



Americans for Democracy & Human Rights in Bahrain AND

European Saudi Organisation for Human Rights

Contribution to the 31st session of the Working Group of the Universal Periodic Review Submission  
on Saudi Arabia

**Concerning the Excessive and Extrajudicial Use of Force Against Demonstrators, Peaceful  
Protesters, and Dissidents, Including the use of the Death Penalty**

**In the Kingdom of Saudi Arabia**

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## 1. REPORTING ORGANISATIONS

1.1. This statement is authored and endorsed by the following organisations:

- 1.1.1. **Americans for Democracy & Human Rights in Bahrain (ADHRB)**. A 510(c)(3) non-governmental organization based in Washington DC and initially formed in 2002. ADHRB fosters awareness of, and support for, democracy and human rights in Bahrain and the Middle East.
- 1.1.2. **European Saudi Organisation for Human Rights (ESOHR)** is a non-profit organization established by a group of activists with the aim of strengthening the commitment to human rights principles in Saudi Arabia.

## 2. INTRODUCTION

2.1. Since its 2<sup>nd</sup> Universal Periodic Review (“UPR”) in October 2013 the Kingdom of Saudi Arabia (“Saudi Arabia”) has flouted international standards of human rights, including by criminalizing basic human rights like the rights to free expression and opinion, free assembly and association, and arrest and jail peaceful dissidents. Saudi authorities also criminalize and repress freedom of religion, including by:

- 2.1.1. Denying its citizens the right to freely and openly worship and practice their faith, which has culminated in the oppression of religious minorities;
- 2.1.2. Using extra-judicial violence against such minorities; and
- 2.1.3. Implementing the death penalty, including against such minorities.

2.2. In recent years, Saudi authorities committed a number of extra-judicial violent acts and attacks with religio-political overtones, including conducting a full-scale 4-month siege of Awamiyah’s historic, 400-year-old city center of AlMosawara in the Eastern Province of Saudi Arabia with a majority Shia Muslim population in 2017. During the siege, Saudi Special Security Forces indiscriminately attacked civilians and destroyed buildings. During the violence, security forces killed at least 24 civilians and razed Awamiyah’s historic and culturally-significant town centre. The government justified its siege and the violence on the basis of countering terrorism and Shia terrorists hiding in Awamiyah’s narrow alleys. Broadly speaking, the Saudi government frequently labels Shia dissidents as terrorists and tries them under the auspices of the kingdom’s counter-terror laws.

2.3. In this context, ADHRB and ESOHR develop this joint submission in order to illustrate how Saudi Arabia utilizes the threat of terrorism to repress its Shia Muslim minority’s universal right to openly and safely exercise their freedom of religion and right to peaceful assembly and protest. ADHRB and ESOHR also use this submission to illustrate how the Saudi government flouts internationally-recognized norms prohibiting the use of deadly extra-judicial force against civilian demonstrators, including in the context of the siege of Awamiyah. Furthermore, ADHRB and ESOHR take this opportunity to raise concerns around the use of the death penalty against Shia Muslims for participating in peaceful assemblies and protests and despite credible allegations of torture and coerced confessions. Within the framework of Saudi Arabia’s use of excessive force against civilians and the levying of capital punishment sentences, ADHRB and ESOHR are concerned about the lack of fair trials the

ability of victims and defendants to adequately appeal to legal bodies that abide by international principles of due process.

### 3. PREVIOUS UPR RECOMMENDATIONS MADE TO SAUDI ARABIA

3.1. During the 2nd cycle UPR (2012-2016), Saudi Arabia received eight recommendations relating to promoting and protecting freedom of religion:

**138.47** Adopt laws to protect freedoms of association, expression, and religions, and give all individuals a legal basis to form NGOs without interference (United States of America);

**138.94** Protect human rights of all individuals without any discrimination based on gender, origin, religion, or customs (France);

**138.117** Taking into account the section in the national report relative to the fight against discrimination and the promotion of freedom of opinion and expression, strengthen action to ensure implementation of legislation against discrimination and religious violence (Argentina);

**138.154** Ensure that the judicial and law enforcement system is not abused to harass individuals for expressing their political or religious views (Czech Republic);

**138.165** Protect freedom of religion or belief of all people living in the country (Romania);

**138.168** Take necessary measures to ensure the effective enjoyment and protection of the right to freedom of religious belief, with a view to promoting the equality of all peoples and respect for all faith (Canada);

**138.169** Continue enhancing the legal protection of freedom of religion and belief, aiming at gradually allowing the public practice of all faiths and beliefs (Italy); and

**138.193** Pass legislation guaranteeing the right of religious minorities to build and maintain places of worship (Austria).

3.2. The kingdom accepted recommendations **138.47**, **138.94**, **138.117**, **138.154**, **138.165**, and **138.168** and noted recommendations **138.169** and **138.193** from Italy and Austria. In accepting these recommendations, Saudi Arabia committed to “*protecting freedom of religion or belief of all people living in the country*” and “*adopting laws to protect freedoms of association, expression, and religions*”. Despite accepting the majority of recommendations pertaining to protecting and promoting the right to freedom of religion, the Government of Saudi Arabia has failed to make progress towards fulfilling any of the recommendations put forward.

### 4. HUMAN RIGHTS VIOLATIONS

#### *Freedom of Religion*

4.1. Freedom of religion is a universal right. Article 18 of the Universal Declaration of Human Rights (UDHR) states that “*Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone*”

*or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance”.*

The International Covenant on Civil and Political Rights (ICCPR) echoes the UDHR with Article 18 stating that *“Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belie in worship, observance, practice and teaching”.*

Despite the religious freedom protections enshrined in the UDHR and ICCPR, the UDHR is soft international law, as it is nonbinding, and Saudi Arabia is not a signatory to the ICCPR.

- 4.2. Saudi domestic law does not respect the right to freedom of religion. The kingdom’s Basic Law of Governance, which sets out the system of governance, the powers and duties of government, and the rights of citizens states that the country’s *“religion shall be Islam and its constitution shall be the Book of God and the Sunnah (Traditions) of his Messenger.”*
- 4.3. In its 2016 annual human rights country report on Saudi Arabia, the United States Department of State (DoS) stated that there are *“restrictions on universal rights [...] including on religion”*, with discrimination based on gender and sect being common. The report further states that *“[w]hile Sharia as interpreted by the government applies to all citizens and noncitizens, the law and practice discriminate against women, noncitizens, non-practicing Sunni, Shia, and persons of other religions.”* The report notes more broadly that *“[t]he Shia minority continued to suffer social, legal, economic, and political discrimination.”*<sup>1</sup>
- 4.4. The United States Commission on International Religious Freedom (“**USCIRF**”) echoes DoS’ conclusions, reporting systematic, government-sanctioned discrimination against Saudi Arabia’s Twelver Shia Muslim minority, which is located predominantly in the country’s Eastern Province, and which constitutes about 15 percent of the kingdom’s population. USCIRF’s report states *“authorities continue to repress and discriminate against dissident clerics and members of the Shia community who criticize the government and call for equal rights.”*
- 4.5. In its 2016 annual International Religious Freedom Report, DoS called attention to *“a pattern of prejudice and discrimination against Shia Muslims [that] continued to occur with respect to access to public services and equitable representation in government, educational and public-sector employment opportunities, and judicial matters.”* The report continued, stating that *“Sunni clerics continued to employ anti-Shia rhetoric in Sunni mosques during the year.”*<sup>2</sup>
- 4.6. In recent years, the Government of Saudi Arabia has increased the scope of its religious discrimination, often justifying its repression as necessary in order to counter terrorism. In particular, Saudi authorities have used the rhetoric of countering terrorism to restrict the rights to peaceful assembly and protest. In this way, security forces use excessive force against Shia demonstrators and civilians, while counter-terror courts violate international due

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<sup>1</sup> Bureau of Democracy, Human Rights and Labor, “Country Reports on Human Rights Practices for 2016: Saudi Arabia,” United States Department of State, 2017, available at <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265518#wrapper>.

<sup>2</sup> Bureau of Democracy, Human Rights and Labor, “International Religious Freedom Report for 2016: Saudi Arabia,” United States Department of State, 2017, available at <https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>.

process and fair trial standards to sentence peaceful Shia protesters to death on protest and peaceful assembly charges.

### ***The Right to Free and Peaceful Assembly and Association***

- 4.7.** Article 20, paragraph 1 of the UDHR provides that *“everyone has the right to freedom of peaceful assembly and association”*. This right is further enshrined in Article 21 of the ICCPR, although Saudi Arabia is not a signatory to the ICCPR or to other international treaties that protect the right to free and peaceful assembly and association. Saudi domestic law does not protect the right to freedom of peaceful assembly. Rather, the kingdom criminalises the right to free and peaceful assembly by royal fiat as well as through its counter-terror legislation.
- 4.8.** On 5 March 2011, the Minister of Interior announced that all protests and marches were banned, stating that *“state security forces would use all necessary measures to prevent any attempts 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>3</sup> The ban remains in force, and security forces have arrested and attacked protesters, in particular in the Eastern Province.
- 4.9.** In addition to criminalising assemblies and protests through royal fiat, Saudi authorities use the rhetoric of terrorism and employ the country’s counter-terror legislation to arrest and jail protesters.
- 4.10.** Article 1 of the 2014 Law on Terrorism and Its Financing broadly 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’s broad and vague scope allowed authorities to interpret it to include peaceful dissent and activism and to link participation in peaceful protests and assemblies with efforts to undermine state security.

The 2014 Counter-terror law also enumerated the powers of the Specialized Criminal Court (SCC) to try terrorism suspects. While the SCC was established in 2008 to try terrorism suspects, in particular members of al-Qaeda, the 2014 Law formally codified its jurisdiction in this matter. As such, the SCC operates directly within the mandate of Saudi Arabia’s counter-terror laws.

- 4.11.** The government used the 2014 Counter-terror law and the SCC to target and prosecute human rights defenders and activists, frequently accusing them of peaceful assembly crimes, including calling for demonstrations or participating in demonstrations. For example, since the kingdom’s 2<sup>nd</sup> UPR cycle review, officials imprisoned several members of the human rights organisation the Saudi Civil and Political Rights Association, including Fowzan al-Harbi, Dr Abdulrahman al-Hamid, Issa al-Hamid, and Abdulaziz al-Shubaily, on free assembly charges.

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<sup>3</sup> Saudi scholars forbid protest calls’, Al-Jazeera, 10 March 2011, <https://www.aljazeera.com/news/middleeast/2011/03/201136154752122275.html>.

The charges related to *“inciting disobedience to the ruler by calling for demonstrations”*, *“spreading chaos by calling for demonstrations”*, and *“spreading a statement which calls for continuous demonstrations”*.

- 4.12.** In addition to using the 2014 Counter-terror law and SCC to target human rights activists, the authorities used it to target peaceful Shia protesters and dissidents. For example, Sheikh Nimr Baqir al-Nimr was a peaceful Shia activist and social justice advocate who called for more rights for Saudi Arabia’s Shia population and an end to systematic discrimination. He was violently arrested in 2012 and sentenced to death on charges of terrorism. Officials also used the language of the 2014 Counter-terror law to arrest, detain, and sentence to death Sheikh Nimr’s nephew Ali al-Nimr, Dawood al-Marhoon, Abdullah al-Zaher, and other peaceful protesters. Authorities charged them with a number of terror crimes, including “participating in demonstrations”. Using the broad and vague language of the 2014 Counter-terror Law, Saudi authorities interpret peaceful assemblies and protests as terror crimes.
- 4.13.** On 1 November 2017, the Saudi government promulgated a new counter-terror law, replacing the 2014 law. The new Law on Combatting Terrorist Crimes and Financing, 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 to do, incite, or intend to commit such actions. Like its 2014 predecessor, the 2017 Law does not require a terror act to be violent, but in conjunction with its vague and broad language, allows authorities to classify peaceful dissent and participation in peaceful assemblies and protests as terrorism.

### ***The Siege of Awamiyah***

- 4.14.** Saudi authorities also use the rhetoric of countering terrorism to justify security forces’ extrajudicial violence against Shia communities in the Eastern Province.

For example, from May to August 2017, Saudi security forces engaged in a 4-month siege of AlMosawara, a 400-year-old culturally and historically neighborhood in the Shia-majority town of Awamiyah in the kingdom’s Eastern Province. The operation began in the early morning of 10 May 2017, when security forces affiliated with the Ministry of Interior entered Awamiyah and, accompanied by demolition vehicles, began to destroy buildings in the historic center of town. During the siege, the military blockaded the town, restricting the flow of vehicles in and out of the area and indiscriminately attacked civilians and destroyed buildings.

- 4.15.** The government offered conflicting reasons for the security operation. It first stated the operation was to clear ground in the town for “redevelopment.” However, the redevelopment process would destroy hundreds of homes and did not include a plan to construct further housing despite the existing housing crisis. Officials then pivoted from discussing the importance of “redeveloping” the area to insisting on the need to undertake counter-terror operations focused on pursuing armed Shia militants hiding in the historic city center’s narrow alleyways. The government claimed that armed Shia militants were attacking the demolition vehicles and the workers accompanying them.
- 4.16.** With the invasion and blockade of Awamiyah, the government imposed a media blackout, restricting domestic and international journalists access to the town. As a result, it is impossible to independently verify government accounts of attacks on security forces, government attacks on civilians, and to accurately assess the civilian death toll from the four-

month operation. But it is known that at least 24 residents and several security officials were killed during the siege.

- 4.17.** Using forms of social media like Twitter, residents were able to spread the word of the siege. They described security forces acting with impunity and engaging in increasing attacks on civilians and buildings, as well as the use in late June, of heavy artillery. In addition to the widespread demolition of houses and shops, security forces' increasing violence caused widespread fear and led thousands to flee Awamiyah. Even as residents fled, they reported numerous incidences of security forces firing indiscriminately at those fleeing the town. Because of the violence, Awamiyah, which some estimate had pre-siege population of 24,000, was reduced to less than half of its population.<sup>4</sup>

### ***Use of Force Against Civilians***

- 4.18.** Security forces used excessive force against civilians in Awamiyah in clear violation of international norms. Legal prohibitions against the use of force against civilians, and protesters in particular, are enshrined in several international mechanisms, including Article 3 of the UDHR, which provides for the right to life, liberty, and security of the person. In addition to the UDHR, the two primary relevant mechanisms are the 1979 United Nations Code of Conduct for Law Enforcement Officials (CCLEO) and the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (BPUFF). Both the CCLEO and BPUFF outline the principles by which law enforcement officials must abide when using force and firearms.

While Saudi Arabia is not a party to either the CCLEO or BPUFF, and the UDHR lacks the force of law, together these mechanisms create a body of soft law, which serves to demonstrate a set of norms that states can, and should, aspire to in the use of force against civilians.

- 4.19.** CCLEO Article 2 provides that *"Law enforcement officials must respect and protect human dignity and maintain and uphold human rights of all persons"*. Article 3 provides that *"law enforcement officials may only use force when strictly necessary and to the extent required for the performance of their duty."*
- 4.20.** BPUFF Articles 4 provides that law enforcement officials must refrain from using force as much as possible before finally resorting to force. Article 5 states that when the use of force is unavoidable, law enforcement officials must exercise restraint, minimise damage and injury and allow the injured to be treated. The principles have specific provisions on the use of firearms. The use of firearms is to be limited to when there is a grave threat to life or limb or potential thereof (Article 9). Additionally, law enforcement officials must (unless impossible to do so) identify themselves prior to the use of firearms (Article 10).
- 4.21.** During the siege of Awamiyah, Saudi security forces did not abide by the principles enshrined in the CCLEO or the BPUFF, nor did they abide by the spirit of the UDHR. Security force personnel used deadly force indiscriminately, against unarmed civilians as well as against civilians who took up arms to defend their homes. Furthermore, security force personnel shot at cars and buildings in disregard of the CCLEO's principle to use force only *"when strictly necessary."* Government forces used artillery and heavy weaponry against occupied

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<sup>4</sup> Several Special Procedure mandates have condemned the government's actions in AlMosawara. See a statement made on 5 April 2017 here: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21482&LangID=E>, and one made on 24 May 2017 here: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21657&LangID=E>.

residential areas, demonstrating a complete disregard for civilian life. In the event that residential areas hid armed civilians, the use of artillery and heavy weaponry contravened the principle of proportionality.

- 4.22.** Under the principles of the BPUFF, law enforcement and security officials must apply non-violent means before resorting to force. However, security officials did not warn civilians before firing at buildings and cars, while government snipers reportedly directly targeted unarmed civilians. The indiscriminate use of force led to the death of at least 24 civilians, as well as the damaging of dozens of buildings, and destruction of AlMosawara.<sup>5</sup> Article 5 of the BPUFF calls on security forces to allow for the medical treatment of injured individuals, however the government blockade of the town restricted the ability of ambulances and fire trucks from assisting civilians and performing medical procedures.

### ***Extra-Judicial Violence***

- 4.23.** In addition to the siege of Awamiyah, there have been other incidents where Saudi security forces used excessive force against civilians in an extrajudicial manner and in contravention with the principles of the CCLEO and BPUFF.

In 2014, it was reported that security forces killed five civilians in the Sudairat neighbourhood of Awamiyah in what the government claimed was a counter-terror operation. On 20 December 2014, over 100 security force officers surrounded Awamiyah, blockading the town's entry points before raided a house in connection with alleged terrorist activity. They attacked the house using hand grenades and explosives, killing three men and wounding one. The officials detained the injured man in an unknown location, and he later died in government custody. However, out of fear of government reprisals, town medics could not disclose the cause of death. Later in the day, thinking the blockade was over, a fifth man drove towards the main intersection in his neighbourhood. He was cornered by armoured vehicles. The vehicles fired live ammunition at the car, hitting the driver in the neck. Afraid of government retaliation, spectators did not immediately transport the wounded driver to the hospital, but waited for a while. When they transported him to the clinic, doctors pronounced him dead.

- 4.24.** In 2016, DoS raised the case of Makki al-Orayedh, who died in police custody after being stopped at a checkpoint in Awamiyah. According to ESOHR, Saudi authorities tortured al-Orayedh to death.
- 4.25.** During the siege of Awamiyah, reports emerged of summary executions of civilians by security force. On 26 July 2017, witnesses reported that three Saudi citizens and three migrant workers were executed by security forces during the security operation in Awamiyah. On 9 August, Sajjad AbuAbdalla who was three-years-old died from gunshot wounds he sustained on 12 June, when he was driving with his family through Awamiyah. He was shot by security forces parked outside the Awamiyah police station without warning in what residents believed to be reprisals for the death of an officer the previous day.

### ***Right to a fair trial***

- 4.26.** Security forces' killings of civilians in Awamiyah are extrajudicial because they were outside of the law, as victims were not notified they had committed a crime, the government did not give them a trial in which they could represent themselves, and the victims did not have

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<sup>5</sup> See note 4.

recourse to the judicial system. The government's disregard for pursuing legal avenues in cases of alleged terrorism by members of the Shia minority community is similarly demonstrated by its abrogation of fair trial and due process rights in cases of alleged terrorism.

- 4.27.** The right to a fair trial is enumerated in several international treaty documents, but there is no binding international law guaranteeing this right. Article 10 of the UDHR states that *"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him"*.
- 4.28.** Article 14 of the ICCPR also grants defendants due process and fair trial rights, with paragraph 1 stating that *"All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law"*. Paragraph 3 grants defendants further rights and protections. 3(b) states that a defendant *"have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing,"* 3(c) states that defendants *"be tried without undue delay,"* 3(d) states that a defendant be *"tried in his presence."*
- 4.29.** While the UDHR is soft international law and is non-binding, and Saudi Arabia has not signed on to the ICCPR, the kingdom is a signatory to the Arab Charter on Human Rights, Article 13 of which states that *"1) Everyone has the right to a fair trial that afford adequate guarantees before a competent, independent and impartial court that has been constituted by law to hear any criminal charge against him or to decide n his rights or his obligations. Each State party shall guarantee to those without the requisite financial resources legal aid to enable them to defend their rights; 2) Trials shall be public, except in exceptional cases that may be warranted by the interests of justice in a society that respects human freedoms and rights"*.
- 4.30.** Despite being a signatory to the Arab Charter on Human Rights, Saudi Arabia's counter-terror laws directly contradict the principles of fair trials as outlined in the UDHR, ICCPR, and Arab Charter. The 2014 Counter-terror law enumerated the powers of the SCC. According to the Law, trials in the SCC could bypass due process and fair trial principles, especially concerning transparency. Article 9 of the Law allowed the SCC to issue a verdict with the defendant *in absentia*, while Article 12 allowed the SCC to hear witnesses and receive testimony in secret and in coordination with the Public Prosecution. Article 5 stated that an investigatory body could detain an individual accused of a terror crime for six months pending their trial, although the SCC could order an extension of their detention for another six months. Article 6 reinforced Article 5 and allowed an investigatory body to hold the accused *incommunicado* for 90 days, although the SCC could extend this period, potentially indefinitely.
- 4.31.** Like the 2014 Counter-terror law, the 2017 Counter-terror law allows the SCC to bypass due process and fair trial principles in trials of suspected terrorism suspects. Under Article 20 of the Law, the Public Prosecution has the power to order a detainee to be held in *incommunicado* detention for 90 days, although a court can approve a longer period. Under Article 21, the Public Prosecution has the power to restrict a defendant's right to an attorney during a trial. Article 25 grants specialized courts the power to try defendants *in absentia*. Article 27 empowers courts to hear experts and witnesses without requiring the defendant and their lawyer to be present in the courtroom. The effects of these provisions allow for, and will likely lead to, systematic violations of due process and fair trial guarantees, including

ensuring that trials are conducted transparently and defendants are fairly represented and able to participate in court hearings.

### **Death Penalty**

**4.32.** The lack of fair trials for members of Saudi Arabia's Shia community is sharply demonstrated in authorities' levying of capital punishment sentences for alleged terrorism crimes stemming from participation in peaceful protests and assemblies. Such sentences contravene international norms and standards, like in the ICCPR, specifying that the death penalty only be applied in response to the "most serious crimes." The ICCPR also restricts the types of offenders that are eligible for capital punishment in cases of "most serious crimes," prohibiting the execution of children and pregnant women. Customary international law further prohibits the execution of mentally ill individuals. Additionally, the ICCPR allows that execution may only be carried out after a final judgement of a competent court. However, Saudi Arabia's court system, in particular its counter-terror court system, the SCC, is not a competent system.<sup>6</sup>

**4.33.** Article 5 of the Arab Charter of Human Rights states that *"every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."* Article 6 of the Charter states that *"sentence of death may be imposed only for the most serious crimes in accordance with the laws in force at the time of commission of the crime and pursuant to a final judgement rendered by a competent court. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence."*

While Article 4 allows the signatories, in "exceptional situations of emergency, to derogate from their obligations under the Charter, it also explicitly states that *"no derogation shall be made from the following articles: article 5 [...]."* In this way, although the Charter allows states to derogate from Article 6 concerning the death penalty, it upholds the principle of the right to life and the freedom from being arbitrarily deprived of one's life, demonstrating that deadly and arbitrary extra-judicial violence remains prohibited under the Charter.

**4.34.** Saudi Arabia acceded to the Convention on the Rights of the Child in 1996. However, despite its status as a party to the Convention, Saudi Arabia continues to torture and sentence minors to death, in violation of Article 37 of the Convention. Article 37 states that *"No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below eighteen years of age."*

**4.35.** Despite its treaty obligations, the Saudi government frequently executes and sentences members of the Shia minority to death on terror charges stemming from participation in peaceful assemblies and protests, including individuals who allegedly committed terror crimes when they were under the age of 18.

**4.36.** On 2 January 2016, the Saudi government executed 47 men in a mass execution, including four men who were minors at the time of their alleged crimes were executed. One of them, Ali al-Rebh, who was Shia, was arrested for participating in a peaceful protest. The SCC sentenced him to death after torturing him into confessing to committing terror crimes. During the mass execution, officials executed Mohammed al-Shioukh and Mohammed al-

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<sup>6</sup> See paragraphs 4.30 and 4.31 for more detailed information on how the SCC and counter-terror laws contravene the principles of fair trials.

Suwaimil, who were also Shia, on terror charges after arresting them because of their participation in peaceful protests. Alongside al-Ribh, al-Shioukh, and al-Suwaimil, authorities also executed Shia cleric Sheikh al-Nimr in the mass execution on charges of terrorism. Officials sentenced Sheikh al-Nimr to death, calling him a terrorist who advocated for violence, although he had explicitly rejected violence in numerous sermons. The execution of al-Ribh, al-Shioukh, al-Suwaimil, and Sheikh al-Nimr, who were Shia and who were arrested for peaceful assembly and protest and dissent, alongside members of terrorist organizations like al-Qaeda and the Islamic State, was an attempt to conflate peaceful protest, assembly, and dissent with violent terrorism.

**4.37.** On 11 July 2017, the government executed four Shia men on terror charges. The men, Yusuf AlMushaykhis, Amjad al-Muaybed, Zuhair al-Basri, and Mahdi al-Sayegh were found guilty by the SCC of terror crimes and sentenced to death, although all four men had been tortured into producing a false confession.

**4.38.** There are currently at least 42 men on death row for peaceful assembly, protest, and religion-related crimes, most of whom are Shia. Seven of the men were minors at the time they allegedly committed their crimes. Ali al-Nimr, Dawood al-Marhoon, and Abdullah al-Zaher have been on death row since 2014, when the SCC passed their sentences. In addition to al-Nimr, al-Zaher, and al-Marhoon, Mujtaba al-Suwaiket, Salman al-Quraish, Abdullah al-Sareeh, and Abdulkareem al-Hawaj were minors at the times of their alleged crimes.

**4.39.** In early December 2016, the SCC sentenced 15 men, most of them Shia, from the Eastern Province to death on charges of terrorism and spying for Iran in explicit relation to their Shia faith. The men had been arrested in 2013 and kept in detention for three years before their trials. They were tried in mass trials and did not have adequate access to their attorneys. During their detention, officials tortured many of the men and forced them to confess to the crimes, before sentencing them to death.

## **5. RECOMMENDATIONS**

**5.1** In light of the above, ADHRB and ESOHR offer the following recommendations:

**5.2.** Accede to the ICCPR and other main international human rights instruments as well as all Optional Protocols and incorporate their protections into domestic law;

**5.3.** Enshrine religious freedom protections in the Basic Law of Governance, including residents' right to freedom of thought, conscience and religion, the freedom to change religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance, in line with international standards;

**5.4.** Rescind the Ministry of Interior's ban on peaceful protests and assemblies and promulgate legislation protecting the right to peaceful protest and assembly;

**5.5.** Unconditionally release and pardon all political prisoners arrested and sentenced because of their participation in peaceful assemblies and protests;

**5.6.** Reform the 2017 Counter-terror law to ensure that peaceful assembly and protest are not classified and cannot be interpreted as terrorism;

- 5.7.** Promulgate legislation enshrining the principles of the CCLEO and BPUFF into Saudi domestic law to ensure that civilians are protected against the use of force and providing effective legal remedies in the case security forces use excessive force against civilians;
- 5.8.** Concerning the violence in Awamiyah:
- 5.8.1.** Compensate the residents whose houses have been destroyed;
  - 5.8.2.** Include subsidized housing in the redevelopment plans for Awamiyah's city centre and prioritize this housing for residents forced out by the violence;
  - 5.8.3.** Create an independent and impartial court to investigate allegations of violence against civilians; and
  - 5.8.4.** Hold the members of security forces responsible for the deaths of civilians and prosecute them to the full extent of the law.
- 5.9.** Reform the 2017 Counter-terror law to ensure that international standards of fair trials are enshrined within the law, specifically that trials cannot go ahead without the defendant and their lawyer present in the courtroom for the entire process, that defendants cannot be held *incommunicado* for any length of time, and that defendants have an attorney at all times throughout the detention and trial process;
- 5.10.** Concerning the death penalty:
- 5.10.1.** Institute a moratorium on the use of the death penalty with the aim of its abolition; and
  - 5.10.2.** Immediately and unconditionally release all prisoners of conscience and all prisoners detained on assembly, protest, and religion-related crimes who are on death row and pardon them of their alleged crimes.

## ANNEX: RECOMMENDATIONS MADE AND THEIR ACCEPTANCE AND IMPLEMENTATION STATUS

Recommendation Number	Recommendation and State	2 <sup>nd</sup> Cycle Status	2 <sup>nd</sup> Cycle Implementation	Progress	Current Assessment
138.47	Adopt laws to protect freedoms of association, expression, and religions, and give all individuals a legal basis to form NGOs without interference (United States of America)	Accepted	Not implemented	No perceived progress	Not implemented
138.94	Protect human rights of all individuals without any discrimination based on gender, origin, religion, or customs (France)	Accepted	Not implemented	No perceived progress	Not implemented
138.117	Taking into account the section in the national report relative to the fight against discrimination and the promotion of freedom of opinion and expression, strengthen action to ensure implementation of legislation against discrimination and religious violence (Argentina)	Accepted	Not implemented	No perceived progress	Not implemented
138.154	Ensure that the judicial and law enforcement system is not abused to harass individuals for expressing their political or religious views (Czech Republic)	Accepted	Not implemented	No perceived progress	Not implemented
138.165	Protect freedom of religion or belief of all people living in the country (Romania)	Accepted	Not implemented	No perceived progress	Not implemented
138.168	Take necessary measures to ensure the effective enjoyment and protection of the right to freedom of religious belief, with a view to promoting the equality of all peoples and respect for all faith (Canada)	Accepted	Not implemented	No perceived progress	Not implemented
138.169	Continue enhancing the legal protection of freedom of religion and belief, aiming at gradually allowing the public practice of all faiths and beliefs (Italy)	Noted	Not implemented	No perceived progress	Not implemented

<b>138.193</b>	Pass legislation guaranteeing the right of religious minorities to build and maintain places of worship ( <b>Austria</b> )	Noted	Not implemented	No perceived progress	Not implemented
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