

*Shame in the
House of Saud*

*Contempt for Human Rights
in the
Kingdom of Saudi Arabia*



Minnesota Lawyers Int'l Human Rights Committee

**SHAME IN THE
HOUSE OF SAUD**

**CONTEMPT FOR HUMAN RIGHTS IN THE
KINGDOM OF SAUDI ARABIA**

May 1992

A Report by
the Minnesota Lawyers
International Human Rights Committee

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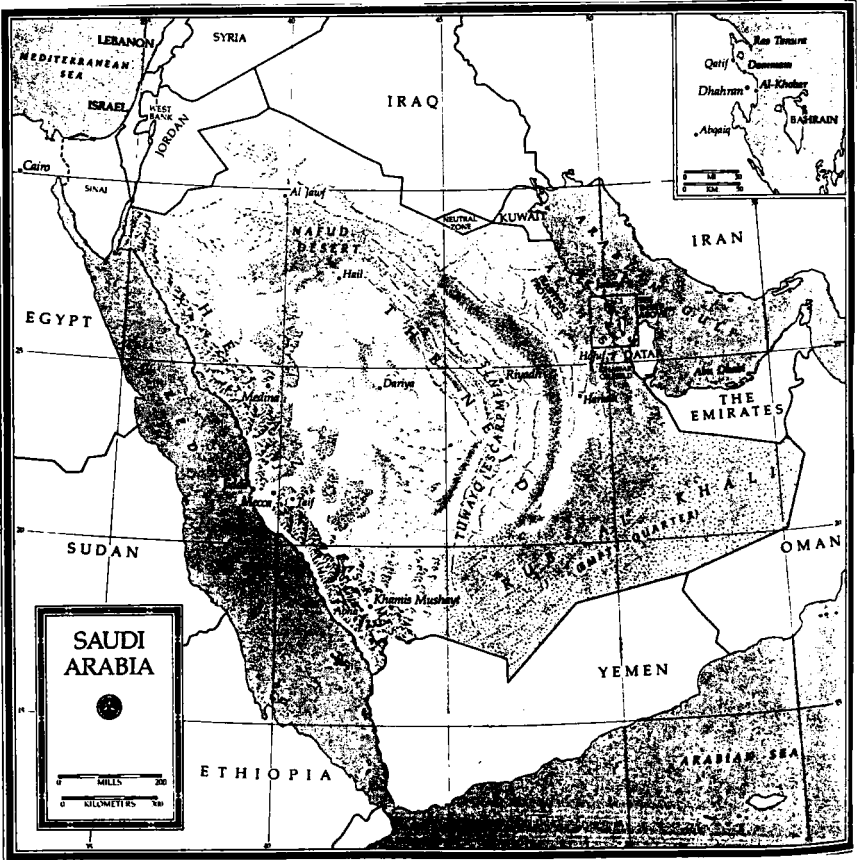
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PREFACE

In 1989 the Minnesota Lawyers International Human Rights Committee ("Minnesota Lawyers Committee" or "Committee") began researching human rights conditions in the Kingdom of Saudi Arabia. The Committee later designated Saudi Arabia for special review as the third in its series of studies of countries whose human rights practices have largely evaded international scrutiny. The first such study resulted in the publication in 1988 of the report *Human Rights in the Democratic People's Republic of Korea*. The second study produced in 1990 the report *Human Rights in the People's Socialist Republic of Albania*.

Notwithstanding the high profile of Saudi Arabia in the news during 1990-91, there is limited published information about the country's culture, legal system, and human rights record.¹ Access to the country is quite limited, making research difficult. Prospective foreign visitors to Saudi Arabia may obtain a visa only with the sponsorship of a Saudi citizen or institution. Because of the risks Saudi citizens would run in sponsoring a human rights

¹ Several nongovernmental human rights groups recently have published relevant critiques of the human rights situation in Saudi Arabia. The most salient include: ARTICLE 19, *SILENT KINGDOM: FREEDOM OF EXPRESSION IN SAUDI ARABIA* (1991); and AMNESTY INTERNATIONAL, *SAUDI ARABIA: DETENTION WITHOUT TRIAL OF SUSPECTED POLITICAL OPPONENTS* (1990). These reports independently corroborate findings also contained in the present report.

investigation, the Committee did not visit Saudi Arabia during its study.

Consequently, this report is the product of information gathered through extensive legal and academic research and through approximately 85 interviews with Saudi nationals, American and Arab scholars, and foreigners who have lived and worked in Saudi Arabia. To conduct these interviews, the Committee sent researchers to Cairo, Geneva, London, the Philippines, and Vienna. Other interviews took place in cities across the United States and Canada. With rare exceptions, all the interviewees are cited anonymously, when cited at all, for their personal protection. Interview locations periodically are cited only as "United States" to maintain anonymity.

The Committee also received information from the Saudi Arabian embassy in the United States, and a draft of this report was sent to the Ambassador of Saudi Arabia to the United States for comment. The Minnesota Lawyers Committee received no response from the Ambassador.

The Minnesota Lawyers Committee gratefully acknowledges the receipt of a grant from the J. Roderick MacArthur Foundation which significantly facilitated this project.

REPORT SUMMARY

Despite considerable economic development during the past 30 years, Saudi Arabia maintains a deplorable human rights situation for its citizens and foreign residents. Saudi Arabia today remains an absolute monarchy with no penal code, no political parties, no freedom of religion, no trade unions, and no free press. Political and cultural dissent is harshly repressed. Even the thousands of refugees who fled from neighboring Iraq during the gulf crisis continue to be detained in desert camps surrounded by barbed-wire.

Saudi Arabia has failed to adopt nearly all of the important human rights treaties and conventions in the world. Through membership in the United Nations, however, Saudi Arabia is bound by the obligations of the United Nations Charter, including a commitment to uphold human rights, which are authoritatively defined in the Universal Declaration of Human Rights.

Even though Saudi Arabia has set itself apart from the majority of nations by its failure to join in the adoption of important human rights instruments, and by its disregard of the rights and guarantees those instruments provide, it has attempted to present itself in many international fora as a promoter and defender of human rights. Its voting record in the General Assembly of the United Nations, its participation in the United Nations Commission on Human Rights, its support of various Islamic declarations on human rights, and its frequent criticism of the human rights record of other nations belie its own reprehensible conduct

at home — conduct which runs afoul not only of international standards, but also of Islamic law and its own domestic law.

This report documents many of the failures of Saudi Arabia's human rights record, especially regarding the criminal justice system, and the treatment of foreign workers, women, and the Shi'a minority.

Abusive Criminal Justice and a Judiciary Subservient to the King

Saudi Arabia maintains security forces which exercise virtually unchecked discretion to arrest and detain Saudi citizens and foreigners. Arbitrary arrest is common and those most affected are foreign workers from developing countries and suspected Shi'a political dissidents. Once arrested, the detainees regularly will be held incommunicado. Beatings and physical and psychological torture are common and widespread. Police and prosecutors routinely use such techniques to coerce confessions of suspected criminals or political dissidents.

Though Saudi law requires that trials be public, they seldom are; even defense attorneys are not allowed in the courtrooms. Judges are appointed by the King and likewise may be removed by the King. They are reported to act in accord with the will of the royal family and, in practice, none acts contrary to the will of the King.

Slave-like Treatment of Foreign Workers

Despite the need for an estimated 4 to 5 million foreign workers in Saudi Arabia, their Saudi employers and the govern-

ment itself routinely subject these workers to serious ill-treatment. Workers from developing nations in Africa and Asia suffer the worst treatment. After arriving in Saudi Arabia, these workers frequently must accept substitute contracts for lower wages and more work, and must relinquish their passports to their employers. The employers also hold the workers' residency permits, and decide if and when a worker will obtain a visa to leave the country. Many foreign workers also must suffer offensive living conditions and excessively-long working hours, and are afforded little, if any, redress for their grievances by the Saudi Government. If workers are not Muslims they are forbidden to practice their own religion.

Female domestic servants from developing countries often are obliged to endure truly slave-like conditions. Their employers often do not permit them to leave the house. Many are malnourished, forced to work up to 18 hours per day — everyday — and subject to physical and sexual abuse. Domestic servants who escape from abusive employers are detained by the government and may be held in jail for up to several months before being deported. Some are obliged to return to the abusive employers.

Institutionalized Discrimination against Women

Women in Saudi Arabia are treated as second-class subjects with different legal rights from men. Women have only severely-restricted freedom of movement. No woman may travel far in Saudi Arabia or leave the country without permission from the senior male member of her family. When in public, a woman generally must be accompanied by a man or a boy of her household and must abide by strictly-enforced codes of dress. Women are prohibited from driving automobiles.

Segregation of the sexes — fundamental to Saudi society — has unequal and adverse consequences for women. Women do not enjoy equal educational opportunities or resources and may ultimately work only in those limited vocations permitted by the government. Most women do not have the choice of working outside the home and are denied the opportunity to participate fully in Saudi life.

Religious Intolerance and Discrimination

The Saudi Government strictly prohibits the public practice of any religion other than Islam in Saudi Arabia. Anyone practicing another religion or found with non-Islamic religious artifacts is subject to arrest and, if a foreigner, deportation. Even Muslims who do not profess faith in the official Sunni Islam must endure serious discrimination.

The Shi'a Muslim religious minority in Saudi Arabia is the target of a government campaign of intimidation, economic and cultural repression, and terror. The ill-treatment of the Shi'a minority ranges from employment discrimination, restrictions on travel, and harrasment of students returning from study abroad, to massive arbitrary arrests and detention and the destruction of Shi'a religious buildings.

RECOMMENDATIONS

Based on its investigation, the Minnesota Lawyers Committee recommends that the Government of Saudi Arabia:

1. comply with the mandates of the Universal Declaration of Human Rights, and other human rights principles which it publicly has endorsed in many international fora;
2. publish and disseminate in Saudi Arabia Arabic-language versions of the the Universal Declaration of Human Rights and the Cairo Declaration on Human Rights in Islam;
3. take the actions necessary to ensure that individuals are not arrested arbitrarily, imprisoned for nonviolent opposition to the government, or tortured for any reason;
4. promulgate legislation which guarantees equal rights and opportunities for women, including equal educational and vocational opportunities and freedom of movement;
5. comply with its international obligation to assure women full participation in society and full control over their personal lives;
6. respect the cultural and religious rights of the Shi'a Muslim minority, allowing the Shi'a to practice their religion and celebrate their religious holidays;

7. cease governmental discrimination against and persecution of the Shi'a minority, including discrimination in employment, education, and government services;
8. protect the rights of foreign workers and prosecute Saudi employers who abuse foreign workers;
9. issue residency permits and exit visas directly to foreign workers — not to their employers — and widely publicize where and how foreign workers may denounce and obtain redress for ill-treatment, fraud, and other abuses;
10. guarantee freedom of expression in all areas of Saudi life, including artistic freedom and a truly free press;
11. guarantee freedom of movement in Saudi Arabia, including the right of all Saudi citizens freely to leave and enter the country, and permit increased access to the country by foreign journalists and human rights organizations;
12. promulgate a comprehensive penal code;
13. abolish the death penalty and other cruel and unusual punishments;
14. ratify the International Covenant on Civil and Political Rights and its First Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Political Rights of Women, the Convention on the Nation-

ality of Married Women, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, the Freedom of Association and Protection of the Right to Organise Convention (ILO Convention No. 87), the Right to Organise and Collective Bargaining Convention (ILO Convention No. 98), the Second Additional Protocol of the Geneva Conventions, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and

15. continue to work with international organizations to dismantle the Iraqi refugee camps along the Saudi border and resettle the refugees.

I. INTRODUCTION

Saudi Arabia is a relatively large and sparsely populated country that extends over most of the Arabian peninsula. The region has a long history of divided nomadic tribes and an isolated culture. Although Muslims from other countries have for centuries interacted with the region's inhabitants during their religious pilgrimages to Mecca and Medina, the experience has not produced a cosmopolitan nation. On the contrary, Saudi Arabia today continues to be an insular, closed society which views external cultural and political influences with apprehension.

Likewise, the historical, political, and social circumstances of Saudi Arabia have not encouraged respect for internationally recognized human rights. Saudi Arabia's substantial economic advances during the past thirty years could have facilitated significant progress in strengthening the promotion and protection of the human rights of its citizens and foreign residents. Rather than expanding the scope of rights and freedom for its people, however, the Saudi Government has tightened its controls on society, and harshly suppressed political and cultural dissent. Saudi Arabia remains an absolute monarchy with no penal code, no political parties, no trade unions, and no free press. Saudi Arabia also has no political constitution, although a series of royal decrees announced on March 1, 1992, may provide elements of a constitution.

A. Population and Geography of Saudi Arabia

Saudi Arabia's population is estimated to be roughly 14 million,² somewhat fewer than half of whom are foreign residents.³ Accurate data on population is, however, difficult to obtain because of the apparent desire of the Saudi Government to maintain the appearance of a large population — not surprising in a country with vast natural resources, few people, and covetous neighbors.

The first official census was conducted in 1962-63, but the results were repudiated by the government.⁴ In 1976 the Saudi Government issued a statement on a 1974 census, claiming a population of 7 million, though the World Bank estimated it to be closer to 5 million (of whom a significant number were foreigners). Officially, the Saudi Government claimed a population of 12 million in 1989,⁵ but as indicated above, the indigenous population was probably closer to 7 million at that time.

The current birth rate in Saudi Arabia is approximately 42 per thousand and the death rate is approximately 8 per thousand,

² INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (WORLD BANK), *WORLD DEVELOPMENT REPORT: 1991*, at 205; *ECONOMIST WORLD ATLAS AND ALMANAC* (ED. IAN CASTELLO-CORTES) 266 (1991). Other sources generally estimate the population to be between 12 to 17 million.

³ *New York Times*, March 2, 1992, at A5, col. 3 (estimating their number to be 4 to 5 million). Other sources make higher estimates.

⁴ U.S. DEPARTMENT OF THE ARMY, *SAUDI ARABIA, A COUNTRY STUDY* 72-73 (1984).

⁵ ROYAL EMBASSY OF SAUDI ARABIA, *SAUDI ARABIA FACTS AND FIGURES* 9 (2d ed. 1989).

yielding a crude growth rate of 3.4% per annum.⁶ The fertility rate is also high: reportedly 7.1%.⁷ Infant mortality is approximately 70 per thousand.⁸ The literacy rate in Saudi Arabia is roughly 50%.⁹ These statistics are similar to those applicable to Egypt, a much less wealthy country.

Approximately 85% of the Saudi population is Sunni Muslim.¹⁰ The remaining indigenous population is largely Shi'a Muslim and is concentrated in the Eastern Province of the country. The public practice of religions other than Islam is not permitted.¹¹

Saudi Arabia covers a geographic area of approximately 830,000 square miles¹² — about one-third the size of the continental United States. Much of the territory is arid, and it is sparsely populated except for a few cities.

⁶ WORLD DEVELOPMENT REPORT: 1991, *supra* note 2, at 257.

⁷ *Id.*

⁸ UNITED NATIONS DEPARTMENT OF INTERNATIONAL ECONOMIC AND SOCIAL AFFAIRS — STATISTICAL OFFICE, 1988 DEMOGRAPHIC YEARBOOK 398 (1990).

⁹ U. S. DEPARTMENT OF STATE, BACKGROUND NOTES 1 (1989).

¹⁰ THE ECONOMIST WORLD ATLAS AND ALMANAC, *supra* note 2, at 266.

¹¹ *See infra* Chapter VI.

¹² THE ECONOMIST WORLD ATLAS AND ALMANAC, *supra* note 2, at 266.

B. History and Economics

Saudi Arabia's history begins with King Abdul Aziz ibn Abdul Rahman al-Saud, who created the country in 1932 after a 30-year-struggle to unify the region. Important and timely support was provided to Abdul Aziz by the *Ikhwan* (brethren) movement — strict followers of Wahhabism, a purist strain of Sunni Islam. The al-Saud family and the Wahhabis have ties that run to the mid-18th century.

Abdul Aziz had 43 sons,¹³ four of whom followed him successively as the monarch of Saudi Arabia, including the current King, Fahd ibn Abdul Aziz. No less than six of the King's brothers are in high positions in the Saudi Government, including Crown Prince Abdullah (Deputy Prime Minister and Commander of the National Guard), Prince Sultan (Second Deputy Prime Minister and Minister of Defense and Aviation), Prince Muteb (Minister of Public Works and Housing), Prince Naif (Minister of the Interior), Prince Abdul Rahman (Deputy Minister of Defense and Aviation), and Prince Ahmad (Deputy Minister of the Interior).

Other brothers are governors of the principal emirates (Riyadh, Mecca, Medina, and others). Sons of King Fahd and certain of his nephews also hold important positions, including Minister of Foreign Affairs. The royal family is large (estimates range from 4,000 - 6,000 princes and princesses) and dominant in Saudi affairs.

¹³ The number of daughters is not available. The youngest son was born in 1947.

The region now occupied by Saudi Arabia was for centuries poor, and its economy limited to animal herding, date production, modest merchant commerce, and the income from pilgrimages to the Islamic holy cities of Mecca and Medina. Oil was not discovered in commercial quantities until 1938. Since that time economic development in Saudi Arabia has grown extensively. Current estimates suggest Saudi Arabia possesses one quarter of the world's oil reserves and substantial reserves of natural gas. Saudi Arabia's exploitation of this natural resource has generated enormous wealth.

This wealth led first to luxury for the royal family and those tribes of particular political importance to the King. During the reign of King Saud (1953-64) there was limited economic development in Saudi Arabia as a whole. In fact, the growing economic gap between the royal family and the rest of Saudi society caused significant social tensions and ultimately led to the removal of Saud and his replacement by King Faisal, his brother.

King Faisal (1964-75) was a religious man who strove to combine development with religious conservatism, consistent with the traditional view of protecting the lands under Islam's rule and promoting the well-being of Muslims. Even before his reign, he and his wife promoted the expansion of women's education in the late 1950's and he directed the *de jure* abolition of slavery in Saudi Arabia in 1962. Economic development accelerated under the guidance of King Faisal. Education, health, and public works all expanded greatly, and Saudi Arabia began to show some of the physical characteristics of a modern state. Rural to urban migration also became significant during this period.

Economic development has continued during the reigns of King Khalid (1975-82) and King Fahd (1982-present). King Fahd, like his predecessors, rules as an absolute monarch.

C. Current Political Concerns

Traditional democratic institutions do not exist in Saudi Arabia. The principal mechanism for airing grievances or requesting favors is the *majlis*, a regular audience held by political leaders. On March 1, 1992, King Fahd finally issued decrees establishing a "consultative council" — a governmental body viewed by some as a first step toward a parliament. This potentially significant development — discussed below in section D — nonetheless appears to fall short of real democratic reform and keeps control of power in the hands of the royal family. This monopoly on power includes considerable censorship of the press and other mass media in Saudi Arabia.¹⁴ Some sources report the Saudi Government even exerts control over the media in other Arab countries by paying them to refrain from disseminating negative information about Saudi Arabia. Where such efforts are unsuccessful, friendly Arab governments are encouraged to restrict the transmission of such information.¹⁵

Among the reasons for the royal family's reluctance to embrace democratic customs is a great concern with state security, which the Saudis believe to be threatened by their neighbors and

¹⁴ See ARTICLE 19, SILENT KINGDOM: FREEDOM OF EXPRESSION IN SAUDI ARABIA (1991).

¹⁵ *Id.* at 44-47; interviews with MM, Cairo, Jan. 9, 1991; and NN, Cairo, Jan. 10, 1991.

by internal unrest, especially from militant Muslim religious groups and the Shi'a minority.

"Modernization" is at the heart of the internal problem and has created significant tension between the traditional Saudi religious community and the government. There have been many incidents over the years in which supporters of traditional Wahhabi interpretations of Islam have clashed with the government and well-educated technocrats intent on modernization. Even the introduction of radio and television in Saudi Arabia produced serious controversy. More recent disputes included the 1979 seizure of the Grand Mosque at Mecca by at least 500 conservative Sunni dissidents led by the grandson of a prominent *Ikhwan* critic of Abdul Aziz.

Militant Muslim groups lately have demonstrated renewed assertiveness in their criticism of the government through speeches outside mosques and the clandestine distribution of political audio tapes. Their activity has prompted stern public warnings to desist from Prince Turki al-Faisal, the Saudi Chief of Intelligence, and Sheikh Abdelaziz ibn Baz, Saudi Arabia's senior religious leader.¹⁶

Since the Iranian revolution of 1979, the Saudi Government has taken an increasingly cautious approach to political and cultural issues, aiming for compatibility with traditional Wahhabism, but avoiding extreme militant Muslim positions.¹⁷ Indeed, the Iranian revolution is now central to the view of the

¹⁶ New York Times, December 31, 1991, at A1, col. 4.

¹⁷ See, e.g., Miller, *Saudi Arabia: The Struggle Within*, The New York Times Magazine, March 10, 1991, at 30-31, 46.

world and state security held by the Saudi Government. It wants to avoid the mistakes made in Iran and provide no opening for militant religious zealots to claim a nationalist, anti-Western mantle of authority. The result has been severe government repression of any political dissent in Saudi Arabia and no toleration of external cultural or political influence in the country. The large Shi'a minority of the Eastern Province — politically problematic for the royal family — presents a similar problem which subjects the group not only to severe political repression, but also to discrimination in employment, education, and government services.¹⁸

The conflict with Iraq after its invasion of Kuwait in August 1990 highlighted a related problem: maintaining close ties with the United States and Western Europe without appearing Westernized. The problem existed before the invasion, and in one incident Saudi police are reported to have killed 400 people in a 1987 demonstration against the royal family and its alliance with the United States.¹⁹

D. The Decrees of 1 March 1992

On March 1, 1992, King Fahd issued a series of royal decrees purporting to establish elements of a constitution.²⁰ One decree establishes the "basic system" of government of the Kingdom of

¹⁸ See discussion *infra* Chapter VI.

¹⁹ THE ECONOMIST WORLD ATLAS AND ALMANAC, *supra* note 2, at 266.

²⁰ See Saudi Gazette, March 2, 1992, at 1; New York Times, March 2, 1992, at A1, col. 4 and A5, col. 1.

Saudi Arabia.²¹ Another decree provides for the creation within six months of a 60-member Consultative Council (*Majlis Al Shoura*) which is to have authority to consult with the King and the power to review laws and government policies.²² A third decree provides that within one year a provincial government system be formalized for the 14 provinces.²³

Article 1 of the first decree provides: "The Kingdom of Saudi Arabia is an Arab and Islamic sovereign state, its religion is Islam, and its constitution the holy Quran and the Prophet's Sunnah. Its language is Arabic and capital Riyadh." The statement of King Fahd at the announcement of the decrees also emphasized that Islam and the Shari'a are the foundation for the Saudi Arabian "system." The decree, however, appears to change little of current law or practice.

Among other things, the decree specifies the position of the Crown Prince;²⁴ emphasizes the importance of Islam;²⁵ describes certain economic principles;²⁶ describes the state's role in providing services such as education, public health, and defense;²⁷ and

²¹ Royal Decree No. A/90 (*Sha'ban* 27, 1412 A.H.).

²² Royal Decree No. A/91 (*Sha'ban* 27, 1412 A.H.).

²³ See Saudi Gazette, March 2, 1992, at 1.

²⁴ Royal Decree No. A/90, *supra* note 21, art. 5.

²⁵ *Id.* arts. 6-7, 9-11, 23-4, 26, and others.

²⁶ *Id.* arts. 14-22.

²⁷ *Id.* arts. 28-34.

describes the three branches of government, namely the judicial, executive, and organizational authorities.²⁸

Several articles of the first decree are of particular relevance to this report. Regarding personal freedom, for example, it provides: "The state ensures the security of all citizens and residents and nobody has the right to harass, arrest, or imprison anyone except under the rules of the system."²⁹ As this report describes, however, the rules of the current system appear to disregard such basic rights. The decree also provides for an independent judiciary,³⁰ — already nominally guaranteed by existing law — but does not change the current policy which undermines that independence: "Judges will be appointed and relieved of their duties by a Royal decree according to a proposal by the Supreme Judicial Council and according to the system's regulations."³¹

The second decree is potentially significant in its creation of a formal "Consultative Council" with explicit powers. The Minnesota Lawyers Committee notes with concern, however, that the first decree gives the King the power to dissolve the Council and restructure it.³² In principle, the 60-member Council would: submit resolutions to the Prime Minister for consideration by the

²⁸ *Id.* arts. 44-71.

²⁹ *Id.* art. 36.

³⁰ *Id.* art. 46.

³¹ *Id.* art. 52. See also the discussion on judicial independence *infra* sections I.E.2 and II.A.

³² Royal Decree No. A/90, *supra* note 21, art. 68.

Council of Ministers,³³ and review regulations, conventions and international agreements.³⁴ In effect, the Council would have the apparent authority to question the government, and if it did not approve a governmental action, such matter would have to be decided by the King.³⁵

The Consultative Council may constitute an initial step toward democracy in Saudi Arabia, and is a welcome development. It remains to be seen whether it is a harbinger of real reform or mere ornamentation. As its members are appointed by the King, not elected,³⁶ it seems unlikely the Council will provide a truly separate branch of government that directly reflects the will of the people. Moreover, as the first decree makes clear, the rule of Saudi Arabia "will be confined to the sons of the Kingdom's founder . . . and grandsons."³⁷ This reiteration of rule by absolute monarchy bodes ill for those who desire true democratic reform.

The third decree formalizes a system for provincial government, to take effect within a year, which includes the creation of Provincial Councils parallel to the national Consultative Council.

³³ Royal Decree No. A/91, *supra* note 22, art. 17.

³⁴ *Id.* art. 18.

³⁵ *Id.* art. 17.

³⁶ *Id.* art. 3.

³⁷ Royal Decree No. A/90, *supra* note 21, art. 5.

Overall, the decrees are modest in scope and do not address the bulk of the abuses identified in this report. A document that purports to establish the basic structure of government should fully enumerate the fundamental rights enjoyed by the people. The decrees fail to provide such an enumeration and specifically are silent on all persons' rights to life, equality, freedom of movement, and dignity. The fundamental right to freedom of expression is explicitly denied,³⁸ and no provision is made for preventing discrimination against religious minorities and women.

Other guarantees, such as the provision that the "state protects the rights of the people in line with the Islamic Shari'a"³⁹ are merely repetitive of existing law which is not respected. The Minnesota Lawyers Committee expresses only guarded optimism regarding the recent decrees and awaits truly democratic reforms in the future.

E. The Saudi Legal System

In theory, the Saudi legal system provides an adequate foundation for the protection of many basic rights such as due process, impartial courts of law, and freedom from torture. In practice, however, as much of this report describes, the Saudi legal system fails to protect those rights. The result is a deplorable situation for human rights in Saudi Arabia.

³⁸ *Id.* art. 39 (expressly limiting speech which leads "to sedition and disunity or undermines the state's security and public relations or insults the dignity and rights of the people").

³⁹ *Id.* art. 26.

This section is meant to provide background for those readers unfamiliar with basic Islamic law and the Saudi judicial system. It is not intended to be an authoritative analysis of Islamic law.⁴⁰

1. The Shari'a

There has been no political constitution in Saudi Arabia. Rather, the fundamental law of the land is the Shari'a (Islamic Law) as interpreted by the *Hanbali* school of thought.⁴¹ There are four sources of the Shari'a. The first is the *Quran*, the revealed word of God. The *Quran* is the ultimate authority on any legal issue, and applies to everyone without exception. No royal decree, religious ruling (*fatwa*), or any other law or regulation may contradict the *Quran*. The second source of the Shari'a is the *Sunna*, the deeds and sayings of the Prophet Muhammad.⁴² The third is

⁴⁰ For more general information on Islamic law, see J.N.D. ANDERSON, *ISLAMIC LAW IN THE MODERN WORLD* (1959); A.R.I. DOI, *SHARI'AH: THE ISLAMIC LAW* (1984); A. FAYZEE, *AN OUTLINE OF MUHAMMADAN LAW* (1955); A.A. ISLAHI, *ISLAMIC LAW: CONCEPT AND CODIFICATION* (1978); M. KHADDURI & H. LIEBESNY, *ORIGIN & DEVELOPMENT OF ISLAMIC LAW* (1984); A.A. MAUDUDI, *ISLAMIC LAW AND CONSTITUTION* (1960), and *TOWARDS UNDERSTANDING ISLAM* (1987); A.A. QADRI, *ISLAMIC JURISPRUDENCE IN THE MODERN WORLD* (1973), and *JUSTICE IN HISTORICAL ISLAM* (1968); and J. SCHACHT, *AN INTRODUCTION TO ISLAMIC LAW* (1982).

⁴¹ Yamani, *Saudi Arabia*, in *INTERNATIONAL ENCYCLOPEDIA OF COMPARATIVE LAW* S-18, S-19 (rev. ed. 1986).

⁴² The Prophet will be referred to in this report interchangeably as either "the Prophet" or "Muhammad," without the traditional Islamic phrase "May peace be upon Him" following each reference. No disrespect is intended by this

Ijma, the Consensus of Muslim scholars on an issue not addressed in the *Quran* or in the *Sunna*. The fourth source of the Shari'a is *Qiyas*, or rules derived by juridical analogy.

In addition to the Shari'a, there is a growing body of positive law which "must follow the dictates of the Shari'a while providing for the condition of modern society."⁴³ The sources of this law are royal decrees, legislation promulgated by the Council of Ministers, and other rules and regulations issued by individual ministries and administrative agencies.

2. The Judicial System

In 1927, before the formal establishment of the Kingdom of Saudi Arabia, King Abdul Aziz issued regulations organizing the composition and jurisdiction of the various courts in the unified lands then under his rule.⁴⁴ Those regulations established the foundation of the Saudi judicial system, which endured until the reorgani-

practice.

⁴³ Yamani, *supra* note 41, at S-19.

⁴⁴ H.M. ABU-TALIB, THE JUDICIAL SYSTEM IN THE KINGDOM OF SAUDI ARABIA [*AL-NIZAM AL-QADA'E FE AL-MAMLAKA AL-ARABIYA AL-SAUDIYA*] 18 (1984). In 1926 Abdul Aziz also decreed the official judicial Islamic school of thought to be that of Imam Ahmad ibn Hanbal. See A.A.A. AL-ELFEE, THE CRIMINAL JUSTICE SYSTEM IN THE KINGDOM OF SAUDI ARABIA [*AL-NIZAM AL-JINA'E BE-AL MAMLAKA AL-ARABIYA AL-SAUDIYA*] 9 (1976).

zation by King Khalid's royal decree in 1975.⁴⁵ Although the new judiciary retained some of the features of the 1927 judicial regulations, the 1975 reform was a significant revision, responding to rapid modernization in Saudi Arabia. Three noteworthy features of the 1975 Judicial Law are the nominal independence of the judiciary, an established hierarchy of courts, and public trials.

The 1975 Judicial Law declares at the outset "judges are independent and not subject to any authority in the exercise of their adjudicative functions except to the Shari'a and the law, and no person may interfere with the judiciary."⁴⁶ Indeed, under Saudi law, it is a crime for the Minister of Justice or other ministers to interfere in the function of the judiciary.⁴⁷ To insure its independence, the Judicial Law provides additional procedural safeguards such as reserving the removal, transfer, or discipline of judges to a Supreme Judicial Council (the highest organ of the judicial power).⁴⁸

The Judicial Law specifies four levels of Shari'a courts: Limited Courts, General Courts, the Court of Appeals, and the

⁴⁵ Judicial Law [*Nizam Al-Qada*], Royal Decree No. M/76, Ministry of Justice [*Wazaret al-A'del*] (*Shawwal* 14, 1395 A.H., 1975), published by *Matabe' Al-Hukumah* at 1 (1396 A.H.) [Hereinafter Judicial Law].

⁴⁶ *Id.* art. 1.

⁴⁷ M. A. J. MUHAMMAD, LEGISLATIVE DEVELOPMENT IN THE KINGDOM OF SAUDI ARABIA [*AL-TATAWUR AL-TASHRI'E FE AL-MAMLAKA AL-ARABIYA AL-SAUDIYA*] 130 (1977).

⁴⁸ Judicial Law, *supra* note 45, arts. 2-4, 53, 55, and 73.

Supreme Judicial Council.⁴⁹ The **Supreme Judicial Council** ("SJC") is the highest judicial body in Saudi Arabia. In addition to its appellate jurisdiction in certain cases, it has administrative and supervisory jurisdiction over the Shari'a courts.⁵⁰ It is specifically authorized to review all sentences of beheading, amputations, and stoning.⁵¹ The SJC reportedly also has the authority to investigate and remove corrupt judges.⁵² In addition, the SJC can issue advisory opinions if requested by the Ministry of Justice or the King.⁵³ The SJC is a tribunal of eleven judges. It is divided into a Permanent and a General Commission of five judges each. The eleventh judge, its president, is the Minister of Justice.⁵⁴

The **Court of Appeals** is the highest appellate tribunal for the Shari'a courts.⁵⁵ It has jurisdiction over all civil and criminal matters. The decisions of the Court of Appeals are final if approved by the Minister of Justice.⁵⁶ If the Minister of Justice

⁴⁹ *Id.* art. 5.

⁵⁰ *Id.* art. 8.

⁵¹ *Id.*

⁵² U.S. DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1991, at 1579 (1992).

⁵³ *Id.*

⁵⁴ Judicial Law, *supra* note 45, art. 49.

⁵⁵ 5 MODERN LEGAL SYSTEMS CYCLOPEDIA 5.240.16 (R. Redden ed. 1990)

⁵⁶ Judicial Law, *supra* note 45, art. 20.

does not approve, and the disagreement persists, the Minister can take the matter to the SJC which renders a final disposition on the case. The decisions of the Court of Appeals are made by majority vote and are announced by a panel of three judges, except in cases of beheading, stoning, and amputation, which are issued by a panel of five.⁵⁷

General Courts are courts of general original jurisdiction and are competent to hear all civil and criminal cases except for cases statutorily assigned to another tribunal.⁵⁸ Their creation, location, and jurisdiction are determined by the Minister of Justice on recommendation of the SJC.⁵⁹ The decisions of the General Courts are issued by one judge, except in sentences of beheading, stoning, and amputation, which are issued by a panel of three.⁶⁰

Limited Courts are competent to hear cases that fall below the monetary or punishment threshold for General Court jurisdiction. The creation, location, and jurisdiction of the Limited Courts are determined by the Minister of Justice on recommendation of the SJC.⁶¹ The decisions of this court are issued by one judge.⁶²

⁵⁷ *Id.* art. 13.

⁵⁸ *Id.* arts. 22 and 26. *See also* MODERN LEGAL SYSTEMS CYCLOPEDIA, *supra* note 55, at 5.240.14.

⁵⁹ Judicial Law, *supra* note 45, art. 22.

⁶⁰ *Id.* art. 23.

⁶¹ *Id.* art. 24.

⁶² *Id.* art. 25.