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RELIGIOUS FREEDOM AND FREEDOM OF EXPRESSION IN SAUDI ARABIA

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council.¹ The purpose of this report is to raise concerns regarding human rights violations in the Kingdom of Saudi Arabia for the 2018 Universal Periodic Review (UPR).

2. The 2013 UPR Working Group recommended that Saudi Arabia “[a]dopt laws to protect freedoms of association, expression, and religion”.² While Saudi Arabia has made some improvements, it continues to regularly and systemically violate human rights, including freedom of religion and expression.

Legal Ramifications of Saudi Basic Law

3. Since 1992, Saudi Arabia’s basic governmental structure and governing principles have been described and set forth in a foundational document known as the Basic Law of Governance.³ The government functions as an absolute monarchy, although a number of subordinate authorities exist.⁴ The Basic Law declares that Islam is the state religion⁵ and that the “[g]overnment . . . derives its authority from the [Qur’an] and the Sunna of the Prophet . . . which are the ultimate sources of reference for [the Basic] Law and the other laws of the State”.⁶ The judiciary is functionally independent, but its high-ranking members are appointed by the king.⁷ While the Basic Law mandates that governance shall be based on the principles of “justice, shura (consultation), and equality”, these concepts are to be interpreted “according to Islamic Sharia”.⁸

4. Accordingly, the Basic Law does not protect religious freedom.⁹ Instead, its specific purpose is to ensure the Islamic character of both the people and government of Saudi Arabia.¹⁰ Pursuant to this purpose, the Saudi government imposes Sharia-based criminal penalties on acts such as apostasy and blasphemy:

“Blasphemy” is conceived as a deviation from Sunni Islam and thus may also be treated as “apostasy”. Apostasy is criminalized and mandates a death penalty. The criminal accusation of “apostasy” is sometimes deployed against people (including writers, activists, artists, or lawyers) who show any serious sign of pushing at the outer boundaries of freedom of expression, or who are critical of the religious authorities, and whose views (rightly or wrongly) are termed “atheist” or as “insulting to religion”.¹¹

5. In addition to the power of the courts to punish these offenses by death pursuant to Saudi Arabia’s fundamentalist interpretation of Islamic doctrine, Saudi Arabia has recently issued a royal decree declaring a number of specific activities, including promoting atheistic views and attempting “to cast doubt on the fundamentals of Islam,” as acts of terrorism.¹²

6. Further, Saudi Arabia reserves its citizenship to Muslims only.¹³ Non-Muslims may not be naturalised without attesting to their conversion and obtaining certification of the same from a Muslim religious authority.¹⁴ Children of Muslim fathers are deemed Muslim under the law.¹⁵ While this provides them certain privileges, it also automatically subjects them to apostasy

laws should their actual beliefs be (or become) non-Islamic, as well as other legal and cultural consequences.¹⁶

7. Saudi Arabia provides unequal protection for Muslims and non-Muslims under the law: for instance, a Jewish or Christian plaintiff may only recover half the damages a Muslim male would receive in a civil suit over accidental injury or death, and other non-Muslims may recover only one-sixteenth as much as a Muslim male.¹⁷

8. Saudi Arabia places restrictions on certain forms of expression including dress, religious emblems and art.¹⁸ Moral and religious restrictions have traditionally been enforced by the Commission for the Promotion of Virtue and Prevention of Vice (CPVPV), or the “religious police”, which requires everyone in the country to “abide by its interpretation of Islam’s rules and its prophet’s directives”.¹⁹ We welcome the steps Saudi Arabia has taken since the last UPR to reign in the power of the CPVPV; however, there is still much work to be done to counter the repression of religious freedom.²⁰

9. Much of Saudi Arabia’s law—particularly its criminal law—remains uncodified and unpublished.²¹ This gives courts free rein in their application of Islamic law.²² Saudi Arabia has taken some initial steps toward codifying their law by codifying and publishing regulations and Royal Decrees.²³ In addition, they are beginning to record judicial decisions.²⁴ However, Saudi Arabia needs to continue to improve in this area and begin to codify the remaining portions of their uncodified law.

10. Finally, the Basic Law only provides human rights protections “in accordance with the Sharia”.²⁵ Accordingly, despite its few recent efforts to improve conditions for religious freedom,²⁶ Saudi Arabia “continue[s] to prosecute and imprison individuals for dissent, apostasy and blasphemy,” prohibit non-Muslim places of worship, and otherwise discriminate against persons on the basis of their religious affiliation.²⁷ Thus, the overall design continues to allow for systemic discrimination and oppression on the basis of religion and expression.

11. Although Saudi Arabia is a member of the United Nations,²⁸ it abstained from voting on the adoption of the Universal Declaration of Human Rights (UDHR),²⁹ and has never signed the International Covenant on Civil and Political Rights (ICCPR).³⁰

Incidents of Restrictions of Freedom of Religion

State-Sponsored Repression

12. Reports do not adequately reflect the persecutions Christians face due to the fact that their religion is prohibited; thus, Christians are reluctant to disclose information relating to abuse of religious freedom for fear that this might lead to further persecution.³¹ Additionally, court proceedings are private which causes information regarding government practices to be incomplete.³² Much of the religiously repressive character of Saudi Arabia is widespread and institutional. For example, a comprehensive review of schoolbooks for religious studies, produced by the Education Ministry, found that Saudi Arabian school books contain teachings intolerant to other faiths.³³ One book “declares that it is the duty of Muslims to excommunicate [unbelievers]: ‘For whoever does not excommunicate them, or whoever doubts their religious infidelity is himself an unbeliever’”.³⁴ The same book warns Muslim children against showing support for non-Muslims.³⁵ According to Human Rights Watch, students are taught to express hostility and antagonism toward unbelievers.³⁶ In general, there is “suffocating” pressure on

Christians—particularly converts to Christianity—from family, society and the government to keep silent about their faith.³⁷

13. One Saudi wife, mother and Christian convert, Nawal, keeps her Christian faith secret in order to survive. When Nawal’s mother found out about her religion, she forced Nawal to stay inside for years.³⁸ Nawal was eventually pressured into marrying a Muslim man.³⁹ If her husband discovers that she is a Christian, he is entitled to beat or divorce her because Saudi laws enable families to handle such matters in private.⁴⁰ Nawal can communicate with other Christians only in secret over the Internet, and only through religiously neutral messages.⁴¹

Criminal Prosecution

14. In September 2016, Saudi religious police arrested twenty-seven Lebanese Maronite Christians holding a religious service, charging them with “being in possession of Bibles” and “conducting Christian Prayers”.⁴² The Saudi government revoked their visas and deported them to Lebanon.⁴³ A similar raid took place in the same city in September 2014, during which twenty-eight Christians were arrested. The Christians were arrested by the CPVPV pursuant to a tip about a home-based church because all churches are illegal in Saudi Arabia.⁴⁴ The police reported that the Christians were in possession of “distorted writings of the Bible . . . and musical instruments”.⁴⁵ The arrestees were held overnight and then released, except the leader, who was held for two days.⁴⁶

15. In February 2016, Saudi Arabia sentenced a man to ten years in prison, 2,000 lashes, and a hefty fine for expressing atheism in social media posts.⁴⁷ The man admitted being an atheist and refused to renounce his nonbelief.⁴⁸ The CPVPV discovered that he had made 600 tweets denying the existence of God, ridiculing the Qur’anic verses, accusing all prophets of lies, and saying their teaching fueled hostilities.⁴⁹

16. In January 2016, Saudi Arabia executed Shia cleric, Sheikh Nimr al-Nimr, whom it accused of “instigating unrest”, seeking “foreign meddling” and “disobeying the ruler”.⁵⁰ Al-Nimr was a vocal supporter of pro-democracy movements and Shia equality.⁵¹ He had previously come under scrutiny from Saudi authorities for publicly exercising his Shia faith and calling for religious freedom.⁵²

17. In November 2015, Saudi Arabia convicted Ashraf Fayadh of apostasy for allegedly renouncing Islam and promoting atheism in his poetry.⁵³ The publications on which the accusations were based concern Fayadh’s experiences as a Palestinian refugee, as well as cultural, philosophical and religious themes.⁵⁴ Fayadh was working as a curator and organiser of contemporary art in Saudi Arabia at the time of his arrest.⁵⁵ In 2016, an appeals court quashed the death sentence and sentenced Fayadh instead to eight years in prison and 800 lashes.⁵⁶

Funding Extremism

18. In addition to committing direct violations of its own people’s religious freedom and free expression, Saudi Arabia indirectly contributes to other human rights violations throughout the Islamic world by funding madrassas, or religious schools, that promote extremist Sunni ideology. Saudi Arabia has provided billions of dollars of support to such institutions around the globe in hopes of promoting Wahhabism and containing Shia influence.⁵⁷ Responding to recent criticism of its funding of madrassas in Pakistan, Saudi Arabia denied that it supports terrorist organisations and emphasised that the Pakistani government approves all such

funding.⁵⁸ This justification misses the point, however. While Saudi Arabia is actively engaged in opposing Islamic terror organisations *per se*, the madrassas it funds radicalise populations, thereby fostering Sunni militancy.⁵⁹ For example, Islamist violence in South Asia has increased substantially as a result of the extreme religious views inculcated by these schools.⁶⁰ Pakistan in particular, where twenty percent of the population is Shia, has suffered from decades of sectarian violence due to the influence of Saudi-funded madrassas.⁶¹

Conclusion

19. While Saudi Arabia has taken some steps toward accommodating religious freedom, such as revoking some of the CPVPV's authority,⁶² it has failed to provide substantial reforms to allow freedom of religion and expression. By funding radical institutions, Saudi Arabia fosters international Sunni Islamic terrorism. The 2018 UPR Working Group must urge Saudi Arabia to implement measures to ensure freedom of religion and expression and curb the use of funds to teach extremist ideology.

¹ *Integrated Civil Society Organizations System*, NGO BRANCH, U.N. DEP'T OF ECON. & SOC. AFF., <http://esango.un.org/civilsociety/> (last visited 22 Feb. 2018).

² Rep. of the Working Group on the Universal Periodic Review, para. 138.47, Human Rights Council, U.N. Doc. A/HRC/25/3 (Dec. 2013).

³ The Basic Law of Governance (1 Mar. 1992), http://www.constitutionnet.org/sites/default/files/the_basic_law_of_governance.pdf; U.S. STATE DEP'T, SAUDI ARABIA 2016 INTERNATIONAL RELIGIOUS FREEDOM REPORT 1, <https://www.state.gov/documents/organization/269156.pdf> (last visited 15 Feb. 2018) [hereinafter SAUDI ARABIA REPORT]; Abdullah F. Ansary, *Update: A Brief Overview of the Saudi Arabian Legal System* Part I.1, http://www.nyulawglobal.org/globalex/Saudi_Arabia1.html (last updated Aug. 2015) [hereinafter Ansary, *Updated Brief Overview*]; see generally Abdullah F. Ansary, *A Brief Overview of the Saudi Arabian Legal System* Part I, http://www.nyulawglobal.org/globalex/Saudi_Arabia.html (last visited 19 Feb. 2018) [hereinafter Ansary, *A Brief Overview*].

⁴ See Ansary, *A Brief Overview*, *supra* note 3, Part II.1–2.

⁵ Basic Law art. 1.

⁶ *Id.* art. 7.

⁷ Ansary, *Updated Brief Overview*, *supra* note 3, Part II.3.8; Basic Law arts. 46–52.

⁸ Basic Law art. 8.

⁹ SAUDI ARABIA REPORT, *supra* note 3, at 1, 3.

¹⁰ See, e.g., Basic Law arts. 9–12, 23, 34, 48, 55; see also *King Fahd's Speech on the issuance of the Basic Law of Governance*, ROYAL EMBASSY OF SAUDI ARABIA, <https://www.saudiembassy.net/king-fahds-speech-issuance-basic-law-governance> (last visited 15 Feb. 2018).

¹¹ *Saudi Arabia*, THE FREEDOM OF THOUGHT REPORT, http://freethoughtreport.com/countries/asia-western-asia/saudi-arabia/#Blasphemy_and_apostasy (last visited 21 Feb. 2018); see, e.g., *infra* paras. 13–15.

¹² Asharq al-Awsat, *Full Text of Saudi Interior Ministry Statement Designating Terrorist Organizations* (8 Mar. 2014), <https://eng-archive.aawsat.com/theaawsat/news-middle-east/full-text-of-saudi-interior-ministry-statement-announcing-terrorist-list>.

¹³ SAUDI ARABIA REPORT, *supra* note 3, at 3–7.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See, e.g., *infra* para. 12.

¹⁷ SAUDI ARABIA REPORT, *supra* note 3, at 3–7.

¹⁸ *Id.*

¹⁹ *Saudi Arabia Limits Powers of its Religious Police*, WORLDWATCH MONITOR (18 Apr. 2016), <https://www.worldwatchmonitor.org/2016/04/saudi-arabia-limits-powers-of-its-religious-police/>.

²⁰ *Id.*; see *Preventing the Commission from Stalking and Interrogating Persons and Merely Treating Them With Leniency*, ALRIYADH.COM (13 Apr. 2016), <http://www.alriyadh.com/1146183>.

²¹ See Ansary, *Updated Brief Overview*, *supra* note 3, Part II.3.8 & n.424.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Basic Law art 26.

²⁶ See *supra* text accompanying notes 19–22; UPR INFO, 2RP: RESPONSES TO RECOMMENDATIONS AND VOLUNTARY PLEDGES – SAUDI ARABIA (2014), https://www.upr-info.org/sites/default/files/document/saudi_arabia/session_17_-_october_2013/recommendations_and_pledges_saudiarabia_2014_0.pdf.

²⁷ 2017 ANNUAL REPORT, UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM 76–82, <http://www.uscirf.gov/sites/default/files/2017.USCIRFAnnualReport.pdf>; see also SAUDI ARABIA REPORT, *supra* note 3, at 1.

²⁸ *Member States*, UNITED NATIONS, <http://www.un.org/en/member-states/> (last visited 15 Feb. 2018).

²⁹ *Voting Record Search – UN Resolution Symbol A/RES/217(III)*, UNBISNET, <http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=W518W0287258C.200367&profile=voting&uri=full=3100023~!909326~!0&ri=3&aspect=power&menu=search&source=~!horizon> (last visited 15 Feb. 2018).

³⁰ *Ratification Status for Saudi Arabia*, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISS’R, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=152&Lang=EN (last visited 15 Feb. 2018).

³¹ *Saudi Arabia*, U.S. DEP’T OF ST., <https://www.state.gov/j/drl/rls/irf/2005/51609.htm> (last visited 15 Mar. 2018).

³² *Id.*

³³ *Saudi Schoolbooks ‘Teach Students to Hate Those of Other Faiths’*, WORLDWATCH MONITOR (18 Sep. 2017), <https://www.worldwatchmonitor.org/coe/saudi-school-books-teach-students-to-hate-those-of-other-faiths-says-human-rights-watch/>.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Lindy Lowry, *In Saudi Arabia, Christian Mom’s Secret Faith Survives in Silence*, OPEN DOORS (6 Feb. 2018), <https://www.opendoorsusa.org/christian-persecution/stories/saudi-arabia-christian-moms-secret-faith-survives-silence/>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Joyce Dimaculangan, *Saudi Arabia Deports 27 Christians*, SOCIAL CHRISTIAN VOICE (10 Oct. 2016), <http://socialchristianvoice.com/saudi-arabia-deports-27-christians/>.

⁴³ Dimaculangan, *supra* note 38.

⁴⁴ Matthew Blake, *Dozens of Christians ‘Including Women and Children’ Are Arrested in Saudi Arabia After Tip-Off to State’s Islamist Police Force*, DAILYMAIL.COM, <http://www.dailymail.co.uk/news/article-2756134/Dozens-Christians-including-women-children-arrested-Saudi-Arabia-tip-state-s-Islamist-police-force.html> (last updated 15 Sept. 2014, 7:25 PM).

⁴⁵ *Id.*

⁴⁶ *Saudi Arabia*, CHURCH IN CHAINS, <http://www.churchinchains.ie/country-profiles/saudi-arabia-country-profile/> (last visited 21 Feb. 2018).

⁴⁷ Ashley Cowburn, *Saudi Arabia Sentences a Man to 10 Years in Prison and 2,000 Lashes for Expressing His Atheism on Twitter*, INDEP. (27 Feb. 2016), <http://www.independent.co.uk/news/world/middle-east/saudi-arabia-sentence-man-to-10-years-in-prison-and-2000-lashes-for-expressing-his-atheism-on-a6900056.html>.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Mark Townsend, *Sheikh Nimr al-Nimr: Shia Cleric Was a Thorn in Saudi Regime’s Side*, GUARDIAN (2 Jan. 2016), <https://www.theguardian.com/world/2016/jan/02/sheikh-nimr-al-nimr-shia-cleric-thorn-saudi-regime-side>.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Ashraf Fayadh: Palestinian Poet, Saudi Prisoners*, FANACK.COM, <https://fanack.com/palestine/faces/ashraf-fayadh/> (last visited 15 Feb. 2018).

⁵⁴ *Id.*; see *The Poetry that Led to a Death Sentence in Saudi Arabia*, WBUR.ORG (12 Feb. 2016), <https://www.wbur.org/hereandnow/2016/02/12/Palestinian-poet-ashraf-fayadh>.

⁵⁵ *Ashraf Fayadh: Palestinian Poet, Saudi Prisoner*, *supra* note 50.

⁵⁶ *Id.*

⁵⁷ Akhilesh Pillalamarri, *The Radicalization of South Asian Islam: Saudi Money and the Spread of Wahhabism*, GEO. SEC. STUD. REV. (20 Dec. 2014), <http://georgetownsecuritystudiesreview.org/2014/12/20/the->

radicalization-of-south-asian-islam-saudi-money-and-the-spread-of-wahhabism/; *Saudi Arabia*, FOUND. FOR DEF. OF DEMOCRACY (16 June 2011), <http://www.defenddemocracy.org/media-hit/saudi-arabia/>.

⁵⁸ *Saudi Arabia Denies Funding 'Extremist Mindset' in Pakistan*, DAWN.COM, <https://www.dawn.com/news/1162507> (last updated 9 Feb. 2015).

⁵⁹ Joseph Thomas, *Islamic State in Asia: Saudi-Funding and Naive Policymakers Endanger Region*, GLOB. RESEARCH (1 June 2017), <https://www.globalresearch.ca/islamic-state-in-asia-saudi-funding-and-naive-policymakers-endanger-region/5592945>.

⁶⁰ Pillalamarri, *supra* note 54.

⁶¹ Farhad Mirza, *Pakistani-Saudi Ties, Yemen and 'Political Blackmail'*, MIDDLE EAST EYE, <http://www.middleeasteye.net/columns/pakistani-saudi-ties-yemen-and-political-blackmail-439062704> (last updated 1 May 2015).

⁶² *Supra* para. 8.