



SAUDI ARABIA

CAPITAL: Riyadh

POPULATION: 28.7 million

GNI PER CAPITA (PPP): \$22,950

SCORES	2006	2010
ACCOUNTABILITY AND PUBLIC VOICE:	N/A	0.67
CIVIL LIBERTIES:	N/A	0.47
RULE OF LAW:	N/A	1.47
ANTICORRUPTION AND TRANSPARENCY:	N/A	1.31

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

INTRODUCTION

The Saudi state is based on a historical partnership of the ruling Al Saud family and the religious elites of central Arabia. While the balance of power has been gradually shifting in favor of the ruling family over time, no new social actors have managed to enter the core of the regime and the decision-making process for more than 200 years.

Saudi Arabia has only very weak traditions of constitutional government; over much of modern Saudi history, the government has claimed that the Quran is the country's constitution and no further legal-institutional framework for the Saudi polity is needed. The western region of Saudi Arabia, the Hijaz, witnessed a brief period of semi-constitutional government in the 1920s, when a regional representative body was elected and King Abdulaziz issued the "organic instructions" as a quasi-constitution for the Hijaz. The elected bodies soon lost their political importance, however, and the organic instructions became obsolete when the kingdom was gradually unified, from the 1940s on, around an administration based in the Central Province and predicated on executive rather than legislative rule.

Partial return to a constitutional framework occurred only in 1992 with the issuance of the Basic Law, which codifies certain governing norms but in substance does little more than consecrate the kingdom's status as an absolute monarchy and makes no allowance for popular sovereignty or democratic participation mechanisms.¹ While the regime is quite explicitly undemocratic by international standards, in Middle Eastern comparison, the use of coercion vis-à-vis the citizenry is less overt, and opposition is often co-opted rather than merely suppressed.

While formally unconstrained by organized social interests, the Saudi rulers harbor great concern about their reputation and the inclusion of the

population in their patronage systems. Informal consultations have repeatedly brought down or reversed unpopular policies, and consensus-building within the royal family and among elites within the royal family is an important part of the policy making process in most fields. The king himself is constrained in his decision making by powerful brothers, rendering the kingdom in practice an oligarchic rather than an absolutist system. All of the senior princes regularly sound out public opinion on delicate policy issues through their clients and informants, who include advisors and courtiers as well as civil servants, business partners, local notables, and tribal leaders attuned to the sentiment in different social strata.

The informal culture of political consultation in Saudi Arabia remains, however, in a strictly paternal mold. Due to the lack of institutionalization, consultation is granted rather than claimed, can always be withdrawn by the regime, and is not extended to a wide variety of different social strata. Consultation often happens among social elites, and most collective social interests remain unorganized and, indeed, lack rights to formal collective action. All the most senior regime positions remain in royal hands; the premiership has been fused with the kingship since King Faisal's accession to the throne in 1964, preventing the separation of "ruling" and "reigning" that has to some extent occurred in more liberal Arab monarchies.

The best-organized interest group outside of the ruling family remains the religious sector or *ulama*, which has allowed itself to be bureaucratized by the Al Saud since the late 1960s in return for considerable influence over the kingdom's educational and judicial system as well as the enforcement of public morals. The strict social authoritarianism of the Saudi system—in terms of restrictions on women's rights, religious rights, and cultural rights—is mostly enforced through the Saudi *ulama* and the religious police attached to them.

Saudi Arabia has never seen national elections. Municipal elections occurred in a brief phase of partial liberalization in the 1950s and early 1960s but were abandoned under King Faisal from 1964 on. Only in 2005 were they reintroduced, although with a mere half the municipal seats up for election. Otherwise, elections have been limited to the boards of specific interest groups such as professional associations and chambers of commerce.

Recent years have seen several steps toward sociocultural and partial political liberalization under the aegis of King Abdullah. Although often announced as path breaking, in many cases such moves have represented a return to historical precedents or the implementation of promises that were already several decades old. The Basic Law in 1992, for example, had been promised several times since the 1950s, and the same is true of the appointed consultative council established the same year (its building had in fact already been erected in the 1980s). The 2005 municipal elections were more constrained than the ones five decades before.

Nonetheless, by Saudi standards there has been a substantial change of political atmosphere in the 2000s, especially after the domestic jihadist insurgency

in 2003-04 led to a rethinking of the socio-cultural and, to some extent, political foundations of the Saudi regime. The scope for political discourse has widened, new interest groups have been licensed, and the regime has started to tackle reforms of the educational and judicial systems, somewhat weakening the hold of the most conservative religious forces. None of these steps have affected the core political structure of the regime, however, and with the stabilization of the domestic security situation and the reduction of U.S. democratization pressures after 2005, discussion of more fundamental constitutional reform has abated again. As oppositional mobilization in society remains limited to small strata of dissidents, the soft paternal authoritarianism of the Al Saud is unlikely to see substantial change in coming years.

Oil remains the essential backbone of the Saudi economy, and the price increases of recent years have further boosted the regime's confidence while lessening perceived pressure for fundamental reform. The state continues to be independent of domestic taxation, as it is mostly financed through oil rents, decreasing the political bargaining power of the citizenry in general and business in particular. Price decreases since 2008 do not constitute a threat to the system, as the regime has managed its finances relatively prudently and has accumulated savings sufficient to continue and expand its policies of patronage.

ACCOUNTABILITY AND PUBLIC VOICE

0.67

FREE AND FAIR ELECTORAL LAWS AND ELECTIONS	0.00
EFFECTIVE AND ACCOUNTABLE GOVERNMENT	1.25
CIVIC ENGAGEMENT AND CIVIC MONITORING	1.00
MEDIA INDEPENDENCE AND FREEDOM OF EXPRESSION	0.43

Saudi Arabia has no mechanism for national elections and, after the release of some trial balloons on the issue in 2003 and 2004, the topic has again disappeared from public discourse. The kingdom's Majlis Al-Shura, a consultative council with limited but gradually increasing legislative powers, remains unelected. Its 150 members are appointed by the king every four years; their terms can be renewed once. The Majlis can propose legislation, but cannot overrule the cabinet unless supported by the king. Despite its repeated lobbying efforts, it has no control over the national budget. Nonetheless, over time the Majlis could potentially develop stronger faculties as an intermediary between citizenry and state, provided it acquires fiscal powers and the capacity to sanction senior civil servants.

The second round of municipal elections, which should have been due in spring 2009, were postponed for two years, supposedly for administrative reasons.² One rumor has it that the postponement was in order to prepare women's participation in the next round, but it is not clear why this could not have been prepared for 2009, given that the issue was already hotly debated before the first round in 2005. The postponement shows that political-institutional

reform is no longer a priority of the Al Saud, as both international and domestic reform pressures have abated. The councils' political competences were strictly limited in the first place, leading to the disillusionment of many members. The majority of the current incumbents in the larger cities are middle of the road Islamists, most of whom were voted into office on rather apolitical platforms focused on the improvement of local services. Their ideological orientation probably reflects that of Saudi society at large, but given the very low turnout in the 2005 election—less than a third of eligible voters—firm conclusions cannot be drawn. On average, the appointed half of the local council members tends to be less socially conservative, reflecting the paradox that socially liberal elites in Saudi Arabia tend to be close to the regime due to their weak social base.

Smaller groups of political dissidents of liberal or moderate Islamist background still occasionally petition the regime for national elections and constitutional reform—most recently in May 2009³—but the reaction from the regime has been to ignore the entreaties, remind the petitioners of reforms already underway or, in some cases, warn them not to exhort the Al Saud in any public way. Dissidents involved in constitutional petitions have on occasion been imprisoned.

Saudi politics continues to be based on patronage, both formal, through subsidized public services and broad-based state employment, and informal, through individual attachments to princely networks of privilege in business or the administration. The most senior princes in government have all been running large bureaucratic bodies for decades and use them to build up large clienteles. Major bodies under royal control, such as the ministries of defense and interior and the National Guard, are allotted significant shares of the national budget, which are used for the procurement of equipment, the building of housing compounds, and the operation of special hospitals and educational institutions, as well as large-scale employment. The major security institutions in the country have become synonymous with the princes heading them, giving them a position that even the king cannot challenge.

The most important institutional reform after 2005 has arguably been the creation of the Allegiance Council in 2006, which allows for a vote on future crown princes by a select number of direct descendants of the founding king, Abdulaziz. Although always negotiated within the family, succession had previously been formally left to the discretion of the king. The Allegiance Council has been interpreted as an attempt by King Abdullah to circumscribe the influence of his most powerful brothers, Sultan and Naif, in favor of an alliance with less senior princes. The appointment of Prince Naif as second deputy prime minister in early 2009, however, seems to make him crown prince-in-waiting, calling the Allegiance Council's importance into question.

The judiciary is not involved in direct supervision of administrative action, and although the Majlis Al-Shura can question ministers, it has no means to dismiss them or access ministerial accounts. Although there is no parliament in a strict sense, individual citizens can to some extent hold the government

accountable through the Board of Grievances, an administrative tribunal that arbitrates, among other things, conflicts between individuals and the government. The Board of Grievances, like other courts, is staffed with Sharia-trained judges. As with other senior judicial personnel, they are chosen by the king, though usually from among the more liberal wings of the religious establishment. Verdicts in citizens' favor are issued regularly, but usually concern non-political issues such as getting degrees recognized by the government, being reinstated into a job by a specific ministry, being indemnified for damage to property, or getting administrative fines lifted.

There is a disciplinary board investigating bureaucratic abuse, but as an internal administrative mechanism, it is itself part of the Saudi bureaucracy and not accountable to the public. Apart from occasional reporting of relatively petty abuses and their punishment, little is heard about its activities.

Influence-peddling with regard to civil service appointments does occur in the kingdom, but generally the bureaucracy appoints on the basis of clear, albeit inflexible, civil service rules.⁴ Promotion rules are rigid, linked to education levels, years of service, and performance reports that hardly discriminate between different civil servants, thereby limiting superiors' discretion. There are very few dismissals. Both carrots and stick are weak in the bureaucracy, giving many positions the character of sinecures, an example of the country as a rentier state. The state is relatively institutionalized, but rigid and unaccountable. Pockets of efficiency, such as the central bank, SAMA, or the national oil company, Saudi Aramco, perform significantly better than the rest of the state, but their operation is similarly opaque to citizens.

Chances for civic participation in Saudi Arabia have somewhat improved in recent years due to the Majlis Al-Shura and other new government bodies, such as the Supreme Economic Council, that invite interest groups for hearings or receive their petitions. Consultation is usually granted, however, rather than claimed as a right, and the choice of who gets consulted and which issues are debated can be quite selective. The National Human Rights Society, for example, has been engaged in important exchanges with the Ministry of Labor on foreign workers' rights and the Ministry of Interior on prison conditions, but since its licensing in 2004 has been operating as a quasi-monopoly on human rights lobbying. Saudi business plays an increasingly substantial role in economic policy deliberations through the circulation of draft laws in the kingdom's regional chambers of commerce and industry. At the same time, labor and consumer interests remain unorganized. Some indirect lobbying on less sensitive policy issues can happen through the Saudi press, whose coverage is a genuine concern for bureaucrats who are afraid of princely punishment when an agency is reported on negatively.

At the time of writing, a much-discussed NGO law whose issuance has been expected for many years was still pending in the Majlis Al-Shura. There currently is no overall framework regulating civic groups; instead, groups are subject to an arbitrary licensing regime wherein they often need a princely patron

to be officially recognized. Following licensing, they are usually attached to the line ministry in charge of the policy area relevant to their activities. Charities, for instance, are attached to the Ministry of Social Affairs, while professional groups are attached to the Ministry of Higher Education under the rationale that they represent graduates of a specific profession. Civic groups can be shut down arbitrarily and there is no effective recourse mechanism against such decisions.

The weakness of Saudi civil society is, however, caused not only by a restrictive licensing regime, but also by the weakness of bottom-up pressures emerging from society. Civil society traditions in the kingdom are weak, and society remains organized on a kinship or other informal basis. The new “civil society” groups that have appeared in recent years are often state generated and supported, function along corporatist lines, and are materially dependent on the regime. The strength of autonomous social organizations in general has been greatly weakened by the Saudi rentier state since the 1960s, as Saudis have become individually dependent on the state to the detriment of collective action.

The boundaries of freedom of expression in Saudi Arabia tend to fluctuate with the political climate. While freedom of speech expanded considerably in 2003 and 2004, a certain tightening on political topics—but not social or cultural issues—occurred after 2005. There are no formal safeguards guaranteeing freedom of speech; Article 39 of the Basic Law merely states that “information, publication, and all other media shall employ courteous language and the state’s regulations, and they shall contribute to the education of the nation and the bolstering of its unity. All acts that foster sedition or division or harm the state’s security and its public relations or detract from man’s dignity and rights shall be prohibited.” Most major Saudi (and Arab) newspapers are directly or indirectly controlled by royal factions: *Okaz* and *Saudi Gazette* by Prince Naif, *Arab News* and *Al-Sharq Al-Awsat* by Prince Salman and his sons, *Al-Hayat* by Prince Khaled bin Sultan, and *Al-Watan* by the Al-Faisal faction of the ruling family. Regime institutions can also exert considerable informal pressure on local media. Foreign correspondents are on occasion expelled when their reporting gets too critical, and journalists and editors are on occasion dismissed or prohibited from writing.

Self-censorship in Saudi newspapers is pervasive; the appointment of an editor in chief requires approval by the Ministry of Information, which is closely linked to the Ministry of Interior and conducts regular meetings with senior press representatives. The media licensing policy is restrictive, and even media not directly owned by princes are usually under the patronage of specific wings of the Al Saud. A press tribunal set up under the 2000 Law of Printed Matters and Publications and administered by the Ministry of Information decides about complaints against the press brought by private individuals.

In recent years, newspapers’ reporting and commentary have become more daring on socio-economic and cultural issues. With some exceptions in the liberal phase of 2003–04, however, political red lines have hardly shifted: criticism

of the royal family or individual royals remains taboo, as do calls for substantial change to the political system. More than 90 percent of Saudi households have satellite dishes and Al-Jazeera is widely watched. A prohibition on dishes stemming from the 1990s has never been enforced and has now become obsolete. The political content of satellite channels is less of a topic of debate in Saudi Arabia than the moral issues posed by permissive entertainment channels. The head of the Supreme Judicial Council, Saleh Al-Luhaidan, in September 2008 stated that it was permissible to kill those involved in the spread of immoral programs if they could not be stopped any other way. As several Saudi princes have invested in satellite channels, this statement is thought to have contributed to Al-Luhaidan's dismissal in early 2009.

The internet in Saudi Arabia is censored under the auspices of the Communications and Information Technology Commission with considerable technological effort, but little effectiveness. Internet cafes allowing anonymous access are widespread in Saudi cities.

CIVIL LIBERTIES

0.47

PROTECTION FROM STATE TERROR, UNJUSTIFIED IMPRISONMENT, AND TORTURE	1.00
GENDER EQUITY	0.33
RIGHTS OF ETHNIC, RELIGIOUS, AND OTHER DISTINCT GROUPS	1.00
FREEDOM OF CONSCIENCE AND BELIEF	0.00
FREEDOM OF ASSOCIATION AND ASSEMBLY	0.00

The Saudi regime's repression of the country's nonviolent opposition, whether religious or "liberal," is not particularly bloody by regional standards, but remains arbitrary and has a chilling effect on political life. Abuse occurs, but it has not been systematic. Several nonviolent dissidents have also been imprisoned without trial in recent years, such as political activist Matrouk Al-Faleh (released in January 2009) and blogger Fouad Al-Fahrhan (released in April 2008). Minority religious groups also complain of arrests of politically vocal members.

Treatment of suspected members of violent jihadi groups is significantly harsher. Following a wave of terror attacks in 2003 and 2004, thousands of terror suspects were arrested and held for years without charge or access to counsel or courts. In 2008 the government announced it would begin trials, which were initiated in mid-2009 in special courts not open to the public. In July 2009, it announced that over 300 convictions had been handed down.⁵ Some of the suspects not directly involved in political violence have participated in re-education campaigns in a summer camp-style institution which, while technically optional, is reported to be a prerequisite for release. This option is not open to hardcore activists. Some detainees allege that in reality they were arrested for political reasons, an assertion that calls the government's lack of adherence to international due process norms into even greater question.⁶

The state-licensed National Human Rights Society has conducted several waves of prison inspections, and the state of Saudi prisons appears to be better than in most other Arab countries. Human Rights Watch was allowed access to a Saudi prison in 2006 and documented cases of abuse. The Criminal Procedures Law formally prohibits mistreatment, guarantees access to a lawyer, and sets a maximum term for trial without detention. Prisoners enjoy no effective recourse mechanisms if these stipulations are violated, however, and there are special security prisons controlled by the Ministry of Interior in which prisoners can be held in complete isolation. There are no effective protections against arbitrary arrests.

As Sharia is the official basis of criminal justice, there is no code of criminal law in Saudi Arabia, only a law of procedures for criminal trials, which includes a presumption of innocence rule and right of access to a lawyer. Sanctions include corporal punishments (mostly whipping) and capital punishment by beheading.

Domestic terrorism has abated after its peak in 2004 due to a crackdown on militants, as well as greatly improved intelligence and policing efforts, but residual networks of violent activists exist. Shootouts in recent years have been rare and generally initiated by the police; there is currently no significant danger to either the local or foreign population. In general, crime levels in Saudi Arabia are relatively low and the prosecution of crime is often severe. Foreign residents from non-Western countries are vulnerable to harsh police treatment. Corporal punishment through flogging is practiced regularly, often in public. Saudi citizens tend to be much better protected against crime than low-income foreign workers.

Reacting to the international debate about labor rights in the Gulf, the cabinet issued anti-human trafficking regulations in July 2009 that provide for prison terms of up to 15 years for traffickers. In addition, the government has established a permanent committee on trafficking within the Human Rights Society that is composed of representatives from several government ministries and periodically participates in and carries out training sessions and workshops on human trafficking issues.⁷ However, the illegal “free visa” system, in which official Saudi sponsors of foreign workers informally resell them to other, unofficial employers, remains widespread.⁸ The system will be impossible to eradicate unless Saudi labor laws, which currently create a relationship of bondage between foreigners and their official employers, are fundamentally revised.⁹ Some discussion on this has been happening the last two years, involving both the Ministry of Labor and the National Human Rights Society. The government has proposed amending the Labor Code to transfer visa sponsorship from employers to recruitment agencies or the government, but has made no concrete steps towards this end.¹⁰ Foreign domestic workers are at particular risk for being trafficked against their will to new employers who keep them as virtual prisoners and frequently subject them to psychological and physical abuse, including sexual molestation. The scale of this phenomenon is difficult to estimate.

Saudi and foreign women remain subject to special rules and constraints in many walks of life, and women's campaigns to improve their legal and de facto condition continue. While since 2008 Saudi businesswomen no longer require a male guardian's approval for domestic travel, and the Ministry of Interior has allowed independent foreign travel for women above 45, these exceptions are not fully implemented in practice. Marriage similarly requires a guardian's approval. Women are not allowed to drive and were not allowed to vote in the 2005 municipal elections. Although entitled to their own ID cards since 2001, they can still have trouble obtaining them and getting their validity recognized in practice.

Reports about the violation of women's property rights by their male guardians in inheritance disputes and business life are frequent. Although the official requirement that businesswomen need a male agent to act on their behalf has been curbed, a new rule now demands the presence of a male "manager." While the latter's power of attorney can be more easily limited, businesswomen remain hamstrung in their direct dealings with the administration.

The government's idea of women's cultural, economic, and political life seems to be based on a "separate but equal" principle that calls for a parallel administrative and economic infrastructure for women—a costly policy depriving women of opportunities and effectively limiting most of their employment to a few sectors, such as health and education.¹¹ While separation is widely enforced, equality is not, resulting in less well-endowed facilities for women, fewer chances to participate in public life, and many fewer jobs—despite what are on average better scholarly achievements of female students. About twice as many men as women work in the civil service (not counting security agencies, which employ mostly men).¹²

King Abdullah has made women's social—though not political—issues one of the primary items on his reform agenda, has received several women's delegations, and appointed the first female deputy minister in February 2009 (in the Ministry of Education). The situation of Saudi women has not yet fundamentally changed, however. The female employment strategy ratified by the cabinet in 2004 has remained ineffective, as less than 70,000 Saudi women were employed in the private sector in 2007, out of a total of more than 5 million Saudi women of working age (some 250,000 are employed by government).¹³

Although there is no specific codification of the rights of disabled, the government makes significant efforts to cater to disabled citizens through employment quotas and support to specialized charities.

Saudi society is informally stratified into nationals with a genealogy linking them to major Arabian tribes and those without such heritage. The latter are usually called *khadiri* and comprise an estimated one-third of all Saudis. They are often socially discriminated against. Despite repeated official calls against tribalism, no effective steps have been taken against the phenomenon, which mostly involves private decisions such as marriage.

A more politically salient division in Saudi society is that between Sunnis and Shiites. Twelver Shiites in the Eastern Province, which constitute between 10 and 15 percent of the national population, have been discriminated against since the conquest of their region by the Al Saud in 1913, and members have on occasion mobilized violently against the Al Saud regime. The same is true of the Ismaili (Sevener Shiite) minority in the south around the city of Najran.

The religious rights of both minorities have improved as restrictions on their public religious rituals and the construction of places of worship have been relaxed, though not completely abandoned, under Abdullah. However, they remain discriminated against in state employment: there is no Shiite cabinet minister, and only 4 of 150 members of the Majlis Al-Shura are Shiite. The state-supported religious establishment is often viciously anti-Shiite, an attitude shared by many Central Province Sunnis. The state-controlled religious educational system, although undergoing reform on the textbook level, still often entails negative teachings about the Shiite faith in the classroom. Shiites are subject to harassment by the religious police, and in February 2009 worshippers clashed with both religious police and other Sunnis in Medina near the prophet's mosque, leading to secession threats by a leading Eastern Province Shiite dissident and the arrest of several dozen Shiites.¹⁴

The situation of Shiites is better under Abdullah than it had been for decades. In addition to his inclusive rhetoric and relaxation of some constraints on community activities, in March 2009 he replaced the governor of Najran, who had a tense relationship with the local Ismaili community, with one of his sons. However, Shiite hopes that the new king would bring them full equality are unlikely to be realized, increasing the prospect of radical mobilization against the regime. Shiites remain more marginalized than, for example, the Sunni Sufis of the Western Province, whose previously marginal position has improved significantly under Abdullah, as they are accorded more leeway for their religious practices and community organization.

While the religious freedom of non-Sunni Muslims remains constrained, non-Muslims enjoy no freedom of worship and preaching. Islam is the state religion and missionary activities as well as the construction of non-Muslim places of worship are strictly prohibited. Non-Muslim religious practices are only tolerated in private, and the religious police crack down on larger gatherings, although their discretion has been somewhat curbed in recent years. Services take place at best in embassies, and western Christians enjoy more (informal) leeway than Asian Christians.¹⁵

The Sunni religious establishment is largely bureaucratized, working in the Ministries of Islamic Affairs and Religious Endowments, Justice, and Hajj, as well as various state-controlled institutions of religious education. The king appoints the Grand Mufti and the members of the Higher Council of Ulama and the Presidency for Scientific Research and Religious Edicts, the official fatwa administration.

While in private Saudis are relatively free to express their opinions, independent collective action and political criticism by organized groups is seldom tolerated by the regime. When dissidents are jailed, it is usually because they have started to organize. Freedom of association is absent from the Basic Law and unions have been outlawed since the time of King Saud, who first faced collective action by oil workers in the 1950s. In May 2001, the Council of Ministers sanctioned the formation of labor committees on an enterprise level. In all companies with more than 100 employees, workers have the right to form a committee, although there is no obligation to do so. So far only a small number of large foreign and public companies seem to have formed one, and their purpose seems to be not collective bargaining, but attending to workers' welfare.

Public demonstrations in Saudi Arabia are not tolerated; around a dozen arrests were made during pro-Palestinian protests in the Shiite Eastern Province in late 2008. Repression in the few cases where demonstrations have happened tends to be less harsh than in other authoritarian systems in the region: while arrests occur, live bullets are not used against protesters.

RULE OF LAW

1.47

INDEPENDENT JUDICIARY	1.40
PRIMACY OF RULE OF LAW IN CIVIL AND CRIMINAL MATTERS	1.40
ACCOUNTABILITY OF SECURITY FORCES AND MILITARY TO CIVILIAN AUTHORITIES	0.75
PROTECTION OF PROPERTY RIGHTS	2.33

The Saudi judiciary is currently undergoing a phase of reorganization, which has led to the creation of a supreme court and courts of appeal, relegating the previously dominant Supreme Judicial Council to administrative functions within the judicial system. Specialized commercial, labor, and family courts are in the making. Judges are appointed by the king, but officially are accountable only to Allah and the precepts of Sharia. Over the years, the government has created a growing body of positive law, especially on commercial matters, but this is not always recognized by the Sharia courts—a situation that has led the government to create a number of quasi-judicial tribunals within the bureaucracy to attend to specific areas of commercial and administrative law. The judicial reforms, which are still in an early stage, are meant to undo some of this fragmentation and force a stronger recognition of positive law within the judicial system proper. The Supreme Court is supposed to adjudicate on matters of precedence, guiding the rest of the system—a principle heretofore alien to the Islamic Saudi judiciary, which previously has not recognized precedence.

The Saudi judiciary is relatively independent from political interference on a day-to-day level. A problematic corollary of this, however, is that judges have vast discretion. There are no juries, and individual judges usually decide on

both verdict and punishment. Judgments are brief and officially rely on a limited set of volumes on religious law that have little to say on many aspects of modern life and can be interpreted in very different ways.

The position of judge requires religious training, usually in the strictly Hanbali Sunni Saudi system. The system therefore tends to discriminate against non-Sunni minorities. Courts can refuse to recognize and enforce secular regulations emerging from the bureaucracy, as has occurred regularly on commercial matters. While corruption problems in Saudi courts appear to be limited, their unpredictability and slowness pose major problems. In its 2009 Doing Business survey, the World Bank gave Saudi Arabia rank 137 globally in the Enforcing Contracts category.¹⁶

Reform of the judicial system has been announced many times. First practical steps seem to have been taken in early 2009, when Abdullah replaced senior conservative figures in the religious and judicial systems and a plan was issued to implement infrastructure and training for the new specialized courts announced in November 2007. It is unclear, however, whether the new family, labor, and commercial courts will be more predictable and accountable than the existing Sharia courts, given that they will be staffed by the same judges. A true shift of the judicial system toward statutory law will require the training of a new generation of judges, which is beginning only now. The Sharia institutes in Saudi universities, from which judges will continue to graduate, remain in the hands of the conservative religious establishment, and providing additional training in secular law will be a gradual process.

Compliance mechanisms to implement judicial rulings in Saudi Arabia are weak. Ministries and police often do not enforce judgments, and defendants in legal disputes often sabotage court procedures simply by not showing up, a practice against which judges seem to have limited recourse. The judicial system is not independent *vis-à-vis* senior royals and no cases are known in which leading regime figures have been successfully sued in Saudi courts. Non-royal public officials are sometimes prosecuted for transgressions in office, but details of such cases are usually unavailable.

All Saudi security forces, whether for internal or external defense, are directly attached to senior royal figures who have controlled their respective institutions for decades, in some cases since their inception. Institutions headed by senior princes, like the Ministries of Defense and Interior and the National Guard, are largely autonomous bodies with their own infrastructure and rules. The cabinet and other ministries have very limited control over them and they have stayed at the core of the kingdom's informal power structure as it has grown over decades. They have their own health, housing, and educational institutions, and their recruitment and procurement structures are separate from the rest of government.

While the Ministry of Defense and the National Guard are less involved in domestic politics, the Ministry of Interior has extensive policing, political

security, and regulatory functions. It is also strongly involved in policy making on nonsecurity issues such as regulation of foreign investment and safety inspections of commercial facilities. Moreover, it is often the main addressee of dissidents' complaints about censorship, arbitrary detention, and limits on Saudi political life in general. The ministry operates largely independently of the judiciary, and the public prosecution is de facto attached to it and not to the Ministry of Justice. While the Ministry of Interior, with few exceptions, is not known to mistreat Saudi prisoners, it has de facto power to detain individuals at will and keep them in detention without trial.

Saudi Arabia's economic traditions are fairly liberal in comparison with most of the developing world, as the country has never gone through a phase of nationalizations or class struggle. Private property is generally respected, and the business sector is thriving. Certain infractions on property rights are possible, however, and it can be difficult or impossible to seek remedy. Examples include the expropriation of "cover-up" businesses, companies in economic sectors limited to Saudis that are formally registered under a Saudi's name but are in fact owned and run by foreigners who usually pay the formal owners a monthly fee. The arrangement can allow the Saudi partner to expropriate the actual foreign owners.

Property rights can also be compromised when royals muscle their way in on business deals or companies of commoners by browbeating them into ceding ownership stakes or forcing foreign companies to operate through them instead of their commoner partners. While it is difficult to verify the scale of this phenomenon, many stories of such encroachments circulate. Another area in which property rights are often insecure is land deeds, especially in peripheral regions that are marked for development and in older urban areas where titles can overlap and are not well documented. Much abuse is reported in this field; appropriation of state and private lands is one of the main channels of rent-seeking and patronage in the kingdom. The land registration system, though currently in the process of reform, remains opaque and underdeveloped, and public access to it is limited.

ANTICORRUPTION AND TRANSPARENCY	1.31
ENVIRONMENT TO PROTECT AGAINST CORRUPTION	1.50
PROCEDURES AND SYSTEMS TO ENFORCE ANTICORRUPTION LAWS	1.50
EXISTENCE OF ANTICORRUPTION NORMS, STANDARDS, AND PROTECTIONS	1.25
GOVERNMENTAL TRANSPARENCY	1.00

The bureaucratic environment in Saudi Arabia is better than that of most developing countries, but remains significantly worse than in most OECD economies. Oil income seems to have resulted in a certain professionalization of the

Saudi bureaucracy over the decades, but has also increased opportunities for rent-seeking.

According to the World Bank's 2009 "Doing Business" rankings, Saudi Arabia is now the 16th easiest place in the world to do business in, up from 67th in 2004. This assessment, however, seems to be largely an artifact of a dedicated campaign of the Saudi Arabian General Investment Authority to change specific rules, fees, and procedures that are measured by the World Bank's indicators. The general investment environment has indeed improved somewhat in the last five years, though less dramatically than the above figures suggest. Bribery occurs, but with the potential exception of the labor bureaucracy and the security sector, is less widespread than in poorer Arab countries such as Syria or Egypt.

Local surveys also document that most businessmen still see Saudi Arabia as the most difficult place to do business among the Gulf monarchies. While certain regulations and procedures have been simplified, the bureaucracy continues to be slow-moving, unaccountable, and interventionist, making extensive documentation demands and on occasion trying to change the articles of association of private companies. While this environment does not automatically lead to corruption, it facilitates its mundane occurrence.

Larger transactions in the field of privatization, by contrast, have been conducted in a reasonably clean manner, not least thanks to the heavy involvement of international consultants and the king's personal interest in a credible process. Several leading state-owned enterprises, such as Aramco and Saudi Arabian Basic Industries Company, are efficiently administered and perceived as generally clean, although the available information about their governance is rather limited. Other state-owned assets, such as the national airline Saudia, have a worse reputation. Saudia is currently being prepared for privatization under a well-respected new CEO, which could mean that its worst days of opaque procurement and illicit ticket resales have passed.

To the degree that a set of institutions are well run, it is mostly because of specific organizational histories and special royal protection and attention. Formal accountability mechanisms are limited, and Saudi Arabia has no effective rules separating public and private interests. Most of the leading princes have large business interests, and many non-royal ministers are involved in business on a smaller scale, not least as several of them have been recruited from leading business families. There are no rules demanding public declaration of officials' assets.

Procurement in the security apparatus is surrounded by rumors of rent-seeking and corruption, and some large-scale cases have come to the attention of Western media.¹⁷ The most prominent such story was associated with the Al-Yamamah airplane contract, in the course of which British defense contractor BAE allegedly channeled more than one billion UK pounds in bribes through various front companies and private accounts to senior Saudi decision makers. Transgressions in the security apparatus are punished internally, if at all.

Enforcement of anticorruption rules is limited and occurs mostly behind closed doors. The occasional newspaper reporting on corruption trials conveys the impression of a haphazard process. Such reports always relate to non-royals, and usually to lower-level figures indicted for relatively minor offenses. There is a Corruption Investigation Department at the Ministry of Interior that examines corruption cases in the administration; malfeasance is also investigated by the government's Investigation and Control Board. These bodies are not accountable to the public. Little is heard about their operation, and some observers describe them as fairly inactive.

The reports of the General Auditing Bureau on other government agencies are not published and are available only to a select few government functionaries. The Bureau, which was founded in 1971 and whose senior officials are appointed by the king, has little control over royal agencies. Although the annual closing accounts of the national budget are very detailed, they are usually produced several years after the end of the budget year.

Apart from the above-mentioned Board of Grievances, citizens have no formal recourse mechanisms against bureaucratic abuse. Saudi Arabia has no ombudsman; the closest equivalent is the petitions committee in the Majlis Al-Shura, which considers individual letters by citizens (on the order of a couple of hundred a year) and can request follow-up information from individual government agencies. Informal channels of complaint, often through princes, are usually preferred to formal ones.

There are no personal income taxes in Saudi Arabia, and the income tax on foreign firms was simplified in a 2004 law that brought the kingdom closer to international practices. The tax assessment process can still be slow and cumbersome, however, and the calculation of religious tax (*zakat*) on domestic companies in particular is often less than clear—although this more often works in favor of companies than the government.

The general transparency of the Saudi government has improved a bit under King Abdullah, but started from a very low basis. Several ministries now have spokesmen and more documents such as laws, bylaws, sectoral statistics, and annual reports are available on ministerial websites (usually in Arabic and sometimes in English). Saudi Arabia still lacks a functioning depository for all laws and regulations, however, which are instead often diligently collected by local law firms and consultants. Ministerial circulars have the force of law but often remain unpublished and are perceived by some businessmen as a tool of arbitrary power in the hands of ministers and their deputies.

Information on bureaucratic performance and the use of public funds is still very scarce. The kingdom's closing accounts have not been publicly available since the 1991 Gulf War; the only figures on actual government spending available are two aggregate numbers on total current and total capital spending issued by the Ministry of Finance at the end of every budget year. The idea of a fundamental citizen right to information has not taken hold, and there are no mechanisms for citizens to request details on state spending.

The national budget is not subject to legislative review, and the Majlis Al-Shura has no power over it. Instead, the budget is negotiated bilaterally between the powerful Ministry of Finance and the Saudi government's various line agencies—which in turn usually do not have access to the detailed budgets of other agencies. The planned budget that is reported publicly before the start of the fiscal year only contains ballpark figures on intended sectoral spending and on general project spending; a detailed breakdown by smaller administrative units or specific projects is lacking.

Revamped bidding rules and the introduction of electronic tendering at a number of ministries is intended to augment the transparency of procurement in specific instances. An improvement across the board, including the security agencies, is unlikely, however. Saudi Arabia did not sign on to World Trade Organization government procurement rules when acceding to the organization in 2005, and tendering practices can differ significantly from one agency to the next.

RECOMMENDATIONS

- Laws that have already been passed, including the statutes against human trafficking and loosening restrictions on women's travel, should be implemented in full.
- The pending NGO law should be enacted and should include guarantees against arbitrary administrative intervention with organizations' budgets and the composition of their boards. Groups should be automatically licensed after a pre-defined period after their application unless there is an explicit justification not to do so, and they should only be dissolvable through court order.
- In order for the Al Saud family to work toward a clearer separation of itself from the government and facilitate a medium-term increase in bureaucratic accountability, clearer conflict of interest rules need to be created and princes should be held accountable for violations in the regular courts.
- In order to prepare the ground for governmental accountability and a broader political class, the post of prime minister should be held by a commoner rather than a member of the royal family.
- In order to provide the process of incorporating statutory law into the Saudi system greater impetus, the government should increase the resources and attention devoted to improving legal education.
- The government should pass a law on transparency and access to governmental information, including budgetary data, that specifies and guarantees access procedures, creates an ombudsman on public information and recourse mechanisms in case of denial, and minimizes ambiguous language that could be used to deny information requests. The closing accounts of the national budget should be published.

NOTES

For URLs and endnote hyperlinks, please visit the *Countries at the Crossroads* homepage at <http://freedomhouse.org/template.cfm?page=139&edition=8>.

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- ³ "Tiny Saudi Democracy Movement Sends King Blueprint for Reform," *Christian Science Monitor*, May 14, 2009.
- ⁴ Ahmed H. Al-Hamoud, "The Reform of the Reform: A Critical and Empirical Assessment of the 1977 Saudi Civil Service Reform" (PhD diss., University of Pittsburgh, 1991).
- ⁵ Human Rights Watch (HRW), "Saudi Arabia: Counterterrorism Efforts Violate Rights," news release, August 10, 2009.
- ⁶ HRW, *Human Rights and Saudi Arabia's Counterterrorism Response: Religious Counseling, Indefinite Detention, and Flawed Trials* (New York: HRW, August 10, 2009), 14–15.
- ⁷ "Official Commends Saudi Arabia for Combating Human Trafficking," *Arab News*, December 19, 2009.
- ⁸ Shahid Ali Khan, "Number of 'Free Visa' Workers on the Rise," *Saudi Gazette*, July 17, 2009.
- ⁹ HRW, *As If I Am Not Human: Abuses against Asian Domestic Workers in Saudi Arabia* (New York: HRW, July 7, 2008).
- ¹⁰ HRW, "Saudi Arabia: Implement Proposed Labor Reform," press release, July 21, 2008.
- ¹¹ See HRW, *Perpetual Minors: Human Rights Abuses Stemming from Male Guardianship and Sex Segregation in Saudi Arabia* (New York: HRW, April 19, 2008).
- ¹² See annual yearbooks of the Saudi Arabian Monetary Agency, various editions.
- ¹³ See Central Department of Statistics census data.
- ¹⁴ Donna Abu-Nasr, "Saudi Arabia Cracks Down on Shiite Dissidents," American Broadcasting Corporation (ABC), April 1, 2009.
- ¹⁵ For details see Bureau of Democracy, Human Rights, and Labor, "Saudi Arabia," in *International Religious Freedom Report 2008* (Washington, D.C.: U.S. Department of State, September 2008).
- ¹⁶ World Bank, "Saudi Arabia," in *Doing Business 2009: Comparing Regulation in 181 Economies* (Washington, D.C.: World Bank, 2009).
- ¹⁷ "The Secrets of Britain's Arms Trade" (assorted articles), *Guardian*, 2003–10.