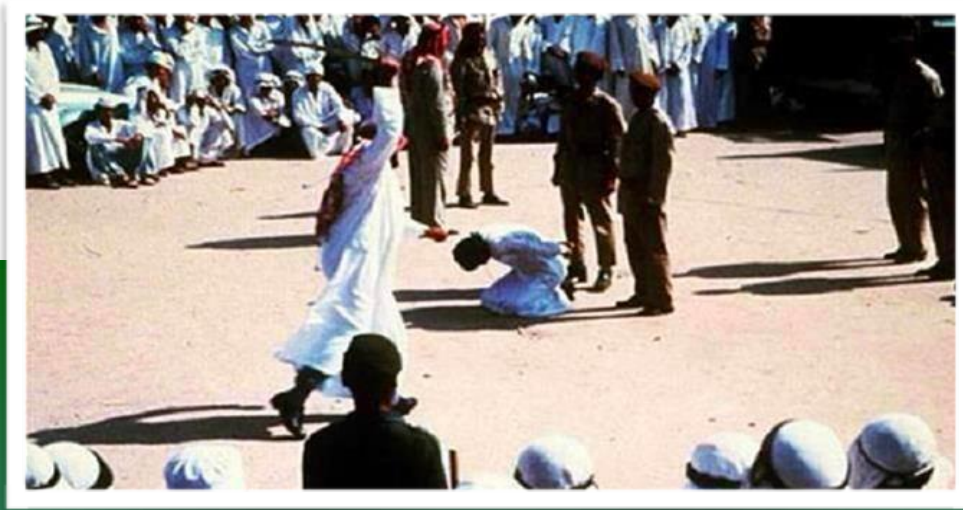




Muslims for Progressive Values (MPV) Stakeholder Submission to the Universal Periodic Review (UPR) of the Kingdom of Saudi Arabia

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About MPV

Founded in 2007 and headquartered in Los Angeles, California, MPV is a grassroots faith-based, human rights organization that advocates for inclusive and egalitarian narratives of Islam, gender equality and women's empowerment, the human rights of LGBTI demographics, freedom of expression, and freedom of and from religion or belief. MPV operationalizes its advocacy campaigns by creating inclusive spaces for critical analysis of religious discourses and scripture, engaging policy processes at the national and global levels, facilitating expression through the arts, and grassroots social activism. MPV acquired Department of Public Information affiliation with the UN in 2013.

About AIM

AIM is a collective of progressive Muslims across all nationalities, races, and sectarian affiliations. The purpose of AIM is to consolidate the efforts of progressive Muslims and progressive Muslim organizations from around the world to counter radical, intolerant and supremacist mindsets, attitudes, and behaviors in Muslim communities. AIM seeks to challenge theological justifications for hate and supremacy with the progressive values that it deems inherent to Islam, namely: human rights and dignity for all, freedom of expression, and freedom of and from religion or belief.

Executive Summary

The application of rights-violating apostasy and blasphemy legislation to stifle or criminalize free expression, including of dissenting opinions critical of the Kingdom of Saudi Arabia's (hereafter KSA) laws, policies, and social practices, undermine and inhibit the ability of its citizens to exercise in full their rights to freedom of expression, as well as to freedom of religion or belief, as guaranteed by international human rights conventions. The application of legislation criminalizing actual or perceived acts of apostasy or blasphemy are without exception counter-intuitive to the KSA's obligation to respect, protect, and fulfill the rights to freedom of thought, conscience, and religion, and freedom of expression as provisioned by articles 24.5 and 24.6,¹ 25,² and 30³ of the Arab Charter on Human Rights, of which it is a signatory. Furthermore, as a faith-based human rights organization, MPV affirms that criminalization of blasphemy and apostasy are contradictory to the Quranic mandate of "no compulsion in religion" (verse 2:256), which safeguards freedom of conscience, religion, and belief.

¹ "Every citizen has the right to: 5. Form associations with others and to join associations; 6. Freedom of peaceful assembly and association",

http://www.eods.eu/library/LAS_Arab%20Charter%20on%20Human%20Rights_2004_EN.pdf

² "Persons belonging to minorities shall not be denied the right to enjoy their own culture, to use their own language or to profess and practise their own religion. The law shall regulate the exercise of such rights", *ibid*.

³ "Every person shall have the right to freedom of thought, belief and religion, which may be subject only to such limitations as are prescribed by law", *ibid*.

Legal and Institutional Realities

I.I Article 1 of the Constitution of the KSA's establishes the Qu'ran and the *sunnah*—orally transmitted teachings and insights of the Prophet Muhammad—and are the sources of jurisprudence and governance “in accordance with the Islamic Shari’ah” (Article 8). However, because there is no formal, codified penal code and a limited record of judicial precedent, contradictions arise between the KSA’s rule of law *de jure* and *de facto*, with the latter being variable throughout the country.

A. In addition to punishing cases of blasphemy or apostasy (*hudud*), rape, or murder, judges may advise the death penalty on a “discretionary basis,” without recourse to written law or precedent.⁴

I.II The Saudi Arabian constitution states that “the state protects human rights in accordance with Islamic Shari’ah” (Article 26). As shown in (I), qualifying state protection of human rights thusly attenuates the state’s ability to respect, protect, and fulfill the human rights of its citizens, due in part to the fact that Shar’iah law is not uniformly codified or enforced.

I.III Regarding obligations to respect, protect, and fulfill the rights to freedom of thought, religion or belief, and freedom of expression, KSA has ratified the Arab Charter on Human Rights (ACHR). However, because the KSA has not ratified other human rights instruments, such as the ICCPR, and hence is unbound by higher standards of rights obligations and in many instances arbitrarily defines and/or limits the rights which it claims to protect (Article 26) according to its own Constitution.

I.IV Article 81 of the Constitution of the KSA states that “the implementation of [Saudi Arabian] law will not prejudice the treaties and agreements signed by the Kingdom of Saudi Arabia with international bodies and organizations.” In reality, the Saudi Arabian constitution directly contradicts Articles 24, 25, and 30 of the ACHR, which stipulate broadly freedoms of expression and opinion, and freedom of religion and belief, respectively.

I.V Article 12 of the KSA Constitution provisions, rather ambiguously, that “the state will prevent anything that may lead to disunity, sedition and separation”; Article 39 prescribes acts that “foster sedition or division”; Article 41 stipulates that “residents of the KSA shall abide by its laws and shall observe the values of Saudi society and respect its traditions and feelings.” The government therefore is actually limiting rights to freedom of expression and opinion based on vaguely defined terms such as “sedition,” “feelings,” and “values.” Additionally, it is well known that non-Muslims are not allowed to practice their religion in Saudi Arabia, on the other hand, which contradicts Article 25 of the ACHR which stipulates freedom of religion or belief.

⁴ <https://www.hrw.org/news/2010/01/14/saudi-arabia-criminal-justice-strengthened>

Social Realities and Cases

II.I The Detention of Raif Badawi:

Raif Badawi was arrested in 2012, and convicted for “insulting Islam through electronic channels,” after creating a website called “Free Saudi Liberals” and blogging about free speech and human rights. He received a sentence of 10 years in prison, and 1,000 lashes.⁵ 50 lashes have already been administered, exacerbating pre-existing and severe health complications; the remaining lashes have been postponed.⁶ Mr. Badawi is still serving his prison sentence.⁷

Mr. Badawi’s arrest and imprisonment violates his right to expression, as per Articles 24 and 30 of the ACHR. The crime of “insulting Islam,” which is defined by the court and Shari’ah judges, is not founded in a transparent or uniform legal code. In other words, because there is no set threshold to define “insulting Islam,” the conviction thereof is determined arbitrarily.

Arbitrarily convicting an individual of “insulting Islam” effectively circumscribes the beliefs, religious or otherwise, of that individual within the accepted parlance of the state. Article 30 of the ACHR explicitly acknowledges and protects the rights to freedom of thought, conscience and religion, and no restrictions may be imposed on the exercise of such freedoms except as provided for by law. Since there is no set law defining “insulting Islam,” there is no basis for Mr. Badawi’s rights to have been violated, and his sentence should be repealed and his release secured immediately.

II.II The Detention of Waleed Abu al-Khair

Waleed Abu al-Khair was sentenced to 15 years in prison, a 15-year travel ban, and a 200,000 Saudi Riyal fine in 2014 for “crimes” related to terrorism.⁸ Amnesty international writes that the allegations of terrorism-related activity are “baseless,” and reports that Mr. Abu al-Khair was imprisoned for his work in human rights, including holding discussions about human rights in his home, defending individuals who have been punished for exercising their freedoms of expression, and signing onto a letter that criticized KSA authorities for imprisoning a group of activists advocating democratic reform.

According to Amnesty, Waleed was convicted by a judge in a security and counter-terror court, for the following charges:

⁵ <https://www.rt.com/uk/420850-saudi-prince-salman-badawi/>

⁶ <http://www.dailymail.co.uk/news/article-5471781/Wife-Raif-Badawi-asks-Saudi-Crown-Prince-royal-pardon-UK.html>

⁷ <https://www.amnestyusa.org/press-releases/saudi-arabia-three-years-on-flogged-blogger-raif-badawi-must-be-released/>

⁸ <https://www.amnesty.org.uk/saudi-arabia-free-human-rights-lawyer-waleed-abulkhair-abu-al-khair>

- Disobeying the ruler and seeking to remove his legitimacy;
- Insulting the judiciary and questioning the integrity of judges;
- Setting up an unlicensed organization;
- Harming the reputation of the state by communicating with international organizations;
- Preparing, storing and sending information that harms public order.

Mr. Abu al-Khair's trial began in October 2013. Mr. Abu al-Khair refused to accept these charges throughout his trial, or to recognise the legality of the court in which he was tried. Furthermore, in February 2014, half-way through Mr. Abu al-Khair's trial, the KSA implemented a new anti-terrorism law, which the courts applied *ex post facto* to Waleed's case. Amnesty International reports that "Mr. Abu al-Khair was the first human rights activist to be tried and sentenced under the new law, which extended existing laws used by courts to crack down on free speech through overly vague definitions of 'terrorism' – and legitimised and ramped up the punishment against human rights activists like Waleed."

Mr. Abu al-Khair's arrest and imprisonment violate his right to freedom of peaceful assembly, and freedom of expression, as per Articles 24 and 30 of the ACHR. Mr. Abu al-Khair's crimes do not correlate to his actions and, in fact, were only established after a new law implemented *ex post facto*, in order that the evidence pertaining to his case be interpreted retroactively in light of this new law. This is a gross violation of judicial norms and Mr. Abu al-Khair's rights as a private citizen and defendant—how could he have violated a law that *did not exist* when the purported crimes were committed?

Conclusions and Recommendations

We at MPV believe freedom of personhood and conscience are not only essential to all human societies but integral to the Qur'anic view of humanity. All citizens of the world have every right to freely explore critical thought, opinion, and expression, and to negotiate their faith without fear of threat, punishment, or torture, and to live a life with dignity and with freedom of conscience as the Qur'an demands. As such, we recommend that the Kingdom of Saudi Arabia do the following:

1. Ratify in full and without reservation the International Covenant on Civil and Political Rights (ICCPR);
2. Ratify the Optional Protocol to the ICCPR;
3. Ratify Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty;
4. Respect, protect, and fulfill in full the provisions of the ICCPR, noting specifically articles 2, 18, 19, and 27, and amend any domestic laws or policies that may inhibit the KSA from fulfilling its obligations as prescribed by any article of the Covenant;
5. Reform legal processes of codification to include clear and transparent language on penal laws sourced from Shari'ah jurisprudence;
6. Repeal apostasy, blasphemy, and heresy legislation, including fatwas that institutionalize the discrimination and persecution of individuals on the basis of religion/faith, ethnicity, or political affiliation, and implement complete moratoriums on corporal punishment in the name of Shari'ah Law, in accordance with international human rights law;
7. Hold accountable legal institutions and state authorities to ensure they uphold and enforce the rule of law without selective bias to religious, ethnic, or political majorities/minorities;
8. Support and purposefully engage in civil society campaigns that publicly advocate for and disseminate egalitarian, inclusive, non-violent, and critical interpretations and analyses of theological literature and scripture.