleed Abu Al-Khair**, the founder of the human rights NGO Monitor of Human Rights in Saudi Arabia, who was sentenced to fifteen years in prison, banned from travel for another fifteen years on his release and a hefty fine. The charges against Abu Al-Khair include “inciting hostility of international organizations against the Saudi state by providing false accounts of human rights violations; thus harming the country’s reputation,” among other charges. A travel ban was imposed on human rights defender, **Samar Badawi**, without any legal justifications or trial because of her travel and commentaries on the situation of human rights in Saudi. Badawi was served with several summons and subjected to arbitrary short detention terms without any legal basis because of her work.^{xii}

Similarly, **Fadel Al-Manasif**, a prominent human rights defender, was sentenced to fifteen years in prison, banned from travel on his release for another fifteen years and fined 100,000 Saudi Riyals for being in contact with foreign news agencies thus harming the reputation of the state.^{xiii}

2.5. Advocacy and peaceful activities related to human rights

Several HRDs were detained, arrested and asked to write pledges to stop their advocacy and demands for human rights, by the authorities. Women drivers were repeatedly detained, their guardians summoned and they were asked to write pledges not to drive again nor support lifting the state-enforced driving ban.^{xiv} Two women activists were arrested and sent to prison for 72 days and referred to court for terror-related crimes of communicating with foreign media to defame the State's reputation.^{xv}

Fawzia Al-Oyouni and **Wajeha Al-Huwaider**, two prominent women's human rights defenders responded to a call for help from a Canadian woman married to a Saudi citizen only to be arrested by the authorities for inciting a wife against her husband. The two women received ten months' imprisonment and two-year travel bans. The governor of their city intervened and stopped the prison sentences, although they both were banned from travel or advocacy.^{xvi}

Tareq Al-Mubarak, a blogger and writer, supported the women driving campaign by purchasing a sim card used by the women coordinators to receive the public driving recorded messages of support. Al-Mubarak was detained for days in solitary confinement without access to family or friends before being forced to write a pledge not to communicate with any activists or show any public opinion of support for the women driving campaign.^{xvii}

An unnamed citizen was recently punished with ten years' imprisonment and 2000 lashes for using his online account to express his different religious views where he denies the existence of a God. The news was published in the official newspaper "Al-Watan" to intimidate other citizens from expressing views that are defying those of the state.^{xviii}

Several protestors in the Saudi Arabia's Eastern Province were targeted and prosecuted for disobeying the Monarch. The gravity of the situation is that many are facing death sentences without legal redress.^{xix}

3. Conclusion

In conclusion, it is the intent of this report to outline the systematic targeting of human rights defenders in Saudi Arabia working desperately against politically and religiously entrenched restrictions and without platforms to promote their ideas safely.



The State Prosecution's response and the sentencing of citizens for calling for protests, establishing civil society organizations or documenting human rights violations is a clear indication of the lack of commitment of the Saudi authorities to its regional and international obligations to protect human rights and HRDs. The Saudi government is required to uphold its international, regional and national commitments related to the recommendations passed by UN member states during the second Universal Periodic Review of its human rights record in 2013.^{xx}

In particular, Saudi Arabia is urged to keep working to align its legal framework and reference with international UN conventions and treaties. The Arab Declaration of Human Rights,^{xxi} passed and enacted by the Arab States in 2008, guarantees the right of citizens to choose freely their political system and to pursue economic, social and cultural development without intimidation or harassment (article 2). The charter states (articles 6, 7) that sentence of death should only be imposed for the most serious crimes, none of which include protesting or inciting public opinions for reforms or adopting human rights, particularly on those less than 18 years of age. The charter also sets out the rights of citizens to due process, with independent and fair public tribunals (Articles 11-13). The rights to liberty and security should be guaranteed to all citizens and no arbitrary detention, arrest or legal prosecution should take place without specific written laws (article 14).

In short, the Saudi authorities should be held accountable for the ill treatment of their citizens, particularly given the extreme and violent militant threats sweeping the region in the absence of reformist voices and freedom of expression, and should ensure an environment that enables HRDs to carry out their work peacefully and progressively to influence positive change in their politicized and oppressed communities.

ⁱ <https://www.amnesty.org/en/latest/news/2014/10/muzzling-dissent-saudi-arabia-s-efforts-choke-civil-society/>

ⁱⁱ <http://acprahr.org/>

ⁱⁱⁱ <http://www.gc4hr.org/news/view/752>

^{iv} <http://www.icnl.org/research/monitor/saudiarabia.html>

^v <https://docs.google.com/file/d/0B7p2LZUmEwG4NzZjcXlqV196eGM/edit?pli=1>

^{vi} <http://www.theguardian.com/world/2015/jan/14/-sp-saudi-blogger-extracts-raif-badawi>

^{vii} https://www.youtube.com/watch?v=K4r_izRZYLw

^{viii} <http://en.rsrf.org/saudi-arabia-arbitrary-detention-10-09-2015,48332.html>

^{ix} <https://freedomhouse.org/report/freedom-world/2015/saudi-arabia>

^x <https://www.hrw.org/news/2015/08/10/saudi-arabia-prominent-writer-detained>

^{xi} <http://www.icfr.info/ar/%D9%85%D8%B9%D8%AA%D9%82%D9%84-%D8%A7%D9%84%D8%B1%D8%A3%D9%8A-%D8%A7%D9%84%D8%B3%D8%B9%D9%88%D8%AF%D9%8A-%D8%B9%D9%8A%D8%B3%D9%89-%D8%A7%D9%84%D9%86%D8%AE%D9%8A%D9%81%D9%8A-%D9%81%D9%8A-%D8%B3%D8%B7/>

^{xii} <https://www.amnesty.org/en/latest/news/2016/01/saudi-arabia-arrest-of-human-rights-defender-samar-badawi-latest-attempt-to-intimidate-activists/>

^{xiii} <https://www.hrw.org/news/2014/07/07/saudi-arabia-15-year-sentence-prominent-activist>

^{xiv} <http://www.gc4hr.org/news/view/885> & <http://www.gc4hr.org/news/view/859>

^{xv} <https://www.hrw.org/news/2014/12/02/saudi-arabia-release-women-driving-activists>

^{xvi} <https://www.hrw.org/news/2013/06/17/saudi-arabia-activists-convicted-answering-call-help>

^{xvii} <http://en.rsrf.org/saudi-arabia-saudi-journalist-detained-over-31-10-2013,45408.html>

^{xviii} http://www.alwatan.com.sa/Nation/News_Detail.aspx?ArticleID=254325

^{xix} <https://www.washingtonpost.com/news/morning-mix/wp/2015/10/07/ali-al-nimr-was-a-boy-when-thrown-in-saudi-prison-now-hes-a-man-and-is-sentenced-to-die/>

^{xx} <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SASession17.aspx>

^{xxi} <https://www1.umn.edu/humanrts/instree/loas2005.html>