AMNESTY INTERNATIONAL

MEMORANDUM TO THE SAUDI ARABIAN AUTHORITIES

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Recent improvements

Amnesty International welcomes positive steps taken by Saudi Arabia in the human rights field in recent years, including the authorities’ increased engagement with the UN Human Rights Council. In March 2014 it accepted, either fully or partially, 181 recommendations put forth by other states during the Universal Periodic Review (UPR). In October 2013 it made pledges on the occasion of the country’s election to the Human Rights Council.

On those two occasions, and in others, representatives of Saudi Arabia have clearly stated their commitment to respect and promote human rights and support international human rights mechanisms, particularly the UPR. Saudi Arabia has also declared its commitment to preparing other periodic reports for presentation to the treaty bodies and its eagerness to continue cooperating with Special Rapporteurs and other mandate holders. Also encouraging is the memorandum of understanding that the Saudi Arabian authorities signed with the Office of the High Commissioner for Human Rights in 2012 to enhance the capacities of the Kingdom’s officials in this field.

The Saudi Arabian authorities have initiated judicial reforms to enhance the independence of the judiciary. A number of laws have been codified and statutes for the judiciary and the Board of Grievances adopted.

Saudi Arabia has taken steps to improve women’s rights. Women have been allocated 30 seats or the equivalent of 20% of seats in the Shura Council, and their right to vote and stand as candidates in upcoming municipal council elections in 2015 has been reinforced. Women have also been promoted to a few senior posts in the government and woman lawyers have been licensed to take up cases in Saudi Arabian courts. More economic rights have been granted to women by opening up a number of public and private roles that women are allowed to take up. Additionally, steps have been taken to protect women and children from violence and abuse through the promulgation of the Protection from Harm Act in 2013. Perhaps most encouraging is Saudi Arabia’s acceptance of recommendations to abolish the guardianship system at the UPR in March 2014.

Positive work to promote and protect human rights has also been carried out by the National Human Rights Commission and the National Society for Human Rights since their founding a decade ago. Over the past few years, these two bodies have initiated a number of projects and activities that have contributed positively to improving the country’s human rights record. Among these are their interventions in a number of cases involving violations carried out by security forces, but also the programmes they have developed to support the rights of prison inmates and improve prison conditions by among other things setting up offices in prisons.

Human rights concerns and recommendations

Human rights defenders

In the past two years over a dozen human rights defenders have been taken to courts, sentenced to long prison terms, and imprisoned. Most of them had endured intimidation and harassment by security forces, particularly by the Ministry of Interior’s General Directorate of Investigations, before they were brought to trial and handed harsh sentences. Many of them were sentenced by the Specialized Criminal Court (SCC) after grossly unfair trials. Some of them have reported that they were tortured and otherwise ill-treated while in detention.
Among imprisoned human rights defenders are members of the Saudi Civil and Political Rights Association (ACPRA) such as former judge Sheikh Sulaiman al-Rashudi, Dr Abdullah al-Hamid, Dr Mohammad al-Qahtani, Dr Abdulaziz al-Khoder, Mohammed al-Bajadi, Fowzan al-Harbi, Dr Abdulrahman al-Hamid, Saleh al-Ashwan and Omar al-Sa’id, and others such as the internationally renowned lawyer Waleed Abu al-Khair and activist Fadhel al-Manasif.

A number of other human rights defenders are also either being tried in proceedings which fall far short of international standards for fair trial, or are expected to be imprisoned soon. They include Abdulaziz al-Shubaily, Issa al-Hamid, and Mikhlif al-Shammari.

Amnesty International urges the authorities to:

- Release all of the above jailed human rights defenders immediately and unconditionally as they are prisoners of conscience who have been imprisoned solely for exercising their basic rights to freedom of expression, association and assembly;
- Ensure all convictions and sentences against them are quashed and drop all charges against other human rights activists who are currently undergoing trials;
- Stop harassing and intimidating peaceful human rights activists and instead support their work to improve the country’s human rights record.

**Freedom of expression**

Obstacles both in law and practice put in place by the authorities have severely and arbitrarily curtailed the peaceful exercise of the right to freedom of expression.

In the past two years, numerous activists including bloggers and online activists have been punished simply for peaceful expression. While Amnesty International acknowledges the responsibility of countries to protect the security of everyone on their territory, the recent crackdown on people expressing their views online has far exceeded the permissible restrictions on expression under international law. Further, the procedures used to arrest and detain suspects in such cases in themselves are contrary to international law and standards and facilitate ill-treatment in custody.

Among the online activists recently punished for exercising their fundamental right to freedom of expression is Raif Badawi, who was sentenced to 10 years in prison and 1,000 lashes in April 2014 for setting up a website and for encouraging debate. Raif Badawi received the first 50 of his 1,000 lashes on 9 January and he is at risk of receiving the rest as long as he remains sentenced and imprisoned.

Amnesty International remains extremely concerned about the new anti-terrorism law, the Law for the Crimes of Terrorism and its Financing, which entered into force in February 2014 and has been used against peaceful activists including human rights activist Waleed Abu al-Khair and women’s rights activists Loujain al-Hathloul and Maysaa al-Amoudi (see below). The law extends the Ministry of Interior’s already sweeping powers to combat “terrorist crimes” through, among other things, Article 6, which states that suspects can be held for 90 days with no contact with the outside world beyond a single phone call to their family. This includes not having access to a lawyer during interrogations. The law also allows the Ministry of Interior to hold terror suspects without charge or trial for six months – renewable to a year – without the ability to appeal the decision. Indefinite detention in excess of a year is also allowed by the Specialized Criminal Court, which operates in secrecy. This in fact legalizes incommunicado detention and enables torture and other ill-treatment.

The Law for the Crimes of Terrorism and its Financing defines “terrorist crimes” in an overly broad and vague manner and in doing so criminalizes all forms of peaceful expression as “terrorist crimes” and violates the international legal principle of legal certainty. The law does not precisely define “terrorism” but states in Articles 1 and 3 that acts, including words, deemed by the authorities to be, directly or indirectly, “disturbing” public order, “destabilising the security of society or the stability of the state”, “exposing its national unity to danger”, “revoking the basic law of government or any of its articles”, or
“harming the reputation of the state or its standing” are considered “terrorist crimes”. Anyone, including Saudi Arabians and other nationals, both inside the country and abroad, who is accused of such conduct could be prosecuted as a “terrorist” inside Saudi Arabia.

Among the most notable cases of crackdown on free expression was the SCC’s 27 October 2014 sentencing of three lawyers, Dr Abdulrahman al-Subaihi, Bander al-Nogaithan, and Abdulrahman al-Rumaih, to between five and eight years each in prison and travel bans of seven to 10 years for criticizing the judiciary and the Justice Minister. The lawyers were also banned by the court for an unspecified period of time from talking to or giving interviews to media outlets, and from posting on social media.

On 6 July 2014, Waleed Abu al-Khair became the first human rights activist to be sentenced under the counter-terror law by the SCC.

Amnesty International calls on the authorities to:

- Release Raif Badawi and Waleed Abu al-Khair immediately and unconditionally and to quash the sentence and conviction of Dr Abdulrahman al-Subaihi, Bander al-Nogaithan, and Abdulrahman al-Rumaih;
- Repeal the Law for the Crimes of Terrorism and Its Financing and all subsequent executive decrees that clearly violate international law and standards;
- Put an end to the systematic targeting of peaceful expression, including online expression on social media and websites;
- Put an end to arbitrary measures such as travel bans that are being used to punish peaceful expression.

**Freedom of association**

Saudi Arabia is yet to enact a law of associations to determine the process of establishing NGOs such as human rights organizations, despite a draft law that was sent to the Cabinet for its approval in 2008. In the absence of such a law, human rights organizations have not been able to obtain legal recognition and their members can be, and have been, arrested and charged with “forming an unlicensed organization.” Most of the activists mentioned above have been charged and sentenced to long prison terms for that particular reason.

In 2013, the authorities forcibly closed down all existing independent human rights organizations such as ACPRA, the Adala Center for Human Rights, the Monitor for Human Rights, and the then newly established Union for Human Rights, and ordered them to shut down their websites and online presence.

The decree promulgated by the Ministry of Interior in March 2014 extended the new counter-terror law’s already overly broad definition of terrorism and criminalized the exercise of the rights to freedom of peaceful assembly and association, such as organizing peaceful protests or forming human rights organizations. The decree added to the list of terrorist acts “calling for, participating, publicizing, or inciting protests, demonstrations, gatherings, or group petitions” and “attending conferences, lectures, or gatherings inside or outside [the country] that targets the security and stability of the country and incites strife in society”. It also deemed “calling for atheist thought” and “inciting states, or bodies, or international organizations against the Kingdom” to constitute acts of terror.

Amnesty International urges the authorities to:

- Enact a law of associations, in line with international standards, which will formally legalize the establishment of human rights organizations and allow them to carry out their peaceful and legitimate work for the promotion and protection of human rights;
- Stop harassment and prosecution of individuals engaged in peaceful human rights activism and the establishment of human rights associations

**Freedom of assembly**

All forms of peaceful gathering and demonstrations in Saudi Arabia remain banned according to an announcement by the Ministry of Interior on 5 March 2011 and according to its March 2014 decree. Those who break the ban are charged with “participating in or calling for demonstrations” and “disobeying the ruler” and face imprisonment accordingly.

In mid-November 2014, Amnesty International learnt that women family members of Suliaman al-Rashudi, including his wife and daughter, have been on trial in relation to their peaceful activism demanding his release. Media outlets in Saudi Arabia reported that Suliaman al-Rashudi’s wife has been accused of contacting Amnesty International to discuss the conditions of detention of the 78 year-old former judge and member of ACPRA. Amnesty International has received information that authorities have forbidden family members of other political detainees from talking to media, and have forced them to close down their social media accounts.

The women currently on trial, together with a number of women family members of other political detainees, have been campaigning for the release of their relatives, some of whom have been detained for years without charge or trial. In 2013 the authorities cracked down on these peaceful protestors, arresting and forcing them to sign pledges not to publicly protest. Those women who refused to be silenced were later charged with a number of offences, including supporting terrorists, and taken to court.

Similar to the al-Rashudi family, Amnesty International has also learnt from reliable sources that the authorities have warned members of Saud al-Hashimi’s family about talking to international organizations and the media about his detention. Saud al-Hashimi is one of the 16 reformists who were sentenced by the SCC on 22 November 2011 to long prison terms, together with Suliaman al-Rashudi, for calling for reforms and is currently serving his sentence in prison.

Amnesty International urges the authorities to:

- Remove executive decrees and official declarations by the Ministry of Interior that impede the right of people in Saudi Arabia to peaceful assembly;

- Put an end to threats and harassment of family members of prisoners and victims of human rights violations aimed at stopping them from contacting international human rights organizations and from reporting human rights violations.

**Discrimination against women**

Despite some improvements in promoting women’s rights in Saudi Arabia, particularly in allocating them 30 seats in the Shura Council and opening up a number of economic opportunities for them to work, Amnesty International remains concerned that women and girls are still subject to discrimination in law and practice. Women remain subordinate in status to men under the law, particularly in relation to family matters such as marriage, divorce, child custody and inheritance. Despite the government’s launch of an awareness-raising campaign in 2013 and promulgation of the Protection from Harm Act law, which criminalizes domestic violence, the same year, women and girls are inadequately protected against sexual and other violence and the law criminalizing domestic violence is yet to be put into practice due to a lack of competent authorities to enforce it.

Women who supported the Women2Drive campaign, launched in 2011 to challenge the prohibition on women driving vehicles, have faced harassment and intimidation by the authorities. Some have been arrested and detained, usually being released after a short period; others have been threatened with arrest and detention. In early December 2014, Loujain al-Hathloul and Maysaa al-Amoudi, two
supporters of the campaign, were arrested at the border with the United Arab Emirates for driving their cars. They were later charged with terrorism-related offences and remain behind bars.

In 2013, two prominent women’s rights activists, Wajeha al-Huwaider and Fawzia al-Oyouni, were sentenced to 10-month prison sentences and two-year foreign travel bans for attempting to help a woman who was being abused and ill-treated by her husband.

Amnesty International urges the authorities to:

- Release prisoners of conscience Loujain al-Hathoul and Maysaa al-Amoudi immediately and unconditionally and quash the convictions and sentences of Wajeha al-Huwaider and Fawzia al-Oyoun;

- Give effect to undertakings made to the UN Committee on the Elimination of Discrimination against Women (CEDAW) in January 2008 and in the 2013 UPR to abolish the guardianship system and tackle discrimination against women;

- Enact and implement laws protecting women and girls from violence, including in the home and family;

- Establish equality before the law for all and provide equal citizenship rights for women and men;

- Respect, protect, and fulfil women’s equality with men in the enjoyment of all human rights, in particular freedom of movement, education, work, marriage, and effective remedy for violation of these rights.

**Discrimination against minorities**

Members of Saudi Arabia’s Shi’a Muslim minority continue to face entrenched discrimination that limits their access to government services and employment, and prevents them from freely exercising their beliefs. While Sunni Muslim clerics and media close to the authorities have been allowed to freely propagate hate speech towards the Shi’a, the Shi’a have been arbitrarily denied the right to build mosques and places of worship. In schools, Shi’a Muslims are also denied the right to teach and learn their own history and religious beliefs and are instead exposed to Sunni religious instruction that in some of its forms and in some schools has continued to dehumanize the Shi’a and refer to them as “infidels”.

Shi’a leaders and activists have also faced arrest, imprisonment following unfair trials, and the death penalty. In May 2014, the SCC sentenced Ali Mohammed Baqir al-Nimr to death after convicting him on charges that included demonstrating against the government, possession of weapons and attacking the security forces. He denied the charges and told the court that he had been tortured and forced to confess in pre-trial detention. The court convicted him without investigating his torture allegations, and sentenced him to death although he was aged 17 at the time of the alleged offences. In October 2014, his uncle, Sheikh Nimr Baqir al-Nimr, a Shi’a cleric from Qatif, was sentenced to death by the SCC. Security forces arrested Sheikh al-Nimr in July 2012 in disputed circumstances in which he was shot and paralyzed in one leg. In August 2014, the SCC sentenced another prominent Shi’a cleric, Sheikh Tawfiq al-‘Amr, to eight years in prison, to be followed by a 10-year ban on overseas travel and a ban on delivering religious sermons and public speeches.

The SCC have sentenced other Shi’a activists for their alleged participation in the protests of 2011 and 2012. At least five received death sentences this past year alone, and many others received long prison terms.

Amnesty International urges the authorities to:
- Put an end to discrimination, intimidation, harassment and detention without charge or trial of members of the Shi’a community and to uphold their right to peaceful assembly;

- Release or provide a fair retrial to Ali Mohammed Baqir al-Nimr, Sheikh Nimr Baqir al-Nimr, Sheikh Tawfiq al-Amr, and all other Shi’a Muslim activists who have been unfairly tried and sentenced, and quash any death sentences against them;

- Allow all minorities, including Saudi Arabia’s Shi’a Muslim community, to freely practice their religious rituals and beliefs.

The death penalty

Courts in Saudi Arabia continue to impose death sentences, frequently after unfair trials, for a range of offences, including some that do not involve violence (such as drug offences), and for some conduct that should not be criminalized (such as adultery and sorcery). In some cases, defendants, including foreign nationals facing murder charges, have alleged that they were tortured or otherwise coerced or misled into making false confessions in pre-trial detention. These “confessions” were later used against them to sentence them to death.

In the past two years, there have been at least three cases of executions of juveniles, who were under 18 at the time of their alleged offences. This is contrary to Saudi Arabia’s obligations as a state party to the Convention on the Rights of the Child, which prohibits the use of the death penalty on anyone aged under 18 at the time of the crime.

Amnesty International urges the authorities to:

- Declare a moratorium on executions;

- Review the cases of all prisoners currently under sentence of death with a view to commuting their sentences or offering them a new and fair trial without resort to the death penalty;

- Bring the law and judicial practices into line with fair trial guarantees in international standards;

- Stop imposing the death penalty on anyone under the age of 18 at the time of their alleged offence, in accordance with Saudi Arabia's obligations under the Convention on the Rights of the Child.

Other recommendations:

Amnesty International also urges the authorities to implement the following recommendations on:

Torture and other ill-treatment

- End the practice of incommunicado detention;

- Abolish sentences of judicial corporal punishment, including flogging and amputation;

- Ensure that all allegations of torture and other ill-treatment are thoroughly and impartially investigated, that all alleged perpetrators are prosecuted, and that any statement that may have been extracted under torture is not used as evidence in criminal proceedings.

International human rights obligations

- Ratify without reservations the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights;
- Review all reservations and declarations that limit the enjoyment of rights enshrined in the Convention on the Rights of the Child, the International Convention on the Elimination of all Forms of Racial Discrimination and Convention on the Elimination of All Forms of Discrimination Against Women, with a view to lifting them, especially those that are contrary to the objects and purposes of the treaties;

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance;

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

- Ratify the Convention Relating to the Status of Refugees;

- Ratify the Rome Statute of the International Criminal Court;

- Sign up to the Optional Protocol to the Convention against Torture and other Cruel, Degrading or Inhuman Treatment or Punishment (OPCAT).

**Human rights framework**

Implement without delay all the accepted recommendations from the 2009 and 2013 UPR to reform the judicial system and its practices and to revise weak legal provisions to bring them into line with international human rights standards.