



SAUDI ARABIA

# Looser Rein, Uncertain Gain

A Human Rights Assessment of Five Years  
of King Abdullah's Reforms in Saudi Arabia

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## Introduction

In his five years since ascending the Saudi throne in August 2005, King Abdullah bin Abd al-'Aziz Al Saud has loosened the reins stifling Saudi society, but has instituted few lasting changes. Should his enthusiasm for reform wane, or successors tread more conservative paths, his legacy would be one of a brief respite of fresh air, but not one of institutional reform.

Central to King Abdullah's reform project have been four areas directly tied to the human rights of Saudi citizens: women's rights, freedom of expression, judicial fairness, and religious tolerance. Today, Saudis are freer than they were five years ago: Saudi women are less subject to rigid sex segregation in public places, citizens have greater latitude to criticize their government, and reform in the justice system may bring more transparency and fairness in judicial procedures.

In the fourth area of reform, religious tolerance, King Abdullah's promotion of global interfaith dialogue has not borne fruit at home. Relations between Shia and Sunni Saudis remain as bad as ever, and the government continues to systematically discriminate against Shia. A fifth area in urgent need of human rights reform, migrant worker rights, has received very little attention at all.

Moreover, the monarch, in his mid-80s, has shied away from adopting the often-simple measures needed to entrench rights, build capacity to enforce them, and generate the political will to hold rights violators accountable. As a result, these newly gained freedoms are, for the most part, neither extensive nor firmly grounded. Systematic discrimination against women persists; freedom of expression and judicial fairness are limited. King Abdullah's reforms have tended to put the religious establishment on the defensive, but the limited reform that has taken place suggests the elite is still floating trial balloons, undecided about the type of government and society it wants to steer towards.

\* \* \*

In the area of women's rights, rigid gender segregation between men and women is loosening in public places—reflecting changes in social attitudes more than in government policies—though it is still the norm in the workplace. In addition, although the government has publicly promised to end the system of male guardianship, under which adult women must seek their male guardian's consent to make the most basic life decisions—including

employment, travel, financial matters, and even healthcare—the system remains firmly entrenched in most areas of women’s lives. The government’s only modification has been to allow women to rent hotel rooms on their own while traveling.

Although Saudis today are freer to criticize their government, both in media and in public pronouncements, red lines—largely arbitrary—remain. Challenging the religious ideology underpinning the kingdom’s identity remains taboo, as does criticizing named officials, especially princes. Criticism of institutions and policies is tolerated if it does not propose changes to the political system of absolute monarchical rule. Organizing to lobby for political change still leads to swift government repression, and the country still lacks a law permitting non-governmental organizations. There are no legal bases to protect the right to free expression, making any gains in free speech subject to government whim.

Reform in the justice system is more concrete—at least on paper—than the symbolic changes in other areas. The government’s overhaul of the justice system included passing new laws to restructure the judiciary and investing billions in training and infrastructure. Judicial reform included plans for new, specialized courts, more independent judges, increased funding and expertise, and increased reliance on statutes and the legal profession and less reliance on interpretation of religious precepts. However, implementation of these proposals has been halting at best. As of August, only two out of 13 proposed provincial appeals courts had taken up their work—three years after a 2007 law mandated their establishment and abolished the existing Mecca and Riyadh cassation courts that nevertheless continue to hear cases. The country still lacks a penal code and any reliable mechanism to hold officials accountable. In early 2010, the Council of Senior Religious Scholars reportedly approved codifying vague Sharia (Islamic law) provisions, though it remains unclear whether this will result in codified statutory laws or a compendium of non-binding, sample rulings.

With time, the judiciary may become a fairer institution as a result of King Abdullah’s judicial reforms. More and better trained judges can spend more time on hearings, full appeals courts can improve scrutiny of lower courts, and more independence can ward off political influence.

However, the 2009 trials of 331 terrorism suspects—an important test for due process in the country—failed to meet basic standards of fairness since they were conducted summarily and in secret, defendants were prohibited from appointing defense lawyers, and precise charges, evidence, or names of defendants were not revealed.

King Abdullah's trademark reform agenda abroad, the Interfaith Dialogue Initiative, has brought together representatives of world faiths to increase mutual tolerance and respect.

The king has at least recognized the need for inter-sectarian dialogue inside Saudi Arabia by including prominent Shia and Sunni clerics in the second National Dialogue in 2003. While still crown prince in 2003, he launched the "National Dialogue" series to bring together citizens holding different points of view for open debate on pressing social and development issues, including inter-sectarian relations (as well as women's rights, youth unemployment, and extremism, among others). The National Dialogue was cause for hope regarding Sunni-Shia dialogue and equal rights. However, the government did not follow through on its recommendations for greater citizen participation and "for a renewal of religious discourse appropriate for contemporary changes." Private initiatives, such as the "Charter for Coexistence," drawn up between non-governmental Shia and Sunni clerics in May 2010, show the desire of some Saudis to advance the agenda of improving inter-sectarian relations, but they have carried little institutional impact.<sup>1</sup> Indeed, in general, the historical Wahhabi hostility of the majority Sunnis toward the country's minority Shia continues unabated, with Wahhabi clerics—some government-employed—openly calling for discrimination against the Shia. Several Shia who have called for equality have been jailed.

One important area that King Abdullah has neglected among his reform priorities is the rights of migrant workers who are recruited for temporary contract work. Many of the eight million or so migrant workers in Saudi Arabia experience either daily or systematic violations of their human and labor rights. Workers remain subject to exploitation and abuse by employers who wield tremendous control over their lives and presence in the country, due to the sponsorship, or *kafala*, system, and lack legal protections and access to justice. There are no societal pressures, and even considerable opposition from business circles, for reform in this area. Migrant workers in the kingdom may benefit from the country's other reforms, particularly in the judiciary. However, they need their home countries to stand up for their rights, and to press the Saudi government for change.

King Abdullah has also begun to tackle the kingdom's pressing future problem of youth unemployment by building new "economic cities" and promoting an overhaul of the

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<sup>1</sup> See the recommendations of the Second National Meeting for Intellectual Dialogue, Extremism and Moderation ... A Comprehensive Methodological Outlook," December 27-31, 2003, [http://www.kacnd.org/second\\_national\\_meeting.asp](http://www.kacnd.org/second_national_meeting.asp) (accessed June 18, 2010); and Abd al-'Aziz Qasim, "Salafi Preacher in Qatif," *Al-Watan* newspaper, June 14, 2010, <http://www.alwatan.com.sa/Articles/Detail.aspx?ArticleID=779> (accessed June 14, 2010); and Abd al-Salam al-Salami, "The World Congregation of Ahl al-Bait Welcomes Document of Coexistence Between Shias and Sunnis in Saudi Arabia," *Dialogue and Renewal (Hiwar wa Tajdid)* news website, April 13, 2010, <http://www.hiwart.net/news-action-show-id-7330.htm> (accessed April 14, 2010).



education system, both in teaching methods and substance. Designed to boost Saudi technological skills, the king in October 2009 opened the King Abdullah University for Science and Technology (KAUST), located 70 kilometers outside Jeddah, where 15 percent of the inaugural class of 400 students are Saudis. Later in 2010, a new women's university, the Princess Nura bint Abd al-Rahman University, with a capacity for 40,000 students, is scheduled to open in Riyadh.<sup>2</sup>

Underlying reform is contentious debate about its pace and scope. Liberal reformers on the one hand called for a constitution, an elected parliament, equality for women and religious minorities, and unfettered freedom of expression. On the other hand, conservatives—usually clerics, or others who use religious language—defended the status quo to maintain their influence on the judiciary, the education system, Islamic affairs, and the policing of public morality. A distinct type of opposition to reforms from that of the religious establishment has come from the security establishment that enforces bans on political parties, public rallies, organized strikes, and undermines attempts to hold the security services accountable for rights violations.

It is to King Abdullah's credit that his government has looked inward, taken stock of deficits, and embarked on steps to address them following the September 11, 2001 attacks on New York and Washington carried out mostly by Saudi citizens, and those launched by mainly Saudi militants on Western and Saudi targets in the kingdom in 2003 and 2004. However, the steps King Abdullah has taken have tended to produce changes in atmosphere rather than reliable legislative and institutional guarantees of greater human rights protections.

In the 1980s, Saudi society experienced growing conservatism with government support.<sup>3</sup> That period serves as a reminder that political will is necessary to bring about significant legislative and institutional change in order to avoid future governments reversing the limited gains that have recently been made.

King Abdullah should institutionalize his reform program to ensure its gains last beyond his reign.

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<sup>2</sup> King Abdullah University for Science and Technology, "The People: Students," undated, <http://inauguration.kaust.edu.sa/people/students.aspx> (accessed July 20, 2010), and Rawan Jabaji, "Saudi Arabia's First Women's University," Public Broadcasting Service Wide Angle, October 31, 2008, <http://www.pbs.org/wnet/wideangle/uncategorized/saudi-arabias-first-womens-university/3486/> (accessed July 2, 2010).

<sup>3</sup> Robert Lacey, *Inside the Kingdom: Kings, Clerics, Modernists, Terrorists, and the struggle for Saudi Arabia* (New York: (Viking, 2009) p.49.

## **I. Saudi Rights Reform: A Contentious Field**

Ten years ago, there were virtually no human rights advocates in Saudi Arabia. Today, there are many, including independent activists with diverse agendas and even government departments for human rights. International human rights, once seen as being at odds with Islamic, or Sharia, rights, are now generally accepted as compatible. However, while the growth and acceptance of international human rights in Saudi Arabia has been remarkable, the government continues to repress independent activists, preferring to co-opt the human rights agenda into government-led initiatives that do not question sensitive practices or call for accountability for victims of rights violations.

Since 2005, Saudi Arabia has had few external constraints on its domestic agenda. US pressure to democratize waned quickly after 2007, and, from the first days of his reign, King Abdullah has looked beyond his US alliance to court partners in China and India, who make few if any demands for human rights reform. Saudi Arabia also had the financial resources to choose its own development priorities. Record oil revenues produced record budgets until 2010, and Saudi reserves remain ample to cover temporary deficits.

Terrorist acts by Al Qaeda in the Arabian Peninsula in 2003 and 2004, chiefly aimed against Westerners in the kingdom, presented the greatest immediate challenge to Saudi Arabia's domestic stability, but failed to generate popular support against the ruling regime. Peaceful reformers who claimed there was a link between a repressive government and the emergence of a violent opposition suffered the same fate as the violent extremists: arbitrary arrests, prolonged detention, sham trials, and bans on foreign travel. These reformers also failed to transform their specific ideas for a more open and just society into popular demands.

### **Growth of the Saudi Human Rights Movement**

Between 2003 and 2004, there was a veritable surge in organized domestic voices for change, followed by a crackdown until King Abdullah's accession to the throne in 2005 brought a brief respite. Independent advocates for reform who emphasized human rights, like academics Matrook al-Faleh and Abdullah al-Hamid, poet Ali al-Dumaini, and former judge Sulaiman al-Rashudi, to name but a few, paid a heavy price for their activism. The authorities subjected them to harassment in their jobs, arrests, convictions, jail, and bans on foreign travel, most of which still remain in place.

The coalition of reformers of 2003-2004 included liberals and Islamists. They demanded a constitution, fairness and transparency in the judicial system and government spending, an overhaul of the education system and religious discourse to combat extremism, citizen participation in public affairs, via elections and a constitution, and equal rights for women.<sup>4</sup>

The group of reformers voicing their demands in 2003 and 2004 created a public space for Saudi society to critically assess its government. In particular, their initiative and sacrifices led to a growth of human rights activism in the country that was duly reflected in media. The government responded and in 2004 consented to the establishment of the kingdom's first human rights organization, the National Society for Human Rights (NSHR), composed of members of the Shura Council, intellectuals, some government officials, and also women. In 2005, a government department for human rights, called the Human Rights Commission (HRC), was also established.

In November 2006, when the government allowed Human Rights Watch to visit Saudi Arabia to conduct research for the first time, many government officials, intellectuals, and business persons expressed reservations about the concept of international human rights, which they saw as a vehicle of Western imperialism aimed against Islam. Human rights were fine, they said, as long as they derived from Islamic law, the Sharia: "Western" international human rights law, they said, was neither necessary nor applicable. Today, those committed to international human rights hold greater sway, emphasizing the compatibility of human rights and Islam, thanks in no small part to efforts by the governmental HRC and the non-governmental NSHR. In 2010, the Shura Council created its own Human Rights and Petitions Committee, previously subsumed under the Judiciary, Islamic Affairs, and Human Rights Committee.<sup>5</sup> In 2007, the NSHR issued a report on the Conformity of Saudi Laws and Regulations with Basic Human Rights Conventions.<sup>6</sup> In June, prominent Saudi Shia cleric Hasan al-Saffar published a book, *The Status of Human Rights in Islamic Jurisprudence*, reaffirming the compatibility of basic human rights with Islam.<sup>7</sup>

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<sup>4</sup> See reformers' demands in: Ta'abbata Khairan (pseudonym), *A Judiciary that Crushes Justice. A Judicial System Against Political Reform in Saudi Arabia* (Cairo: Dar Misr al-Mahrusa, 2006) p.157-173.

<sup>5</sup> Human Rights Watch telephone interview with a member of the committee, Riyadh, June 29, 2010. Abd al-Salam al-Bulawi, "The Shura Discusses Setting up a Human Rights and Petitions Committee and Merging the 'Housing' with the 'Services' Committee ... Next Sunday," *Al-Riyadh* newspaper, February 4, 2010, <http://www.alriyadh.com/2010/02/04/article495472.html> (accessed June 30, 2010).

<sup>6</sup> National Society for Human Rights, "The Extent of Saudi Laws' Compatibility with the Main Human Rights Agreements," 2007.

<sup>7</sup> Sh. Hassan al-Saffar, *The Status of Human Rights in Islamic Jurisprudence*, (Office of the Shaikh Hassan al-Saffar: Qatif: 2010) <http://www.saffar.org/?act=artc&id=2359> (accessed July 1, 2010).

There are discernible differences between the HRC, the NSHR, and independent activists. The HRC shuns public reporting, and has put its efforts into creating awareness for human rights, among both public and government institutions.<sup>8</sup> The HRC also pursues individual cases, but makes public no information available on these efforts or its success. Several victims of human rights violations told Human Rights Watch that they also received no information from the HRC on their cases, while others said the HRC did not take their cases of what appeared to be human rights violations.<sup>9</sup>

The NSHR, meanwhile, reported publicly on human rights deficiencies in 2007 and in 2009, but has shied away from commenting on cases deemed political, such as the arrest of reform advocates in 2004, and again after 2005.<sup>10</sup> It has called for abolishing the sponsorship system that tethers workers to individual sponsors, or employers, revisiting the male guardianship system, reining in the abuses of the religious police, and decried violations of fair trial and due process rights, among other issues.<sup>11</sup> Its trademark campaign has been to address problems of domestic violence, but it has also monitored the condition and legal situation of persons in detention.<sup>12</sup>

## Repression of Rights Advocates

Unaffiliated individual activists have played an even larger part in advancing discussion of human rights, releasing declarations and petitions on internet discussion forums or forming Facebook and other internet-based human rights groups.

The government has refused to register independent human rights groups, which would allow them to incorporate as legal entities. In 2003, Human Rights First in Saudi Arabia (HRFSA) tried unsuccessfully to apply for registration with the government.<sup>13</sup> HRFSA is a loose

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<sup>8</sup> Human Rights Watch interview Bandar al-'Iban, chairman, Human Rights Commission, Riyadh, May 20, 2009, and with Turki al-Sudairy, then-chairman, Human Rights Commission, March 2008.

<sup>9</sup> Human Rights Watch interviews with Saudi citizens and migrant workers in the kingdom over the course of four years, 2006-2010, relating to labor rights, torture, detention beyond the expiry of sentences, unfair trials, and freedom of expression, among others.

<sup>10</sup> National Society for Human Rights, "First Report on the Situation of Human Rights in the Kingdom of Saudi Arabia 1427 hijri – 2006 Gregorian," 2007, and National Society for Human Rights, "Second Report on the Situation of Human Rights in the Kingdom of Saudi Arabia 1429 hijri – 2008 Gregorian," 2009.

<sup>11</sup> Ibid.

<sup>12</sup> Samia al-'Isa, "Dedication of the 'Ghasun of Mercy' - Campaign to Stop Violence Against Children," *Al-Watan* newspaper, April 1, 2010, (accessed July 20, 2010), and, Abd al-Rahman al-Musaibih, "'Improvement in Prisons on Human Rights' Visit)," *Al-Jazira* newspaper, January 25, 2009, <http://www.al-jazirah.com.sa/100447/ln17d.htm> (accessed July 20, 2010). Cite NSHR domestic violence and prison visits

<sup>13</sup> Human Rights Watch interviews with Ibrahim al-Mugaiteeb, president, Human Rights First, 2005-10.

grouping of activists headed by founder and president Ibrahim al-Mugaiteeb that monitors the human rights situation in Saudi Arabia and publicizes its violations through statements. In the same year, 50 Saudi activists from different parts of the kingdom applied to form a human rights group, but did not receive an answer to repeated submissions of required forms and data to the ministries of Social Affairs and of Interior.<sup>14</sup> In 2007, a group of women applied to register the Society for Protecting and Defending Women's Rights, but received government warnings to stop as the only reply. In 2008, the Ministry of Labor refused to give permission to an organization whose purpose it was to tackle unemployment, claiming that similar organizations already existed.<sup>15</sup>

Despite their lack of formal recognition, independent activists have forthrightly addressed fundamental rights problems in Saudi Arabia. For example, Saudi women have called for the right to drive, collecting 1,100 signatures in a petition sent to King Abdullah, and for the end of male legal guardianship over women, including by organizing a protest at the Saudi Embassy in Washington, D.C., in June 2010;<sup>16</sup> other activists have challenged the unwritten ban on public protests, limits on free expression, injustices in the courts, and the law enforcement agencies' lack of respect for Saudi law and citizens' rights, by submitting petitions to the Ministry of Interior to hold public demonstrations, writing on uncensored websites, and suing the Ministry of Interior. On June 12, the (unregistered) Society for Civil and Political Rights in Saudi Arabia issued a statement saying that the Ministry of Interior had refused it permission to hold a public protest in solidarity with the Free Gaza Flotilla.<sup>17</sup> In 2010, Mikhlif bin Dahham al-Shammari, a human rights activist, has been suing the Ministry of Interior over his arbitrary arrest two years ago, and the administrative court has allowed the case to proceed.<sup>18</sup> Since 2003, Human Rights First in Saudi Arabia has issued statements on individual cases of rights violations. On the one year anniversary of the detention of Muhammad al-'Utaibi and Khalid al-'Umair, who were detained for planning a public protest

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<sup>14</sup> Human Rights Watch interviews with Ali al-Dumaini, one of the persons petitioning the government to incorporate as an independent rights group, 2006, 2007, and 2008.

<sup>15</sup> For more details, see: "Sarkozy Should Raise Human Rights Issues in Saudi Arabia, Human Rights Watch news release, January 10, 2008, <http://www.hrw.org/en/news/2010/07/19/us-don-t-return-guantanamo-detainees-fearing-ill-treatment>.

<sup>16</sup> "The signatories to the Letter 'Demand To Grant Women their Right to Drive Cars,'" *Minbar al-Hiwar* online discussion forum, September 15, 2007 (accessed September 15, 2007), and "Muslims and Rights Activists Call for Women's Rights, Freedom for Nathalie Morin, at Saudi Arabia Embassy," *Responsible for Equality and Liberty (R.E.A.L.)*, June 26, 2010, <http://www.realcourage.org/2010/06/womens-rights-ksa/> (accessed June 27, 2010). "Imploring the Saudi Ruler and Men of Religion and the Law and the Society to Set the Age of Marriage for Male and Female Saudis," Society for the Defense of Women's Rights in Saudi Arabia, September 23, 2008, [http://www.saudiyatnet.net/wesima\\_articles/index-20080923-56618.html](http://www.saudiyatnet.net/wesima_articles/index-20080923-56618.html) (accessed July 1, 2010).

<sup>17</sup> Human Rights Watch email communication with (name withheld), member of the Society for Civil and Political Rights in Saudi Arabia, June 12, 2010.

<sup>18</sup> Mikhlif bin Dahham al-Shammari, "Board of Grievances in Dammam Reopens Shammari's case against the Eastern [Province] Governorate," Emailed statement, May 5, 2010.

in solidarity with the people of Gaza during Israel's attacks on the coastal strip from December 2008 to January 2009, Ibrahim al-Mugaiteeb, the president of Human Rights First in Saudi Arabia, issued a public call for their release, entitled, "Why Does the Imprisonment of al-'Utaibi and al-'Umair Continue for Seven Months After [the Order for] their Release by the Prosecution?"<sup>19</sup> Al-Mugaiteeb reported on February 2, 2010, that the secret police, Saudi Arabia's domestic intelligence agency, which reports to the Interior Ministry, had summoned him for interrogation about his activities.<sup>20</sup> Since 2005, al-Mugaiteeb has received several such summonses, leading to travel bans for short periods of time.<sup>21</sup>

Since 2008 and 2009, groups of activists have created informal organizations with a virtual presence on the Internet, such as the Saudi Woman's Voice, a website that posts articles relevant to women's rights, the Saudi Society for Civil and Political Rights (ACPRA), a group of Qasim and Najd-based intellectuals taking up the mantle of constitutional reform; the Rights Activists Network, which runs a website with human rights relevant articles and helps train young activists in the concepts and monitoring of human rights around the kingdom; the Saudi Human Rights Monitor, a Facebook group that monitors human rights violations, including political prisoners, and the legal follow-up to the November 2009 Jeddah flash floods that killed over 120 people. There are plans to establish in 2010 a Justice Center for Human Rights Watch and Protection of Human Rights Defenders, a web-based group dedicated to monitoring the harassment of human rights activists.<sup>22</sup>

At the same time, the fact that the websites of these informal groups remain blocked in Saudi Arabia, and that the government has subjected some activists to official harassment or anonymous threats, reflects the limits of such human rights activism. In May 2008, secret police arrested Matrook al-Faleh, and held him without charge for over seven months, for his emailed description of crowded prison conditions during a visit to Buraida general prison, which he compared to a "chicken coop."<sup>23</sup> In July 2009, officials briefly detained Walid Abu

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<sup>19</sup> "Why Does the Imprisonment of al-'Utaibi and al-'Umair Continue for Seven Months After [the Order for] their Release by the Prosecution?," Human Rights First in Saudi Arabia news release, January 2, 2010.

<sup>20</sup> Human Rights Watch email communication with Ibrahim al-Mugaiteeb, president, Human Rights First in Saudi Arabia, February 2, 2010.

<sup>21</sup> Letter from Human Rights Watch to Crown Prince `Abdullah Ibn `Abd al-Aziz al-Saud, "Treatment of Human Rights Activist Ibrahim al-Mugaiteeb," July 26, 2005, <http://www.hrw.org/en/news/2005/07/26/letter-then-crown-prince-abdullah-ibn-abd-al-aziz-al-saud-treatment-human-rights-act>.

<sup>22</sup> The websites for the groups are: Saudi Woman's Voice, <http://www.sawomenvoice.com/>, Saudi Society for Civil and Political Rights (ACPRA), <http://www.acpra6.org/>, the Rights Activists Network, <http://www.ractivists.net/>, the Saudi Human Rights Monitor, <http://www.facebook.com/group.php?gid=40258229626>, Justice Center for Human Rights Watch and Protection the Defense of Human Rights Defenders, <http://www.adalh.org>.

<sup>23</sup> "Saudi Arabia: Release Leading Human Rights Activist," Human Rights Watch news release, May 20, 2008 <http://www.hrw.org/en/news/2008/05/20/saudi-arabia-release-leading-human-rights-activist>.

al-Khair, just after he accused the secret police, or *mabahith*—the domestic intelligence agency—of ill-treating his client Sa’ud al-Hashimi, whom it has detained in solitary confinement since his arrest in February 2007 with a group of reform advocates.<sup>24</sup>

## Human Rights Monitoring

Increased awareness of human rights also has led to increased monitoring of human rights violations by independent activists. ACPRA and the Saudi Human Rights Monitor regularly release statements on arbitrary arrests of rights activists, or send updates on their cases for arbitrary arrest against the Ministry of Interior.<sup>25</sup> In January 2010, The Society for the Defense of Women’s Rights in Saudi Arabia published its first report on women’s rights in the kingdom.<sup>26</sup> The flourishing of these groups and activists is a testament to a new vibrancy and engagement in civil society that did not exist before.

Parts of the Saudi media also have taken up rights issues and helped spread news of human rights violations. Dr. Saleh al-Khathlan, the deputy president of the National Society for Human Rights, told *Al-Hayat* newspaper in June that “the opening of the media ... is considered the most important change in Saudi society,” and that it had a “positive impact,” overcoming the country’s previous epithet as “the kingdom of silence.”<sup>27</sup> Hardly a day, and not a week goes by in which the most prominent local newspapers, *Al-Riyadh*, *Al-Watan*, *Okaz*, *Al-Yaum*, and *Al-Madina*, or the Saudi editions of the Arab dailies, *Al-Hayat* and *Al-Sharq al-Awsat*, do not report on “human rights” in the kingdom.<sup>28</sup>

The concept of individuals holding rights is well rooted in Islam, but the idea of holding accountable those who infringe upon those rights is still novel in Saudi society. Writing in *Okaz*, Muhammad al-Uhaidib noted that citizens do not know how to claim their rights, but that too often the response of government agencies is that they “do not look into this matter,

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<sup>24</sup> Human Rights Watch, *Human Rights and Saudi Arabia’s Counterterrorism Response*, <http://www.hrw.org/de/node/84893/section/1>, p. 13.

<sup>25</sup> “The Third Press Release On the Court Proceedings of the Lawsuit Filed by the Legal Defense Team of, the Arbitrarily Incarcerated Former Judge and Attorney, Suliman Ibrahim Al-Reshoudi, ... Brought Against the Ministry of Interior Before the Fifth Administrative Circuit Court in Riyadh,” Society for Civil and Political Rights in Saudi Arabia press release, June 17, 2010, <http://www.acpra7.org/news.php?action=view&id=59> (accessed June 22, 2010).

<sup>26</sup> Saudi Society for the Defense of Women’s Rights in Saudi Arabia, “First Report by the Saudi Society for the Defense of Women’s Rights in Saudi Arabia—Establishment Under Way,” January 25, 2010, <http://www.womengateway.com/arwg/e-library/taqareer+Wa+Wathaeq/Alcedaw/report.htm> (accessed July 1, 2010)

<sup>27</sup> Ahmad Ghallab, “Al-Khathlan to ‘Al-Hayat’: Human Rights Move ‘Slowly’ ... and the Opening of the Media ‘Improved’ Saudi Arabia’s Image,” *Al-Hayat*, June 25, 2010, <http://ksa.daralhayat.com/ksaarticle/156373> (accessed July 2, 2010).

<sup>28</sup> Human Rights Watch searches for all newspapers listed during the month of June 2010.

it should be looked into by the agency with jurisdiction,” over the case.<sup>29</sup> In June, the Ministry of Interior set up a “human rights” hotline with only three digits, 989, resembling emergency numbers for the police or ambulance.<sup>30</sup> Callers are invited to present complaints or comment on the security services.<sup>31</sup> However, efforts to sue perpetrators of human rights violations in the courts have so far largely been unsuccessful.<sup>32</sup>

Nevertheless, human rights have taken center stage in the debate about Saudi reforms redefining the role of women, expanding tolerance of plural opinions, promoting tolerance of minority Islamic faiths, and increasing fairness in the justice system. Ahmad bin Baz is the son of the late grand mufti Abd al-Aziz bin Baz, the preeminent voice for the Wahhabi religious establishment for decades before his death in 1999, and himself a trained Islamic scholar. Ahmad has begun to question bans his father issued on women driving and men and women mingling; he has also called for overhauling the education curriculum, and has encouraged more diverse interpretations of Islam.<sup>33</sup> Mikhlif al-Shammari, a Sunni human rights activist, lambasted the views of hardline Sunnis against Shi’a in recent published articles.<sup>34</sup>

## Extent and Limits to Rights Reform

Various strands of the reform agenda, and, conversely, of the perceived ills of the current system, run together in responses to transgressions by the Committee for the Promotion of Virtue and the Prevention of Vice (CPVPV), or religious police. The exclusively Wahhabi religious police is particularly harsh on women and Shia, and has been notoriously unaccountable for its actions. Saudi domestic media have been instrumental in covering the activities of the religious police, expressing outrage in February 2008 when the religious police arrested a businesswoman who had gone to a Starbucks café to meet a male

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<sup>29</sup> Muhammad al-Uhaidib, “Let’s Not Air The Dirty Laundry,” *Okaz*, June 28, 2010, <http://www.okaz.com.sa/new/Issues/20100628/Con20100628358526.htm> (accessed July 2, 2010).

<sup>30</sup> Manahi al-Shaibani, “Prince Muhammad bin Nayef Opens Human Rights Branch in Public Security,” *Al-Riyadh*, June 16, 2010, <http://www.alriyadh.com/2010/06/16/article535259.html> (accessed July 2, 2010).

<sup>31</sup> Badr Kurayyim, “989 for Human Rights,” *Okaz*, June 28, 2010, <http://www.okaz.com.sa/new/Issues/20100628/Con20100628358512.htm> (accessed July 2, 2010). The government has not yet made public how many calls it has received on this line of alleged human rights violations.

<sup>32</sup> Human Rights Watch news release, “Saudi Arabia: Hold Religious Police Accountable for Killing,” July 24, 2007, <http://www.hrw.org/en/news/2007/07/24/saudi-arabia-hold-religious-police-accountable-killing>.

<sup>33</sup> Caryle Murphy, “Inside the Kingdom. How Sept. 11 led a preeminent scholar to challenge the House of Saud’s teachings on Islam,” *GlobalPost*, <http://www.globalpost.com/dispatch/saudi-arabia/100714/house-at-war-bla-bla-bla> (accessed July 16, 2010).

<sup>34</sup> See for a collection of articles: “Saudi Arabia: Charges Against Rights Activist Frivolous,” Human Rights Watch news release, <http://www.hrw.org/en/news/2010/07/14/saudi-arabia-charges-against-rights-activist-frivolous>.



business partner.<sup>35</sup> Similarly, media coverage of injuries and deaths resulting from high speed car chases, in which religious policemen pursue presumptive unmarried couples who try to flee in their cars, has led to a declared stop to this practice.<sup>36</sup> Following media protests, the religious police also announced an end to checking mobile phone records of persons it suspected of having an extra-marital relationship.<sup>37</sup>

Yet there remain clear limits to criticizing the religious police and their role in Saudi society. The religious police is more than an agency that enforces standards of morality. Its existence is intrinsically tied to the history and Islamic identity of Saudi Arabia, where individuals and the government are bound to promote virtue and prevent vice.<sup>38</sup> The religious police has itself lashed out against its critics, when then-chairman of the Commission for the Promotion of Virtue and the Prevention of Vice, Ibrahim al-Ghaith, in April 2008 declared:

Why should a respectable institution be denigrated because a few of its officials committed some judgmental errors? ... Some people are quick to criticize the commission by betraying their ignorance about this noble institution. They are oblivious to the commission's achievements. They purposefully highlight a few individual mistakes to portray the commission as an evil entity.<sup>39</sup>

In May 2009, the commission embarked on legal suits for “defamation” against its media critics.<sup>40</sup> However, human rights change is also coming to the religious police, which in January 2010 established its own human rights department.<sup>41</sup> Nevertheless, those who have

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<sup>35</sup> Raid Qusti, “Coffee With Colleague Lands Woman in Trouble,” *Arab News*, February 5, 2008, <http://archive.arabnews.com/?page=1&section=0&article=106499> (accessed June 18, 2010).

<sup>36</sup> “Saudi religious police car chases end in crashes,” *Al-Arabiyya.net*, October 7, 2008, <http://www.alarabiya.net/articles/2008/10/07/57825.html> (accessed June 18, 2008), and Salim al-Ahmadi and Khalid al-Zayidi, “‘Pursuit of Death’ ends with Death of Two Girls and Two Boys, and the Commission in Medina Stands Accused,” *Al-Riyadh* newspaper, April 1, 2008, <http://www.alriyadh.com/2008/04/01/article330806.html> (accessed June 18, 2010).

<sup>37</sup> Mishari al-Shadwa, “Ghaith: ‘Commission’ members are forbidden from confiscating mobiles unless they are means to a crime,” *Al-Watan* newspaper, June 11, 2007, <http://www.alwatan.com.sa/NEWS/newsdetail.asp?issueno=2446&id=9188&groupID=0> (accessed July 5, 2010).

<sup>38</sup> John S. Habib, *Ibn Sa'ud's Warriors of Islam: The Ikhwan of Najd and Their Role in the Creation of the Sa'udi Kingdom, 1910-1930* (Leiden, E.J. Brill: 1978), *passim*.

<sup>39</sup> Badea Abu Al-Naja, “Media Deliberately Trying to Malign Us, Says Commission Chief,” *Arab News*, April 30, 2008, <http://archive.arabnews.com/?page=1&section=0&article=109451&d=30&m=4&y=2008> (accessed July 2, 2010).

<sup>40</sup> Omaira al-Fardan, “Virtue Commission’s Defamation Move Raises Eyebrows,” *Arab News*, May 25, 2009, <http://archive.arabnews.com/?page=1&section=0&article=122856&d=25&m=5&y=2009> (accessed July 2, 2010).

<sup>41</sup> Galal Fakkar, “Haia Embarks on Human Rights Initiative,” *Arab News*, January 17, 2010, <http://archive.arabnews.com/?page=1&section=0&article=131363&d=17&m=1&y=2010> (accessed July 2, 2010).

questioned, even indirectly, the role of the religious establishment have run up against what remains a clear red line in the Saudi media debate.

A case in point is the May 15 sacking of Jamal Khashoggi, editor of Saudi Arabia's most critical newspaper, *Al-Watan*. Khashoggi might agree that Saudi media are freer to print critical articles today than seven years ago, when he was last fired from the same job. But *Al-Watan's* mistake this time, as then, was to challenge the religious ideology underpinning the kingdom's daily life. Most commentators cited that the last straw leading to Khashoggi's dismissal was an opinion article that *Al-Watan* published describing the *salafi* way of religious thinking undergirding the kingdom as that of a people who "have a threadbare culture of flat thought."<sup>42</sup>

## Foreign Debate about Saudi Reforms

While King Abdullah's reforms are widely discussed throughout Saudi Arabia, this debate has been hardly perceptible in the West until very recently.<sup>43</sup> Since 2008, some think tanks have shown increased interest in the reality of Saudi reform and offered a variety of assessments. Western commentators tend to split into two camps: those who are content with the pace and extent of Saudi reforms, and those for whom remaining problems dwarf any reforms.

The majority of commentators affirm the reality of Saudi reforms, though they do not agree on their extent. Robert Lacey, author of *Inside the Kingdom*, published in late 2009, argued during an October 2009 debate at Chatham House, a British foreign policy think tank, that he had witnessed real changes in Saudi society over the past three years, citing in particular the government reshuffle in February 2009.<sup>44</sup> In May 2010, Gregory Gause, a professor at the University of Vermont specializing in the contemporary Gulf, including Saudi Arabia, praised King Abdullah during a talk at the Center for International and Strategic Studies (CSIS) in

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<sup>42</sup> "A Salafi in the Place of Our Lord Abd al-Rahman," *Al-Watan* newspaper, May 13, 2010, <http://www.alwatan.com.sa/Articles/Detail.aspx?ArticleID=229> (accessed May 17, 2010). Conservative critics have also been dismissed. When a member of the Council of Senior Religious Scholars, Shaikh Sa'd al-Shithri, went on television in October 2009 and questioned the Islamic permissibility of gender mixing at the new King Abdullah University for Science and Technology (KAUST)—a first in the kingdom—the king fired him without further ado. The council is tasked with providing advice to the king and issuing rulings on matters of Islamic law. Lamis Hoteit and Courtney C. Radsch, "Saudi cleric sacked over co-ed university spat," *Al-Arabiyya.net*, October 4, 2009, <http://www.alarabiya.net/articles/2009/10/04/86923.html> (accessed June 18, 2010).

<sup>43</sup> For a good compilation of the growing number of academics working on aspects of Saudi society, see Middle East Institute, "The Kingdom of Saudi Arabia, 1979-2009: Evolution of a Pivotal State," *Viewpoints Special Edition*, October 14, 2009.

<sup>44</sup> "Has Reform Stalled In Saudi Arabia?," Robert Lacey, author, Chatham House, London, October 30, 2009, [http://www.chathamhouse.org.uk/files/15237\\_301009lacey.pdf](http://www.chathamhouse.org.uk/files/15237_301009lacey.pdf) (accessed June 15, 2010).

Washington D.C., noting improvements for women and in freedom of expression in Saudi Arabia, but also pointed out limits to reform.<sup>45</sup> Former US ambassador to Saudi Arabia Chas Freeman in February 2010 gave a glowing assessment that declared the “end of progress without change,” thanks to the reforms of the vigorous king, citing the new educational facilities at KAUST and Princess Nura bint Abd al-Rahman University. Writing in late April 2010, Anthony Cordesman, a military expert at CSIS, recommended that US policy “recognize and encourage Saudi government reforms; [and] work quietly at country team level to aid Saudi reformers,” but suggested nothing more urgent than “to move at Saudi pace.”

Slow but positive change is also the message that correspondents or opinion writers in the US media convey from their glimpses of Saudi society obtained during occasional, short visits to the kingdom. In an opinion article in the *New York Times* in March 2010, Ian Bremmer, the head of the political risk consultancy Eurasia Group, praised “slow change” in Saudi Arabia, indicating what he saw as changing attitudes toward arranged blind marriages and the social experiment of KAUST.<sup>46</sup> Maureen Dowd’s columns for the *New York Times* in March and April 2010 struck a similar note, observing the increased freedom of women to mix with men at a vernissage in the conservative capital, Riyadh, and to shed the black cloak, or ‘*abaya*, women typically must wear in the kingdom.

A smaller number of analysts offers a negative view of developments. Mai Yamani, a Saudi expert who debated author Robert Lacey at Chatham House, declared reforms in Saudi Arabia to be “frozen” and focused instead on the continued abuses. Nina Shea of the Hudson Institute, and a commissioner on the U.S. Commission for International Religious Freedom, objected to what she called the “obsequious ‘salute’” that Secretary of State Hilary Clinton extended to King Abdullah for his reform efforts on the occasion of Saudi National Day in September 2009. Such a gesture was unwarranted, she wrote, in light of ongoing religious persecution and denial of women’s rights.<sup>47</sup> Ali al-Yami, who emigrated decades ago from Saudi Arabia to the US where he runs the Washington-based Center for Democracy and Human Rights in Saudi Arabia, went further in June 2010 by predicting that “a Saudi uprising is inevitable unless the government undertakes drastic reforms of Saudi institutions

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<sup>45</sup> “Saudi Arabia: Domestic Dynamics and Regional Policies,” Gregory Gause, professor, Center for Strategic and International Studies Middle East Program, Washington, D.C., May 21, 2010, attended by Human Rights Watch advocate.

<sup>46</sup> Ian Bremmer, “A Kingdom Slowly Changes,” *International Herald Tribune*, March 16, 2010 <http://www.nytimes.com/2010/03/17/opinion/17iht-edbremmer.html> (accessed March 16, 2010).

<sup>47</sup> Nina Shea, “Hilary Salutes the Saudi King,” *Nationalreview online*, September 24, 2010, <http://corner.nationalreview.com/post/?q=YzUxNTA4MDMzZGY5NzlhOTliMzhmYWwMoNDczMTQ3YzE=> (accessed July 2, 2010).

to pave the way for measurable and transparent democratic processes.”<sup>48</sup> Since 9/11, think tanks have paid particular attention to Saudi financial support for terrorism, a focus that the conservative Heritage Foundation, also in Washington, D.C., kept up in a March 2010 conference on “Steps to Undermine Muslim Extremism: The Saudi Angle.”

Besides occasional dispatches from correspondents on a visit to the kingdom, the US media tends to cover only select Saudi issues: foreign policy, terrorism, and isolated scandals reinforcing the image of a benighted country. To be sure, scandals of 8-year old brides and death sentences imposed on television fortune tellers for “sorcery” reflect glaring Saudi failures to uphold and protect human rights.<sup>49</sup> But covering them alone fails to give a sense of what reforms are being debated, and indeed are possible, provided there is political will to do so.

Saudi reformers could use better-informed international support to advocate with King Abdullah for meaningful institutional reform.

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<sup>48</sup> Center for the Democracy & Human Rights in Saudi Arabia, Newsletter, June 15, 2010, [http://www.cdhr.info/index.php?option=com\\_content&view=article&id=210:newsletter-06152010&catid=35:categorynewsletters&Itemid=54](http://www.cdhr.info/index.php?option=com_content&view=article&id=210:newsletter-06152010&catid=35:categorynewsletters&Itemid=54) (accessed July 2, 2010).

<sup>49</sup> “8 yr. old Saudi child bride granted divorce,” *Alarabiya.net*, April 30, 2009, <http://www.alarabiya.net/articles/2009/04/30/71727.html> (accessed August 1, 2010), and Dominic Waghorn, “TV Presenter on Death Row for Witchcraft,” *SkyNews*, November 24, 2009, <http://news.sky.com/skynews/Home/World-News/Saudi-Arabia-Ali-Sibat-Sentenced-To-Death-For-Witchcraft-Over-TV-Predictions/Article/200911415466364> (accessed August 1, 2010).

## II. Loosening the Shackles on Women

There has been some loosening of rules over the past years when it comes to sex segregation, as well as some public debate and challenges to the mores and strictures that have traditionally kept women largely out of the public sphere and dependent on men for even the most basic life decisions. However, systematic violations of women's rights continue, and religious police still arbitrarily enforce presumed rules of morality. Government efforts to combat domestic violence or end child marriage have remained weak.<sup>50</sup> There also have not been any legislative efforts to establish women's equal rights.

Women in Saudi Arabia may also not drive cars. When 15-year-old Malak al-Mutairi drove a car and towed the half-submerged vehicle her father and other family members were in, thereby rescuing them from the November 2009 Jeddah flash floods that killed over 120 persons, she was hailed as a hero, but officials still did not reconsider the ban on women driving.<sup>51</sup>

### Male Guardianship

One restriction on women's rights that persists is the system of male guardianship that shackles adult women to the decisions of male relatives. King Abdullah has made only one small change to this system, by decreeing in January 2008 that women could stay in hotels without a male guardian.<sup>52</sup> As crown prince in 2004, Abdullah issued a decree permitting businesswomen to open businesses without guardian approval. In 2009, the government pledged to abolish the guardianship system, but has taken no legislative steps to overturn the system.<sup>53</sup>

Saudi authorities continue to require a woman to show her male guardian's consent to travel for each foreign journey or on yellow travel cards, allowing one year of domestic travel.<sup>54</sup> In

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<sup>50</sup> Human Rights Watch, *Perpetual Minors: Human Rights Abuses Stemming from Male Guardianship and sex segregation in Saudi Arabia*, April 2008, <http://www.hrw.org/en/reports/2008/04/19/perpetual-minors-o>.

<sup>51</sup> Muna al-Haidari, "Malak al-Mutairi Drove the GMC and Saved Her Father and 8 Family Members from the Floods in al-Harazat Valley," *Al-Riyadh*, January 6, 2010, <http://www.alriyadh.com/2010/01/06/article487270.html> (accessed June 18, 2010).

<sup>52</sup> "Saudi Arabia Eases Rules for Women in Hotels," Reuters, January 21, 2008, <http://www.reuters.com/article/idUSL2150788620080121> (accessed June 18, 2010).

<sup>53</sup> "Saudi Arabia: Outcome Report of the Universal Periodic Review," Human Rights Watch news release, June 10, 2009, <http://www.hrw.org/en/news/2009/06/10/saudi-arabia-outcome-report-universal-periodic-review>.

<sup>54</sup> "Saudi Arabia: Women's Rights Promises Broken," Human Rights Watch news release, July 8, 2009, <http://www.hrw.org/en/news/2009/07/08/saudi-arabia-women-s-rights-promises-broken>.

July 2010, Wajeha al-Huwaider, a Saudi woman traveling abroad, reported that her male guardian received a government-issued text message on his mobile phone informing him of her travel.<sup>55</sup> One example of how this system restricts women's freedom is that of 24-year-old Nazia Quazi, a dual Canadian-Indian national. Her Indian father and male guardian, who works in Saudi Arabia, refused his daughter permission to leave the kingdom for three years because he disapproved of her fiancé, but the Saudi government did not intervene.<sup>56</sup>

Other forms requiring guardian consent for employment remain in place, though they are not always enforced. Hospitals, private and governmental, also still require male guardian permission for women to undergo certain surgical procedures.<sup>57</sup> Saudi courts also have continued to uphold guardianship requirements even in hotly contested cases. In January 2010, a Buraida court sentenced Sawsan Salim to 300 lashes and one-and-a-half years in prison for "appearing ... without a male guardian" at government offices.<sup>58</sup>

The implications of the guardianship system can be severe, including preventing women from escaping restrictive or abusive homes. One Saudi woman in June 2010 told Human Rights Watch that her brothers, who are her guardians, beat her and then married her off against her will three times to men for money, who also beat her.<sup>59</sup> Another Saudi woman, whose brother is her guardian, told Human Rights Watch in August 2009 that her brother had raped her when she was a child, and later twice married her off to men against her will. She was now divorced, and lived with her infant daughter from the second marriage in her brother's house. He beat her, but she could not live elsewhere without his consent as her guardian.<sup>60</sup> In August 2009, the *Financial Times* reported on the case of Lulwa Abd al-Rahman, whose father rejected her suitors, then retracted his permission for her to work in a bank, locked her in the family home, and beat her. When she sued in court to have his guardianship over her removed, the judge ordered her to return to her father's house, the *Times* reported.<sup>61</sup> *Al-Madina* newspaper in September 2009 reported that police in Medina had detained a 20-year-old woman at the Social Protection House because her father

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<sup>55</sup> Human Rights Watch email communication with Wajeha al-Huwaider, July 25, 2010.

<sup>56</sup> Nadya Khalife (Human Rights Watch), "Trapped in Saudi Arabia," commentary, May 7, 2010, <http://www.hrw.org/en/news/2010/05/07/trapped-saudi-arabia>.

<sup>57</sup> "Saudi Arabia: Free Advocate for Shia Rights," Human Rights Watch news release, March 23, 2010, <http://www.hrw.org/en/news/2010/03/23/saudi-arabia-free-advocate-shia-rights>.

<sup>58</sup> "Saudi Arabia: Free Woman Who Sought Court Aid," Human Rights Watch news release, March 2, 2010, <http://www.hrw.org/en/news/2010/03/02/saudi-arabia-free-woman-who-sought-court-aid>.

<sup>59</sup> Human Rights Watch telephone interviews with a Saudi woman, name withheld, June 2010.

<sup>60</sup> Human Rights Watch telephone interviews with a Saudi woman, name withheld, August 2009.

<sup>61</sup> Abeer Allam, "Saudi Women Face Uphill Battle in Abuse Cases," *Financial Times*, August 24, 2009, <http://www.ft.com/cms/s/0/d44c296e-90d1-11de-bc99-00144feabdco.html?catid=20&SID> (accessed April 5, 2010).

refused to pick her up from the police station where she had gone to seek help. Her father had earlier prohibited her engagement to a man, leading her to run away from home for two days.<sup>62</sup>

## Sex Segregation and Women at Work

The past four years have seen a vigorous and public domestic debate about what constitutes permissible interactions for men and women, such as at work meetings or large gatherings, referred to as “innocent mingling,” or inappropriate seclusion for immoral purposes, such as a man and a woman alone together in a closed environment.

King Abdullah has encouraged women’s education and entry into the workforce, and tolerated increased visibility of women in public, but most of his gestures have been symbolic, with no institutional or legal affirmation. For example, he allowed a photograph of himself surrounded by more than 35 female participants in the seventh National Dialogue in Najran not wearing face covering to be published on the front page of *Okaz* newspaper (see title picture of this report). What loosening has taken place, reflects both changes in social attitudes and government policies. This debate has led to a looser application of sex segregation in public places, like restaurants and shopping malls.

In the workplace, the new Saudi Labor Law, which came into force in 2006, no longer includes an explicit provision requiring sex segregation, instead conditioning in Article 4 all work-related provisions on the more vague “adhere[nce] to the rulings of the Islamic Shari'a.”<sup>63</sup> King Abdullah has also encouraged women to enter the workplace by dropping certain licensing requirements. Royal decree No. 187 of 2005 allows “private enterprises to open sections employing women without a licence being required.”<sup>64</sup> In 2004, Council of Ministers Resolution 120 allowed women to apply for business licenses.<sup>65</sup> And in an important symbolic message, King Abdullah in November 2009 fired a cleric who had

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<sup>62</sup> Ibtisam al-Mubarak, “Father In Medina Refuses to Receive his ‘Escaped’ Daughter,” *Al-Madina*, September 30, 2009, <http://www.al-madina.com/node/182838> (accessed October 1, 2009).

<sup>63</sup> The Labor Law, September 27, 2005, art. 4.

<sup>64</sup> Eleanor Doumato, “Saudi Arabia,” in: *Women’s Rights in the Middle East and North Africa, 2009 Gulf Edition*, Freedom House, p. 94, footnote 38. See also: UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, visit to Saudi Arabia, A/HRC/11/6/Add.3, April 14, 2009, [http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.6.Add.3\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.6.Add.3_en.pdf) (accessed June 24, 2010).

<sup>65</sup> Ibid. See also: Asmaa al-Mohamed, “Saudi Women’s Rights,” *Arab Insight. Bringing Middle Eastern Perspectives to Washington*, vol. 2, no. 1, Winter 2008.

criticized gender mixing at KAUST, and reinstated the chief of the religious police in Mecca in April 2010 who was fired for declaring certain forms of gender mixing permissible.<sup>66</sup>

However, work places and educational facilities remain highly segregated, in large part due to the opposition by the religious establishment and other conservatives. Indeed, resistance of men and women coming into close contact with each other is so strong that some conservatives have opposed women working altogether.<sup>67</sup> Nor has the new Saudi Labor Law changed the reality on the ground for most women, who continue to study and work in different buildings or in different sections from men. One exception is the newly inaugurated King Abdullah University of Science and Technology (KAUST), and Aramco, the state-owned national oil company, which has long allowed men and women to work together in its closed-off compounds in the Eastern Province.<sup>68</sup> Neither institution, however, has wider bearing on the rest of Saudi society, and their symbolic importance for the rest of the country remains limited.

The unease that surrounds women working, and also coming into contact with men, is illustrated by the debate over lingerie stores.<sup>69</sup> In March 2006, the Labor Ministry warned that under a new decree, male workers in such shops, who are all non-Saudi, would be prohibited from selling lingerie to women by June and that female salesclerks would take over.<sup>70</sup> Under fierce attack from conservative clerics opposed to women leaving the house to work, the ministry in May of that year announced it would not be enforcing the decree by the stipulated deadline.<sup>71</sup> The dispute over which was the greater evil: Saudi women working or

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<sup>66</sup> Lamis Hoteit and Courtney C. Radsch, "Saudi cleric sacked over co-ed university spat," *Al-Arabiyya.net*, October 4, 2009, and Caryle Murphy, "Saudi Religious Police Chief Risks Job by Backing Mixing of Sexes," *The National* (Abu Dhabi), April 27, 2010, <http://www.thenational.ae/apps/pbcs.dll/article?AID=/20100427/FOREIGN/704269830/o/opinion> (accessed September 3, 2010).

<sup>67</sup> In a long drawn-out court case in the 1980s and 1990s, Lulwa al-Mutlaq demanded compensation because the religious police had closed her photography studio, despite having the necessary permissions from the Ministry of Interior. Several court documents on file with Human Rights Watch shed light on women's ability to conduct business. For example, General President of the Fatwa Office, Abd al-'Aziz bin Abdullah bin Baz, on March 10, 1985, wrote to the interior minister "requesting [him] to close the private photo studio for women and to take a pledge from its owner not to open a similar studio, because ... it is a means to open the door to great evil." Letter from Abd al-'Aziz bin Abdullah bin Baz, General President of the Fatwa Office, to Minister of Interior, no 16002/1, dated 18/6/1405 (March 10, 1985). Another court document references a fatwa by the Senior Religious Scholars Council of May 28, 1981, in response to Ministry of Interior requests on behalf of shop owners wanting to open women's departments managed by women "that it is not allowed to open such places according to the Sharia since it results in great harm, as has been seen in other countries that allowed this kind of business, and since women can manage their needs with the help of their guardians."

<sup>68</sup> "Saudi Arabia: New University a Chance to Expand Freedom," Human Rights Watch news release, September, 23, 2009, <http://www.hrw.org/en/news/2009/09/23/saudi-arabia-new-university-chance-expand-freedom>.

<sup>69</sup> See documents from Lulwa al-Mutlaq's court case above.

<sup>70</sup> "Saudi Government Bans Men From Selling Lingerie," Agence France Press, March 22, 2006.

<sup>71</sup> Kingdom Delays Plans to Replace Salesmen in Lingerie Shops," Reuters, May 15, 2010.



coming into contact with foreign men, remained unsettled. The chief of the religious police, Ibrahim al-Ghaith, declared in December 2008 that he was not opposed to women working in lingerie stores, earning him a rebuke from the grand mufti, Abd al-'Aziz Al al-Shaikh, who opposed such work for women, saying "we should not involve them in matters far from their nature."<sup>72</sup>

## Religious Police

The arbitrary imposition by religious police—formally known as the Commission to Promote Virtue and Prevent Vice—of "moral rules" on society, in particular on women's attire and their "mingling" with men, has prompted King Abdullah to at least curtail some of its powers.

Many Saudis have directed a great deal of anger at transgressions by the commission and shown an unwillingness to allow their continued excesses in the name of upholding virtue. Most recently in May 2010, Saudi media widely reported on two incidents that illustrate public frustration with the religious police: a woman in Hofuf, in eastern Saudi Arabia, assaulted a religious policeman, and a woman in Ha'il, in the north of the country, fired a gun at another religious policeman; both women had been stopped because they were in the company of an unrelated man.<sup>73</sup>

Responding to public discontent, the interior minister in 2006 instructed the religious police not to arrest suspects without the presence of the regular police, and in 2007 banned the religious police from detaining suspects at their own police stations, requiring suspects to be handed over to the regular police.<sup>74</sup> In 2007, the head of the religious police, Shaikh Ibrahim al-Ghaith, also instructed members of the force to no longer check mobile phone records to see whether unrelated men and women were in a relationship.<sup>75</sup> In April 2008, al-Ghaith added a ban on engaging in high speed car chases of suspected unmarried

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<sup>72</sup> "Saudi Religious Police Deny Ban on Lingerie Saleswomen," Agence France Presse, December 23, 2008, and "Saudi Mufti Says No to Lingerie Saleswomen," *Middle East Online*, December 24, 2008, <http://www.middle-east-online.com/english/saudi/?id=29372> (accessed July 2, 2010).

<sup>73</sup> Nesrine Malik, "Female attacks on religious police show shift in Saudi values," *The Guardian Comment is Free*, May 26, 2010, <http://www.guardian.co.uk/commentisfree/belief/2010/may/26/saudi-women-religious-police> (accessed July 23, 2010).

<sup>74</sup> A ban on the religious police detaining suspects has existed since 1981, but was reaffirmed in 2006 and 2007. US-Saudi agreement, "Confirmation of Policies," unpublished document, July 2006, on file with Human Rights Watch.

<sup>75</sup> Mishari Shadawi, "Al-Ghaith: 'Commission' Members Prohibited from Confiscating Mobiles Unless They Are a Means in a Crime," *Al-Watan* newspaper, June 11, 2007, <http://www.alwatan.com.sa/NEWS/newsdetail.asp?issueno=2446&id=9188&groupID=0> (accessed July 4, 2010).

couples, and in September of that year added a ban on religious police entering family sections of restaurants.<sup>76</sup>

Still, the religious police paid little heed to these new orders, and the Saudi media has continued to spotlight religious police flouting these restrictions on their law enforcement powers. “Despite the Ban ... Pursuits Continue!!!” *Al-Riyadh* newspaper headlined an article on a recent high-speed car chase by religious policemen in May 2009.<sup>77</sup> Online discussion forums highlighted another case in May 2010, in which attendants at morning prayer in a mosque next to the religious police station in the northern city of Tabuk alerted the (regular) police to a woman’s screams they heard coming from the station. The police rescued the woman, whom the religious police had arrested for seeking a ride at a bus stop and detained her at their station in violation of standing policy, and apparently also beat her.<sup>78</sup>

## Domestic Violence

One previously taboo issue that has attracted significant attention and public debate in the kingdom is domestic violence. Despite increased attention, King Abdullah and his government have taken few concrete measures over the past four years to address the problems of domestic violence. The government has been unable or unwilling to pass a law criminalizing domestic violence and offering protection, redress, and rehabilitation to its victims.

Human rights activists and groups, including Dr. Maha Munif and Wajeha al-Huwaider, and groups such as the National Society for Human Rights, have highlighted individual cases of domestic violence against women and children to generate public awareness and to lift the veil of shame obscuring access to justice for its victims. In May 2010, al-Huwaider helped to produce a short film, *I Want to Feel Safe*, published online, detailing how the guardianship system trapped women in their homes and exposed them to violence.<sup>79</sup> In 2005, Munif helped establish the National Family Safety Program for victims of domestic violence after

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<sup>76</sup> Khalid al-Zaidan, “5 Thousand Members Sign That They are Prohibited from ‘Pursuit’,” *Al-Riyadh* newspaper, April 2, 2008, <http://www.alriyadh.com/2008/04/02/article330972.pda> (accessed July 4, 2010). , “Head of the ‘Commission’ Affirms Ban on its Men Entering Family Restaurants in Jeddah Without Permission,” *Alarabiyya.net*, September 20, 2008, <http://www.alarabiya.net/articles/2008/09/20/56925.html> (accessed July 4, 2010).

<sup>77</sup> Manahi al-Shaibani, “Despite the Ban ... Pursuits Continue!!! Citizen Objects to ‘Commission’s Pursuit of His Son in Seclusion with Girl!!!,” *Al-Riyadh* newspaper, May 5, 2009, <http://www.alriyadh.com/2009/05/05/article427030.print> (accessed July 4, 2010).

<sup>78</sup> “Bureau of Investigation and Public Prosecution Interrogates Tabuk Commission Members in the Case of the Detained Girls,” *Najran* newspaper, <http://www.najran9.com/news-action-show-id-7676.htm> (accessed June 18, 2010).

<sup>79</sup> “I Want to Feel Safe,” Society for the Defense of Women’s Rights in Saudi Arabia, short film clip published on YouTube, <http://www.youtube.com/watch?v=QoQytD65fhc> (accessed July 4, 2010).

winning royal support.<sup>80</sup> It now provides some services to victims of domestic violence, including operating shelters, and setting up specialized domestic violence units within hospitals. The program also gathers statistics by registering victims in a national database. Many victims though remain outside the system.<sup>81</sup> In 2007, the NSHR noted the “high rate of [domestic violence] cases” it received, and urged “issuing legislation that [criminalizes domestic] violence and imposes severe punishment for offenders.”<sup>82</sup> The NSHR in its 2009 report again observed a “noticeable increase” in domestic violence, and called for “Activating the strategy that restricts [domestic] violence.”<sup>83</sup> Majed Garoub, the head of the Jeddah lawyers’ committee, in a series of three articles published in *Al-Watan* in May-June 2010, urged the adoption of specific measures against domestic violence. To date, however, King Abdullah has not acted upon the recommendations. Garoub urged putting in place a general criminal law that classifies acts of domestic violence as crimes; training police to respond to cases, accept complaints and enter houses without a woman’s male guardian present; speeding up referrals of cases for prosecution; and not allowing prosecutors to suspend or stop prosecution of cases even if a victim withdraws her civil claims. He also urged courts to expedite domestic violence cases; the creation of special sections for such cases; and the removal of obstacles to judicial redress for women, including problems of appointing an attorney, appearing without a guardian, and establishing her identity in court.<sup>84</sup>

In late February 2010, Justice Minister Muhammad al-‘Isa announced that a new law would soon accredit women lawyers to allow them to appear in court for the first time, but restrict the cases they are allowed to litigate to child custody, divorce, marriage, and other family related issues.<sup>85</sup> Female lawyers would only be allowed to have female clients, too. Despite these restrictions, the handful of women lawyers in the kingdom hailed the announcement

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<sup>80</sup> Qanta Ahmed, “Invisible Women at Work: Meet Maha Al-Muneef, the Gloria Steinem of Arabia,” *Huffington Post*, [http://www.huffingtonpost.com/qanta-ahmed/invisible-women-at-work-m\\_b\\_206759.html](http://www.huffingtonpost.com/qanta-ahmed/invisible-women-at-work-m_b_206759.html) (accessed July 4, 2010).

<sup>81</sup> “Seminar in Jeddah Chamber on the Role of Judicial Security Institutions to Combat Domestic Violence,” Saudi News Agency W.A.S, Jeddah, January 18, 2009, <http://www.alriyadh.com/2009/01/18/article403036.html> (accessed June 18, 2010).

<sup>82</sup> National Society for Human Rights, “First Report on Human Rights in the Kingdom of Saudi Arabia 2006,” Riyadh, May 2007, p. 46 (English translation).

<sup>83</sup> National Society for Human Rights, “Second Report on the Status of Human Rights in the Kingdom of Saudi Arabia,” Riyadh, March 2009, references are on p. 33, p. 4, and p. 64 (English translation).

<sup>84</sup> Majed Mohammed Garoub, “Domestic Violence,” three-part series, *Al-Watan*, May-June 2010, <http://www.alwatan.com.sa/Articles/Detail.aspx?ArticleId=301>, <http://www.alwatan.com.sa/Articles/Detail.aspx?ArticleID=430>, and <http://www.alwatan.com.sa/Articles/Detail.aspx?ArticleId=560> (accessed June 18, 2010).

<sup>85</sup> Walaa Hawari, “New Law to Allow Women Lawyers to Take Up Family Issues,” *Arab News*, February 25, 2010 <http://arabnews.com/saudiArabia/article22092.ece> (accessed February 25, 2010).

as a professional development for women, and social activists applauded the expected increased access of women to justice.<sup>86</sup> By July 2010 nothing had come of the law.

International agencies also have furthered discussion on the sensitive subject of domestic violence. In 2008, Yakin Ertürk, the then-UN special rapporteur on violence against women, its causes and consequences, conducted a field visit to the kingdom. In her April 2009 report she noted that a draft law on domestic violence had not yet been adopted.<sup>87</sup> Her visit led cleric Dr. Abdullah al-Habdan to ask on his website “Does the Saudi Woman Need the United Nations to Save Her?”, while others hailed the government’s permission for a forcibly divorced couple to remarry as a goodwill gesture to Ertürk.<sup>88</sup>

For the past four years King Abdullah and his government have taken few concrete measures to address the problems of domestic violence. The government has been unable or unwilling to pass a law criminalizing domestic violence and offering protection, redress, and rehabilitation to its victims. The government did create a National Family Safety program in 2005, which now provides some services to victims of domestic violence, including registering them in a database, operating shelters, and setting up specialized domestic violence units within hospitals.<sup>89</sup> Nevertheless, many victims remain outside the system.<sup>90</sup>

In other matters affecting women’s rights, such as forced marriages and divorce, equality in citizenship and personal status matters, the government has not even begun studying the issues civil society has identified. Only after the marriage of an eight-year-old girl to a man in his fifties, twice court-approved but later dissolved with the consent of all parties, did the Human Rights Commission and the Justice Ministry vow in January 2009 to draft a law addressing early marriage.<sup>91</sup> Over one year later, nothing has come of the effort.<sup>92</sup>

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<sup>86</sup> Tala al-Hejailan, “Judicial Reforms Give Hope to Lawyers,” *Arab News*, March 8, 2010, <http://arabnews.com/saudi Arabia/article27225.ece> (accessed March 9, 2010).

<sup>87</sup> United Nations Human Rights Council, “Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Mission to Saudi Arabia,” A/HRC/11/6/Add.3, Geneva, April 14, 2009, p. 25.

<sup>88</sup> Abdullah al-Habdan, “Does the Saudi Woman Need the United Nations to Save Her?,” *Islamlight*, <http://islamlight.ccell.mobi/index.php?option=content&task=view&id=8824&Itemid=28> (accessed July 19, 2010); “Yakin Ertürk: I Focused My Visit on Researching Developments in the Judicial System ... and the Gender Separation in the Workplace,” *Eastern Province Education Discussion Forum*, February 17, 2008, <http://www.edueast.gov.sa/ip/index.php?showtopic=12184&pid=70958&mode=threaded&start=> (accessed July 19, 2010).

<sup>89</sup> “Our Scope of Work,” The National Family Safety Program, <http://nfsp.org.sa/scopeofwork.html> (accessed July 4, 2010).

<sup>90</sup> “Seminar in Jeddah Chamber [of Commerce] on the Role of Judicial Security Institutions to Combat Domestic Violence,” Saudi News Agency W.A.S, Jeddah, January 18, 2009, <http://www.alriyadh.com/2009/01/18/article403036.html> (accessed June 18, 2010).

<sup>91</sup> Laura Bashraheel, “HRC welcomes Justice Ministry move to stop child marriages,” *Arab News*, January 20, 2009.

### III. Greater Margin of Freedom of Expression

King Abdullah is often attributed with creating greater space for free expression, primarily with regard to once-sensitive subjects such as domestic violence and government behavior, which now receive attention—albeit in a limited capacity—in print, on television and particularly online. Institutional reforms have yet to anchor this greater margin of expression.

Many Saudis agree that there is greater freedom of expression, but rarely are able to cite concrete achievements or legal protections. There is an apparent paradox in a sense of greater freedom of expression on the one hand, and continued repression of critical opinions on the other hand. Both are true. The amount of critical expression especially on the internet has far outstripped the government's means of review and censorship. All the same, the government also has shown greater tolerance of criticism.

Reform in freedom of expression also can be measured by government inaction—in not prosecuting or harassing those who express critical opinions. Here, red lines remain—particularly with regard to demands for equality for Shia, publicizing cases of human rights violations, undermining the religious legitimacy of the state, and criticizing royalty or royal powers. The government continues to actively censor free speech on the basis of arbitrary and vague precepts, and with the help of restrictive legislation that includes the 2007 Law to Combat Information Crimes, and a planned new law for electronic media that will restrict protected expression. Bloggers, human rights activists, and intellectuals who have criticized the authorities or advocated for a more transparent system have been punished.

#### Increased Freedom of Expression

One television program encapsulating diverse viewpoints is *Tash ma tash* (“No Big Deal”), the long-running Saudi television soap opera aired during Ramadan, which in 2009 included a much-discussed episode dealing with educational reform that pitted westernized Saudi modernizers against traditional clerics, drawing mixed reactions.<sup>92</sup> Also in 2009, flash floods in Jeddah that killed over 120 people that November triggered a wave of public and media criticism. Saudi media censured the government for its handling of the flood; citizens posted pictures of the destruction on the internet; and groups on Facebook, an online social media

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<sup>92</sup> “Young Saudi girl's marriage ended,” BBC news, [http://news.bbc.co.uk/2/hi/middle\\_east/8026545.stm](http://news.bbc.co.uk/2/hi/middle_east/8026545.stm) (accessed June 18, 2010).

<sup>93</sup> “Tash Ma Tash’ sparks heated debate again,” *Saudi Gazette*, August 26, 2009, <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentID=2009082647881> (accessed July 4, 2009).

forum, sprang up within days, such as “We Will Not Leave Them Alone. Support for Families Victims of the Jeddah Floods,” attracting tens of thousands of comments.<sup>94</sup>

Two main factors account for the greater margin of free expression: a greater level of public expression through electronic media, and greater government tolerance of critical opinions. The spread of technology has allowed Saudis to express themselves more easily on the internet, and also anonymously, in ways often beyond the immediate censorship abilities of the Saudi government. A regional study by Harvard University’s Berkman Center for Internet & Society in June 2009 found that Saudi Arabia is second only to Egypt in blog activity. Saudi blogs tended to focus more on personal than political affairs, but include both English and Arabic blogs critical of government activity and social norms.<sup>95</sup> “Saudi Jeans,” for example, is a blog in English that takes up issues in everyday life, as well as politics.<sup>96</sup> Khulud al-Fahd blogs in Arabic about women’s issues in the kingdom.<sup>97</sup> Almost every Saudi town has a discussion forum website, where local and national news are traded and discussed, from Sakaka in the north, to Sharura in the south.<sup>98</sup> In May 2010, a Dubai-based public relations firm, Spot On, published survey results on the use of the popular social media site, Facebook, indicating that “Facebook’s reach now rivals that of the news press” in the region, and was “one of the fastest growing Facebook communities” in the region “with over 1.1 million people adopting the Arabic interface since it was introduced in March 2009.”<sup>99</sup>

The other factor Saudis note is a conscious decision by the king to encourage expression of diverse opinions and to reduce media censorship. In his 2008 study on freedom of expression in Saudi Arabia and other modern systems, Dr. Muhammad al-Bishr, a Saudi professor at Riyadh’s Imam Muhammad University, cited speeches by King Abdullah in 2005 and 2006, promising to increase “popular participation,” and remain committed to the “process of development,” since “we cannot remain frozen, and the world turns around

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<sup>94</sup> Caryle Murphy, “Saudi Arabians Use Facebook to Vent Fury Over Jeddah Flood Deaths,” *Christian Science Monitor*, November 30, 2009, <http://www.csmonitor.com/World/Middle-East/2009/1130/p06s13-wome.html> (accessed June 25, 2010).

<sup>95</sup> Bruce Etling, John Kelly, et al., “Mapping the Arabic Blogosphere: Politics, Culture, and Dissent,” Internet & Democracy Case Study Series, Berkman Center for Internet & Society at Harvard University, June 2009, [http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/Mapping\\_the\\_Arabic\\_Blogosphere\\_o.pdf](http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/Mapping_the_Arabic_Blogosphere_o.pdf) (accessed June 24, 2010).

<sup>96</sup> Ahmed Omran, Saudi Jeans blog, <http://www.saudijeans.org> (accessed July 16, 2010).

<sup>97</sup> Khulud al-Fahd’s, Deeds of a Free Woman blog, <http://khulody.maktoobblog.com/> (accessed July 16, 2010).

<sup>98</sup> For example, for Sakaka, <http://www.skaka7.com/vb/> (accessed July 16, 2010), for Sharura, <http://www.sharurah.com/>, (accessed July 16, 2010).

<sup>99</sup> Spot On report, *Middle East & North Africa Facebook Demographics*, May 2010, [http://www.spotonpr.com/wp-content/uploads/2010/05/FacebookMENA\\_24May10.pdf](http://www.spotonpr.com/wp-content/uploads/2010/05/FacebookMENA_24May10.pdf) (accessed June 24, 2010).

us.”<sup>100</sup> King Abdullah is reported to have personally encouraged a Shura Council member who had criticized the performance of government institutions.<sup>101</sup>

More importantly, Bishr noted the increased freedom of expression “today, thanks to the (relative) lifting of censorship on print media.”<sup>102</sup> Compared to “a few years ago,” he added, various government departments today undergo intense public scrutiny, even in government media, and newspapers reflect “discussion of domestic affairs in its different areas ... something that was not done in the past.”

Articles monitoring the Commission for the Promotion of Virtue and the Prevention of Vice, or religious police, are the most daring in challenging official policy and institutions. In December 2009, *Al-Hayat* reported on the religious police’s mistreatment of a woman, ostensibly because she had been in the company of a man. The article alleged that religious policemen had dragged the woman from a female toilet into the street, and beat her until she fainted. They then threw her into the trunk of their car.<sup>103</sup> And in May 2010, *Al-Watan* newspaper reported on a woman opening fire on religious policemen who said they had caught her in “unlawful seclusion” with another man, enabling him to escape.<sup>104</sup>

Even Saudi royals have participated in the increased freedom of expression. Basma bint Sa’ud bin Abd al-‘Aziz, granddaughter of modern Saudi Arabia’s founding king, is a blogger and opinion writer. Writing for *Al-Madina* newspaper in April 2010, Princess Basma said she could not find Qur’anic or Islamic historical evidence requiring a state institution to promote virtue and prevent vice, and she decried the arrests and beatings by religious policemen as giving the wrong impression about Islam.<sup>105</sup> A 2008 BBC documentary, *Inside the Saudi Kingdom*, featured the governor of Ha’il, Prince Sa’ud bin Abd al-Aziz Al Sa’ud, welcoming “healthy, good” criticisms by Saudi media broadcasting reports that are “so critical; I mean,

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<sup>100</sup> Dr. Muhammad bin Sa’ud al-Bishr, *Freedom of Opinion in Islam and in Modern Systems, winner of the 2008 Naif bin Abdulaziz Al Saud International Prize*, sponsored by the minister of interior, Prince Nayef (Naif), (Medina, Naif bin Abdulaziz Al Saud International Prize: 2009), pp.190-191.

<sup>101</sup> Robert Lacey, *Inside the Kingdom*, p.273.

<sup>102</sup> Bishr, *Freedom of Opinion in Islam and Modern Systems*, p. 193.

<sup>103</sup> Badr al-Shihri, “Dammam: Commission to Promote Virtue Destroys Women’s Toilet, Pulls a Girl Out, and ‘Beats Her’,” *Al-Hayat*, December 21, 2009,

<sup>104</sup> Khudair al-Sharihi, “Woman Opens Fire on ‘Commission’ of Ha’il, to allow her friend to flee,” *Al-Watan*, May 19, 2010, [http://www.alwatan.com.sa/Local/News\\_Detail.aspx?ArticleID=2882&CategoryID=5](http://www.alwatan.com.sa/Local/News_Detail.aspx?ArticleID=2882&CategoryID=5) (accessed June 25, 2010).

<sup>105</sup> Princess Basma bint Sa’ud bin Abd al-‘Aziz, “History, the Commission, and Credibility,” *Al-Madina* newspaper, April 30, 2010 <http://www.al-madina.com/node/244059> (accessed June 24, 2010).

about ministers, about governors.” He said that Ha’il had four internet discussion sites alone, adding, “You should see what they say, sometimes about me.”<sup>106</sup>

Saudi press monitoring of religious police activities recently led to an exceptional official apology. On June 8, 2010, *Al-Watan* published a story about the religious police entering a woman’s flat after midnight in the Fahd neighborhood of Najran without apparent cause two days earlier. On June 21, the commission issued an apology, printed in *Al-Watan*, stating “we express our apology about the unintentional inconvenience and injury this matter has caused, and we apologize to all regarding what our brothers, the members of the commission, have rushed into.”<sup>107</sup> The commission said the religious police in question had received a warning, been transferred, and suspended from field duty. A committee including the prosecution service was separately investigating the incident.<sup>108</sup>

## Censorship

Amid these encouraging signs of greater means and margins of free expression, however, Saudi officials clearly have signaled that there are limits to such expression, and that the government remains the ultimate arbiter of what the Saudi press can say.

The Ministry of Culture and Information continues to approve the appointment of chief editors at Saudi newspapers, which, as the Khashoggi episode shows, it can withdraw when it deems that they have overstepped the bounds of tolerated criticism. Government officials are forbidden by decree from criticizing the government: King Abdullah in November 2006 issued a notice to all government employees preventing them from expressing opposition to government policy or programs in any way. The minister of higher education in March 2009 reminded employees that they were not allowed to make contact with foreign parties or cooperate with diplomats or foreign organizations. Honoring its nickname as “the kingdom of silence,” ministries in May 2010 told their spokespersons outside Riyadh not to speak to the media, further reducing what little insight into their government Saudi citizens can glean from their representatives.

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<sup>106</sup> Lionel Mill, *Inside the Saudi Kingdom*, BBC Documentary Film, November 8, 2008, (in six installments: [http://www.youtube.com/watch?v=wk\\_mvSp1xmA](http://www.youtube.com/watch?v=wk_mvSp1xmA) ; <http://www.youtube.com/watch?v=sniYf5yd6k8&feature=related> ; <http://www.youtube.com/watch?v=dNpsh4Vjhao&feature=related> ; <http://www.youtube.com/watch?v=075AOoCeV-c&feature=related> ; <http://www.youtube.com/watch?v=D52pmISKE5E&feature=related> ; <http://www.youtube.com/watch?v=MiCnroUtAu4&NR=1> (accessed June 25, 2010). The quoted speech appears between 1’47” and 2’17” of the sixth and last installment.

<sup>107</sup> Marja’ Lasalum and Salman Al Muqrih, “Najran Commission Apologizes for Bad Behavior in a Raid in the Fahd Neighborhood,” *Al-Watan* newspaper, June 21, 2010 [http://www.alwatan.com.sa/Local/News\\_Detail.aspx?ArticleID=8024&CategoryID=5](http://www.alwatan.com.sa/Local/News_Detail.aspx?ArticleID=8024&CategoryID=5) (accessed June 25, 2010).

<sup>108</sup> *Ibid.*



The government also censors media available to Saudi citizens, including printed materials and online content. In March 2010, the Saudi Ministry of Culture and Information said it had prepared a law for electronic news websites that it hoped would soon be enacted. The law would require a license from the ministry to operate news websites, which must have fixed addresses and persons responsible for content. Unlike printed newspapers, however, chief editors would not need to be approved by the ministry, Abd al-Rahman al-Hazza', the ministry's spokesman, said.<sup>109</sup>

And on television, the popular soap opera *Tash ma tash* has also fallen victim to censorship. In September 2009, the channel scrapped two episodes under government pressure, one dealing with excessively amplified calls to prayer, and the other imagining Barack Obama growing up in the kingdom.

The Saudi Ministry of Culture and Information also continues to ban published books from being sold in the kingdom. In March 2010, Abdo Khal, a Saudi novelist and columnist, won the International Prize for Arabic Fiction, modeled on the Man Booker prize, for his "brilliant exploration of the relationship between the individual and the state," in the view of the jury. His books remain banned in Saudi Arabia because they "address the sacrosanct trio of taboos in the Arab world: sex, politics, and religion," Khal said in 2004.<sup>110</sup>

In practice, it is not the government, but news editors themselves who do most of the censoring. Commenting on Khashoggi's dismissal in an opinion column published online in *Okaz* newspaper, Saudi novelist Abdo Khal criticized that Khashoggi's dismissal led to rumors intended to "frighten everyone who has dedicated ... his pen to combat the bats of darkness and the corruptors on earth." None of this appeared in the published version of the newspaper, however, which was edited to praise King Abdullah's transparency without mentioning Khashoggi. Only the unedited article posted on Facebook contained Khal's sharply worded remarks.

The extent to which news is managed and criticism muted became apparent in local news coverage of the visit by the UN's highest-ranking human rights official to the kingdom in April 2010. Navanathem Pillay, United Nations High Commissioner for Human Rights, opened her Gulf tour with a speech acknowledging endeavors to improve "the area of economic and

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<sup>109</sup> Ubaid al-Suhaimi, "Media Ministry to Raise New Law on Electronic Newspapers Within Week," *Al-Sharq al-Awsat*, March 16, 2010 (accessed June 25, 2010).

<sup>110</sup> Faiza Saleh Ambah, "Banned Saudi novels thrive abroad - and at home," *Christian Science Monitor*, April 8, 2004, <http://www.csmonitor.com/2004/0408/p05s01-wome.html> (accessed July 19, 2010).

social rights, children’s rights and the battle against human trafficking.”<sup>111</sup> She also highlighted “four concerns, namely, women’s rights, migration, statelessness, and freedom of expression, association and assembly.”<sup>112</sup> The Saudi Arabic-language coverage of Pillay’s visit to Saudi Arabia, however, failed to report on the substance of her visit, instead stenographically reporting which dignitaries she met. Local media only once related a substantive comment, reporting that Pillay had praised the “unusual comprehension of human rights” shown by a local charity working with disabled children.<sup>113</sup>

## Punished for Criticism and Rights Advocacy

Direct challenges to the ruling family or Saudi policies also remain off limits, leading to a combination of threats, summons, arrests, and bans on foreign travel, often lasting years.

The government has used the 2007 Law to Combat Information Crimes (aimed at tackling cybercrimes) to silence critics.

- In August 2009, prosecutors charged Nasir al-Subai’i under unspecified articles of the law with making allegedly libelous comments against the Saudi consul in Beijing. Al-Subai’i had written on his website about his ordeal trying to secure funding for his brother’s medical care abroad.<sup>114</sup>
- In May 2008, prosecutors charged human rights activist Ra’if Badawi with “setting up an electronic site that insults Islam” after his website asked why there were no churches in Saudi Arabia when there was one in Qatar.<sup>115</sup>

Most government actions against critics, however, are arbitrary with no basis in law. The government has faced criticism from minority Shia leaders demanding better treatment, and from Sunni clerics criticizing what they saw as a lack of the government’s compliance with

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<sup>111</sup> United Nations High Commissioner for Human Rights press release, “Human Rights and The Gulf Region: Statement by Ms. Navanethem Pillay United Nations High Commissioner for Human Rights,” King Abdullah University for Science and Technology (Saudi Arabia), April 19, 2010, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9974&LangID=e> (accessed September 3, 2010).

<sup>112</sup> Ibid.

<sup>113</sup> “Pillay Visits Society for Disabled Children and Expresses Surprise at Its Services,” *Al-Riyadh*, April 19, 2010, <http://www.alriyadh.com/2010/04/19/article517934.html> (accessed April 29, 2010).

<sup>114</sup> “Saudi Arabia: Drop Charges for Publicizing Bureaucratic Failures,” Human Rights Watch news release, March 10, 2010, <http://www.hrw.org/en/news/2010/03/10/saudi-arabia-drop-charges-publicizing-bureaucratic-failures>.

<sup>115</sup> “Saudi Arabia: Stop Trials for ‘Insulting’ Islam,” Human Rights Watch news release, May 12, 2008, <http://www.hrw.org/en/news/2008/05/12/saudi-arabia-stop-trials-insulting-islam>.

Sharia precepts. Both challenges to the underlying power structure were met with a swift and harsh reaction.

- In March 2009, Shaikh Nimr al-Nimr, an outspoken Shia preacher in ‘Awwamiyya in the Eastern Province, said in a Friday sermon that “our dignity is more precious than the unity of this land,” suggesting that his coreligionists consider secession from Saudi Arabia if their rights were not respected.<sup>116</sup> The authorities considered this not a plea for greater rights but a challenge to the kingdom’s territorial unity, and proceeded to encircle the town, cut off electricity, and search for the preacher. Al-Nimr escaped capture and remains in hiding.<sup>117</sup>
- Secret police forces detained Shaikh Turki Al Sa’b, a Shia Ismaili from the southern Najran province, from May 2008 until September 2009, because he had traveled to Riyadh to petition the king for the dismissal of Najran’s royal governor, whose policies he believed were discriminatory against Ismailis.<sup>118</sup>
- Between 2001 and 2003, Sunni clerics Walid al-Sinani (detained since 1994), Nasir al-Fahd, Ali al-Khudair, Ahmad al-Khalidi, Faris Zahrani and Sulaiman al-‘Ulwan declared the Saudi regime to be infidel, and security forces arrested them.<sup>119</sup> They remain in detention without trial to this day.<sup>120</sup>

The government also reacted to organized protests which remain firmly off limits and subject to immediate, prolonged, arrest.

- Security forces in March 2009 arrested dozens of Shia protesting equal rights of religious worship in the Eastern Province.<sup>121</sup>
- Muhammad al-‘Utaibi, a blogger, and Khalid al-‘Umair, a human rights activist, have both been detained for one year and six months for trying to organize a small public

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<sup>116</sup> “Saudi Government Cracks Down on Shiite Dissidents,” Associated Press, April 1, 2009.

<sup>117</sup> Human Rights Watch, *Denied Dignity: Systematic Discrimination and Hostility toward Saudi Shia Citizens*, September 3, 2009, <http://www.hrw.org/en/reports/2009/09/03/denied-dignity-o>.

<sup>118</sup> UN: World Leaders Should Press Saudis on Intolerance, Human Rights Watch news release, November 10, 2008, <http://www.hrw.org/en/content/un-world-leaders-should-press-saudis-intolerance>.

<sup>119</sup> Thomas Hegghammer, “Jihad in Saudi Arabia: Violence and Pan-Islamism since 1979,” p. 201: “Former prison mates of captured QAP [al Qaeda in the Arabian Peninsula] ideologue Faris al-Zahrani have said the latter spoke incessantly about the infidelity (*kuffi*) of the regime.”

<sup>120</sup> Thomas Hegghammer, “Terrorist Recruitment and Radicalization in Saudi Arabia,” *Middle East Policy*, vol. 13, no. 4, winter 2006, p.52 “It is not clear exactly what role the most prominent radical Saudi shaikhs (such as Nasir al-Fahd and Ali al-Khudayr) played in the recruitment to QAP [al Qaeda in the Arabian Peninsula], but several of their students were later found in the militants’ ranks.”

<sup>121</sup> Human Rights Watch, *Denied Dignity*, September 3, 2009.

protest in Riyadh in solidarity with the people of Gaza during the Israeli-Palestinian conflict there in January 2009.<sup>122</sup>

Human rights activism also remains a dangerous business, in particular public advocacy for change and publication of rights violations.

- In June 2010, security forces arrested local human rights activist Shaikh Mikhlif bin Dahham al-Shammari for articles he had published that criticized Sunni clerics in the kingdom.<sup>123</sup>
- In February 2010, Saudi secret police summoned a number of activists from Khobar and Qatif in the Eastern Province for questioning following their meeting with officials from a Dutch foreign ministry delegation to discuss human rights.<sup>124</sup>
- In 2007 and 2008, the secret police rearrested both al-Hamid and al-Faleh in separate cases related to opinions they had expressed by telephone and email: al-Hamid in July 2007 for encouraging women to protest the long-term detention of their male relatives without trial, and al-Faleh in May 2008 for criticizing the conditions of Buraida prison, where he had visited the imprisoned al-Hamid.<sup>125</sup>
- In December 2007, security forces arrested blogger Fuad al-Farhan who had demanded the release of a group of reformers arrested in Jeddah in February 2007. He remained in detention without charge until three weeks prior to the visit of US President George W. Bush to Riyadh in mid-May 2008.
- In February 2007, veteran reformers, including 'Isam Basrawi, Sulaiman al-Rashudi, and Abd al-Rahman al-Shumairi, reportedly discussed establishing a civic group and suing the Interior Ministry at a private meeting in Jeddah in February 2007.<sup>126</sup> When the secret

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<sup>122</sup> "Gaza Crisis: Regimes React with Routine Repression," Human Rights Watch news release, January 21, 2009, <http://www.hrw.org/en/news/2009/01/21/gaza-crisis-regimes-react-routine-repression>.

<sup>123</sup> "Saudi Arabia: Charges Against Rights Activist Frivolous," Human Rights Watch news release, July 14, 2010, <http://www.hrw.org/en/news/2010/07/14/saudi-arabia-charges-against-rights-activist-frivolous>.

<sup>124</sup> "Saudi Mabahith Interrogate Rights Advocates who Met Diplomatic Delegation," *Rasid News Network*, February 27, 2010, <http://www.rasid.com/artc.php?id=36004> (accessed July 23, 2010). Human Rights Watch interview with fellow activists who had first-hand information on the summons, Bahrain, June 4, 2010.

<sup>125</sup> "Saudi Arabia: Release Peaceful Reformers," Human Rights Watch news release, November 8, 2007, <http://www.hrw.org/en/news/2007/11/08/saudi-arabia-release-peaceful-reformers>, and "Saudi Arabia: Release Leading Human Rights Activist," Human Rights Watch news release, May 20, 2008, <http://www.hrw.org/en/news/2008/05/20/saudi-arabia-release-leading-human-rights-activist>.

<sup>126</sup> Faiza Saleh Ambah, "Detained Saudis Described as Democracy Activists," *Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/06/AR2007020601930.html> (accessed July 19, 2010).

police found out about it, they stormed the house, arresting the professors, lawyers, and intellectuals, who to date remain detained without charge or trial.<sup>127</sup>

- In March 2004, secret police arrested a group of reformers for signing a petition that called for a constitution and parliamentary elections; three of the signatories, Ali al-Dumaini, Matrook al-Faleh, and Abdullah al-Hamid, were brought to trial (Most of the 10 again detained in 2007 had been part of the 2004 petition, too). The court sentenced them to prison terms between six and nine years for their public petition.<sup>128</sup> King Abdullah has pardoned them, but the minister of interior maintains bans on their foreign travel.<sup>129</sup>

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<sup>127</sup> "Free Detained Advocates of Reform," Human Rights Watch news release, February 7, 2007, <http://www.hrw.org/en/news/2007/02/07/saudi-arabia-free-detained-advocates-reform>.

<sup>128</sup> "Saudi Arabia: Court Confirms Jail for Reformers," Human Rights Watch news release, July 26, 2005, <http://www.hrw.org/en/news/2005/07/26/saudi-arabia-court-confirms-jail-reformers>.

<sup>129</sup> "Saudi Arabia: Lift Travel Ban on Government Critics," Human Rights Watch news release, February 13, 2010, <http://www.hrw.org/en/news/2007/02/13/saudi-arabia-lift-travel-ban-government-critics>.

## IV. Improving Judicial Fairness

Improving the justice system is one of the three major areas of reform that—along with loosening gender roles and permitting greater public criticism—has been most closely associated with King Abdullah in recent years, and where he has taken his firmest steps toward reform.

Until 2008, Saudi Arabia, which has a population of around 25 million (including foreigners), had only 723 judges, only a slightly higher number of lawyers, two cassation courts, and one supreme judicial council.<sup>130</sup> Neither criminal nor personal status law is codified, and judges who have 20 or more cases on their docket each day, rely on vague, 1000-year-old interpretations of un-codified Islamic law. Separate, non-independent tribunals in the Ministry of Commerce and of Labor resolve disputes under their jurisdiction, and, until recently at least, Ministry of Interior officials also acted in a judicial capacity, setting sentences for drugs and weapons cases.<sup>131</sup>

Complaints by Saudis about the justice system—including confusion about the law, lack of fairness in the hearings, suspicions about influence-buying among judges, and the snail's pace of the wheels of justice—are legion.<sup>132</sup>

### Legal Codification and Judicial Restructuring

King Abdullah has made several strides towards improving this somewhat bleak judicial picture. One sign of progress is a new consensus on codifying Sharia law. In 2005, the Justice Ministry announced it had started work on compiling a compendium of judicial rulings.<sup>133</sup> This compendium was to serve as a guide to judges and harmonize judicial

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<sup>130</sup> Ministry of Justice, *Statistical Yearbook 1429*, <http://www.moj.gov.sa/uploads/Book-1429-final-S.pdf> (accessed August 7, 2010), and Human Rights Watch interview with Saudi lawyer, Bahrain, June 5, 2010, and Andy Sambidge, "Saudi population tops 25m, census plan for 2010," *Arabianbusiness.com*, June 10, 2009, <http://www.arabianbusiness.com/558329-saudi-population-tops-25m-census-plan-for-2010-> (accessed August 7, 2010).

<sup>131</sup> Human Rights Watch, *Precarious Justice: Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia*, March 25, 2008, <http://www.hrw.org/en/reports/2008/03/24/precarious-justice-o>.

<sup>132</sup> Letter from Human Rights Watch to Justice Minister Muhammad al-'Isa, "Wrongful Detention of Eritrean National," May 4, 2009, <http://www.hrw.org/en/news/2009/05/04/letter-saudi-minister-justice-muhammad-al-isa-wrongful-detention-eritrean-national>. Muna al-Manjumi, "Lawyers Complain About 'Public Prosecutors' Missing Sessions ... Give the Responsibility for Delays," *Al-Hayat*, April 5, 2010, <http://www.daralhayat.com/portalaricledah/126924> (accessed June 29, 2010).

<sup>133</sup> 'Udwan al-Ahmari, "Al-Ubaykan Reveals Presence of Muslim Brotherhood in Saudi Arabia," *Al-Watan*, May 18, 2005, republished in translation as "Saudi Adviser on Judicial Reform, Jihad in Iraq, Muslim Brotherhood's Presence," *Global News Wire – Asia Africa Intelligence Wire*, reproduced in BBC Monitoring/BBC, May 26, 2005.

verdicts.<sup>134</sup> However, as member of the Council of Senior Religious Scholars and advisor to the Justice Ministry, Shaikh Abd al-Muhsin al-'Ubaikan, explained, this compendium was not to set binding judicial precedent, but only to provide guidance to judges.<sup>135</sup> In April 2010, the Council of Senior Religious Scholars took a step further, approving the idea of codifying civil status and criminal Sharia law. It remains unclear whether such codification will result in statutory laws or another form of compiling judicial precedents.<sup>136</sup>

Another area of progress is changes to the judicial system. In April 2008, King Abdullah designated SAR7 billion (about US\$ 1.7 billion) to train and employ new judges.<sup>137</sup> Graduates of law faculties can now become judges, not only graduates of Sharia faculties. Women can now study law, a subject previously off limits to them, and the progressive justice minister, Muhammad al-'Issa, in February 2010 announced a new law soon allowing women lawyers to represent female clients in court in personal status cases.<sup>138</sup> Women are still prevented from becoming judges, prosecutors, or even fully bar-admitted lawyers.<sup>139</sup>

King Abdullah in 2007 also issued new laws restructuring the justice system, although he decreed a five-year transitional period before the new laws would be fully implemented.<sup>140</sup> The changes strengthened the judiciary's independence by removing a Ministry of Justice representative from the committee on judicial appointments, although all judicial appointments still nevertheless require royal approval. Instead of two cassation courts for the entire country, an appeals court was to be established in every one of the 13 provinces—

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<sup>134</sup> Ministry of Justice, "His Excellency the Minister of Justice Inaugurates the First Edition of the Corpus of Judicial Rulings," March 14, 2007, <http://www.moj.gov.sa/layout/NewsDetails.asp?ArticleID=782> (accessed March 16, 2007).

<sup>135</sup> 'Udwan al-Ahmari, "Al-Ubaykan Reveals Presence of Muslim Brotherhood in Saudi Arabia," *Al-Watan*, May 18, 2005, republished in translation as "Saudi Adviser on Judicial Reform, Jihad in Iraq, Muslim Brotherhood's Presence," *Global News Wire – Asia Africa Intelligence Wire*, reproduced in BBC Monitoring/BBC, May 26, 2005. The first three editions of the compendium focus on property rights, contract law, and personal status law, with only minor references to criminal matters. See: "Compendium of Judicial Rulings—First Edition," General Administration for Compiling and Publishing Rulings Ministry of Justice, 2007, [http://www.moj.gov.sa/mdona\\_moj/upload\\_moj\\_modwn/47.pdf](http://www.moj.gov.sa/mdona_moj/upload_moj_modwn/47.pdf) (accessed August 7, 2010), and the second and third editions for 2008 and 2009, respectively, available at [http://www.moj.gov.sa/mdona\\_moj/upload\\_moj\\_modwn/48.pdf](http://www.moj.gov.sa/mdona_moj/upload_moj_modwn/48.pdf), and [http://www.moj.gov.sa/mdona\\_moj/upload\\_moj\\_modwn/50.pdf](http://www.moj.gov.sa/mdona_moj/upload_moj_modwn/50.pdf) (accessed August 7, 2010).

<sup>136</sup> Ministry of Justice, Dedication of the Qasim Appeals Court, July 6, 2010, <http://www.moj.gov.sa/newsresult.aspx?id=1420> (accessed August 7, 2010).

<sup>137</sup> Ahmad al-'Umari, "7 Billion Riyal to Develop the Judiciary ... Rights and Economic Advantages Under the Umbrella of Sharia," *Al-Iqtisadiya* newspaper, April 15, 2008, [http://www.mohamoon-ksa.com/default.aspx?action=PREVIEW\\_CONTENT&id=80463&TreeTypeID=4](http://www.mohamoon-ksa.com/default.aspx?action=PREVIEW_CONTENT&id=80463&TreeTypeID=4) (accessed July 23, 2010).

<sup>138</sup> Fahd al-Dhiyabi and Adnan al-Shirawi, "Decision to Grant Female Lawyers Licenses to Litigate Personal Status Cases Soon," *Al-Okaz*, February 21, 2010, <http://www.okaz.com.sa/new/Issues/20100221/Con20100221334225.htm> (accessed July 23, 2010).

<sup>139</sup> Tala al-Hejailan, "Saudi labor law and the rights of women employees," *Arab News*, January 24, 2010, <http://archive.arabnews.com/?page=7&section=0&article=131711> (accessed July 23, 2010)

<sup>140</sup> Human Rights Watch interview with Saudi lawyer, name withheld, Bahrain, June 5, 2010.

a development that improves the chances of ensuring that the lower courts will hold fair hearings.<sup>141</sup> At present, appeals consist of a paper review, which cannot detect forced confessions or if judges prevented witness testimony from being presented.<sup>142</sup> The first appeals court opened in the Eastern Province only on June 12, 2010, and another one in Qasim province in July.<sup>143</sup>

The lower courts are also to be reorganized, with specialized criminal and civil courts replacing the courts of first instance, and executive tribunals for labor and commercial disputes gaining independence as full courts under the judiciary. In another significant sign of progress, the Shura Council in January 2010 passed a law establishing a public defender program for the first time, although the government has not yet enacted the law.<sup>144</sup>

## Judicial Accountability

Inklings of the greater judicial fairness can be gleaned by the performance of the Board of Grievances, Saudi Arabia's administrative court. Since 2007, the board has accepted cases by private individuals suing the country's domestic intelligence agency, the Interior Ministry's *mabahith*, or secret police, for wrongful imprisonment and arbitrary detention. By accepting jurisdiction, the court affirmed that even secretive government agencies are subject to domestic law and the courts. A well-informed lawyer told Human Rights Watch that the king had let it be known that courts should no longer invoke "sovereignty" as an excuse for not taking cases and shielding government bodies from judicial scrutiny.<sup>145</sup> In several cases, the court ordered the *mabahith* to release the detainee, but it did not comply.<sup>146</sup> The highest profile case against the *mabahith* currently under way has been brought in the name of a group of reform activists arrested in Jeddah in February 2007. They have been held ever since without charge or trial, in violation of Saudi Arabia's Law of Criminal Procedure, article 114, that mandates that a detainee be referred to trial or released

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<sup>141</sup> Human Rights Watch, *Precarious Justice*.

<sup>142</sup> "Saudi Arabia: Witchcraft and Sorcery Cases on the Rise," Human Rights Watch news release, November 24, 2009, <http://www.hrw.org/en/news/2009/11/24/saudi-arabia-witchcraft-and-sorcery-cases-rise>.

<sup>143</sup> Muhammad al-Jum'an, "Eastern [Province] Appeals Court an Important Stage in King Abdullah's Project to Develop the Judiciary," Al-Riyadh, June 24, 2010, <http://www.alriyadh.com/2010/06/24/article537674.html> (accessed July 23, 2010). Ministry of Justice, Dedication of the Qasim Appeals Court, July 6, 2010, <http://www.moj.gov.sa/newsresult.aspx?id=1420> (accessed August 7, 2010).

<sup>144</sup> "Saudi Arabia: Criminal Justice Strengthened," Human Rights Watch news release, January 14, 2010, <http://www.hrw.org/en/news/2010/01/14/saudi-arabia-criminal-justice-strengthened>.

<sup>145</sup> Human Rights Watch interview with Saudi lawyer, name withheld, Bahrain, June 5, 2010.

<sup>146</sup> Human Rights Watch, *Human Rights and Saudi Arabia's Counterterrorism Response*, August 10, 2009, <http://www.hrw.org/en/reports/2009/08/10/human-rights-and-saudi-arabia-s-counterterrorism-response-o>.



after a maximum of six months pre-trial detention. Common criminals suffer the same fate and are sometimes held beyond the expiry of their sentences.<sup>147</sup>

Another hopeful sign of increased judicial scrutiny of government actions is King Abdullah's decision to task the Control and Investigation Board, a separate unit responsible for prosecuting civil servants, with investigating the Jeddah floods for evidence of corruption in planning.<sup>148</sup> After receiving the investigation report in March 2010, for which 50 persons were detained, King Abdullah in May ordered criminal prosecutions.<sup>149</sup> The government later announced that 40 persons were to stand trial for the Jeddah flood deaths, against expectations of Jeddah's inhabitants.<sup>150</sup> By June 2010, 22 engineers and civil servants in the Jeddah municipality had resigned, in "fear" of eventually facing prosecution.<sup>151</sup>

Incidentally, the Jeddah floods may also prove to be one of the biggest fairly contested court cases in the country, helping to establish principles of the rules of law. Five hundred lawyers in Jeddah reportedly stood ready to defend the accused civil servants, unusual, and perhaps unprecedented, in the number of lawyers willing to defend persons against the government in a politically charged case.<sup>152</sup>

## Problematic Trials

Trials themselves continue to be highly problematic. Saudi Arabia in 2009 finally tried hundreds of persons suspected of involvement in a series of explosions in 2003 and 2004 and later, unsuccessful plots against the government. The *mabahith* had been holding many of these suspects for five years or more without charge. However the trials of 330 of the almost one thousand detained terror suspects the Interior Ministry said would be referred for trial were closed and summary, and defendants said they did not have lawyers. Charges and evidence reportedly remained exceedingly vague.<sup>153</sup> The court convicted all but seven of the

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<sup>147</sup> "Saudi Arabia: Free Forgotten Prisoners," Human Rights Watch news release, April 22, 2010, <http://www.hrw.org/en/news/2010/04/22/saudi-arabia-free-forgotten-prisoners>.

<sup>148</sup> King Orders Massive Inquiry into Jeddah Rainstorm Disaster," *Saudi Gazette*, December 1, 2009, <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentID=2009120155831> (accessed June 25, 2010).

<sup>149</sup> Muhammad al-Sulami, "King Orders Prosecution in Jeddah Flood Disaster," *Arab News*, May 11, 2010 <http://arabnews.com/saudiarabia/articles52251.ece> (accessed June 25, 2010).

<sup>150</sup> *Ibid.*

<sup>151</sup> Andrew White, "Saudi officials Quit Ahead of Jeddah Floods Probe," *Arabian Business*, June 13, 2010, <http://www.arabianbusiness.com/590387-saudi-officials-quit-ahead-of-jeddah-floods-probe> (accessed June 25, 2010).

<sup>152</sup> Amal Baqazi, "Control and Investigation and Public Prosecution Start to Summon Those Involved in the Jeddah Disaster," *Al-Sharq al-Awsat*, June 24, 2010 <http://aawsat.com/details.asp?section=43&article=575236&issueno=11531> (accessed June 24, 2010).

<sup>153</sup> Human Rights Watch, *Human Rights and Saudi Arabia's Counterterrorism Response*.

330 accused, and sentenced most to long prison terms.<sup>154</sup> The government has not announced a new round of trials for the almost one thousand persons it had identified for trial; they remain in detention without charge.

Even open trials adhering to due process procedures are no guarantee for fair trials. Saudi Arabia continues to lack a penal code, leaving it entirely up to the discretion of the judge or law enforcement officer to determine which acts are criminal and which are not.<sup>155</sup> Without codified criminal law, lawyers cannot substantively challenge a ruling that considers televised fortune telling to be “witchcraft,” or that decrees a certain type of dress to be un-Islamic. In October 2009, for example, a court in Medina found television presenter Ali Sibat guilty of “sorcery” for his work in Lebanon on a program that gave callers-in advice about the future.<sup>156</sup> In May 2010, the religious police arrested ten girls and women in a Dammam café for wearing “black and dark colored clothes” in the “Emo” style of Western music groups.<sup>157</sup>

Earlier in 2010, fifty of Saudi Arabia’s most prominent lawyers complained to the justice minister about judges preventing them from carrying out their duties.<sup>158</sup> One of the lawyers, Ahmad al-Rashid, said that a judge in one of Riyadh’s criminal courts in 2009 had him shackled and detained for 24 hours when he tried to defend his client in court in a criminal case. No action was taken against the judge—who denied al-Rashid’s allegations—when the lawyer complained in person to Bandar al-‘Iban, the head of the Saudi Human Rights Commission, and to Justice Minister Muhammad al-‘Isa.<sup>159</sup>

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<sup>154</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 2009: Saudi Arabia,” March 11, 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136079.htm> (accessed July 23, 2010). See also: Human Rights Watch, *Human Rights and Saudi Arabia’s Counterterrorism Policy*.

<sup>155</sup> Christoph Wilcke (Human Rights Watch), “Justice to die for” commentary, *The Guardian*, December 26, 2008, <http://www.guardian.co.uk/commentisfree/2008/dec/26/saudi-arabia-death-penalty> (accessed July 23, 2010).

<sup>156</sup> “Saudi Arabia: Witchcraft and Sorcery Cases on the Rise,” Human Rights Watch news release, November 24, 2009, <http://www.hrw.org/en/news/2009/11/24/saudi-arabia-witchcraft-and-sorcery-cases-rise>.

<sup>157</sup> Saif al-Harithi, “10 ‘EMO’-girls Arrested in Dammam Café,” *Al-Yawm* newspaper, May 22, 2010, <http://www.alyaum.com/issue/article.php?IN=13490&l=760303> (accessed June 24, 2010).

<sup>158</sup> Dr. Sa’d al-Quwai’i, “About the Transgressions of Some Judges ... Your Latest!,” *Al-Jazira*, June 26, 2010, <http://www.menber-alhewar1.org/news.php?action=view&id=6593> (accessed June 29, 2010).

<sup>159</sup> Human Rights Watch telephone interview with Ahmad al-Rashid, lawyer, July 12, 2010. See also: Muhammad Humaidan, “Lawyer Alleges he was Shackled by Judge,” *Arab News*, July 18, 2010, <http://arabnews.com/saudiarabia/article86414.ece> (accessed July 19, 2010).

## V. Religious Intolerance at Home

In July 2008, King Abdullah initiated the interfaith World Conference on Dialogue in Madrid, Spain, to which he invited Jewish and Christian religious officials as well as representatives of Hinduism, Buddhism, Shinto, and Confucianism. The conference adopted the Madrid Declaration, which recognized “diversity and differences among peoples,” and called for “disseminat[ing] the culture of mutual respect.”<sup>160</sup> In November 2008, King Abdullah followed up by initiating an interfaith meeting at the UN General Assembly that reiterated the message of Madrid.<sup>161</sup> King Abdullah’s Interfaith Dialogue Initiative has since featured prominently on the list of indicators for Saudi reform. The US State Department International Religious Freedom Report 2008 on Saudi Arabia called the interfaith initiative “most significant.”<sup>162</sup>

Saudi Arabia promoting itself as the wellspring of religious tolerance is certainly a welcome change from its image of exporting a narrow interpretation of Islam to Muslims worldwide. However, the king’s foreign endeavors when it comes to religious tolerance have not found an echo in domestic policy, where systematic discrimination against the country’s Shia minorities persists.<sup>163</sup>

### Interfaith Dialogue Initiative

King Abdullah’s Interfaith Dialogue Initiative originated at a June 2008 meeting in Mecca at which representatives of the various strands of Islam deliberated on the Islamic tradition and religious legitimacy of engaging in dialogue. The main outcome was a pledge to “interact[...] and communicat[e] with the followers of [other] Islamic schools of thought in order to achieve the unity of the Muslim Ummah [nation] and lessen fanaticism and antagonism.”<sup>164</sup> According to an editor of one of the country’s main newspapers, the king’s

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<sup>160</sup> The World Conference on Dialogue, “The Madrid Declaration,” Muslim World League, Madrid, July 16-18, 2008, <http://www.world-dialogue.org/Madrid/english/events/final.htm> (accessed September 3, 2010).

<sup>161</sup> UN: World Leaders Should Press Saudis on Intolerance, Human Rights Watch news release, November 10, 2008, <http://www.hrw.org/en/content/un-world-leaders-should-press-saudis-intolerance>.

<sup>162</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, “Country Reports on International Religious Freedom – 2008: Saudi Arabia,” October 26, 2009, <http://www.state.gov/g/drl/rls/irf/2008/108492.htm> (accessed July 23, 2010).

<sup>163</sup> Human Rights Watch, *The Ismailis of Najran: Second-class Saudi Citizens*, September 22, 2008, <http://www.hrw.org/en/reports/2008/09/22/ismailis-najran-o>.

<sup>164</sup> “Recommendations and Closing Statement,” The Mecca Appeal for Interfaith Dialogue, The Muslim World League, June 6, 2008, <http://www.themwl.org/Bodies/Decisions/default.aspx?d=1&did=309&l=AR> (accessed July 23, 2010).

international interfaith endeavors were meant to legitimize interfaith dialogue and bolster religious tolerance at home.<sup>165</sup>

In 2010, private Saudi Shia and Sunni clerics have continued a series of meetings to foster mutual understanding. Shaikh Hasan al-Saffar, a Shia cleric, and Sunni shaikhs, ‘Awwadh al-Qarni and Sa’d al-Buraik, met in a private initiative over several months and in April 2010 produced the Charter for Coexistence between Saudi Shia and Sunnis that seeks to criminalize verbal attacks on the respective communities.<sup>166</sup>

King Abdullah has also made some moves to promote intersectorian tolerance, including by clamping down on hate speech by extremist Sunni clerics.<sup>167</sup>

## Discrimination against Shia

The king has failed to address the state-sponsored discrimination and harassment of non-Sunni minorities in the country, the principal source of religious intolerance and intersectorian violence.<sup>168</sup> Despite his efforts at dialogue, Saudi officials have stoked, not reduced, intersectorian tensions between the kingdom’s Sunni and minority Shia populations. King Abdullah has not publicly voiced disapproval or disciplined officials who curtailed the religious freedom of the Shia minority. Promoting tolerance through dialogue initiates is no doubt important, but minority citizens will not be able to enjoy equal rights until the king embarks on institutional reform, together with legislation that institutes equal rights for minorities and holds those who violate those rights to account.

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<sup>165</sup> Human Rights Watch interview with Saudi chief editor, name withheld, New York, November 12, 2008.

<sup>166</sup> Abu Dhamdham (pseudonym), “Agreement to Sign Document on Peaceful Coexistence between Sunna and Shia in Land of the Two Holy Mosques,” post to I am a Muslim Network for Islamic Dialogue, April 12, 2010, <http://www.muslim.net/vb/showthread.php?t=384721> (accessed July 23, 2010).

<sup>167</sup> The Saudi government has fired teachers and preachers over their radical anti-Western, though not, apparently, anti-Shia, views. See: Jameel Al-Thiyabi, “The Ministry of Islamic Affairs Suspended 1710 Imams, Khateeb, and Muezzin,” *Al-Hayat Online*, May 28, 2005, <http://english.daralhayat.com/>, quoted in: Abdullah F. Ansary, “Combating Extremism: A Brief Overview of Saudi Arabia’s Approach, Middle East Policy, vol. 15, no. 2, summer 2008, [http://www.mepc.org/journal\\_vol15/96Ansary.pdf](http://www.mepc.org/journal_vol15/96Ansary.pdf) (accessed July 23, 2010), footnote 151, and, “Saudi spokesmen say they have fired 2,000 [mosque preachers],” Lisa Beyer and Scott McLeod, “After 9: Saudi Arabia: Inside the Kingdom,” *Time Magazine*, September 15, 2003, <http://www.time.com/time/magazine/article/0,9171,1005663-5,00.html> (accessed July 23, 2010). King Abdullah initiated a conference to establish common principles for issuing Islamic rulings, or fatwas, and rein in individuals issuing extremist opinions under the guise of Islamic rulings. Sultan al-‘Awbathani, “Islamic Jurisprudence Complex Secretary General to ‘Al-Sharq al-Awsat’: The Fatwa Conference Strives to Put in Place a Charter Unifying Muslims in General Matters,” *Al-Sharq al-Awsat*, January 13, 2009, <http://www.aawsat.com/details.asp?section=17&article=502653&issueno=11004> (accessed July 23, 2010), and, “170 Clerics and Jurisprudents Issue First Charter on Fatwas in Islamic History. Recommend Not Publishing Deviant Fatwas and Glorifying Them,” *Alarabiya.net*, January 21, 2010, <http://www.alarabiya.net/articles/2009/01/21/64676.html> (accessed July 23, 2010).

Saudi Shia makeup between 10 and 15 percent of the Saudi population and are concentrated in the Eastern Province. Except for the Ismaili Shia who live in the southern Najran province bordering Yemen, Saudi Shia follow the 12er, or Ja'fari, strand of Shiism also found in Iran, Iraq, and Lebanon. In the 1980s under growing conservative Wahhabi Sunni influence, religious and politically active Saudi Shia went into exile, to Iran, Syria, the UK, and the US, from where they launched publications criticizing Saudi policies. In an agreement with Saudi Shia opposition activists, King Fahd in 1993 allowed them to return from exile if they ceased their political opposition, and promised to free Shia political prisoners, restore their passports, lift travel bans on the Shia, and work to reduce sectarian discrimination against the Shia in education and jobs. The Saudi government only partially implemented this agreement. The government continues to discriminate against the country's Shia minority. It bans Shia religious education and worship, and arrests Shia prayer leaders. Those who speak out against discrimination and exclusion from government and private employment face harassment.

Munir Al Jassas, a Saudi Shia activist writing on the human rights of Shia, remains in prison following his arrest in November 2009 by the secret police.<sup>169</sup> In February 2010, the governor of al-Ahsa', Prince Badr Al Jilawi, told a delegation of local Shia pleading with him to release their family members arrested for religious worship that he would throw them in jail, too, the news website *Burathanews.com* reported.<sup>170</sup>

These most recent tensions have their origin in a pilgrimage of Saudi Shia to Medina in February 2009 to observe the anniversary of the Prophet Muhammad's death. Pilgrims clashed with Saudi security forces, including the non-uniformed and staunchly Wahhabi Sunni religious police who oppose what they consider to be idolatrous Shia rituals. The immediate cause of the Medina clashes was the filming on February 20 of Shia women pilgrims by a man believed to belong to the religious police. The clashes continued in the area of the Baqi' cemetery in Medina over a five-day period, and resulted in the arrest of tens of pilgrims. In March, security forces in the Eastern Province cracked down on largely peaceful demonstrations in solidarity with those arrested in the Medina clashes.

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<sup>169</sup> "Saudi Arabia: Free Advocate for Shia Rights," Human Rights Watch news release, March 23, 2010, <http://www.hrw.org/en/news/2010/03/23/saudi-arabia-free-advocate-shia-rights>.

<sup>170</sup> Naji Muhammad, "Governor of Ahsa' Promies to Increase his Era and Threatens Delegation of Saudi Detainees to his Prisons with Ahsa's Shia," *Buratha News Agency*, February 1, 2010, [http://www.burathanews.com/news\\_article\\_86291.html](http://www.burathanews.com/news_article_86291.html) (accessed July 23, 2010).

Nimr al-Nimr, a Shia preacher in 'Awwamiyya, known for his vocal opposition to Saudi policies, suggested in a Friday sermon in March 2009 that his coreligionists consider secession from Saudi Arabia if their rights were not respected. The security forces' subsequent search for al-Nimr, who went into hiding, resulted in further Shia protests supporting the preacher, and a further crackdown.<sup>171</sup>

The Medina clashes and subsequent events in the Eastern Province stoked the sharpest manifestation of long-standing sectarian tensions that the kingdom has experienced in years. Since then, authorities have intensified ongoing restrictions on Shia communal life. In Khobar, the authorities have arrested and threatened the owners of Shia private communal prayer halls to extract pledges to close them, and in al-Ahsa' continue to impose extrajudicial prison sentences on communal prayer leaders and on persons selling articles used in Shia religious ceremonies such as 'Ashura' and Qarqi'un, which remain prohibited in many Saudi Shia communities.<sup>172</sup>

In April 2010, Saudi authorities arrested four Shia in the Eastern Province for hosting private prayer services, Agence France Press reported.<sup>173</sup> In January 2010, the authorities summoned Muhammad Al Libad from 'Awwamiyya to the police station, and promptly arrested him. He remains in Dammam general prison without charge, but family members say he is being questioned about the March 2009 'Awwamiyya protests and his relationship to al-Nimr. Most recently, for example, Saudi authorities in June 2010 arrested Saudi rights activist Shaikh Mikhlif bin Dahham al-Shammari for articles he wrote criticizing Sunni clerics who had disparaged the Shia.<sup>174</sup>

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<sup>171</sup> Human Rights Watch, *Denied Dignity*, September 2009.

<sup>172</sup> *Ibid.*

<sup>173</sup> "Saudi Shiites arrested over worship: rights activist," Agence France Press, April 6, 2010, <http://www.france24.com/en/20100406-saudi-shiites-arrested-over-worship-rights-activist> (accessed July 23, 2010).

<sup>174</sup> "Saudi Arabia: Release Rights Activist," Human Rights Watch news release, June 16, 2010, <http://www.hrw.org/en/news/2010/06/16/saudi-arabia-release-rights-activist>.

## VI. Neglect of Migrant Worker Rights

Compared to reform in other areas, King Abdullah has done very little to improve the situation of the around eight million migrant workers in the kingdom, who mostly hail from Asian and Arab countries, and mainly work in construction, domestic service, and business. Migrant workers suffer a range of abuses. The most common complaints are of non- or late payment of salaries, confiscation of passports by employers, an inability to leave an abusive employer, and the long waits and opaque proceedings of labor tribunals. A combination of these factors may constitute forced labor. For the sixth year in a row, the US Department of State in its annual Trafficking in Persons report classified the kingdom in 2010 in the lowest category of countries that do not comply with anti-trafficking measures or make efforts to do so for the sixth year in a row.<sup>175</sup>

### Sponsorship and its Reform

At the heart of migrant workers' subservient status is the sponsorship (*kafala*) system prevalent in most Gulf countries, which ties a worker's legal immigration status in the host country to a particular employer, or "sponsor."<sup>176</sup> While Saudi Arabia's neighbors, apart from the United Arab Emirates, have engaged in at least partial reform of the *kafala* system, Saudi Arabia has taken virtually no action to respond to the calls to scrap the system altogether, most recently in April 2010 by the UN's High Commissioner for Human Rights, Navenathem Pillay.<sup>177</sup>

The *kafala* system, as it exists in Saudi Arabia, is a mixture of law and custom. Saudi law prohibits a migrant worker from changing sponsors and jobs without the consent of the original sponsor—either an individual or a company—that employs the worker. Sponsors, either individuals or companies, are the workers' employers. Immigration regulations further deny a foreign migrant worker the right to leave the kingdom without an exit visa, which also requires the consent of the sponsor.

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<sup>175</sup> See: US Department of State, "Country Reports on Trafficking in Persons – Saudi Arabia: 2001 to 2010," <http://www.state.gov/g/tip/rls/tiprpt/index.htm> (accessed July 16, 2010).

<sup>176</sup> Human Rights Watch, *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East*, April 27, 2010, <http://www.hrw.org/en/reports/2010/04/28/slow-reform-o> and Nisha Varia and Christoph Wilcke (Human Rights Watch, "The Trap of Sponsorship" commentary, *Al-Hayat*, July 8, 2008, <http://www.hrw.org/en/news/2008/07/07/trap-sponsorship>).

<sup>177</sup> "U.N. Rights Chief: Gulf States Should End Worker Sponsor System," *Annahar* newspaper (Lebanon), April 19, 2010, <http://www.naharnet.com/domino/tn/NewsDesk.nsf/MiddleEast/49077E1983947143C225770A0038F438?OpenDocument> (accessed July 23, 2010).

The relationship between a foreign worker and his or her Saudi sponsor is also one of custom, where the sponsor “guarantees” the good conduct of the worker, and could be held liable for any debts, damage, or even criminal activity by the worker. In practice, this guarantee has no legal significance, as the state does not seek to collect debts or imprison sponsors for acts committed by their workers. Yet this idea of imagined responsibility permeates Saudi society and presents a formidable obstacle to reform. It is an important reason behind the near universal practice of employers confiscating workers’ passports, and the routine practice of Saudi families denying their migrant domestic worker the freedom to leave the house on her own, both of which violate Saudi law. In sex-segregated, conservative Saudi Arabia, employers often perceive their Asian domestic workers as licentious and fear that they will have sexual relationships, voluntary or forced, if they allow them to leave the house. Furthermore, employers fear that domestic workers will seek employment elsewhere, causing them to forfeit their initial recruitment fees.

Forced confinement is not only abusive in itself, but coupled with legal and customary restrictions on leaving an employer or the country, enables employers to abuse workers who have few means to seek any remedies. In numerous instances, companies have not paid workers or have locked them inside their premises for long periods.<sup>178</sup> Domestic workers, who are particularly vulnerable given their isolation in private homes, may be trapped in situations where employers inflict physical or sexual abuse, deprive them of food, or withhold pay for several years.<sup>179</sup> Government bodies rarely investigate, despite media coverage of such cases, which violate Saudi labor law and Sharia criminal law. When they do, they are often able to find violations and secure the workers’ return home and payment of at least part of the entitlements owed to them.<sup>180</sup> But even workers who know about labor courts and have the resources to reach them, experience protracted proceedings with months between hearings, while they are unable to work or leave the country.<sup>181</sup> As a result, in order to expedite their return home, many workers drop their complaints or accept negotiated settlements that provide them a fraction of their due in order to expedite their return home.

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<sup>178</sup> “Saudi Arabia: Free Trapped Migrant Workers,” Human Rights Watch news release, April 23, 2010, <http://www.hrw.org/en/news/2010/04/23/saudi-arabia-free-trapped-migrant-workers>, and “Saudi Arabia: Medical Workers Stranded Without Pay,” Human Rights Watch news release, May 8, 2008, <http://www.hrw.org/en/news/2008/05/08/saudi-arabia-medical-workers-stranded-without-pay>.

<sup>179</sup> Human Rights Watch, “*As if I am Not Human*”: *Abuses against Asian Domestic Workers in Saudi Arabia*, July 7, 2008, <http://www.hrw.org/en/reports/2008/07/07/if-i-am-not-human-o>.

<sup>180</sup> Shaheen Nazar, “Over Two Dozen Striking Nepalese Flown Home,” *Arab News*, May 22, 2010.

<sup>181</sup> “Saudi Arabia: Company’s Workers Unpaid, Trapped,” Human Rights Watch news release, May 28, 2010, <http://www.hrw.org/en/news/2010/05/28/saudi-arabia-companys-workers-unpaid-trapped>.



New, fully independent labor courts mandated under King Abdullah's 2007 overhaul of the judiciary may afford migrant workers better means to redress, though details about when the new courts will be ready or how they will improve foreign workers' access to justice, providing, for example, free translation and legal advice, have not yet emerged.

Saudi Arabia has barely tinkered with the sponsorship system for the past decade. In October 2000, Council of Ministers decree 166 modified the sponsorship system, first by abolishing the term "sponsor," but also by allowing migrant workers free movement lifting the limitations on movement to within the district of his workplace, and by affirming the right of foreign workers to retain their passports. "Sponsored" migrant workers were granted full legal capacity to enter into contracts, conduct government business, and own property independent of the "sponsor's" consent. This aspect of the reform has not been fully implemented, and migrant workers still require sponsors to conduct their business in individual cases.<sup>182</sup> This reform of the sponsorship system in 2000 nevertheless continued to require the consent of the sponsor, that is, employer, consent for migrant workers to transfer employment or exit the kingdom—thus leaving the system's pillars in place.<sup>183</sup>

In another incomplete attempt at reform, the Saudi government drafted an annex to the 2005 Labor Law that year designed to extend labor rights to the country's 1.5 million domestic workers. Although the Shura Council in July 2009 passed this annex—which would require employers to give domestic workers at least nine hours rest every day, suitable accommodation, and rest breaks—the cabinet so far has not enacted it. Its vague provisions would still leave workers open to abuse by including a duty to obey employers' orders and a prohibition against leaving the place of employment without a "legitimate reason."<sup>184</sup> In June 2010, Saudi Arabia voted against creating a binding international treaty that would establish a global labor standards resolution on domestic worker rights at the International Labor Conference in Geneva.<sup>185</sup>

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<sup>182</sup> Human Rights Watch interview with a Jordanian migrant worker (name withheld), Amman, June 7, 2010.

<sup>183</sup> Kingdom of Saudi Arabia, Council of Ministers, Decree 166, October 9, 2000, on file with Human Rights Watch.

<sup>184</sup> "Saudi Arabia Enact Protections for Domestic Workers," Human Rights Watch news release, March 13, 2009, <http://www.hrw.org/en/news/2009/03/13/saudi-arabia-enact-protections-domestic-workers>, and, "Saudi Arabia: Shura Council Passes Domestic Worker Protections," Human Rights Watch news release, July 10, 2009, <http://www.hrw.org/en/news/2009/07/10/saudi-arabia-shura-council-passes-domestic-worker-protections>.

<sup>185</sup> Human Rights Watch observations at the of the roll call vote negotiations of the Domestic Work Committee, International Labor Conference, Geneva, June 4, 2010.

## Ineffective Sanctions

As part of its drive to promote the employment of Saudis rather than of foreign workers in the country, the Ministry of Labor has introduced limited reforms to supposedly force employers to abide by labor regulations. In 2005, it said it would ban employers who failed to abide by the labor code from hiring migrant workers.<sup>186</sup> In 2008, the Saudi government announced tougher penalties for employers who abuse migrant workers.<sup>187</sup> Under article 16 of the 2007 executive regulations to the 2005 labor law, migrant workers were allowed to transfer sponsorship to a new employer, provided they had worked at least one year with the existing employer and he consented.<sup>188</sup> The Ministry of Labor also assumed the power to waive employer consent for allowing the foreign worker to change employers, and issued a decision in August 2007 listing non-payment of salaries as one of the conditions under which a worker can transfer employment without employer consent.<sup>189</sup> In a regressive step, however, the government in March 2010 announced it would extend the period after which a worker can change employers from one to two years.<sup>190</sup>

Many businesses have resisted these changes that threaten to block their access to cheap foreign labor.<sup>191</sup> These reforms have not resulted in perceptible change, and sanctions on abusive employers have been slaps on the wrist at best. There are no official statistics about enforcement of these partial reforms, and announcements in 2005 that the government would publish a blacklist of employers banned from hiring migrant domestic workers have not been implemented.<sup>192</sup>

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<sup>186</sup> Human Rights Watch, *World Report 2006*, (New York: Human Rights Watch, 2007), Saudi Arabia, <http://www.hrw.org/wr2k6/>, and: Human Rights Watch, “*As if I am Not Human*”, July 7, 2008.

<sup>187</sup> Ali Diyab, “Sponsor and Sponsored,” *Al-Sharq al-Awsat* newspaper, July 15, 2008, <http://www.aawsat.com/leader.asp?section=3&article=478885&issueno=10822> (accessed June 28, 2010).

<sup>188</sup> Executive Regulation to the Labor Law, published in the *Umm Al-Qura* (official gazette), no. 4415, April 20, 2007, art. 16. See also the need for a worker wishing to transfer sponsorship to obtain “a letter relinquishing [sponsorship] of his original sponsor,” as detailed on this Saudi government website: [http://www.saudi.gov.sa/wps/portal/!ut/p/co/o4\\_SB8K8xLLM9MSSzPy8xBz9CPoos\\_jgUENPLo8TIwN\\_wwALAO-DAGMvS6CYu7GhfnBikX5BtqMiAJbKgHw!/?orgid=ministry+of+labor&srvid=sponsorship+transfer&catid=](http://www.saudi.gov.sa/wps/portal/!ut/p/co/o4_SB8K8xLLM9MSSzPy8xBz9CPoos_jgUENPLo8TIwN_wwALAO-DAGMvS6CYu7GhfnBikX5BtqMiAJbKgHw!/?orgid=ministry+of+labor&srvid=sponsorship+transfer&catid=) (accessed June 28, 2010).

<sup>189</sup> Ali al-Qahtani, “Transferring Worker Services Without Original Sponsor’s Consent by Permission of Minister of Labor,” *Al-Watan* newspaper, August 7, 2007, <http://www.alwatan.com.sa/news/newsdetail.asp?issueno=2503&id=17052> (accessed June 28, 2010).

<sup>190</sup> “Riyadh Restricts Worker Transfer from One Sponsor to Another,” *Assafir* newspaper (Lebanon), March 25, 2010, <http://www.assafir.com/Article.aspx?EditionId=1494&ChannelId=34694&ArticleId=2745&Author=> (accessed March 25, 2010).

<sup>191</sup> ‘Abid Khazandar, “Failure of Saudiization,” *Al-Riyadh* newspaper, July 17, 2010, <http://www.alriyadh.com/2010/07/17/article544319.html> (accessed July 23, 2010).

<sup>192</sup> See: Human Rights Watch, *World Report 2005*, (New York: Human Rights Watch, 2006), Saudi Arabia, <http://www.hrw.org/wr2k5/>, and: Raid Qusti, Ministry Cracks Down on Maid Abuses, *Arab News*, July 25, 2005,

Saudi authorities have been equally slow in legally pursuing employers who harass and abuse workers. In 2010, Shaikh Muhammad bin Issa Al Jaber, the third richest man in Saudi Arabia, for months did not pay or renew the residency permits of workers at the Riyadh and Dhahran residential housing complexes that his company, Jadawel International, operates. Both are violations of Saudi law. Still, no official contacted the workers to initiate legal proceedings against Jadawel.<sup>193</sup> The criminal case against the employers of Keni binti Carda, an Indonesian domestic worker, who Carda says severely burned her in September 2008, only got under way thanks to international pressure. It then dragged on as other criminal cases against foreigners were swiftly decided.<sup>194</sup> In a case that drew global protests, a Saudi court in July 2007 convicted Rizana Nafeek, a 19-year-old Sri Lankan domestic worker of killing the baby in her care in 2005, and sentenced her to death. Nafeek did not have an interpreter when the police extracted her confession, which she later retracted, and she did not have legal counsel in the two years during her trial. Nafeek, who was 17 at the time, was an inexperienced domestic worker who claims the baby choked on milk and died. Her case was still under appeal as of June 2008.<sup>195</sup>

Some domestic workers face spurious charges of theft or witchcraft that employers level against them when they lodge complaints of mistreatment, while others endure discriminatory and harsh morality laws that criminalize mingling with unrelated men and engaging in consensual sexual relationships. Domestic workers who have been victims of rape or sexual harassment may also be subject to prosecution for immoral conduct, adultery, or fornication. Within the justice system, they are likely to experience uneven or delayed access to interpretation, legal aid, and access to their consulates.<sup>196</sup>

Seven members of a Saudi family beat their four Indonesian domestic workers in early August 2007 after accusing them of practicing "black magic" on the family's teenage son. Siti Tarwiyah Slamet, 32, and Susmiyati Abdul Fulan, 28, died from their injuries. The other two workers, Ruminih Surtim, 25, and Tari Tarsim, 27, were still receiving treatment in the

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<http://archive.arabnews.com/?page=1&section=0&article=67451&d=25&m=7&y=2005&pix=kingdom.jpg&category=Kingdom> (accessed July 23, 2010).

<sup>193</sup> "Saudi Arabia: Company's Workers Unpaid, Trapped," Human Rights Watch news release, May 28, 2010, <http://www.hrw.org/en/news/2010/05/28/saudi-arabia-companys-workers-unpaid-trapped>.

<sup>194</sup> "Saudi Arabia: Nour Miyati Denied Justice for Torture," Human Rights Watch news release, May 20, 2008, <http://www.hrw.org/en/news/2008/05/20/saudi-arabia-nour-miyati-denied-justice-torture>, and, Letter from Human Rights Watch to the Governments of Saudi Arabia and Indonesia, January 12, 2009, <http://www.hrw.org/en/news/2009/01/11/letter-governments-saudi-arabia-and-indonesia>; Human Rights Watch interview with Teguh Wardoyo, director, protection of Indonesian citizens and legal entities, Ministry of Foreign Affairs, Jakarta, Indonesia, February 2, 2010.

<sup>195</sup> Human Rights Watch, "*As If I Am Not Human*," July 7, 2008.

<sup>196</sup> *Ibid.*

Intensive Care Unit of Riyadh Medical Complex when Saudi authorities removed them from the hospital, detained them for interrogations about their alleged "witchcraft," and initially denied them access to officials from the Indonesian embassy.<sup>197</sup>

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<sup>197</sup> Human Rights Watch, *"As If I Am Not Human"*, July 7, 2008.

## VII. Conclusion and Recommendations

Today, most Saudis commenting on public affairs voice little public resistance to the idea that their country needs to reform.

Vocal hardliners continue to fret about accepting women, Shia, and migrant workers as equals, but for all their vehemence, their numbers appear small. King Abdullah has succeeded in promoting the acceptance of reforms that would modernize Saudi Arabia's state apparatus, making it more efficient and somewhat more transparent; reevaluate, to some degree, the subservient status of women and religious minorities; open up the economy to global partners; and improve judicial fairness. King Abdullah has also encouraged respectful dissent, but within limits.

However, the obstacles to reform nevertheless remain formidable. Vested interests by power groups, such as the business community or the religious establishment, militate against upgrading migrant workers' status or introducing verifiable rules into areas of clerical discretionary power over judicial and educational matters. Saudi rulers have historically favored incremental reforms and sought broad consensus to their decisions and social conservatism remains inimical to upsetting the patriarchal structures.

Foreign Minister Sa'ud al-Faisal's oft-repeated explanation to visiting foreigners that—to paraphrase—the Saudi government is more progressive than its people in the desire to reform, rings true in some respects, but cannot serve as an excuse for inaction. Apart from judicial reforms, where new laws have been written and billions invested, King Abdullah's loosening of the restrictions on women and critical expression at times seem like tentative test flights by an elite as yet undecided about the type of government and society they want to steer toward.

The government has been especially timid in institutionalizing reforms through legislation and codification, enforcement, and accountability. These three missing elements of reform have the potential together of fostering the rule of law and protecting human rights.

*Human Rights Watch urges King Abdullah to:*

### **Enact legislation that:**

- Abolishes the male guardianship system for women and positively affirms women's equality, including in labor issues;

- Abolishes the sponsorship system, in particular the requirement for employer consent to transfer employment and to obtain an exit visa;
- Codifies penal and personal status law, in accordance with international human rights law;
- Protects women and girls against gender-based violence, including early marriage;
- Regulates the establishment of civil society organizations, in accordance with international human rights law; and
- Extends equal labor protections to domestic workers

#### **Enforce:**

- Women's equal rights, including in driving and in employment, by directing all concerned bodies that adult women no longer require a male guardian's consent;
- Provisions for a fair trial in the Law of Criminal Procedure, and the Law of Lawyers, including the recently passed provisions for free legal advice to criminal defendants;
- Women's access to justice and courts, by guaranteeing women's right to appear in person and by providing free legal advice;
- Freedom of worship for the Shia, especially in areas with a high Shia population, including freedom in the building and upkeep of mosques and *husseiniyyas* (Shia religious centers), printing, importing, and distribution of religious material, and the holding of public religious celebrations; and
- Equality of the Shia in employment and access to institutions of higher learning, including in the security services, high ministerial positions, local, provincial and the Shura Council, and military academies.

#### **Hold accountable:**

- Security agents who order arbitrary arrests or detentions, including for protected expression, and ill-treated persons in their custody;
- Judges who ignore Saudi law and international human rights law regarding due process rights and the exercise of the rights to freedom of expression, assembly, association, and of religion;
- Government officials who discriminate on the basis of gender, religion, national or social origin; and
- Employers who confiscate passports of migrant workers, fail to pay their salaries, forcibly confine migrant domestic workers, or otherwise violate Saudi law.

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The report is based on five years of Human Rights Watch research and reporting on Saudi Arabia, in addition to a review of developments in the five areas identified during 2010.

## Looser Rein, Uncertain Gain

### A Human Rights Assessment of Five Years of King Abdullah's Reforms in Saudi Arabia

Most Saudis and some foreigners agree that King Abdullah has loosened the social reins restricting Saudi society since he assumed power in August 2005. Today, Saudi women are less subject to rigid sex discrimination in public places, education has expanded, citizens have greater latitude to criticize their government, and judicial reform promises more reliance on written law, and less on individual religious interpretation. Once taboo subjects, such as domestic violence, are now discussed in public.

However, many of these changes—including improvements in the judicial system, fostering religious tolerance, and improving the lot of women—are superficial, limited in scope, and lack legal or governmental support. The government, for example, continues to punish citizens who criticize its policies or the royal family; Shia still face official discrimination; women are still tethered to male guardians for basic life decisions; and activists risk arrest if they use the internet to publicize abuses. Other areas have seen virtually no reforms at all. This includes, in particular, the position of migrant workers who work under a restrictive sponsorship system and lack adequate labor protections.

As a result, it is unclear if the changes seen during Abdullah's five years in power will endure, and whether his legacy will ultimately prove to be one of lasting institutional reform, or merely a brief respite in the kingdom's recent history of social, political and religious oppression.

*King Abdullah and Crown Prince Sultan with Saudi women in the southwestern city of Najran.*

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