

*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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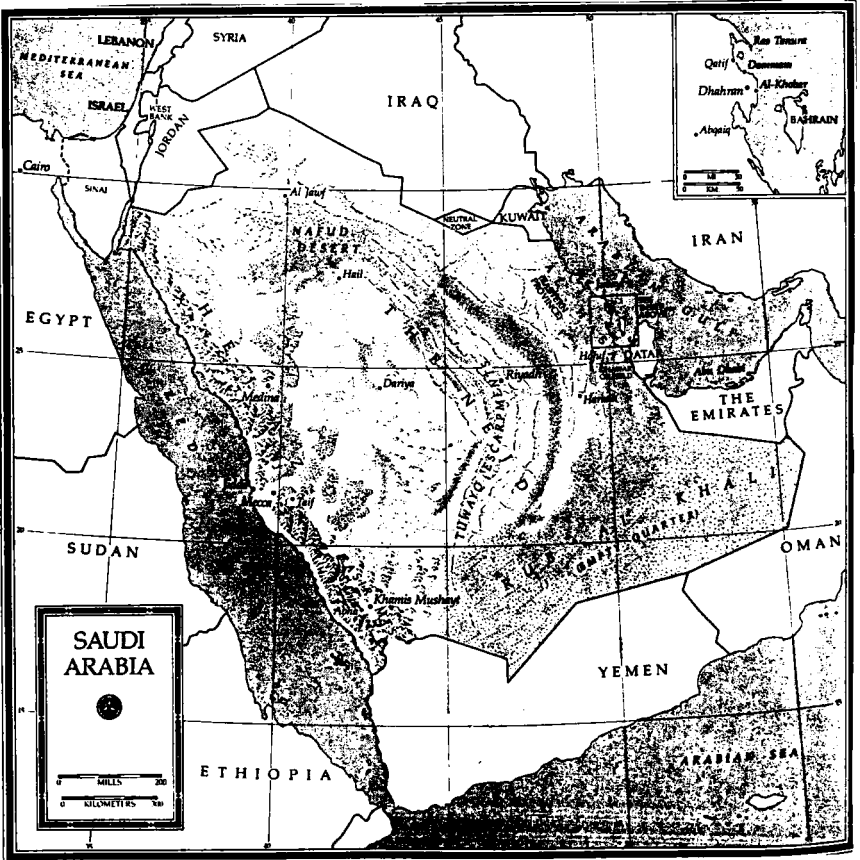
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PREFACE

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.

In addition to the Shari'a Courts, which have general subject matter jurisdiction, there are a number of administrative and quasi-judicial tribunals in Saudi Arabia. These tribunals have limited jurisdictional powers, conferred by royal decree, and operate independently from the Ministry of Justice.⁶³ Examples are the Commission for the Settlement of Commercial Disputes and the Committee for the Settlement of Labor Disputes.

Another such tribunal is the Board of Grievances (*diwan al-mazalim*). The Board of Grievances has both judicial and non-judicial functions. As a non-judicial body, the Board investigates and examines complaints against the government.⁶⁴ The Board then issues a memorandum detailing the complaint, the results of the investigation, and the recommended course of action. The Board does not have the power to enforce its recommendations.⁶⁵ In recent years, the jurisdiction of the Board has been expanded to review decisions rendered by the Shari'a courts, particularly when the partiality of the judge is in issue.⁶⁶ The Board also has a limited judicial capacity and has jurisdiction over the execution of foreign judgments from other countries of the Arab League.⁶⁷

⁶³ ABU-TALIB, *supra* note 44, at 97.

⁶⁴ *Id.* at 99.

⁶⁵ Yamani, *supra* note 41, S-18.

⁶⁶ MODERN LEGAL SYSTEMS CYCLOPEDIA, *supra* note 55, at 5.240.19.

⁶⁷ *Id.*

3. Saudi Criminal Law

Saudi criminal law is part of Islamic Shari'a and therefore originates from the *Quran* and the *Sunna* as well as from other sources such as *Ijma* (Consensus of Opinion), *Qiyas* (legal analogy), *Istihsan* (Equity), *Muslaha Mursala* (Textually Unspecified Interest of the Public), *Sad Al-Dharai'* (Avoidance of Harm), and *Istishab* (Compatibility of Means and Ends).⁶⁸

The first principle of Saudi criminal law is *legality*: "The fundamental principle is that everything is permissible (*Halal*) unless it is specifically prohibited, condemned, disapproved, or frowned upon."⁶⁹ The lack of a well-defined penal code, however, seriously undermines this principle of legality.

4. Shari'a Crimes and Punishments

Although Saudi Arabia has no penal code, Islamic law does define three general categories of crimes. These are *hudud* (Boundary) Crimes, *qisas* (Equality) Crimes, and *ta'azir* (Reform) Crimes.

⁶⁸ Sheikh Jubeir, *Definition of Crime According to Islamic Law and Islamic Legislative Sources*, in THE EFFECT OF ISLAMIC LEGISLATION ON CRIME PREVENTION IN SAUDI ARABIA, PROCEEDINGS OF THE SYMPOSIUM HELD IN RIYADH 53 (*Shawwal* 16-21, 1396 A.H., October 9-13, 1976) (Sheikh Jubeir was the President of the Saudi Court of Appeals at the time this paper was delivered).

⁶⁹ *Id.*; see also M.C. BASSIOUNI, CRIMES AND PUNISHMENT IN ISLAM 8 (Draft of June 5, 1984) [hereinafter CRIMES AND PUNISHMENT].

The recognized *hudud* crimes include: consumption of alcohol, theft, armed robbery, adultery, defamation, and apostasy from Islam.⁷⁰ *Hudud* crimes have fixed punishments, specified in the *Quran* and the *Sunna*, leaving the judge with no disciplinary discretion. No authority may pardon someone convicted of a *hudud* crime.

Because *hudud* crimes carry penalties of death or corporal punishment, strict evidentiary and procedural requirements must be met before a sentence is imposed and the punishment implemented. Circumstantial evidence, for example, is not admissible in the prosecution of *hudud* crimes; there must be eyewitnesses.⁷¹ In fact, some *hudud* crimes require two to four witnesses before the accused may be found guilty.⁷²

There are five *qisas* crimes: murder, voluntary killing, involuntary killing, intentional physical injury or maiming, and unintentional physical injury or maiming.⁷³ The punishment for *Qisas* crimes also are prescribed in the *Quran* and the *Sunna*.

⁷⁰ CRIMES AND PUNISHMENT, *supra* note 69, at 9. See also Bassiouni, *Sources of Islamic Criminal Law, and the Protection of Human Rights in Islamic Criminal Justice System*, in THE ISLAMIC CRIMINAL JUSTICE SYSTEM 3, 24 (M.C. Bassiouni ed. 1982); M.S. EL-AWA, PUNISHMENT IN ISLAMIC LAW 1 (1982).

⁷¹ Professor Bassiouni cites the Prophet as saying: "avoid using circumstantial evidence in *Hudud*." CRIMES AND PUNISHMENT, *supra* note 69, at 9.

⁷² *Id.* at 66.

⁷³ Sheikh Jubeir, *supra* note 68, at 42; Bassiouni, *supra* note 70, at 39.

Qisas means "equality" or "equivalence."⁷⁴ "It implies that a person who has committed a given violation will be punished in the same way and by the same means that he used in harming another person."⁷⁵ These crimes are punishable by retaliation or, if the family of the victim chooses, by monetary compensation.⁷⁶

Ta'azir crimes include attempted robbery, usury, false testimony, and corruption.⁷⁷ Punishment for *ta'azir* crimes is discretionary. *Ta'azir* means to chastise or to reform.⁷⁸ The judge or the ruler has considerable latitude in determining the nature of punishment, and the four Sunni schools of jurisprudence differ regarding the "type of penalties, their application and the extent of judicial discretion."⁷⁹

The Saudi Government follows the strict Wahhabi interpretation of the Shari'a as a guideline for criminal sentencing. This school of thought requires specific harsh punishments for certain crimes. The punishment for theft, for example, is amputation of the right hand, and other prescribed punishments include: for

⁷⁴ Bassiouni, *supra* note 70, at 39.

⁷⁵ *Id.* There are differences among the four Islamic schools concerning the nature of the crime and the method of punishment. See Bassiouni, *supra* note 70, at 41, and EL-AWA, *supra* note 70, at 72.

⁷⁶ Sheikh Jubeir, *supra* note 68, at 42.

⁷⁷ Benmelha, *Ta'azir Crimes*, in THE ISLAMIC CRIMINAL JUSTICE SYSTEM, *supra* note 70, at 213.

⁷⁸ Bassiouni, *supra* note 70, at 53; EL-AWA, *supra* note 70, at 96.

⁷⁹ Bassiouni, *supra* note 70, at 55.

fornication by a single person, 100 lashes; for fornication by a married person, death by stoning; for one who makes an unproved accusation of fornication, 80 lashes; for highway robbery, either execution, crucifixion, cross-amputation (amputation of a hand and foot from opposite sides of the body), or banishment from the land; for intoxication, 40 lashes; for apostasy, execution; for murder, either death or compensation, depending on the wishes of the victim's family; and for assault or battery, equivalent retaliation or compensation, depending upon the wishes of the victim's family.⁸⁰

Notwithstanding recognized Shari'a mandates, the Minnesota Lawyers Committee opposes the death penalty in all parts of the world and under any circumstances as a matter of concern for the promotion and protection of human rights. Opposition to the death penalty reflects the current international trend toward abolition, and is consistent with existing and emerging international human rights standards.

⁸⁰ These punishments are based on *Sunna* tradition and the *Quran*, verses 24:2, 24:4, 5:33, 2:178, and 5:45.

II. PROCEDURAL FAILURES AND ABUSES IN THE SAUDI LEGAL SYSTEM

A. Lack of Judicial Independence

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 charges against him.⁸¹

The 1975 Judicial Law of Saudi Arabia guarantees a fair and public hearing by an independent and impartial tribunal.⁸² In practice, however, the judiciary has no real independence.

The King is the ultimate political authority and, for practical purposes, the legal authority as well. He appoints the Minister of Justice, the Supreme Judicial Council, the Judges of the Court of Appeals, and every other judge in the country. These judges also may be removed at any time by royal decree. The power of the King to appoint and remove any judge at will seriously undermines the independence and credibility of the Saudi judiciary. The role of the Minister of Justice as President of the Supreme Judicial Council further reduces the judiciary's independence. Saudi judges

⁸¹ Universal Declaration of Human Rights, *adopted* Dec. 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810, art. 10 (1948).

⁸² Judicial Law, *supra* note 45, art. 1.

are "aware of and reportedly have on occasion acceded to the power and influence of the royal family and their associates."⁸³

Interviews conducted by the Minnesota Lawyers Committee with experts on Saudi law, Saudi nationals, and foreign workers confirm doubts that the Saudi judiciary can deliver fair and unbiased decisions in cases in which the royal family takes an interest or in significant political matters.⁸⁴

Equally disturbing is the very close connection between the court system and the various police services of the Interior Ministry. The courts in many instances are an extension of the security system rather than independent and impartial tribunals which give people an opportunity to a fair hearing.

During the bloody events of Mecca in 1979, for example, eleven Egyptian students were making the pilgrimage when fighting occurred in the vicinity. One of the Egyptians was a medical student who attempted to administer first aid to some of the wounded. He was arrested for his effort and later brought before a judge with a group of fifty other detainees. The judge asked the group collectively whether they assisted the rebellion, but did not listen to any individual responses and conducted no independent fact-finding. All of the accused were summarily sentenced to 15 years in jail. The only apparent evidence supporting the guilt of the accused were the statements of security police. The judge in this case did not confront the accused with the

⁸³ U.S. DEPT. OF STATE, *supra* note 52, at 1579.

⁸⁴ *See, e.g.*, interview with EEEE, Minneapolis, April 17, 1992.

evidence against them, nor did he question the accuracy of the police account.⁸⁵

In a 1990 case, a Saudi citizen was sentenced to nearly a year imprisonment and over 150 lashes allegedly for smuggling books contrary to Islam into Saudi Arabia, breaching internal security, and disobeying the will of the King. According to the defendant, the judge never saw the books. Customs officials destroyed the books soon after their seizure and never claimed they were contrary to Islam. It was the prosecutor who labeled the books contrary to Islam, though even he did not see them. The judge rubber-stamped the prosecutor's version of events and found the man guilty. There was no corroborating evidence to confirm the prosecution's story or to resolve the conflicting accounts of the prosecutor and the defendant.⁸⁶

⁸⁵ Interview with MM, *supra* note 15.

⁸⁶ Case FFFF.

B. Inequality before the Law

All are equal before the law and are entitled without discrimination to equal protection of the law.⁸⁷

All individuals are equal before the law, without distinction between the ruler and the ruled.⁸⁸

Equality before the law is a fundamental principle of Islamic law which Saudi Arabia disregards in practice. The Minnesota Lawyers Committee's investigation of the Saudi judicial system revealed an unequal application of the law as applied to both Saudi citizens and foreigners.

The King and the royal family theoretically are bound by the *Quran*. In practice there is very little restriction on the King's authority. In all matters on which the *Quran* or the *Sunna* are silent, the King can regulate freely. Because of his unchecked legislative and executive power, and ultimate power over the judiciary, he can suspend, modify, ignore, or repeal any law or regulation. Hence, the King is largely immune from the application of the law.

Moreover, "Members of the royal family, and of other powerful families, are not subject to the same legal constraints as

⁸⁷ Universal Declaration of Human Rights, *supra* note 81, art. 7.

⁸⁸ Cairo Declaration on Human Rights in Islam, *issued by* the Organization of the Islamic Conference, at the Nineteenth Islamic Conference of Foreign Ministers, *Muharram* 14, 1411 A.H., Aug. 5, 1990, art. 19(a) (attended by the Saudi Arabian Foreign Minister).

other Saudis."⁸⁹ Princes and other influential persons, for example, may not be subject to inspection on entering the country.⁹⁰ Further, the royal family can use the police and the judiciary to their personal advantage. Because a segment of society can use the law to its personal advantage, "personalities are much more important . . . than institutions or rules and regulations . . ."⁹¹ Who one knows in Saudi Arabia is far more important than knowledge of basic legal rights or guarantees.

Likewise, legal remedies are of little value when used against persons of power or position. One person interviewed by the Committee described how his refusal to forego a debt owed to him by a prince led to his imprisonment and torture.⁹² In another interview, it was reported that the sons of a certain prince vacationing in Taif abducted girls off the street, raped them, and later dumped them elsewhere on the street. Even though the identity of the aggressors was known, the families of the victims were unable to prosecute because the aggressors were members of the royal family.⁹³

⁸⁹ U.S. DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1990, at 1626 (1991).

⁹⁰ *Id.*

⁹¹ M. FIELD, *THE MERCHANTS: THE BIG BUSINESS FAMILIES OF SAUDI ARABIA AND THE GULF* x (1985). The quoted passage was used in the business context, but is equally applicable in the legal context.

⁹² Interview with PPP, London, Jan. 13, 1991.

⁹³ Interview with EEEE *supra* note 84.

The law in Saudi Arabia also is applied unequally between Saudis and foreigners. In an automobile accident, for example, a different compensation scale is applied depending on whether the victim is a Saudi. A Saudi victim receives three to four times more compensation than a foreign victim.⁹⁴

The unequal application of Saudi law even extends to the treatment between foreigners from different countries of origin. Westerners from the United States or the United Kingdom, for example, generally receive more generous compensation than Asians or Africans.

C. Lack of Written Codes of Law

No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed.⁹⁵

Although the Shari'a defines certain conduct as criminal and establishes specific punishments for that conduct, there does not exist in Saudi Arabia an explicit penal code. Modern crimes such as electronic wiretapping, computer fraud, criminal vehicular conduct, certain crimes against state security, and trafficking in modern arms and drugs require definition in an explicit penal code to prevent arbitrary government action.

⁹⁴ Moore, *Courts, Law, Justice, and Criminal Trials in Saudi Arabia*, 11 INT'L J. COMP. & APPLIED CRIM. JUST. 63 (1987).

⁹⁵ Universal Declaration of Human Rights, *supra* note 81, art. 11 (2).

Because of pressure from the educated elite and the exigencies of modern business, King Fahd has recognized the need to provide precise codification in other areas of Saudi law. He has, for example, proposed the legislation of regulations concerning business transactions and civil litigation.⁹⁶ Such reform is slow, however, and it is in the criminal justice system, and in the context of social and political rights, where the lack of codification is particularly problematic from a human rights perspective.

Because Saudi law does not explicitly define which rights citizens and foreign residents may confidently exercise and which conduct is criminal, the opportunity for arbitrary government action is extensive. Government officials may freely declare nearly any activity or conduct illegal or contrary to national security. The lack of codification also increases reliance on the intervention of influential individuals, and thereby undermines the existing judicial institutions and increases the potential for abuse. This lack of codification is especially problematic for foreign workers from developing countries who are defenseless when they encounter a legal problem with a Saudi citizen.⁹⁷

⁹⁶ See, e.g., *The New York Times*, Dec. 31, 1991, at A1, col. 4; and Jan. 1, 1992, at A3, col. 4.

⁹⁷ See *infra* Chapter IV.

III. ARBITRARY ARREST, INCOMMUNICADO DETENTION, AND TORTURE

The Saudi criminal justice system is characterized by arbitrary arrest, incommunicado detention, torture, coerced confessions, and sham trials. The Ministry of the Interior oversees most of the various security forces which maintain internal security and enforce the law in Saudi Arabia.⁹⁸ These agencies are the primary perpetrators of most of the abuses and include the Public Security Police and *Al-Mabahith al-Ammah* (General Directorate of Investigations).

The primary police agency is the "Public Security Police" (*Al-Shurtah*).⁹⁹ The Public Security Police has branches throughout Saudi Arabia through a system of directorates at the provincial and local levels. Although the Director General for Public Security has responsibility over all police units, provincial governors have "considerable autonomy in public security matters."¹⁰⁰ The agency has wide authority to investigate, apprehend, and refer cases to court.¹⁰¹

⁹⁸ U.S DEPARTMENT OF THE ARMY, *supra* note 4, at 292.

⁹⁹ *Id.* at 294.

¹⁰⁰ *Id.*

¹⁰¹ AL-ELFEE, *supra* note 44, at 38.

Of the other agencies with law enforcement powers, the two most widely used are the *Mutawwi'un* (Religious Police) and *Al-Mabahith al-Ammah*. The *Mutawwi'un* are the enforcing arm of the Committee for the Propagation of Virtue and Discouragement of Vice. This Committee is a semi-independent governmental institution which answers directly to the King, but which also "completely coordinates" its activities with the various security agencies at the Ministry of the Interior.¹⁰²

The *Mutawwi'un* enforce religious requirements and general moral precepts. They also act as an investigative body and refer cases to the courts. It is not required that *Mutawwi'un* agents have any formal training; they need only have a general knowledge of the Shari'a.¹⁰³ The *Mutawwi'un* have gained notoriety among both foreigners and Saudis for their sometimes brutal enforcement of religious norms. They have been known to patrol streets carrying big sticks which they have used to castigate those who run afoul of Islamic precepts. During times of prayer, for example, they have been reported to hit those who were not praying. In another reported incident, the *Mutawwi'un* broke into a French compound and beat those inside for having a private party.¹⁰⁴

Much less is known about *al-Mabahith al-Ammah* (the General Directorate of Investigation or Political Police). Political opposition groups, however, report that most political arrests are carried out by *al-Mabahith*, whose agents generally dress in

¹⁰² Interview with Abdul Aziz Al-Said, published in *Al-Riyadh, Jumadi al-akhar*, 13, 1411 A.H.

¹⁰³ *Id.*

¹⁰⁴ See interview with C, Jan. 13, 1991.

civilian clothes. *Al-Mabahith* appears to do most of the information gathering and surveillance for the Saudi Government with a network of informants throughout the country. It has authority to arrest, detain, and interrogate any suspected political opponent without a warrant at any time. The use of *al-Mabahith* increased dramatically after the 1979 Iranian revolution and riots of November 1979 in Mecca. Over the years, a pattern has emerged whereby individuals suspected of being members of opposition groups have been arrested by *al-Mabahith al-Ammah*.¹⁰⁵

¹⁰⁵ AMNESTY INTERNATIONAL, SAUDI ARABIA: DETENTION WITHOUT TRIAL OF SUSPECTED POLITICAL OPPONENTS 1 (1990).

A. Arbitrary Arrest and Detention

No one shall be subjected to arbitrary arrest, detention or exile.¹⁰⁶

It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him.¹⁰⁷

One of the most common and persistent complaints against the Saudi Government by both Saudis and foreigners is arbitrary arrest and detention. Each branch of the security forces, including the *Mutawwi'un*, has authority to arrest and detain people at its discretion.¹⁰⁸ In 1983 the Interior Ministry issued a "Statute of Principles of Stop, Arrest, Temporary Confinements, and Preventive

¹⁰⁶ Universal Declaration of Human Rights, *supra* note 81, art. 9. See also International Covenant on Civil and Political Rights, art. 9 (1), adopted Dec. 16, 1966, G.A. Res. 2200A (XXI), 21 GAOR, Supp. 16, at 52, U.N. Doc. A/6313, entered into force Mar. 23, 1976, 999 U.N.T.S. 171, 6 I.L.M. 368.

¹⁰⁷ Cairo Declaration on Human Rights in Islam, *supra* note 88, art. 20; see also INTERNATIONAL INSTITUTE OF HIGHER STUDIES IN CRIMINAL SCIENCES, DRAFT CHARTER ON HUMAN AND PEOPLE'S RIGHTS IN THE ARAB WORLD, art. 4 (1987).

¹⁰⁸ U.S. DEPT. OF STATE, *supra* note 52, at 1578. The principal rules and procedures which ostensibly have regulated the conduct of police are the Public Security Rules number 3594 (*Rabi 1st 29*, 1369 A.H.) issued by the Ministry of Interior, cited in AL-ELFEE, *supra* note 44, at 32. See also SULAIMAN ABDUL-AZIZ AL-TUWAIJRI, SOME REGULATORY ASPECTS OF CRIMINAL INVESTIGATION IN THE KINGDOM OF SAUDI ARABIA, MASTER'S THESIS SUBMITTED TO THE INSTITUTE OF PUBLIC ADMINISTRATION (1983).

Detention,"¹⁰⁹ which is believed to be in force and to apply in all cases.¹¹⁰ Under the Statute of Principles, the police have authority to arrest and detain "any person in a situation giving rise to suspicion."¹¹¹ This wide discretion given to police lies at the heart of arbitrary arrest and detention in Saudi Arabia.

Arbitrary arrest is a particularly serious problem for suspected political dissidents, foreigners, and the Shi'a religious minority. The Minnesota Lawyers Committee interviewed many Saudi political dissidents who were detained, interrogated, and tortured by *al-Mabahith*.¹¹²

One Saudi interviewee, a leader of a Shi'a religious organization, was arrested in the late-1980's after a celebration of the birth of the Prophet Muhammad.¹¹³ This man's story illustrates the wide array of human rights violations to which one may be subject in Saudi Arabia. The *al-Mabahith* raided the man's house, confiscated Shi'a pamphlets, arrested the man, and took him to the prison at Dammam. At the prison, he was confined to a three by four foot room, forced to remain standing, and not allowed to sleep for three consecutive days and nights.

¹⁰⁹ *Umm Al-Qura*, The Official Gazette, No. 2988, Nov. 11, 1983, at 24-29.

¹¹⁰ AMNESTY INTERNATIONAL, *supra* note 105, at 3.

¹¹¹ *Id.*

¹¹² See, e.g., interviews with D, Minneapolis, Nov. 15, 1990; E, Montreal, Sept. 7, 1991; G, Montreal, Sept. 7, 1991; and H, London, June 6, 1991.

¹¹³ Interview with E *supra* note 112.

Members of the *al-Mabahith* then repeatedly interrogated the man regarding his "crimes against the Wahhabi government." His interrogators beat him all over his body and demanded repeatedly that he sign a confession which declared him an "unfit citizen" for having committed crimes against the Saudi Government. Each time the man refused to sign the confession, he was beaten and returned to the small room. The man endured six weeks of interrogations, beatings, and confinement in the room until he finally signed the confession papers.

Shortly after signing the papers, the man was brought before a Shari'a court, where he was told he must confess orally to the crimes contained in his written confession. The man was instructed that, should he refuse, he would again be imprisoned and the beatings would continue. The man confessed orally and was released.

Throughout his imprisonment, the man was served two "meals" per day consisting of humus and water. While at Dammam, he was held completely incommunicado.

Two years later, the same Saudi man attended a similar celebration of a Shi'a religious holiday. The *al-Mabahith* discovered him and four of his friends. The man escaped that night, but the *al-Mabahith* killed his four friends. One of the former interrogators later telephoned him and ordered him to appear at Dammam the following day. He failed to appear and later that evening the *al-Mabahith* surrounded his family's house and the houses of several friends and stormed them searching for the man. Members of the *al-Mabahith* found him and arrested him, taking him back to Dammam. His captors again interrogated him and threatened that unless he cooperated he would be killed like his friends.

He was subjected to more beatings, especially on the soles of his feet. The man's feet were tied together to a long stick and he was hung upside down and beaten. His captors continuously cursed him and all members of the Shi'a community and asked for additional names of those participating in Shi'a ceremonies.

At one point, the man was submerged in icy water for approximately 30 minutes and then plunged immediately into steaming hot water. This technique was used to open the pores of his skin so that various peppers and spices could be applied and would burn painfully.

The man ultimately confessed to further misdeeds and was later released. The *al-Mabahith* continued to monitor his activities, however, and interrogated him on occasion about upcoming Shi'a religious celebrations. The man knows of Saudi friends who apparently did not break down and sign confessions — they were killed in prison.¹¹⁴

Another Saudi interviewed by the Committee had been arrested four times.¹¹⁵ His first arrest occurred when he was with some friends in a car, coming from school. The police told them gatherings of more than two people were illegal. The second and third arrests occurred when he was talking with friends on the street. These arrests were the product of general government sweeps of his Shi'a neighborhood. The fourth arrest occurred in his home where the police had come looking for him. The police never had a warrant for his arrest.

¹¹⁴ *Id.*

¹¹⁵ Interview with I, Nov. 3, 1990.

Still another Saudi, away from the country at the time, told how the secret police came looking for him but arrested and tortured his brother instead.¹¹⁶

Similarly, a woman describes in her memoirs how four masked secret police came in the middle of the night to her family's house to arrest her. They had no warrant to search or arrest. They forced themselves into the house, searched all the rooms, arrested her, and took her to Dammam prison.¹¹⁷

The Minnesota Lawyers Committee also learned of cases where the arrests occurred at the ports of entry to Saudi Arabia. In several cases Saudi Shi'a students pursuing their religious studies in Iran and Syria were arrested as they entered Saudi Arabia at the Riyadh airport, the Jordanian-Saudi border, or at the Kuwaiti-Saudi border. In none of the cases did the arresting authorities provide a basis for the arrests.¹¹⁸ In another incident, police arrested an entire Shi'a family at the Bahraini border without a single word to explain the basis for the arrest.¹¹⁹

Shi'a religious leaders, suspected sympathizers of the Islamic Revolution Organization, the Party of God in Hijaz, and

¹¹⁶ Interview with **K**, Nov. 4, 1990.

¹¹⁷ A. MAKI, DIARY OF A WOMAN IN SAUDI PRISONS [*YOUMIYAT IMRA'AH FE AL-SUJUN AL-SAUDIYA*] 22 (1989).

¹¹⁸ Interview with **J**, Minneapolis, Sept. 16, 1991.

¹¹⁹ See interview with **D** *supra* note 112.

the Arab Socialist Labor Party in the Arabian Peninsula also have been subject to arbitrary arrests by the Saudi authorities.¹²⁰

On September 24, 1989, nine Shi'a in Al-Awamiyah were arrested for attempting to organize the religious celebration of *Al-Ashura*. Among those arrested were Muhammad Abdul Kareem al-Faraj, an eighteen-year-old student, and Abdulla Ali Mousa, a twenty-nine-year-old employee of Aramco.¹²¹

The Committee also learned of the arbitrary arrest of six Shi'a students in 1989 after a fire in student housing at the University of King Saud in Riyadh. One student was released, but the other five were kept in prison where they reportedly endured torture until confessing to arson.¹²²

To be subject to arbitrary arrest, one does not need to hold political beliefs contrary to the government.¹²³ It is sufficient that one carries a book or an audio or videotape considered political to be imprisoned. For instance, one Saudi citizen was arrested at Jeddah airport in 1985 for possessing "political books."¹²⁴

¹²⁰ THE ARAB ORGANIZATION FOR HUMAN RIGHTS, 1989 ANNUAL REPORT 68 (1990).

¹²¹ *Id.*

¹²² *Id.* at 69.

¹²³ *Id.* at 68.

¹²⁴ *Id.* at 69.

During the 1991 gulf war, the Saudi Government arrested thousands of Yemenis at their homes, schools, and workplaces.¹²⁵ The arrests of the Yemenis appear to have been based strictly on their national origin and the stand of the Yemeni Government toward the gulf war. According to a U.S. reporter, the Saudi Government also arbitrarily arrested Sudanese nationals.¹²⁶

B. Continued Detention of War Refugees

Not only are suspected criminals and political dissidents arbitrarily arrested and detained in Saudi Arabia, even war refugees are not safe from such practices. Saudi authorities continue to detain in isolated desert camps more than 54,000 refugees who fled Iraq during the gulf war.¹²⁷ These Iraqis sought refuge in Saudi Arabia because of their opposition to the Iraqi Government. The Saudis detained these refugees and held them in detention camps in the desert, surrounded by barbed wire, and cut off from the outside world, where they remain today living in tents.

There are three refugee camps in the Saudi desert under the direct supervision of the Saudi Government. The camps are run by the International Islamic Relief Organization. The camp with

¹²⁵ Amnesty International reported these Yemenis were held incommunicado and without access to legal or consular representation. AMNESTY INTERNATIONAL, *supra* note 105, at 3.

¹²⁶ Interview with L, Minneapolis, Mar. 19, 1991.

¹²⁷ Interview with DDDD, by telephone, April 10, 1992; *See also* documents of Concerned Citizens for the Defense of Human Rights in Iraq, Oct. 27, 1991.

the largest population is *Rafha*, with 20,928 civilian detainees, including 11,070 men; 3990 women, 5868 children under 12 years of age, 171 Afghans, 7 Turkomans, 12 Kurds, and 13 Christians.¹²⁸

The second camp is *Artiwiyaha*, containing approximately 12,000 civilians in three sections. One section houses Christians and Sunni Muslims; a second section houses approximately 270 Kurds; and the third section, representing 90% of the camp population, houses Shi'a Muslim refugees.

The third camp is formerly a prisoner of war camp for Iraqi military prisoners and deserters. The remaining 22,000 men in the camp are no longer considered prisoners of war and have been reclassified as refugees by the Saudi authorities and international organizations.

An outbreak of disturbances in the camps in December 1991 reportedly is linked to the Saudi security forces efforts forcibly to return detainees to Iraq.

Representatives of the International Committee of the Red Cross, the United Nations High Commissioner for Refugees (UNHCR) and the United States Government have made several visits to the refugee camps. The Saudi Government is negotiating with the U.S. State Department and international organizations to establish a UNHCR presence in the camps, and to register the detainees for possible resettlement to third countries where they

¹²⁸ Interview with DDDD *supra* note 127. One week after these statistics were released the total population in the *Rafha* camp decreased by 14, apparently due to voluntary repatriation to Iraq.

have family ties. The Saudi Government has invited a delegation of United States senators to visit the camps in May 1992.

These camps hold an estimated 32,000 Iraqis, including many women, children, the old, and infirm. The Saudi Government has never explained the basis for its arrest and continued detention of these Iraqis.

C. Torture and Coerced Confessions

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.¹²⁹

It is not permitted to subject [an individual] to physical or psychological torture or to any form of humiliation, cruelty or indignity.¹³⁰

A serious and widespread abuse of human rights in the Saudi criminal justice system is the practice of coercing confessions through torture. The strict evidentiary demands of Islamic penal law require either the testimony of witnesses or a confession for conviction of certain offenses.¹³¹ Consequently, Saudi police and prosecutors routinely demand that suspects confess to their alleged crimes. When suspects refuse, they are intimidated, harassed, repeatedly tortured, and may be held without trial indefinitely until

¹²⁹ Universal Declaration of Human Rights, *supra* note 81, art. 5. *See also* International Covenant on Civil and Political Rights, *supra* note 106, art. 7.

¹³⁰ The Cairo Declaration on Human Rights in Islam, *supra* note 88, art. 20.

¹³¹ *See supra* section I.E.4.

they confess. It seems to matter little that Islamic criminal procedure does not recognize coerced confessions as valid.¹³²

In November 1983, for example, Rodolfo M. Albano, a Filipino national, was arrested, allegedly for murdering his co-worker.¹³³ Albano was interrogated day and night by two officers. During the interrogation, Albano was beaten, kicked all over his body, and burned with cigarettes on his hands and genitals. His Saudi torturers also hung him upside down and repeatedly beat him with a wooden rod. Finally, under threats to his life, Albano confessed to a crime he had not committed. The confession was written in Arabic, and Albano did not understand what he had confessed.¹³⁴

Another case is that of Benito Bernardino, also a Filipino national. In September 1985, the police searched Bernardino's house and found marijuana in a roommate's briefcase. The police demanded to know the whereabouts of his two roommates but Bernardino did not know. The police slapped him on the face and ears; they then hit and kneed him on the chest. The beating continued for an hour before Bernardino was taken to Dammam

¹³² There are rigid requirements for a confession to be admitted as evidence of the guilt of the accused. "The confessor must be of age, mature, sane, capable of self expression, and acting of his own free will." Salma, *General Principles of Criminal Evidence in Islamic Jurisprudence*, in *THE ISLAMIC CRIMINAL JUSTICE SYSTEM* 119 (Bassiouni ed. 1982). All Islamic schools of jurisprudence agree the confession must be freely given without any pressure, torture, or deception. *Id.*

¹³³ See letter from Rodolfo M. Albano, March 15, 1986.

¹³⁴ *Id.*

Drug Detention Center. During his detention Bernadino was interrogated under torture. The torture consisted of beatings on the soles of his feet (*falaqa*), sleep deprivation, and forced standing for prolonged periods of time. The interrogators also repeatedly submerged Bernadino's head in the toilet. After 12 days of beating and torture, Bernadino involuntarily confessed to selling drugs.¹³⁵

Several Saudi interviewees were tortured at Dammam prison in the last ten years. At Dammam, methods of torture include sleep deprivation, beatings including *falaqa*, forced standing for long periods, and hot and cold water followed by irritating spices on the skin. Systematic torture is applied not only to obtain confessions, but also to force victims to provide information on other individuals who also are targets of investigation.

One interviewee, a Saudi Shi'a man, was arrested and interrogated at Dammam about a relative who allegedly had ties to the political opposition in Saudi Arabia.¹³⁶ The interrogation promptly turned to torture after the man professed no knowledge of his relative's activities. The man and his friend, who also was in custody at Dammam, were not permitted to sleep for five consecutive days and nights. Each night, members of the *al-Mabahith* interrogated the two men. The interviewee was accused of writing slogans for the opposition and attending anti-government demonstrations. Hot tea was poured on the man's face and he was subjected to *falaqa* beatings. One night, the man was shackled to

¹³⁵ Affidavit of Benito Bernardino, March 16, 1986.

¹³⁶ Interview with H *supra* note 112.

a wall with his feet unable to touch the floor for six to eight hours.¹³⁷

During the interrogation sessions, two interrogators were always present. One interrogator would ask questions in a kind manner while the other would be harsh. The harsh interrogator would strike the Shi'a man if he gave negative answers. The man was in solitary confinement for nearly half of the six weeks he was held at Damman.¹³⁸

Another Saudi interviewee who was incarcerated at Damman was held in a two by two foot room containing a toilet which overflowed with sewage.¹³⁹ The man was given no food for the first three days of his detention, after which he was provided with only bread and water. Members of the *al-Mabahith* interrogated and beat him each night, asking for the names of participants in Shi'a celebrations. The man was often stripped of his clothes, led out behind the prison, and forced to stand on a barrel while his captors threw icy water on him. If he fell off the barrel, the man was beaten and forced to remount the barrel. The man endured three weeks of torture, including electric shocks, whipping with cables, and *falaqa* beatings, before he signed the confession papers.¹⁴⁰

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ Interview with G *supra* note 112.

¹⁴⁰ *Id.*

Some interviewees spoke of relatives who had suffered torture or ill-treatment at the hands of the *al-Mabahith* or other Saudi officials. One man's relative had been arrested five times during the 1980's for alleged political activities and for "preaching unacceptable Shi'a ideas."¹⁴¹ The relative had been detained at Dammam prison for months at a time. On one occasion, the man visited his relative at Dammam. His relative had been incarcerated for about a month and obviously had been physically beaten, with many teeth broken and blood stains on his clothing.¹⁴²

One interviewee's brother was arrested in the mid-1980's and tortured severely while spending four months in prison.¹⁴³ The brother refuses to speak to other family members about the torture he suffered. The interviewee indicated that his brother's back is badly scarred. He believes his brother was beaten with objects, such as an ashtray and electric cables. His brother continues to experience great pain, which requires continuing medication and massage treatments.¹⁴⁴

Another interviewee said the typical interrogation pattern consisted of questioning by a chief interrogator and several assistants.¹⁴⁵ The assistants hit prisoners with blunt objects and beat them until they would change their answer. Beatings might be

¹⁴¹ Interview with H *supra* note 112.

¹⁴² *Id.*

¹⁴³ Interview with K *supra* note 116.

¹⁴⁴ *Id.*

¹⁴⁵ Interview with I *supra* note 115.

entirely random and not prompted by a particular response. Sometimes prisoners' heads were submerged in toilets. Other times, according to the interviewee, unspecified drugs were administered to the prisoners. In some cases, prisoners were taken to the hospital because of the severity of the beatings. A special section of a Dammam hospital was set aside for these cases with a private staff of doctors. Often, the prisoners' injuries required that they remain at the hospital for several days.¹⁴⁶

Many other cases of torture and ill-treatment in custody have been reported. One widely reported case ended with the death of Zahra al Nasser, who was arrested with her husband at the Hudaitha checkpoint on the Saudi-Jordanian border on July 15, 1989.¹⁴⁷ Upon searching al Nasser, police found a picture of the Ayatollah Khomeini and a Shi'a prayer book. She was held at the Hudaitha check-point detention center where she was tortured. Zahra al Nasser died on July 18, 1989, and her tortured body was returned to her family.¹⁴⁸

Another incident involved a woman who publicly promoted more rights for women.¹⁴⁹ Her husband was imprisoned and tortured first, and later the woman herself was arrested and tortured. She was forced to remain in a tiny cell and stand for long periods of time on a broken leg. In addition to receiving

¹⁴⁶ *Id.*

¹⁴⁷ AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 1990, at 205 (1990).

¹⁴⁸ *Id.*

¹⁴⁹ Interview with M, Montreal, Sept. 8, 1991.

beatings on her face, she was given approximately twenty injections of an unknown substance with a syringe.¹⁵⁰

The woman's cousin also was imprisoned, along with her one-year-old baby. During the incarceration, the child suffered an injury which left it with permanent mental injury.¹⁵¹ Similarly, the Committee learned of a pregnant woman who miscarried in prison because of her ill-treatment.¹⁵²

One interviewee, who himself had been arrested several times, believes that all persons detained in Saudi Arabian prisons are subjected to some form of torture or ill-treatment unless they are willing to sign a confession.¹⁵³ According to the individual, detainees are told they must sign a confession before they will be permitted to leave. The interviewee was willing only to discuss the psychological abuse he endured during his detention. The man was subjected to solitary confinement in a small cell for long periods of time. He heard screams throughout the night and he feared greatly for his life. The man's only human contact came at mealtime when a guard would bring him his food. The man found himself hallucinating under these conditions and often screamed out, wanting badly to talk with another person. He would feign illness just so that he could have someone with whom to share a

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ Interview with I *supra* note 115.

few words.¹⁵⁴ The man was in solitary confinement for about a month before the *al-Mabahith* began to interrogate him. His interrogators insisted he sign a confession which stated he had participated in illegal demonstrations and plotted to overthrow the Saudi Government. When he refused to sign the confession, his captors beat him and said "save yourself by signing this paper."¹⁵⁵

D. Incommunicado Detention, Lack of Defense Counsel, and Denial of Fair and Public Trials

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to the law in a public trial at which he has had all the guarantees necessary for his defence.¹⁵⁶

A defendant is innocent until his guilt is proven in a fair trial in which he shall be given all the guarantees of defence.¹⁵⁷

In none of the cases of which the Minnesota Lawyers Committee has knowledge were criminal defendants provided legal representation at any stage of the criminal process. Defendants have to

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ Universal Declaration of Human Rights, *supra* note 81, art. 11(1).

¹⁵⁷ Cairo Declaration on Human Rights in Islam, *supra* note 88, art. 19(e).

represent themselves, but encounter serious difficulties because they often are denied communication with the outside world.

In political cases, detainees are kept in strict incommunicado detention without access to lawyers, family, or friends. In non-political cases, the defendants generally are allowed to make phone calls to contact family members or friends. Foreigners usually may contact their embassies, but the Saudi Government often discriminates against Arab or Asian workers, who can be in prison for an extended period of time before they are permitted to contact anyone. According to one report, it is frequent that family or friends will not find loved ones who have suddenly disappeared for days until they have searched at all the police detention facilities.¹⁵⁸

One interviewee, who had been incarcerated at Dammam prison, indicated that detainees rarely were permitted visits from persons outside the prison.¹⁵⁹ Those detainees who occasionally were permitted visits usually already had been imprisoned for more than a year or were severely tortured.¹⁶⁰

Likewise, although the Judicial Code specifically declares trials to be public,¹⁶¹ they are in fact closed to the public.¹⁶²

¹⁵⁸ Interview with A, Minneapolis, Nov. 8, 1990.

¹⁵⁹ Interview with I *supra* note 115.

¹⁶⁰ *Id.*

¹⁶¹ All trials and court hearings are required to be public except where "the court finds that observance of good conduct, preservation of the sanctity of the family, or protection of the public order necessitates closure." Judicial Law,