

*Shame in the
House of Saud*

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



Minnesota Lawyers Int'l Human Rights Committee

**SHAME IN THE
HOUSE OF SAUD**

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

May 1992

A Report by
the Minnesota Lawyers
International Human Rights Committee

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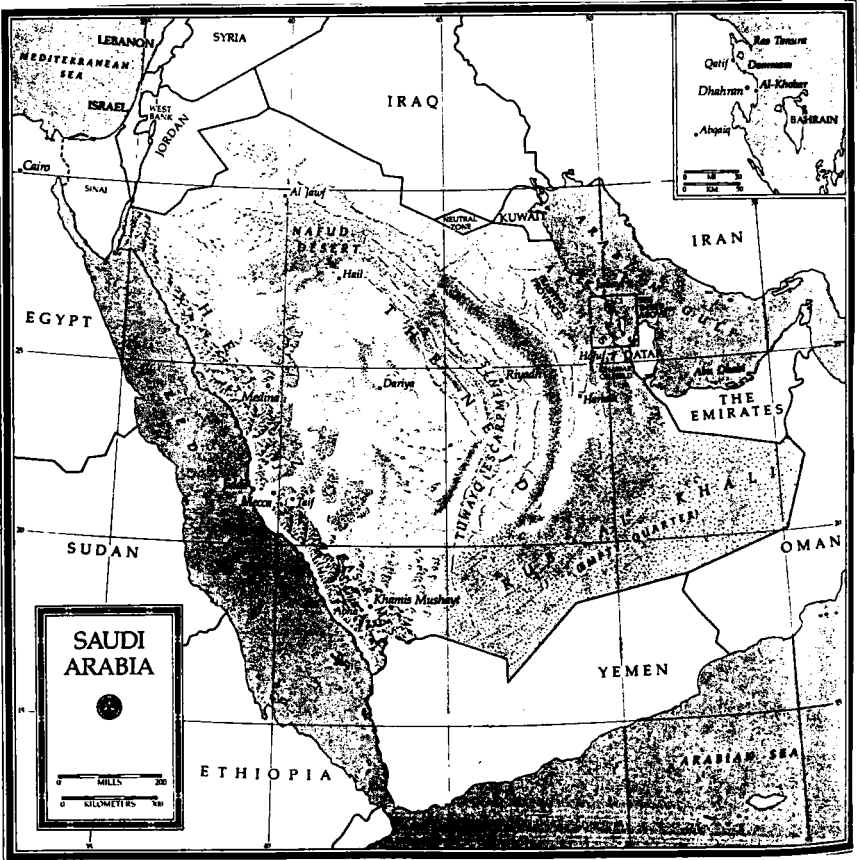
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PREFACE

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

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

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

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

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

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

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

REPORT SUMMARY

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

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

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

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

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

Abusive Criminal Justice and a Judiciary Subservient to the King

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

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

Slave-like Treatment of Foreign Workers

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

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

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

Institutionalized Discrimination against Women

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

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

Religious Intolerance and Discrimination

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

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

RECOMMENDATIONS

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

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

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

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

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

I. INTRODUCTION

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

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

A. Population and Geography of Saudi Arabia

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

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

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

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

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

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

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

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

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

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

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

⁷ *Id.*

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

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

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

¹¹ *See infra* Chapter VI.

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

B. History and Economics

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

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

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

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

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

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

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

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

C. Current Political Concerns

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

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

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

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

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

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

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

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

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

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

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

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

D. The Decrees of 1 March 1992

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

¹⁸ See discussion *infra* Chapter VI.

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

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

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

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

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

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

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

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

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

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

²⁶ *Id.* arts. 14-22.

²⁷ *Id.* arts. 28-34.

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

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

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

²⁸ *Id.* arts. 44-71.

²⁹ *Id.* art. 36.

³⁰ *Id.* art. 46.

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

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

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

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

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

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

³⁴ *Id.* art. 18.

³⁵ *Id.* art. 17.

³⁶ *Id.* art. 3.

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

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

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

E. The Saudi Legal System

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

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

³⁹ *Id.* art. 26.

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

1. The Shari'a

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

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

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

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

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

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

2. The Judicial System

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

practice.

⁴³ Yamani, *supra* note 41, at S-19.

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

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

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

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

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

⁴⁶ *Id.* art. 1.

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

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

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

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

⁴⁹ *Id.* art. 5.

⁵⁰ *Id.* art. 8.

⁵¹ *Id.*

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

⁵³ *Id.*

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

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

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

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

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

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

⁵⁷ *Id.* art. 13.

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

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

⁶⁰ *Id.* art. 23.

⁶¹ *Id.* art. 24.

⁶² *Id.* art. 25.

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

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

⁶³ ABU-TALIB, *supra* note 44, at 97.

⁶⁴ *Id.* at 99.

⁶⁵ Yamani, *supra* note 41, S-18.

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

⁶⁷ *Id.*

3. Saudi Criminal Law

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

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

4. Shari'a Crimes and Punishments

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

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

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

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

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

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

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

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

⁷² *Id.* at 66.

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

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

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

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

⁷⁴ Bassiouni, *supra* note 70, at 39.

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

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

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

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

⁷⁹ Bassiouni, *supra* note 70, at 55.

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

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

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

II. PROCEDURAL FAILURES AND ABUSES IN THE SAUDI LEGAL SYSTEM

A. Lack of Judicial Independence

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charges against him.⁸¹

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

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

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

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

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

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

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

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

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

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

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

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

⁸⁵ Interview with MM, *supra* note 15.

⁸⁶ Case FFFF.

B. Inequality before the Law

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

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

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

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

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

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

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

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

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

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

⁹⁰ *Id.*

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

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

⁹³ Interview with EEEE *supra* note 84.

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

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

C. Lack of Written Codes of Law

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

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

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

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

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

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

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

⁹⁷ See *infra* Chapter IV.

III. ARBITRARY ARREST, INCOMMUNICADO DETENTION, AND TORTURE

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

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

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

⁹⁹ *Id.* at 294.

¹⁰⁰ *Id.*

¹⁰¹ AL-ELFEE, *supra* note 44, at 38.

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

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

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

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

¹⁰³ *Id.*

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

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

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

A. Arbitrary Arrest and Detention

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

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

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

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

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

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

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

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

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

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

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

¹¹¹ *Id.*

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

¹¹³ Interview with E *supra* note 112.

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

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

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

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

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

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

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

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

¹¹⁴ *Id.*

¹¹⁵ Interview with I, Nov. 3, 1990.

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

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

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

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

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

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

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

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

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

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

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

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

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

¹²¹ *Id.*

¹²² *Id.* at 69.

¹²³ *Id.* at 68.

¹²⁴ *Id.* at 69.

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

B. Continued Detention of War Refugees

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Torture and Coerced Confessions

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

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

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

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

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

¹³¹ *See supra* section I.E.4.

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

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

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

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

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

¹³⁴ *Id.*

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

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

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

¹³⁵ Affidavit of Benito Bernardino, March 16, 1986.

¹³⁶ Interview with H *supra* note 112.

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

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

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

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ Interview with G *supra* note 112.

¹⁴⁰ *Id.*

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

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

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

¹⁴¹ Interview with H *supra* note 112.

¹⁴² *Id.*

¹⁴³ Interview with K *supra* note 116.

¹⁴⁴ *Id.*

¹⁴⁵ Interview with I *supra* note 115.

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

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

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

¹⁴⁶ *Id.*

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

¹⁴⁸ *Id.*

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

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

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

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

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ Interview with I *supra* note 115.

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

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

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

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

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

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

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

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

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

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

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

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

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

¹⁵⁹ Interview with I *supra* note 115.

¹⁶⁰ *Id.*

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

Defense attorneys are not allowed in courtrooms and the accused usually appears alone (or with an interpreter) before the judge who tries the case and imposes a sentence.

In political cases, trials not only are closed but are secret as well.¹⁶³ Before 1980, in fact, there were no trials at all for those suspected of political offenses — they were simply tortured and, after confessing, punished and released.¹⁶⁴ After 1980, the government began having sham trials to legitimize the arrests. The judges simply relied on the confession and imposed a sentence.¹⁶⁵ Frequently the prisoner and the family are unaware even of the crime alleged to have been committed and how long the sentence is to be.¹⁶⁶

According to one interviewee, trials at Dammam occurred once a week and prisoners were told by their captors prior to appearing before the judge to keep their oral testimony consistent

supra note 45, at art. 33. See also MODERN LEGAL SYSTEMS CYCLOPEDIA, *supra* note 55, at 5.240.18. Court decisions also must be announced in open court and contain a record of the court's findings of fact and legal analysis. Judicial Law, *supra*, arts. 33 and 35.

¹⁶² See, e.g., U.S. DEPT. OF STATE, *supra* note 52, at 1578.

¹⁶³ ARAB ORGANIZATION FOR HUMAN RIGHTS, *supra* note 120, at 70.

¹⁶⁴ Interview with I *supra* note 115.

¹⁶⁵ *Id.*

¹⁶⁶ THE INTERNATIONAL COMMITTEE FOR THE DEFENCE OF HUMAN RIGHTS IN THE GULF & ARABIAN PENINSULA, HUQUQ AL-INSAN FE AL-JAZIRAH AL-ARABIYAH [HUMAN RIGHTS IN THE KINGDOM OF SAUDI ARABIA] 58 (1989).

with their signed confession.¹⁶⁷ The Minnesota Lawyers Committee learned of no cases that went to trial without a confession.

Further, because the trials of political defendants are secret, the defendants are unable to challenge before a higher tribunal the lawfulness of their arrests, imprisonment, or convictions — there simply is no record to challenge. With the possible exception of a royal pardon, there is no legal remedy available as a matter of right to those who are wrongly convicted.

¹⁶⁷ Interview with I *supra* note 115.

IV. TREATMENT OF FOREIGN WORKERS

The employee shall have the right to safety and security as well as to all other social guarantees. He may neither be assigned work beyond his capacity nor be subjected to compulsion or exploited or harmed in any way. He shall be entitled — without any discrimination between males and females — to fair wages for his work without delay, as well as to the holidays allowances and promotions which he deserves.¹⁶⁸

The frenetic pace of development in Saudi Arabia since the start of the oil boom has required many foreign workers. In fact, foreigners employed as guest workers in Saudi Arabia now account for a significant share of the resident population. One 1985 account estimated Saudi Arabia's labor force at 4.4 million, of which 2.7 million were foreign workers.¹⁶⁹ A more recent appraisal estimates that 3.5 to 4 million of Saudi Arabia's current labor pool of 7 to 8 million are foreigners, most from developing

¹⁶⁸ Cairo Declaration on Human Rights in Islam, *supra* note 88, art. 13.

¹⁶⁹ THE ECONOMIST, May 12, 1990, at 9.

nations;¹⁷⁰ another estimates 4 to 5 million of such foreign workers.¹⁷¹

Saudi Arabia, however, is a society with significant xenophobic tendencies and the presence of millions of foreign workers is therefore politically controversial. The Saudi Government periodically attempts to limit the size of the foreign work force in an effort to restrict the foreign cultural and political influence. During the Second Economic Development Plan, launched by Saudi Arabia in 1975, there was an attempt to limit the foreign work force to an annual growth rate of not more than 1.2%.

In addition to attempting to limit foreign labor, the Saudis have switched from a preference for importing primarily Arab foreign labor to a preference for Asian labor because of the perceived political threat from the influence of other Arab nations. Indeed, by 1980 Asia had become Saudi Arabia's main source of foreign labor. One report estimates that Asians account for more than 60 percent of the 7.6 million foreign workers in the gulf region.¹⁷² In the wake of the 1990-91 gulf war, Saudi Arabia has continued to reduce the number of Arab foreign workers, particularly those from countries friendly to Iraq, such as Jordan, Sudan, and Yemen. In September 1990, for example, the Saudi Government issued restrictive employment regulations that resulted in the mass exodus of an estimated 800,000 Yemeni workers.

¹⁷⁰ U.S. DEPT. OF STATE, *supra* note 89, at 1626.

¹⁷¹ New York Times *supra* note 3.

¹⁷² The Dallas Morning News, Jan. 1, 1991, at 8A.

There were also mass terminations of Palestinians and Jordanians.¹⁷³

Despite the Saudi Government's efforts to limit the number and influence of foreign workers, by most estimates foreign workers in Saudi Arabia now account for at least 50% of the total work force. An analysis of the treatment of these workers and their living conditions is therefore essential to a comprehensive study of the situation of human rights in Saudi Arabia.

A. Working Conditions and Abuses

The Minnesota Lawyers Committee's study of the human rights situation of foreign workers in Saudi Arabia found that most foreign workers receive poor treatment. Continuing patterns of societal prejudice in Saudi Arabia, however, based on sex or national or ethnic origin, create an especially bad situation for workers from developing countries, generally, and for female workers, in particular. The Committee conducted most of its research on foreign laborers from the Philippines. It is estimated that in 1989, over one million Filipinos worked as contract laborers in Saudi Arabia.¹⁷⁴

Nearly everyone interviewed by the Committee regarding the treatment of foreign workers noted that workers from Western

¹⁷³ *Saudi Arabia to Expel Palestinians to Jordan*, Agence France-Presse, Aug. 13, 1990, cited in Foreign Broadcast Information Service, Aug. 15, 1990, at 4.

¹⁷⁴ *Filipino Migrant Workers: A Reassessment*, Philippine Human Rights Monitor, September 1990.

countries receive better treatment from Saudi citizens and the Saudi Government than do workers from Asian, African, and other Arab countries. This situation is aggravated by the need of the workers' countries of origin to maintain the flow of foreign currency from their workers abroad. As a consequence, those governments traditionally have overlooked the abuses committed against their nationals working in Saudi Arabia.

The 1990-91 gulf war also exacerbated the human rights abuses inflicted on these foreign workers. There were widespread reports of Saudi employers refusing to allow Asian foreign workers to leave the country by withholding their passports and tickets. Asian foreign workers were the last to receive gas masks.¹⁷⁵

1. Contract Substitution

The most widespread abuse which foreign workers suffer upon entry into Saudi Arabia is contract substitution.¹⁷⁶ Contract substitution occurs when, after arrival in Saudi Arabia, the employer presents the worker with a contract different from the contract signed at the recruitment agency in the sending country. Some substituted contracts purport already to bear the worker's signature.¹⁷⁷

¹⁷⁵ FAR EASTERN ECONOMIC REVIEW, May 2, 1991, at 13.

¹⁷⁶ See, e.g., interviews with Q, Manila, March 19, 1991; and U, Manila, March 19, 1991. See also U.S. DEPT. OF STATE, *supra* note 89, at 1627.

¹⁷⁷ Interview with U *supra* note 176.

Lawyers Committee all reported working seven days per week, sometimes 12-18 hours per day.¹⁸⁵ Most other Filipino workers, many of whom work in construction or other heavy industry, also work long hours without overtime, six days per week.

3. Lack of Redress

Should workers and employers disagree on any matter, the State shall intervene to settle the dispute and have the grievances redressed, the rights confirmed and justice enforced without bias.¹⁸⁶

Although the Saudi Labor Code prohibits many of the abuses inflicted on foreign workers,¹⁸⁷ the worker who is victimized by contract substitution or overtime and hour violations of the Saudi Labor Code is offered little assistance by the Saudi Government.¹⁸⁸ Most of the workers the Committee interviewed were not even aware they had any right to lodge complaints with Saudi labor officials.

¹⁸⁵ See, e.g., interviews with R, Manila, Mar. 19, 1991; and Q *supra* note 176. See also affidavit of Case No. 8, Kanlungan Center Foundation, Inc. (alleging 18-hour work days as a domestic servant for a member of the royal family).

¹⁸⁶ Cairo Declaration on Human Rights in Islam, *supra* note 88, art. 13.

¹⁸⁷ See *Labor and Workmen Law*, *supra* note 184.

¹⁸⁸ The Saudi labor code, moreover, specifically exempts from coverage workers in small family-run businesses, farmers, herdsmen, and domestic servants. *Id.* art. 3 (c).

When foreign workers do complain to Saudi labor officials about contract substitution, delay in receiving salary, or physical abuse, the results are mixed. Often, the Saudi labor officials refuse to speak English or to provide a translator for the foreign worker.¹⁸⁹ Two workers interviewed by the Committee did receive some assistance from Saudi authorities when their employers refused to pay their wages.¹⁹⁰

One worker's contract called for her to work for a family in Taif as a seamstress at \$258 per month. When she arrived at her employer's residence in Taif, she learned that her salary was only \$150 per month and that, in addition to her sewing duties, she was expected to work as a domestic servant. When she complained to her employer's daughter, she was beaten by her employer.

The worker left the family home one day and made her way to what she referred to as the "Saudi Labor Office" in Taif. The labor official with whom she spoke wrote a letter to her employer informing the employer she must stop beating the worker and that she must pay her proper wages. The letter was followed by a visit from a Saudi labor official who cautioned the employer that she would be taken to jail if she did not stop beating her employee. There was, however, no further follow-up and nothing changed for this worker, who left Saudi Arabia never having received her full wages. In addition, the woman had to suffer

¹⁸⁹ Interview with **BB**, Manila, Mar. 21, 1991.

¹⁹⁰ Interviews with **Q** *supra* note 176; and **W**, Manila, Mar. 19, 1991.

sexual propositions from two of the officials with whom she spoke at the Saudi Labor Office.¹⁹¹

In another case, a worker brought his complaint regarding delay of payment to the Saudi Labor Office. In his later statement to the Philippines Overseas Employment Administration he alleges that, as a consequence of a conciliation meeting arranged by the Saudi Labor Office, his employment contract was torn up by the employer's representative. He further alleges he was imprisoned for three days and deported because of fabricated criminal charges. He paid his own airfare upon deportation.¹⁹²

Some Filipino workers lodge complaints about their working conditions and payment problems with their own embassy officials in Saudi Arabia. Others simply do not know where to direct their complaints or are afraid of retribution. Indeed, one interviewee who complained to the Philippine embassy about the delay in receiving his salary was deported when his employer found out about his complaint.¹⁹³

Another interviewee complained to the Philippine embassy when his employer deducted from his salary the hospital expenses incurred from a work-related accident. The time he spent out of work and in the hospital also was deducted from his salary. After hearing about the complaint, his employer called the police. The

¹⁹¹ Interview with Q, *supra* note 176.

¹⁹² Muñoz case, *supra* note 182.

¹⁹³ Interview with CC, Manila, Mar. 21, 1991.

police arrested the worker who spent two days in jail before he was deported.¹⁹⁴

Another worker told of complaining to his employer when he did not receive his salary. He also went to the Riyadh office of the agency that recruited him. After complaining, he was locked in his room for an entire month by his employer. He also was forced to sign a release before his employer would give him an exit visa and pay for his ticket home, as required by his contract.¹⁹⁵

B. Living Conditions

Generally, foreign workers from developing nations live in communal or dormitory settings while in Saudi Arabia. Some live in camps; others live in small apartments or barracks. Living conditions commonly are crowded and dirty. One interviewee working as an auto mechanic described his living quarter as a twelve-square-meter concrete shelter shared by three workers.¹⁹⁶ Domestic servants live in the employer's dwelling, isolated from friends and other workers. Some domestic servants have their own room while others are forced to live in the pantry or laundry area. Many domestic servants tell of being locked inside their rooms at night, and locked inside the house when the family leaves.

¹⁹⁴ Interview with **DD**, Manila, Mar. 21, 1991.

¹⁹⁵ Affidavit Case No. 7, Kanlungan Center Foundation, Inc., June 1, 1990.

¹⁹⁶ Interview with **BB** *supra* note 189.

1. Separation by Sex and Nationality

Foreigners working for large corporations in Saudi Arabia usually are segregated by nationality. Filipinos live with other Filipinos, Pakistanis with other Pakistanis, and so forth.

Upon arrival at the international airport in Riyadh, officials immediately separate by sex the Filipino and other Asian foreign workers. During their entire stay in Saudi Arabia, sometimes for several years, foreign workers are strictly forbidden even to converse with members of the opposite sex.¹⁹⁷ The *Mutawwi'un* harass and sometimes beat male foreign workers who dare to speak with a female in public.¹⁹⁸ Some foreign workers report instances in which male and female foreign workers are jailed for speaking to one another in public.¹⁹⁹

One man reported he was arrested after making eye contact with a Saudi woman who walked past him on the street in a small town near the Saudi Arabia-Jordan border. The police warned him that he must never look at a woman on the street again. On another occasion, the same man was beaten by an agent of the

¹⁹⁷ See, e.g., interview with R *supra* note 185.

¹⁹⁸ Interview with O, Manila, Mar. 21, 1991.

¹⁹⁹ *Id.* The Committee also heard stories of "love cases": male and female foreign workers jailed for interacting. See interviews with representatives of Kaibigan, Kanlungan, and Kakammpi, Manila, Mar. 18, 1991. See also, KANLUNGAN CENTER FOUNDATION, INC., FILIPINA OVERSEAS DOMESTIC HELPERS: ISSUES AND PROBLEMS, presented at the First National Symposium on Women Overseas Workers (Mar. 20, 1991).

Mutawwi'un after he attempted to converse with a Filipino woman in a store.²⁰⁰

2. Restrictions on Travel and Exit

The movement of foreigners is very restricted in Saudi Arabia. All workers interviewed by the Committee had to relinquish their passports to their employers, or "sponsors," upon arrival at the airport. Foreign workers essentially become wards of their employer during their stay in Saudi Arabia. Many Saudi employers regularly abuse this system to exploit their economically-vulnerable foreign employees. Hence, despite Saudi labor laws which ostensibly offer protection to both native and foreign workers, "situations that could be described as forced labor can occur, especially in remote areas where workers are unable to leave their place of work."²⁰¹

Foreign workers are subject to arrest and deportation if caught on the streets of Saudi Arabia without a valid residency permit, or *iqama*, which they rely on their employer to provide.²⁰² In addition, employees must receive permission from their employer and a travel permit if they wish to travel outside of the sector in which they work. Many women working as domestic

²⁰⁰ Interview with P, Manila, Mar. 21, 1991.

²⁰¹ U.S. DEPT. OF STATE, *supra* note 52, at 1587.

²⁰² The Saudi Gazette publishes a warning to foreign workers regarding the potential consequences of failing to have an *iqama* on the streets. See Interview with Q *supra* note 176.

servants are not permitted even to leave the home of their employer during their entire stay in the country.²⁰³

Exiting Saudi Arabia is as difficult as entering. Foreign workers must obtain exit visas from their Saudi employers. These workers sometimes languish in deportation centers or hide with friends, at times for months, until they can obtain an exit visa. Several interviewees spoke of having to ask their employers for "permission" to leave the country.²⁰⁴ Permission is not always granted.

3. Prohibition of the Practice of Religion

Non-Muslim foreign workers are not permitted to practice their religion while working in Saudi Arabia. Many foreign workers attempt to bring religious mementos and artifacts into Saudi Arabia. Several persons interviewed reported that Saudi border officials confiscated all religious artifacts including crosses, rosary beads, and holy cards.²⁰⁵ Those foreign workers who attempt to smuggle in religious artifacts or scripture risk arrest and deportation.

Practicing any non-Muslim religion while in Saudi Arabia will subject the foreign worker to arrest, detention, and deportation. In addition, according to a Filipino who worked as a nurse's aide in a hospital in Medina, all overseas contract workers sent to

²⁰³ See, e.g., interviews with R *supra* note 185; and Q *supra* note 176.

²⁰⁴ See, e.g., interviews with R *supra* note 185; and X *supra* note 180.

²⁰⁵ See, e.g., interview with R *supra* note 185.

the holy cities of Mecca and Medina are required to convert to and practice Islam while in Saudi Arabia.²⁰⁶ Foreign workers in other Saudi cities are sometimes forced to attend Islamic religious services with their employer.²⁰⁷

C. Abuses by the Security Forces

Virtually all foreign workers interviewed by the Committee expressed great fear of the Saudi police. According to some interviewees, beatings and floggings in Saudi jails regularly occur every Friday — the Islamic Day of United Prayer.²⁰⁸

Summary arrest and detention of foreign workers by Saudi authorities also is commonplace, without any apparent check on the discretion of the police to arrest for the slightest perceived impropriety.²⁰⁹ Saudi police, including the *Mutawwi'un*, frequently arrest foreign workers first and ask questions later — particularly those workers from developing nations. All foreign workers interviewed by the Committee told of friends and colleagues who had been arrested while in Saudi Arabia. Some related accounts of their own arrests.

²⁰⁶ Interview with FF, Manila, Mar. 19, 1991.

²⁰⁷ Interview with Z, Manila, Mar. 21, 1991.

²⁰⁸ See, e.g., interviews with P *supra* note 200; U *supra* note 176. See also interview with O *supra* note 198.

²⁰⁹ During the 1991 gulf war, the Governor of Riyadh issued a new security directive which, for the first time, established guidelines for the circumstances under which persons could be arrested.

One man told of being jailed for not reporting to the police a theft he allegedly had witnessed. He was hit in the face and jailed for 18 hours before being released.²¹⁰ Another worker reported that his friends were whipped and beaten while in a Saudi jail.²¹¹

Another man was arrested after a Saudi driver crashed into his car. He was arrested at the scene after the wife of the Saudi driver accused him of being at fault because "if [he] had not been in Saudi Arabia, there would not have been an accident."²¹² His employer paid his bail after he had spent two days in jail and suffered a beating by three policemen. The employer deducted from his salary both the amount of the bail and the time he missed from work because of injuries from the police beating.

One worker reported that his friend was arrested merely because Saudi authorities found a letter he wrote in the apartment of another Filipino who also had been arrested. While in jail, Saudi authorities whipped him on the soles of his feet.²¹³

One interviewee reported that a friend had been arrested merely for having reported a stolen tote bag to the authorities. The Saudi authorities hit the man, and when the his U.S. supervi-

²¹⁰ Interview with **P** *supra* note 200.

²¹¹ Interview with **U** *supra* note 176.

²¹² Interview with **Z** *supra* note 207.

²¹³ Interview with **P** *supra* note 200.

sor complained about the treatment, the supervisor also was arrested and jailed for two weeks.²¹⁴

It is common for Saudi employers to threaten their foreign workers with police involvement in work-related disputes. One Saudi employer taunted his ill-treated employees by reminding them they would not receive any help from the Saudi authorities because he was well-connected and they were merely foreigners.²¹⁵

D. Domestic Servants

Most female foreign workers in Saudi Arabia are domestic servants, or "maids," who work in the private confines of an employer's home. The lack of legal protection for these women,²¹⁶ combined with the private nature of their work environment, put them at even greater risk of abuse than other foreign workers.

²¹⁴ *Id.*

²¹⁵ See complaints made by medical workers at the Al Ahli Polyclinic in Hail. Letters written by most of the employees describe threats, harassment, and physical abuse by their employer. The employer frequently threatened to have the workers arrested for making complaints. The employer also threatened to kill or otherwise hurt the employees should they complain of ill-treatment to the Saudi officials.

²¹⁶ Saudi labor laws specifically exempt domestic servants from the protection afforded to most other workers (workers in family-operated businesses, farmers, and herdsmen also are exempt). *Labor and Workmen Law*, *supra* note 184, art. 3 (c).

Domestic servants returning from Saudi Arabia routinely complain of being overworked, underpaid, and underfed by their employers. They also complain of beatings and sexual harassment, adding that there is nowhere to turn to remedy their situation. Many workers interviewed spoke of being locked inside their employer's house, even when the rest of the family was gone. The great majority of these women, moreover, do not receive an *iqama* and thus cannot leave the house of their employer even when the doors are not locked.

Most domestic servants may not meet with or otherwise associate with anyone other than their employer, including other domestic servants in the area. Association with men is strictly prohibited, with stiff penalties ranging from beatings to deportation for being caught with an unrelated male.²¹⁷

Typically, the foreign domestic servant in Saudi Arabia is the first to rise in the morning and the last to retire at night. Although specific responsibilities vary from case to case, she generally performs all household chores, including cooking, cleaning, child care, and sewing. It is not uncommon for a domestic servant to be forced to perform these duties for more than one family or household. There are reports that domestic servants sometimes must work 12-16 hours per day, seven days per week.²¹⁸

²¹⁷ One report concerned persons involved in making a "porno" videotape. Apparently the man, woman, and camera operator were all arrested and beheaded in August 1989. Interview with W *supra* note 190.

²¹⁸ See, e.g., U.S. DEPT. OF STATE, *supra* note 52, at 1587.

One young woman worked as a domestic servant in Dammam from March until November 1990. She worked from 7:00 a.m. until 1:00 a.m. doing a variety of household chores, but was not allowed rest breaks during the day. When she would request a rest, her employer would respond, "You are not allowed to rest because I am paying you." She was allowed only one full meal of rice and chicken per day at 2:00 p.m., although occasionally she was given tea and a piece of bread for dinner.²¹⁹

The young woman slept on the floor in a stock room without air conditioning. Her employer paid her for the first time after four months of work, and then once again after two months. When she complained about her working conditions and asked to return to the Philippines, the employer withheld three months salary to pay for the airline ticket.

Her employer never permitted her to leave the house alone. When her employer left, she was locked inside the house. Her employer told her that if she went outside the house alone the police would arrest her. She was not permitted to fraternize or speak with other Filipino domestic workers living in Dammam.²²⁰

Other domestic servants allege they received regular beatings if their employers were dissatisfied with their work or in

²¹⁹ Interview with R *supra* note 185.

²²⁰ *Id.*

a bad mood.²²¹ Stories of beatings, sometimes with objects such as a hairbrush or a spike-heeled shoe, are not uncommon.²²²

Representatives of the Minnesota Lawyers Committee reviewed in Manila the affidavits of many Filipino women after they had returned from Saudi Arabia. A sampling of these affidavits paints a grim picture of their life as Saudi Arabian domestic servants:

Case No. 1. Contracted to be a seamstress; upon arrival in Saudi Arabia, forced to work as a seamstress *and* a domestic servant; made to work overtime without pay; allowed to eat once a day; paid less than contracted amount; after escaping from employer to Philippine embassy, handed over to the Saudi authorities; languished in deportation cell in the Social Welfare Administration ("SWA") for one month.

Case No. 2. Employer failed to meet her at airport in Riyadh; arrested and placed in a deportation cell for four days; different employer fetched her from deportation cell; did not receive any salary; escaped from her employer; languished in a cell at SWA for one and a half months.

Case No. 3. Contracted to be a seamstress; upon arrival informed that she would be a domestic

²²¹ See, e.g., interview with Q *supra* note 176.

²²² Interview with LL, Manila, Mar. 22, 1991.

servant; not compensated during early months of her stay; employer did not give her sufficient food and would beat her; escaped and deported after spending time in a cell at the SWA.

Case No. 4. Contracted to work as a seamstress; worked from 9:00 a.m. until 11:00 p.m.; not permitted to sit down during working hours; required to perform domestic chores in employer's house from 5:30 a.m. until 8:30 a.m.; letters from the Philippines were destroyed; blindfolded while being transported from home to the shop; her left foot became inflamed; rather than give her medical treatment, employer sent her home.

Case No. 5. Paid \$50.00 less per month than contract required; worked from 5:00 a.m. until 2:00 a.m. each day; verbally harassed and threatened with being sent into the desert; after escaping from her employer, she was sent to the SWA before being deported.

Case No. 6. Contracted to be a seamstress; upon arrival, presented with a forged contract to be a domestic servant; worked as a domestic servant for Prince Saad ibn Abdullah Al Saud; worked 18 hours per day, no days off; employer refused to take her to a doctor when she was sick; escaped to Philippine embassy whereupon embassy officials

turned her over to a representative of her employer; her employer beat her severely upon her return.²²³

The Philippine Government is aware of the poor treatment of domestic servants in Saudi Arabia. A 1987 internal report from the Philippine embassy in Saudi Arabia describes the treatment of domestic servants:

[W]omen who are going to Saudi Arabia to work as domestic helper have no protection whatsoever. . . . It was our experience that female domestic helpers are helpless and subject to abuses because of the culture being practiced in The Kingdom. The Kingdom's concept of domestic helpers is still that of slave, having no rights whatsoever. They can be given away as presents. They can be maltreated and when they complain they are under the police jurisdiction and immediately land in jail even if they are the complainants. We were able to document abuses committed to our Filipina domestic helpers and reports to this effect were submitted praying the temporary banning of deployment to this kind of category. The arguments that were advanced by some proponents who are against the banning was financial support to our government thru the earnings of these domestic helpers. We are still saying that their earnings is not worth the problems we now encounter on these domestic helpers. Anyway,

²²³ Case descriptions taken from affidavits on file at the Kanlungan Center Foundation, Inc., in Manila. The Kanlungan Center is a non-governmental organization which offers assistance to overseas contract workers returning to the Philippines.

although we imposed \$200 to \$250 as their salaries, their employers are only giving them \$100 to \$150 instead. There is no way they can complain if they are already here as they are not allowed to talk to anybody while in the home of their employers. Their passports, by law in Saudi Arabia, remains with their employer. Exit visa can only be secured by their employers and when they are lucky to [e]scape and complain to our embassy, our hands were tied up by the Ministry of Foreign Affairs of Saudi Arabia. Thru the issuance of a note verbale by ordering us to immediately turn over all runaway workers to the police authorities and ultimately to the Social Welfare Administration which is the equivalent of women's jail. Thus, it is almost a no win situation on these type of workers and they have to accede on the decision of their employers. Per our records we have documented 230 cases of abuse whether physical or sexual.

. . . .

We reiterate our strong recommendation to impose the total ban in the sending of female domestic helpers in the Kingdom of Saudi Arabia.²²⁴

²²⁴ Internal Embassy Report of the Philippine Labor Attache (1987). President Aquino instituted a temporary ban on the deployment of domestic servants from the Philippines on January 20, 1988. According to a March 1988 planning paper prepared by the Philippine Overseas Employment Administration (POEA), Saudi Arabia threatened to ban oil sales to the Philippines if the Philippines continued to ban the deployment of domestic servants. A later letter sent from the Saudi Ambassador to the Philippines noted that Saudi officials had

In addition to complaints of sexual harassment,²²⁵ there is also ample evidence of physical abuse of domestic servants. In one recently reported case, a Filipino woman was repatriated after brutal abuse by her employer. The woman stated her

[E]mployer always punched me in the ears until they became infected and changed form. They also hit me until I bleed with the rope they tie around their head. . . . When they were hitting me with the cord of the flat iron, it hit my left pointed finger which got infected and had to be cut off by a doctor. They also burned my face with a flat iron, including my arms and legs. . . . They would pull my hair, they would not feed me until I lost all energy in my body. Even my teeth had fallen off because of the constant beating I got.²²⁶

She arrived in the Philippines looking malnourished, with thinning hair, burns on her face, and with ears deformed from burns.²²⁷

Women who find the courage and the means to run away from their employers quickly learn that there is little help to be found either at the Philippine embassy or with the Saudi authori-

no records of complaints made by domestic servants in Saudi Arabia.

²²⁵ See, e.g., interview with Q *supra* note 176.

²²⁶ *Cruel Arab Employer leaves telltale marks on tortured maid's body*, Philippine Star, Feb. 23, 1991, at 1; interview with KK, Manila, Mar. 22, 1991.

²²⁷ *Id.*

ties. An agreement made between the Philippine and Saudi Governments describes the procedure for handling cases of domestic servants who escape their place of employment and seek refuge in the Philippine embassy with complaints of ill-treatment. The agreement provides that the Filipino officials are required to turn the women over to the Saudi authorities within twenty-four hours of their arrival at the embassy. The women are then taken to the Social Welfare Administration ("SWA," a jail for women) until "resolution" of the case.²²⁸

A Philippine embassy official, speaking anonymously, stated that many women were either sexually harassed or abused by SWA officials at the SWA facility. It is not uncommon for SWA officials to require that the Filipinos provide sexual favors in exchange for making a telephone call to the Philippine embassy.²²⁹

Some women remain in the SWA for months. Others stay until their employers are contacted and come to return them to the abusive environment. In cases where the women are forcibly returned to their employers, they tend to be punished or otherwise harshly treated for running away and lodging a complaint. In other cases the women are deported.

According to the complaints of seventeen women who were held at the SWA in 1989 and later deported, the time spent in the jail ranged from 3 days to 3 months. The women originally

²²⁸ Interview with **KK** *supra* note 226. See also the *Note Verbale* issued by the Administration of Naturalization and Civil Affairs, Foreign Ministry, Kingdom of Saudi Arabia, *Sha'ban* 15, 1407 A.H.

²²⁹ Interview with **KK** *supra* note 226.

sought refuge at the Philippine embassy complaining of abuses such as attempted rape by an employer or employer's relative, ill-treatment, physical assault or abuse, no salary for periods as long as 2 years and 2 months, overwork, lack of food, and contract substitution.²³⁰

During the time that the women are locked away in the SWA, the embassy officials have only limited access to them, if they are granted access at all. In most cases, only immediate family members are allowed access to the women confined at the SWA, which for Filipinos, means no visitors at all.

E. International Protection of Migrant Workers

A new international treaty approved by the United Nations General Assembly, including the Saudi delegation, provides for the international protection of migrant workers. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families²³¹ is the first comprehensive document to address the need to make further efforts to improve the situation and ensure the human rights and dignity of all migrant workers. Although Saudi Arabia is not yet a party to the Migrant Workers Convention, its General Assembly vote to adopt the

²³⁰ See list compiled by Kanlungan Center Foundation, Inc. (Nov. 22, 1989).

²³¹ The Saudi delegation joined the unanimous General Assembly adoption of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. G.A. Res. 45/158, Dec. 19, 1990, 30 I.L.M. 1517 (1991), *opened for signature* May 2, 1991. The Saudi delegation also joined the resolution the following year urging all States to ratify the Convention. G.A. Res. 46/114, Dec. 17, 1991.

Convention indicates its approval of the emerging international norms in this area. It is only Saudi practice which has departed from those norms.

The treaty defines migrant worker as a "person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national."²³² Among other provisions, the treaty protects rights of migrant workers in areas such as movement, torture, slavery, thought, conscience, religion, privacy, property, liberty and security of person, conditions of arrest and detention, equality before national courts, no punishment for contract breaches, travel documents and work permits, access to consular and diplomatic authorities, and employment conditions.

The treaty further establishes a Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (Part VII) to receive and comment upon periodic reports of State Parties on the legislative, judicial, administrative and other measures taken to give effect to the Convention's provisions.

The Migrant Workers Convention incorporates and expands upon an already established body of labor standards, and, due to the growing transnational movement of workers, is one of the most important new human rights treaties to be adopted by the United Nations. The Migrant Workers Convention should set the standard in Saudi Arabia for the rights of foreign workers and the obligations of the Saudi Governments to protect those rights.

²³² *Id.* art. 2.

V. TREATMENT OF WOMEN

O, mankind! Reverence your guardian-Lord who created you from a single soul. (*Quran* 4:1)

All human beings are born free and equal in dignity and rights.²³³

All human beings are God's subjects, . . . and no one has superiority over another except on the basis of piety and good deeds.²³⁴

A. Cultural and Social Background

Segregation of the sexes is an integral part of Saudi society, adversely affecting freedom of movement for women and their access to education and employment. Saudi society also imposes a variety of other social restrictions on both Saudis and resident foreigners. These restrictions keep women within strictly defined limits decreed and policed by men.

Saudis claim their restrictions on women are required by Islamic religious principles — and indeed some social norms are.

²³³ Universal Declaration of Human Rights, *supra* note 81, art. 1.

²³⁴ Cairo Declaration on Human Rights in Islam, *supra* note 88, art 1(b).

Islamic law and tradition, however, do not require such strict impediments to women's full participation in the life of their society as women today must face in Saudi Arabia.²³⁵

Many social norms in Saudi Arabia treat women differently from men. Saudi women, for example, may not marry non-Saudi men without government permission, which is rarely given.²³⁶ Women also may not marry a non-Muslim, while men in certain circumstances may marry Christians and Jews.²³⁷ Similarly, a man may divorce his wife by saying, "I divorce you," three times. A woman may divorce her husband, however, only through a complex legal proceeding and only in extraordinary circumstances.²³⁸ The most well-known restriction on women in Saudi Arabia is the stern regulation of the manner of their dress outside the home. Appropriate clothing typically includes an *abaaya* — an outer cloak which covers the woman's clothes from neck to hands and ankles. The Saudi woman also must veil her face.

Western influence and technological advances in Saudi Arabia may have resulted in greater restrictions upon women. The overthrow of the pro-Western Shah of Iran in 1979 froze a trend toward liberalization in Islamic countries. In Saudi Arabia, riots

²³⁵ See E. DOUMATO, *ARABIAN WOMEN: RELIGION, WORK, AND CULTURAL IDEOLOGY IN THE ARABIAN PENINSULA FROM THE NINETEENTH CENTURY THROUGH THE AGE OF ABD AL-AZIZ* 3 (1989); D. KANDIYOTI, *WOMEN, ISLAM AND THE STATE* 1 (1989); J. MINCES, *THE HOUSE OF OBEDIENCE* 16-17 (1989).

²³⁶ U.S. DEPT. OF STATE, *supra* note 52, at 1579.

²³⁷ *Id.*

²³⁸ S. MACKEY, *THE SAUDIS: INSIDE THE DESERT KINGDOM* 173 (1987).

at the Grand Mosque in Mecca during the same year had a similar effect. To pacify conservative religious partisans, the government increased its restrictions on women. It required, for example, that all government-owned housing compounds have sex-segregated recreation areas, and it banned female employees in shops and offices. Women also disappeared from television programs, quieting a growing debate about women's role in society.²³⁹

B. Enforcement of Social Restrictions

Most social and religious norms affecting personal life are matters of law and are enforced by the Saudi Government. The *Mutawwi'un* have authority to enforce the social restrictions on women. Its agents patrol the streets, sometimes carrying sticks with which to harass women who do not appear properly modest in dress or manner.²⁴⁰ There are reports of the *Mutawwi'un* hitting women on their upper bodies and even their faces when the women failed to cover their bodies fully with an *abaaya*.²⁴¹ Both the number and the seriousness of incidents in which Saudi and foreign women were harassed for failure to observe dress codes rose sharply in the latter part of 1991.²⁴²

²³⁹ DOUMATO, *supra* note 235, at 2-3; Beyer, *Lifting the Veil*, TIME, September 24, 1990, at 40.

²⁴⁰ Beyer, *supra* note 239, at 40; U.S. DEPT. OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1989, at 1550 (1990).

²⁴¹ See, e.g., interview with A *supra* note 158.

²⁴² U.S. DEPT. OF STATE, *supra* note 52, at 1580.

Male family members also are expected to enforce women's compliance with social restrictions when necessary. If a woman is caught in violation of a particular social or legal norm, the government is more likely to exact retribution from a male family member than from the woman herself. Several individuals interviewed by the Committee said that retribution for the initial offense of any woman would be exacted from her father, husband, or brother.²⁴³ In some instances, the man closest to the offender would be imprisoned, in effect also leaving the woman under house arrest as she would not be able to travel without his permission and accompaniment.²⁴⁴

If unsuccessful at controlling women's behavior through the above methods, however, Saudi officials will imprison the woman herself.²⁴⁵ Once arrested, female prisoners are subjected to the same type of ill-treatment as are men, including torture.²⁴⁶

C. Lack of Freedom of Movement

Some of the restrictions placed upon women in Saudi Arabia involve not only the physical separation of the sexes but also the physical confinement of women, severely limiting their freedom of movement. It is reported that a woman in Saudi Arabia must have

²⁴³ Interviews with M *supra* note 149; HHH, Montreal, Sept. 7, 1991; and F, Montreal, Sept. 7, 1991.

²⁴⁴ *Id.*

²⁴⁵ Interviews with M *supra* note 149; and HHH *supra* note 243.

²⁴⁶ *Id.* See *supra* Chapter III.

the permission of the senior male of her family to leave her home.²⁴⁷ When permitted to leave the home, a woman generally must be accompanied by a male, even if that male is the family driver or her minor son.²⁴⁸

Travel outside the country is even more rare. Individuals interviewed by the Committee report that no Saudi woman may leave Saudi Arabia without the written consent of the male head of her household.²⁴⁹

One example of the limitation on women's freedom of movement is the Saudi law which forbids women to drive automobiles. In November 1990 fourteen women drivers, accompanied by 32 passengers, pulled out of a Safeway supermarket parking lot and drove a short distance in Riyadh to protest the customary prohibition against female drivers.²⁵⁰

Response was swift. Police stopped the convoy at traffic lights, and *Mutawwi'un* surrounded the cars, pounding on windows and doors while denouncing the women inside as prostitutes and sinners.²⁵¹ The women explained they were driving because

²⁴⁷ MACKEY, *supra* note 238, at 147.

²⁴⁸ See interviews with E *supra* note 112; F *supra* note 243; G *supra* note 112; M *supra* note 149; and HHH *supra* note 243.

²⁴⁹ *Id.*

²⁵⁰ Anonymous, *Reinventing the Wheel*, Ms., March/April 1991, at 14 (the author's identity was suppressed for her protection).

²⁵¹ *Id.*

"[i]n time of war mobilization and national emergency we need to, for the safety of our families."²⁵²

Police took the women to the police station for interrogation.²⁵³ Police also summoned and questioned male relatives, some of whom supported the demonstration. The men were forced to sign documents declaring the women would never again participate in such an action or even speak of the incident, and would never again drive under threat of punishment or imprisonment. Only after these documents were signed did the authorities permit the women to leave.²⁵⁴

Saudi authorities distributed "police reports" for posting at government offices and public buildings and distributed them as leaflets on the public streets.²⁵⁵ The leaflets included the women's names, addresses, telephone numbers, and the directive, "Do what you believe is appropriate regarding these women."²⁵⁶ Thereafter the women endured harassment, threats, and curses, were fired or suspended from their jobs, and were forbidden to

²⁵² *Id.* The women insisted their driving did not contradict Islamic codes. At the time of the Prophet, women were allowed to ride horses and donkeys. The women in the protest argued that there is no important difference between a horse and a car. *The Demonstration of Saudi Arabian Women*, AL-RAIDA 11 (Winter 1991).

²⁵³ *Reinventing the Wheel*, *supra* note 250, at 14.

²⁵⁴ *Id.*

²⁵⁵ *Id.* at 15.

²⁵⁶ *Id.*

travel abroad.²⁵⁷ The King ordered virtually all who taught at one university to be dismissed.²⁵⁸ In several instances, family members suffered reprisals, and were forbidden to leave Saudi Arabia.²⁵⁹ The women's passports were not returned until October 1991.²⁶⁰

In keeping with the Saudi policy of press censorship, none of the local newspapers covered the protest.²⁶¹ A Saudi journalist and editor, Mr. Al-'Azzaz, who was the husband of one of the participants, was arrested reportedly for taking photographs of the demonstration and alerting Western news organizations to the event.²⁶²

²⁵⁷ *Id.*

²⁵⁸ Miller, *Saudi Arabia: The Struggle Within*, NEW YORK TIMES MAGAZINE, March 10, 1991, at 39.

²⁵⁹ *Id.*

²⁶⁰ U.S. DEPT. OF STATE, *supra* note 52, at 1581.

²⁶¹ COMMITTEE TO PROTECT JOURNALISTS, *ATTACKS ON THE PRESS 1990: A WORLDWIDE SURVEY 12-13* (1991).

²⁶² *Id.*; Amnesty International, *Detention and Fear of Torture of Prisoner of Conscience*, *Urgent Action* 493/90 (1990).

D. Inequality in Education

Until the 1960's, education in Saudi Arabia was in the hands of teachers who taught religious and social studies at private schools.²⁶³ Only boys attended these schools. Prompted by the late King Faisal's wife, the Dar al-Hanan and Nassif schools for girls were opened in Jeddah in 1957.²⁶⁴ State schools soon followed, despite considerable opposition from traditionalist critics.²⁶⁵ In 1960, upon the opening of the girls school in Buraydah, armed troops were required to control protesters.²⁶⁶ In 1962, Saudi women were admitted to universities for the first time.²⁶⁷

Since then Saudi Arabia has become a party to the UNESCO Convention against Discrimination in Education,²⁶⁸

²⁶³ Stephan, *Women of Saudi Arabia*, AL-RAIDA, Feb. 1, 1986, at 4.

²⁶⁴ *Id.*

²⁶⁵ MACKEY, *supra* note 238, at 176. See also Leites, *Modernist Jurisprudence as a Vehicle in Gender Role Reform in the Islamic World*, 22 COL. HUM. RTS. L. REV. 251, 287 n.127 (Spring 1991) (noting the great improvement in women's education in Saudi Arabia during the previous two decades, but commenting that the popular sentiment in the country still believes "educating women is like the nose of a camel in the tent — it will eventually come in and stake out residence").

²⁶⁶ *Id.*

²⁶⁷ *Facts and Figures*, AL-RAIDA, February 1, 1986, at 7.

²⁶⁸ Convention against Discrimination in Education, *adopted* Dec. 14, 1960, 429 U.N.T.S. 93 (1962), *entered into force* May 22, 1962.

which defines discrimination as including any "distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, [or] religion . . . has the purpose or effect of nullifying or impairing equality of treatment in education."²⁶⁹

Specifically, the UNESCO Convention forbids depriving any person or group of persons access to education of any type or at any level, or limiting any person or group of persons to education of an inferior standard.²⁷⁰ The Convention permits separate educational systems or institutions for male and female students only if these systems or institutions offer equivalent access to education, provide a teaching staff and facilities of the same standard, and afford the opportunity to take the same or equivalent courses of study.²⁷¹

The Saudi system of segregated education, however, is still administered in a manner which restricts educational opportunities for female students and does not provide equal access to resources. Sex segregation at school means that most facilities are duplicated, but not necessarily equal. Some facilities, such as libraries, are open for girls only one day per week.²⁷² Saudi women interviewed by the Committee report that facilities for girls are marked-

²⁶⁹ *Id.* art. 1(1).

²⁷⁰ *Id.* art. 1(1)(a) and (b).

²⁷¹ *Id.* art. 2(a).

²⁷² Stephan, *supra* note 263, at 5.

ly inferior to those provided for boys.²⁷³ Such conditions violate the UNESCO Convention.

The disparity in the qualifications of its teaching staff also compromises the Saudi's segregated system of education. About 34% of Saudi university-level male teachers hold doctorates, compared to only 3% of the female teachers.²⁷⁴ Because of the scarcity of qualified instructors at higher levels, some classes for women are taught by men, but only through closed circuit television so that teacher and student never meet face to face.²⁷⁵

Saudi women, moreover, may not freely choose their university course of study. They are limited to train and study only in those areas where, once employed, they will serve exclusively women. As a result, women enroll primarily in social sciences, medical schools, and teachers' preparation colleges.²⁷⁶ Fields such as engineering, architecture, and pharmacy remain exclusively male.²⁷⁷

²⁷³ Interviews with HHH *supra* note 243; and DDD, United States, Dec. 27, 1990.

²⁷⁴ EUGENE OLIVER, SAUDI ARABIA: A STUDY OF THE EDUCATIONAL SYSTEM OF SAUDI ARABIA AND A GUIDE TO ACADEMIC PLACEMENT OF STUDENTS IN EDUCATIONAL INSTITUTIONS IN THE UNITED STATES 57 (1987).

²⁷⁵ Murphy, *Behind Veils of Saudi Arabia*, Minneapolis Star Tribune, November 25, 1989, at 1A, col. 1.

²⁷⁶ Stephan, *supra* note 263, at 5; Beyer, *supra* note 239, at 41.

²⁷⁷ Stephan, *supra* note 263, at 5.

The Saudi Government, in its official development operating plan for 1980-85, committed itself to "providing appropriately for the education of women and to expand the academic fields offered"²⁷⁸ Nonetheless, that education which the Saudi Government considers "appropriate" for women remains very limited. A publication of the Saudi Government demonstrates its biased approach to women's education:

The object of woman [sic] education is to bring her up in a sound Islamic way so that she can fulfill her role in life as a successful housewife, ideal wife and good mother, and to prepare her for other activities that suit her nature such as teaching, nursing and medicine.²⁷⁹

The best Saudi universities do not admit women. Saudi Arabia has 7 universities, 78 colleges, and 11 female colleges.²⁸⁰ Only five universities accept both male and female students. The King Fahd University of Petroleum and Minerals, one of the "most prestigious universities in the Middle East," according to a recent Saudi publication, accepts only men, as does the Islamic University.²⁸¹

²⁷⁸ *Id.* at 5.

²⁷⁹ MINISTRY OF HIGHER EDUCATION, THE EDUCATIONAL POLICY OF KINGDOM OF SAUDI ARABIA (undated).

²⁸⁰ ROYAL EMBASSY OF SAUDI ARABIA, SAUDI ARABIA: EDUCATION AND HUMAN RESOURCES 5 (1989).

²⁸¹ *Id.*

In the early 1970's, the need for educated Saudis to fill jobs created by the demands of development allowed some women the opportunity to study abroad.²⁸² Aramco was the first entity in Saudi Arabia to send women abroad to study, which led the government to relax some of the restrictions on travel for women.²⁸³

University graduates returning home with their education also brought different ideas about how Saudi women should live. The Committee for the Propagation of Virtue and the Prevention of Vice complained, and the government reinstated its prohibition on women travelling abroad on their own.²⁸⁴ Most women who do study abroad are allowed to do so because they are with their husband or guardian. It also is reported that the Saudi Government will not provide financial assistance for Saudi women to study abroad, as it does for Saudi men.²⁸⁵

The results of the Saudi system demonstrate its inherent inequality. Although girls equal boys in numbers at primary school levels, attendance by girls falls considerably at the intermediate level and still further at the secondary level. A 1979-80 survey found that 55% of girls were enrolled in primary schools, but that figure dropped to only 23% enrolled in secondary

²⁸² MACKEY, *supra* note 238, at 177.

²⁸³ Interview with II, United States, Nov. 3, 1990.

²⁸⁴ *Id.*

²⁸⁵ *Id.*

schools.²⁸⁶ As of 1980, the literacy rate for Saudi Arabian women was an estimated 38%, compared to 62% for men.²⁸⁷

E. Inequality in Employment

Work is a right guaranteed by the State and Society for each person able to work. Everyone shall be free to choose the work that suits him best and which serves his interests and those of society.²⁸⁸

In 1986, women comprised only 4% of the paid work force in Saudi Arabia.²⁸⁹ Among the reasons for this very low percentage are the sex-discriminatory education system and the strict segregation of the sexes. Traditional notions of distinct social roles for the sexes also continue to be problematic for women's full incorporation into the work place.

Saudi Arabia is, nonetheless, a party to International Labor Organization Convention No. 111, concerning discrimination with respect to employment and occupation.²⁹⁰ This Convention

²⁸⁶ Stephan, *supra* note 263, at 5.

²⁸⁷ *Country Profile: The Kingdom of Saudi Arabia*, 2 INTERNATIONAL DEMOGRAPHICS 8 (May 1983).

²⁸⁸ Cairo Declaration on Human Rights in Islam, *supra* note 88, art 13.

²⁸⁹ Arasoghli, *Saudi Women and Industry*, AL-RAIDA, Feb. 1, 1986, at 3.

²⁹⁰ Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation, *adopted* June 25, 1958, *entered into force* June 15, 1960 [hereinafter ILO Convention No. 111]. See UNITED NATIONS, A COMPILATION

requires each ratifying country to pursue national policies designed to eliminate any discrimination regarding employment and occupation.²⁹¹

The Convention defines as discrimination any exclusion or preference made on the basis of sex which has the effect of impairing equality of opportunity or treatment in employment or occupation.²⁹² It is significant that the Convention also defines "employment" and "occupation" to include both access to vocational training and access to particular occupations.²⁹³ The sex-discriminatory Saudi education system prevents equal access to vocational training. Likewise, because women may work only in industries where they will serve exclusively women, they are excluded from most occupations.

The Convention also requires parties to enact legislation and promote educational programs which will secure the acceptance and observance of a non-discriminatory employment policy

OF INTERNATIONAL INSTRUMENTS at 84, U.N. Doc. ST/HR/1/Rev.3, U.N. Sales No. E.88.XIV.1 (1988).

²⁹¹ *Id.* art. 2.

²⁹² *Id.* art. 1 (1)(a). The text reads: "For the purpose of this Convention the term "discrimination" includes — (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation"

²⁹³ *Id.* art. 1 (3). The text reads: "For the purpose of this Convention the terms "employment" and "occupation" include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment."

and requires that the parties repeal or modify any laws or practices which are inconsistent with a non-discriminatory policy.²⁹⁴ Saudi Arabia has made small advances in this respect, but has much to do before it will be in compliance with its obligations under the Convention.

It must be noted that the impediments to full compliance are social and legal, not religious. The *Quran* does not discriminate against the employment of women, but rather calls on all believers to work.²⁹⁵ The late King Faisal stated that "the most important requirements Islam calls for are: to maintain progress, to carry out justice, [and] to create equality"²⁹⁶ Accordingly, the third five year plan (1980-85) advocated "expanding the base of female employment in a fashion which will increase human output."²⁹⁷ The same plan called for direction of the media towards "altering society's attitudes towards the work of women and their contribution to the development and evolution of the country based on our orthodox Islamic values."²⁹⁸

The Saudi Government has made efforts to uphold its international legal commitments while continuing to enforce social segregation. One example is the appearance in various industries

²⁹⁴ *Id.* art. 3 (b) and (c).

²⁹⁵ "Never will I suffer to be lost the work of any of you, be he male or female: Ye are members one of another." *Quran* 3:195.

²⁹⁶ Arasoghli, *supra* note 289, at 3.

²⁹⁷ *Id.*

²⁹⁸ *Id.*

of "women's branches" to allow women more control over their personal and professional lives. For example, in 1980, the first women's banks opened.²⁹⁹ Before that time, women could not enter a bank and do business inside. Such institutions allow women some small measure of autonomy while retaining sex-segregated boundaries through the use of separate facilities employing only women. Hence, these businesses benefit women both through the jobs they create, and the measure of control they offer their customers. Saudi officials describe the opening of women's banks as consistent with their desire to extend the economic prosperity of the country to women within the confines of traditional modesty.³⁰⁰

Even the few women who are able to pursue advanced degrees and professional careers, however, are not afforded equal pay and the same professional opportunities as their male counterparts.³⁰¹ This discrimination occurs despite Saudi Arabia's obligations as a party to ILO Convention No. 100, concerning equal remuneration to men and women for work of equal value.³⁰² As a party to this Convention, Saudi Arabia must ensure the universal

²⁹⁹ Acker, *Insights into Banking for Women in the Kingdom*, MIDDLE EAST EXECUTIVE REPORTS, Aug. 1982, at 18.

³⁰⁰ Howe, *Banking for the Ladies*, MIDDLE EAST EXECUTIVE REPORTS, April 1980, at 11.

³⁰¹ See interviews with E *supra* note 112; F *supra* note 243; G *supra* note 112; M *supra* note 149; and HHH *supra* note 243.

³⁰² Convention (No. 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, *adopted* June 29, 1951, 165 U.N.T.S. 303, *entered into force* May 23, 1953 [hereinafter ILO Convention No. 100].

application of the principle of equal pay for equal work for all men and women.³⁰³ Parties may accomplish the goal through a variety of means including law, regulation, and collective agreements between employers and workers.³⁰⁴

Few countries in the world so severely restrict the lives of women, and all members of the United Nations are charged to promote and encourage respect for human rights and fundamental freedoms without distinction as to sex.³⁰⁵ Saudi Arabia's notoriety in this regard sets it far apart from the majority of nations and creates an imperative for the Saudi Government to rectify the condition and standing of women in its society.

³⁰³ *Id.* art. 2.

³⁰⁴ *Id.* art. 2 (2).

³⁰⁵ U.N. CHARTER arts. 55 and 56.

VI. TREATMENT OF THE SHI'À

Let there be no compulsion in religion. (*Quran*, 2:256)

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.³⁰⁶

The Saudi Government states that it is one function of Islamic law to protect the privileged status of minorities.³⁰⁷ In practice, however, the Saudi Government has no tolerance for religious minorities and their rights to freedom of worship. Saudi officials routinely seize any symbols or scripture of other religions at the

³⁰⁶ Universal Declaration of Human Rights, *supra* note 81, art. 18. Saudi Arabia abstained from the United Nations General Assembly vote adopting the Universal Declaration of Human Rights, citing this provision and article 16 (the right to marriage) as the reason for its abstention. *See*, however, the discussion *infra* Chapter VII.

³⁰⁷ ISLAMIC AFFAIRS DEPARTMENT, THE EMBASSY OF SAUDI ARABIA, UNDERSTANDING ISLAM AND THE MUSLIMS (1989).

border.³⁰⁸ Rites of non-Islamic religions must be held privately and generally are not tolerated even under those restrictive circumstances.³⁰⁹

The government's lack of tolerance is directed against all non-Muslims and non-Wahhabi Muslims, but is particularly clear in the case of Saudi Shi'a Muslims. These people have lived in persecution for their religious beliefs for decades.

A. The Shi'a of Saudi Arabia

One source estimates as many as one and a half million Shi'a living in Saudi Arabia.³¹⁰ A small community of these Shi'a live in the West of Saudi Arabia in the cities of Medina and Yanbu. Because they are so few and live among the Sunni majority, those Shi'a have all but given up their Shi'a religious practice.

The majority of the Shi'a population, however, is concentrated in the Eastern Province of Saudi Arabia in cities such as Al-Hofoof, Al-Muburaz, Sayhat, Safwa, Al-Awamiyah, Tarout, and many other small villages.³¹¹ These Shi'a lived under the pro-

³⁰⁸ See *supra* note 205 and accompanying text.

³⁰⁹ See AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 1988, at 251-52 (1988). See also U.S. DEPT. OF STATE, *supra* note 52, at 1582.

³¹⁰ R. AL-SAUDIYAH, SHI'A IN THE KINGDOM OF SAUDI ARABIA: GEOGRAPHY AND POPULATION I (1989). Other estimates suggest: 300,000, TIME Sept. 24, 1990, at 44; and 500,000, U.S. DEPT. OF STATE, *supra* note 52, at 1582.

³¹¹ There also are Shi'a populations in major cities such as Dammam, Khubar, and Dhahran.

vincial rule of Abdullah ibn Jalawi and his family from 1913 until 1985.³¹² The rule of the Ibn Jalawis was stern, brutal, and characterized by their hatred of the Shi'a.

The Eastern Province of Saudi Arabia is remarkably rich in agricultural and mineral wealth. It produces a large variety of crops³¹³ and is the location of the country's largest oil fields. Despite the wealth of natural resources, however, the Eastern Province is one of the most impoverished regions in Saudi Arabia.

Compared to other regions in Saudi Arabia, the government has spent much less on construction projects, roads, medicine, and education in the Eastern Region.³¹⁴ One journalist observed that houses are unimaginably poor by modern Saudi standards.³¹⁵ Shanties were commonplace until the early 1980's,³¹⁶ and Shi'a cities and towns still lack the modern medical facilities available in cities like Riyadh and Jeddah. It was not until 1987 that the Saudi Government built al-Qateef Hospital — the first modern hospital in the Eastern Province.³¹⁷

³¹² R. LACEY, *THE KINGDOM: ARABIA AND THE HOUSE OF SAUD* 488 (1981).

³¹³ AL-SAUDIYAH, *supra* note 310.

³¹⁴ Interview with EEE, United States, Sept. 27, 1991.

³¹⁵ Brooks, *Shiites in Gulf States See Opportunity in Crisis*, Wall St. J., Nov. 16, 1990, at A11, col. 4.

³¹⁶ Interview with C *supra* note 104.

³¹⁷ *Id.*

B. Religious Persecution of the Shi'a

The Shi'a historically have been regarded by the Wahhabi religious leaders in Saudi Arabia as non-Muslims. In November 1927, in response to an inquiry by Ibn Saud about the Shi'a, the *Ulema* said the Shi'a "should not be allowed to perform their misguided religious practices, and if they violated the prohibition they should be exiled from Muslim land."³¹⁸

Notwithstanding the pronouncement of the *Ulema*, the government did not ban the Shi'a religious practices altogether and even permitted certain Shi'a practices in the Eastern Province as long as they were not directly contrary to Wahhabi sensibilities. The government allowed the Shi'a to have their own mosques, celebrate their religious holidays, and have their own courts with limited jurisdiction over family law matters. The government also permitted the Shi'a to visit religious shrines in Iran. Shi'a practices outside the Eastern Province, however, were not tolerated.

Although the Shi'a communities in the Eastern Province continue to be permitted to have their own mosques, they are not allowed to build new ones; nor are they allowed to expand or remodel existing mosques.³¹⁹ In 1986 the Shi'a community in Dammam built a makeshift mosque for themselves. The *Mutawwi'un* were incensed at having this new mosque in Dammam and had it razed.³²⁰

³¹⁸ N. SAFRAN, SAUDI ARABIA: THE CEASELESS QUEST FOR SECURITY 50 (1988).

³¹⁹ Interviews with **K** *supra* note 116; and **H** *supra* note 112.

³²⁰ Interview with **ZZZ**, United States, Oct. 9, 1991.

The Shi'a also are not allowed to recite their call to prayer in its entirety. The Shi'a declaration "I testify that Ali is one of God's believers" is omitted from the call. Although not officially banned by the government, this declaration is frowned upon by the *Mutawwi'un*. Indeed, the Committee for the Propagation of Virtue and Discouragement of Vice issued a stern warning to the Shi'a *Imams* to abide by the "legitimate" call to prayer. The warning promised the violators severe punishment.³²¹

Other reports suggest very severe consequences if Shi'a are found publicly practicing certain aspects of their religion. A Shi'a eyewitness interviewed by the Committee, for example, reported that in 1988 Saudi authorities shot and killed four men found celebrating a religious holiday.³²²

The Saudi Government also prohibits the Shi'a from building new religious community halls, known as *Al-Husseinat*, where the Shi'a conduct funeral ceremonies, weddings, and other religious services. In the predominantly Shi'a city of Safwa, for example, there are only three or four *al-Husseinat*, for a population of approximately 100,000.³²³ In addition to its refusal to

³²¹ See document [untitled] issued by the President of the Committee for the Propagation of Virtue and Discouragement of Vice, Eastern Region, Qatif Center, *Jumada* first 24, 1404 A.H.

³²² Interview with E *supra* note 112.

³²³ Interview with K *supra* note 116.

grant permission to build new halls, the government also has demolished or shut down existing halls.³²⁴

In 1990 the Saudi authorities also closed down Hawzat al Mubaraza, a religious school affiliated with Al-Qabli Mosque in Al-Ahsa, and arrested some of its teachers.³²⁵ This school had been in operation for sixteen years.

C. The Anti-Shi'a Campaign of 1979

Over the past thirteen years, since the Iranian revolution, the limited tolerance the Saudi Government had for its Eastern Province Shi'a changed into a campaign of intimidation, economic and cultural repression, and terror. Though the Saudi Government traditionally disregarded the Shi'a and their demands for social justice, the rise of Khomeini and the establishment of a Shi'a government in Iran dramatically changed the situation.

³²⁴ The following mosques and *Husseinat* have been closed or demolished: Husseinat al-Amer in Al-Ihsa is being used as a government post; Husseinat al-Haj Ahmad Shurufna for women is closed and sealed by government order; Husseinat al-Shamasi for women in Qatif is closed and sealed by government order; Al-Nabi al-Yasi'e Mosque was totally demolished and the government confiscated all money associated with the mosque; Husseinat al-Sayid Yaseen in al-Ayuni al Mubraz was demolished and turned into a parking lot; Husseinat al-Ikhlās in al-sh'ba al-Mubraz was demolished and turned into a parking lot; Husseinat al-dindin in al-Ayuni al-Mubraz was demolished and turned into a parking lot. See AL-THAWRA AL-ISLAMIYAH, No. 119-20, June-July 1990.

³²⁵ See Press Release of *Rabitat al Shi'a Fe al-Saudiyah* (London, Nov. 1, 1990).

The Iranian revolution inspired the Saudi Shi'a to demand their rights more openly and loudly, and the Saudi Government saw the revolution and its own Shi'a population as potential threats to its rule.³²⁶ It was the Mecca revolt of September 1979, however, which inspired panic in the Saudi authorities — and set off the government's anti-Shi'a crusade.

Shortly after the riots at Mecca, in November 1979, Saudi Shi'a led a traditional religious procession through city streets to commemorate the death of Hussein, the grandson of the Prophet Muhammad. In Saudi Arabia these processions always have been prohibited. On this occasion, however, the Shi'a in Qatif ignored the ban and held the *Ashura* procession. The government's response was swift and brutal. Saudi security forces attempted to stop the processions by beating and arresting the participants. When the rest would not disperse, Saudi police opened fire on the crowd, killing several.³²⁷

News of the events in Qatif spread to other cities and towns in the Eastern Province and in the following days large scale riots broke out throughout the Eastern Province. By the end of December, the government had suppressed the riots, but not before

³²⁶ SAFRAN, *supra* note 318, at 276. The Saudis saw very early indications that the Iranian revolution might spread to Saudi Arabia. By August 1979, only a few months after Khomeini's rise to power, the Shi'a majority in Bahrain held a demonstration in response to Khomeini's call to commemorate "Jerusalem's Day." In September 1979, Khomeini's nephew was arrested in Kuwait for making speeches in Shi'a mosques. *Id.*

³²⁷ See, e.g., Peterzell, *Shi'ites: Poorer Cousins*, TIME, Sep. 24, 1990, at 44. The government response was led by Minister of the Interior Prince Nayef ibn Abdul Aziz and his deputy and brother Prince Ahmad ibn Abdul Aziz.

killing twenty people and injuring dozens of others.³²⁸ In addition to the deaths and injuries, hundreds of people were arrested, interrogated, and detained for months.

The 1979 events were a turning point in the life of the Shi'a community. On the one hand, the government began to spend more money in Shi'a communities on major construction projects. On the other hand, the government became very intolerant of any Shi'a activism, and was extremely suspicious of any activity in the Shi'a community. The government increased its control over the Eastern Province, often conducting general sweeps through Shi'a neighborhoods, rounding up anybody on the streets, and falsely charging them with attempted overthrow of the government.³²⁹

D. Restrictions on Shi'a Freedom of Expression

During Friday prayers, there are certain topics the Saudi Government forbids the Shi'a *Imams* to discuss. The government also forbids Shi'a religious scholars from publishing their teachings and prohibits the importation of any Shi'a books into the country. Similarly, there is a ban on religious audio cassettes. Those caught with Shi'a books, audio cassettes, or even pictures of Shi'a leaders are imprisoned and their possessions confiscated and destroyed.³³⁰

³²⁸ THE INTERNATIONAL COMMITTEE FOR THE DEFENCE OF HUMAN RIGHTS IN THE GULF & ARABIAN PENINSULA, *supra* note 166, at 90.

³²⁹ Interview with I *supra* note 115.

³³⁰ See *supra* notes 147-48 and accompanying text.

The Saudi press often contains distorted reports of Shi'a practices and beliefs, but the Shi'a cannot use the press to reply to the accusations leveled against them or clarify their religious practices. The articles frequently label the Shi'a as non-Muslim heretics. Complaints to newspapers about distortion in these stories often leave the complainant labeled an opponent of the government, and sometimes result in incarceration. One prominent Shi'a *Imam*, who tried to clarify the Shi'a position on certain subjects addressed in a newspaper story, was jailed for the attempt.³³¹

E. Restrictions on Travel Outside of Saudi Arabia

Many Shi'a religious shrines are located in Iran, Iraq, and Syria. Many Shi'a religious schools also are in these countries. Shi'a who desire to become religious leaders, for example, must study in Iran. In 1979, however, the Saudi Government imposed a ban on travelling to Iran, preventing the Shi'a from visiting holy shrines and continuing their religious education.³³²

Some Saudi Shi'a still travel secretly to Iran, often at great risk to themselves and their families. One witness told the Committee that the security police arrested members of his family after they discovered he was in Iran. The Saudi security kept these family members in jail for six months.³³³

³³¹ Interview with K *supra* note 116.

³³² Interview with D *supra* note 112.

³³³ Interview with II *supra* note 283.

Although there is no ban on travelling to Syria, Shi'a students who go to Syria routinely are arrested on their way back to Saudi Arabia. Many of these students are tortured and held imprisoned for months.³³⁴

F. Employment Discrimination

The Shi'a of Saudi Arabia are discriminated against in employment.³³⁵ The Saudi Government in particular practices discrimination against the Shi'a by excluding them from most government employment, "especially in jobs with national security implications, which are broadly defined."³³⁶ Consistent with this policy, employment opportunities for Shi'a in the Saudi army are extremely limited.

For many years Aramco was the largest employer of Shi'a in the Eastern Province. In fact, Shi'a comprised nearly 40% of Aramco employees. After the events of 1979, however, the government began purging Aramco of many Shi'a employees. In 1988 a fuel storage tank at the Sadaf petrochemical facility in Jubail was blown up. Four young Shi'a were accused of the crime and beheaded.³³⁷ After the Jubail incident, the government im-

³³⁴ Interview with J *supra* note 118.

³³⁵ U.S. DEPT. OF STATE, *supra* note 52, at 1587.

³³⁶ *Id.*

³³⁷ See Peterzell, *supra* note 327, at 44.

posed a ban on hiring any Shi'a at Aramco.³³⁸ Other companies followed Aramco's action and began rejecting Shi'a for employment.³³⁹ The result is massive unemployment among Shi'a.

In 1990 the U.N. Special Rapporteur for Intolerance and Discrimination based on Religion or Belief sent an inquiry to the Saudi Government concerning the discrimination against the Shi'a population and concerning cases of arbitrary detention of members of the Shi'a community. On November 14, 1990, the Saudi Government responded:

No one is forced to live and work in Saudi Arabia against his will. If he dislikes its laws and legislation he should not choose to live in it, but if he does he should strictly respect and accept its laws and legislation. If he violates them, he is then subject to the measures in existence. The information transmitted to us in the communication of the Special Rapporteur states that those involved in the crimes were punished after being convicted of their various charges. Hence, their conviction was in accordance with the law of the land.³⁴⁰

³³⁸ U.S. DEPT. OF STATE, *supra* note 89, at 1626. See also Peterzell, *supra* note 327, at 44.

³³⁹ See letter submitted to King Fahd by prominent Shi'a citizens (March 1991).

³⁴⁰ *Report of the U.N. Special Rapporteur*, U.N. Doc. E/CN.4/1991/56, at 115 (1991).

The Saudi Government's response to the U.N. Special Rapporteur reflects its policy of total disregard for the plight of the Saudi Arabian Shi'a and lack of respect for their basic human rights.

VII. INTERNATIONAL OBLIGATIONS

Saudi Arabia has not become a party to most of the important international human rights instruments now accepted throughout the world. This failure is in marked contrast to Saudi Arabia's professed support of international human rights principles and its frequent criticism of the human rights violations of other nations.

Saudi Arabia has claimed that fundamental principles of Islam prohibit its acceptance of many international human rights instruments. The writings of many Islamic scholars, however, and recent official writings of the Saudi Government, conclude there is no fundamental contradiction between the teachings of Islam and respect for human rights. The practice of other states with membership in the Organization of the Islamic Conference also rebuts the Saudi Government's assertion.

Those limited instances where Islamic concepts of human rights differ from internationally accepted interpretations of particular provisions do not prevent Saudi Arabia's adoption of the instruments; recognized principles of international law allow for nations to interpose reservations to treaties upon their ratification. The failure of Saudi Arabia to join the rest of the world in adopting these instruments places it in a distinct minority of nations, including a minority of Islamic nations.

When the Government of the Islamic Republic of Iran argued that Islamic principles justified its continued violation of the human rights of its citizens, the United Nations Special Represen-

tative on Iran, appointed by the Commission on Human Rights, responded that:

States of all political, economic, social, cultural and religious persuasions participated in the drafting of the Charter, the Universal Declaration of Human Rights and the International Covenants on Human Rights. The Universal Declaration of Human Rights and the International Covenants thus contain norms which, distilled from the collective experience and the common heritage of the world's peoples, represent universal standards of conduct for all peoples and all nations. . . . [N]o State can claim to be allowed to disrespect basic, entrenched rights such as the right to life, freedom from torture, freedom of thought, conscience and religion, and the right to a fair trial which are provided for under the Universal Declaration and the International Covenants on Human Rights, on the ground that departure from these standards might be permitted under national or religious law.³⁴¹

Saudi Arabia plays a leadership role in both the Arab world and the United Nations. Indeed, Saudi Arabia's Ambassador to the United Nations, Samir S. Shihabi, recently received the great honor of being elected President of the United Nations General Assembly. Saudi Arabia is, moreover, the caretaker of the Islamic world's two most holy shrines. Because of Saudi Arabia's impor-

³⁴¹ *Preliminary Report by the Special Representative of the Commission on Human Rights on the Human Rights Situation in the Islamic Republic of Iran*, U.N. Doc. E/CN.4/1985/20, at 3-9 (1985) (footnotes omitted).

tant role in world affairs, it bears an equally important obligation to set the standard of accepting formally and abiding by the international human rights instruments it publicly has supported in many international fora.

A. Status of International Human Rights Instruments in Saudi Arabia

As a member of the United Nations, Saudi Arabia is bound by the obligations of the United Nations Charter, including articles 55 and 56 which pledge every nation's promotion of a "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion." The Universal Declaration of Human Rights authoritatively defines those "human rights and fundamental freedoms." Although Saudi Arabia abstained in the General Assembly vote approving the Universal Declaration in 1948,³⁴² that abstention has no effect upon and does not abrogate Saudi Arabia's obligations under the United Nations Charter. On the contrary, Saudi Arabia's frequent votes in the General Assembly since 1948 endorsing numerous human rights treaties indicate Saudi Arabia's recognition of the binding human rights obligations those instruments define.³⁴³

³⁴² Saudi Arabia cited articles 16 and 18 as the reason for its abstention. See A. VERDOODT, *NAISSANCE ET SIGNIFICATION DE LA DECLARATION UNIVERSELLE DES DROITS DE L'HOMME* 77 (1966). These provisions respectively guarantee freedom of marriage and religion.

³⁴³ Saudi Arabia joined unanimous resolutions in the General Assembly supporting the International Covenants in 1984, 1985, 1988, 1989, 1990, and 1991 (G.A. Res. 39/136 (Dec. 14, 1984), 40/115 (Dec. 13, 1985), 43/114 (Dec. 8, 1988), 44/129 (Dec. 15, 1989), 45/135 (Dec. 14, 1990), and

Notwithstanding its support of many human rights agreements in General Assembly votes, Saudi Arabia has a lamentable record of formal adoption of those agreements. The only major

46/113 (Dec. 17, 1991)). In 1991, for example, the General Assembly reaffirmed that "all human rights and fundamental freedoms are indivisible and interrelated and that the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of the other" and urged "all States that have not yet done so to become parties" to both Covenants and the Optional Protocols to the International Covenant on Civil and Political Rights.

Saudi Arabia also joined a unanimous resolution of the General Assembly in 1984 adopting the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, (G.A. Res. 39/46 (Dec. 10, 1984)), and has joined unanimous resolutions since that date supporting the Convention and urging States to ratify it (G.A. Res. 40/128 (Dec. 13, 1985), 41/134 (Dec. 4, 1986), 42/123 (Dec. 7, 1987), 43/132 (Dec. 8, 1988), and 44/144 (Dec. 15, 1989)).

Saudi Arabia joined a unanimous General Assembly resolution in 1989 adopting the **Convention on the Rights of the Child** (G.A. Res. 44/25 (Nov. 20, 1989)), and has supported unanimous resolutions since that date urging ratification of the Convention (G.A. Res. 45/104 (Dec. 14, 1990) and 46/112 (Dec. 17, 1991)).

The Saudi delegation also joined in 1991 the unanimous General Assembly adoption of the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**, (G.A. Res. 45/158 (Dec. 18, 1990)), and the resolution the following year urging all States to ratify the Convention (G.A. Res. 46/114 (Dec. 17, 1991)).

Saudi Arabia also has consistently joined consensus resolutions supporting ratification of the **International Convention on the Elimination of All Forms of Racial Discrimination** (G.A. Res. 40/26 (Nov. 19, 1985), 41/104 (Dec. 4, 1986), 43/95 (Dec. 8, 1988), and 45/89 (Dec. 14, 1990)), as well as unanimous resolutions urging ratification of the **Convention on the Elimination of All Forms of Discrimination against Women** (G.A. Res. 42/60 (Nov. 30, 1987), 43/100 (Dec. 8, 1988), 44/73 (Dec. 8, 1989), and 45/124 (Dec. 14, 1990)).

international human rights agreements Saudi Arabia has acceded to are the United Nations Conventions concerning Genocide and Slavery,³⁴⁴ the UNESCO Convention against Discrimination in Education,³⁴⁵ the Geneva Conventions of 1949,³⁴⁶ the first 1977 Protocol to the Geneva Conventions³⁴⁷ and a few of the

³⁴⁴ Saudi Arabia acceded to the Convention on the Prevention and Punishment of the Crime of Genocide in 1950, *adopted* Dec. 9, 1948, G.A. Res. 260(A)(III), 78 U.N.T.S. 277, *entered into force* Jan. 12, 1951. It acceded to the Slavery Convention of 1926, *signed* in Geneva Sept. 25, 1926, 46 Stat. 2183, *entered into force* Dec. 7, 1927, and the Supplemental Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery in 1973, *adopted* April 30, 1956, 226 U.N.T.S. 3, *entered into force* April 30, 1957.

³⁴⁵ *Supra* note 268.

³⁴⁶ **Geneva Convention** for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 6 U.S.T. 3114, T.I.A.S. No. 3362, 75 U.N.T.S. 31 (First Geneva Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, 6 U.S.T. 3217, T.I.A.S. No. 3363, 75 U.N.T.S. 85 (Second Geneva Convention); Geneva Convention Relative to the Treatment of Prisoners of War, 6 U.S.T. 3316, T.I.A.S. No. 3364, 75 U.N.T.S. 135 (Third Geneva Convention); and Geneva Convention for the Protection of Civilian Persons in Time of War, 6 U.S.T. 3516, T.I.A.S. No. 3365, 75 U.N.T.S. 387 (Fourth Geneva Convention), *entered into force* October 21, 1950.

³⁴⁷ Protocol Additional to the Geneva Conventions of 12 August 1949 Relating to the Protection of Victims of International Armed Conflicts (Protocol I), U.N. Doc. A/32/144, Annex I, 16 I.L.M. 1391 (1977), *entered into force* Dec. 7, 1978; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), U.N. Doc. A/32/144, Annex II, 16 I.L.M. 1442 (1977), *entered into force* Dec. 7, 1978.

conventions of the International Labor Organization.³⁴⁸ Saudi Arabia has adopted no other major international agreements relating to human rights.

Saudi Arabia has not subscribed to any of the principal covenants or conventions which require formal reporting or accountability for human rights practices.³⁴⁹ Saudi Arabia, for

³⁴⁸ As of January 1991, Saudi Arabia had ratified only 13 of the 171 ILO Conventions adopted by other nations since 1919. Those ILO conventions are: Convention (No. 1) on the Hours of Work (1919); Convention (No. 14) on Weekly Rest, Industry (1921); Convention (No. 29) on Forced Labour (1930); Convention (No. 30) on Hours of Work, Commerce and Office (1930); Convention (No. 45) on Underground Work (Women) (1935); Convention (No. 81) on Labor Inspection (1947); Convention (No. 89) on Night Work, Women (1948); Convention (No. 90) on Night Work of Young Persons (1948); Convention (No. 100) on Equal Remuneration (1951); Convention (No. 105) on the Abolition of Forced Labor (1951); Convention (No. 106) on Weekly Rest, Commerce and Offices (1957); Convention (No. 111) on Discrimination, Employment and Occupation (1958); and Convention (No. 123) on Minimum Age, Underground Work (1965). With respect to Convention No. 123, however, it was later revised and never has been re-ratified by Saudi Arabia. *Chart of Ratifications of International Labour Conventions*, January 1, 1991.

³⁴⁹ A lesser known reporting and complaint process is available through the procedures of the International Labor Organization, but Saudi Arabia's accountability to this organization has been sparse to date, despite the fact that the government bans labor or trade unions in clear violation of the ILO Constitution's "recognition of the principle of freedom of association" (Preamble, Constitution of the International Labor Organization). Complaints to the ILO can be filed either through other governments or by labor associations. Complaints known as "representations" may be filed by labor organizations against countries that have failed to observe ILO conventions they have ratified (ILO Constitution art. 24), and complaints may be filed by countries against other countries that have failed to observe ratified con-

example, has not ratified either the International Covenant on Civil and Political Rights³⁵⁰ or the International Covenant on Economic, Social and Cultural Rights.³⁵¹ These Covenants are two of the most fundamental human rights instruments in the world. More than 100 nations now subscribe to one or both of these Covenants, including many Arab and other Islamic nations.³⁵²

Many Arab and Islamic nations, but not Saudi Arabia, also have supported the conventions for freedom of association and

ventions (ILO Constitution art. 26). The most widely used ILO petition procedure is the special procedure established for complaints against countries that fail to observe the basic right of freedom of association, implemented as a special procedure by agreement of the ILO and the U.N. Economic and Social Council in the 1950's. There is no requirement that a state must have ratified particular ILO conventions for a complaint to be filed under this procedure and complaints may be filed either by governments or by organizations of employers or workers. *See generally* Sweptson, *Human Rights Complaint Procedures of the International Labor Organization*, in *GUIDE TO INTERNATIONAL HUMAN RIGHTS PRACTICE* 74-93 (H. Hannum, ed. 1984).

³⁵⁰ *Supra* note 106.

³⁵¹ G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976.

³⁵² *See Chart of Ratification* [Mar. 31, 1991], *HUMAN RIGHTS: STATUS OF INTERNATIONAL INSTRUMENTS*, U.N. Doc. ST/HR/5, U.N. Sales No. E.87.XIV.2 (1987). For a listing of Arab and other Islamic nations that have adopted important international human rights agreements, *see* Appendix B *infra*.

collective bargaining and the conventions against racial discrimination, torture, prostitution, and discrimination against women.³⁵³

B. Saudi Arabia's Public Advocacy of Human Rights

Despite Saudi Arabia's poor record of formal international commitment to the promotion and protection of human rights, it often has sought to enhance its international image by publicly aligning itself with recognized human rights principles and standards. Saudi Arabia's record, however, shows these public proclamations of support for the promotion and protection of human rights to be disingenuous.

Upon his election as President of the forty-sixth session of the United Nations General Assembly in September 1991, Saudi Ambassador Samir S. Shihabi noted "that the application of the Charter and the respect for its rules, through the United Nations and its organs, are the best guarantee for the future of the world."³⁵⁴ King Fahd also pledged Saudi Arabia's commitment

³⁵³ For a detailed list of which Arab and Islamic nations have ratified these international agreements, *see* Appendix B *infra*.

³⁵⁴ U.N. Press Release GA/8194 at 2 (Sept. 17, 1991). Ambassador Shihabi also said "The role which the United Nations plays with all its agencies and organizations in bringing together and in channeling the energies of international cooperation to address the human needs across political, social, and economic barriers and limitations is a unique role The United Nations represents today the meeting point of interests, ideals, rules, legislations, and laws. It is the great establishment qualified to formulate far-reaching concepts at a global scale for the hopes and aspirations of a better future, and capable of working for their realization. It is a new stage in the development of man which is indispensable from now on." *Id.* at 2.

to the United Nations Charter and support for its provisions. Upon his ascension to the throne in 1982, he pledged that his country would be active "within the framework of the United Nations, its agencies, and committees. We are committed to its Charter. We reinforce its endeavors."³⁵⁵

Saudi Arabia also has long participated in sessions of the United Nations Commission on Human Rights.³⁵⁶ The Commission on Human Rights is the primary agency of the United Nations charged with developing, debating, and recommending new norms and guidelines for the protection of human rights. Saudi Arabia's

³⁵⁵ RASHID, N.I. AND E.I. SHAHEEN, KING FAHD AND SAUDI ARABIA'S GREAT EVOLUTION 146 (1987).

³⁵⁶ The annual reports of the Commission on Human Rights indicate that a delegation from Saudi Arabia attended each of the Commission's sessions in 1987, 1988, 1989, 1990, 1991 and 1992. *Report on the 43rd Session of the Commission on Human Rights*, U.N. Doc. E/CN.4/1987/60 (1987); *Report on the 44th Session of the Commission on Human Rights*, U.N. Doc. E/CN.4/1988/88 (1988); *Report on the 45th Session of the Commission on Human Rights*, U.N. Doc. E/CN.4/1989/86 (1989); *Report of the 46th Session of the Commission on Human Rights*, U.N. Doc. E/CN.4/1990/94 (1990); *Report on the 47th Session of the Commission on Human Rights*, U.N. Doc. E/CN.4/1991/91 (1991); and *List of Participants*, 48th Session of the Commission on Human Rights (1992). In addition, Saudi Arabia occasionally participated in various committees and working groups of the Commission in years before 1987. See, e.g., Al Dawalibi, *Working Paper to the United Nations Seminar on the Encouragement of Understanding, Tolerance and Respect in Matters Relating to Freedom of Religion and Belief*, U.N. Doc. HR/GENEVA/1984/WP.12 (Dec. 3-14, 1984).

participation in these sessions included co-sponsorship of many resolutions.³⁵⁷

Saudi Arabia regularly has attended proceedings of the United Nations Committee on Crime Prevention and Control (which meets every two years) and the United Nations Congress on the Prevention of Crime and the Treatment of Offenders (which meet every five years), and various preparatory meetings of both organizations, where human rights standards and practices in the criminal justice field are discussed and adopted.³⁵⁸ Saudi Arabia

³⁵⁷ For example, in 1987, Saudi Arabia co-sponsored resolutions condemning human rights violations in occupied Syrian territory, occupied Arab territories, occupied Palestine, and southern Lebanon (U.N. Doc. E/CN.4/L.3, L.4, L.5 and L.63 (1987)). In 1988, Saudi Arabia co-sponsored resolutions against Afghanistan, Israel in the occupied Syrian territories, and Israel in occupied Palestine (U.N. Doc. E/CN.4/L.3, L.4 and L.5 (1988)). In 1989, Saudi Arabia was a co-sponsor of resolutions concerning occupied Arab territory and occupied Palestine (separate resolutions) (U.N. Doc. E/CN.4/1989/L.2, L.4 and L.29 (1989)). In 1990, Saudi Arabia co-sponsored resolutions on occupied Palestine (two resolutions) and occupied Syrian territories (U.N. Doc. E/CN.4/1990/L.5, L.6 and L.13 (1990)). In 1991, it co-sponsored resolutions against Israel in southern Lebanon and Iraq in Kuwait (U.N. Doc. E/CN.4/1991/L.27 and L.48/Rev. 1 (1991)). In 1992, Saudi Arabia again co-sponsored resolutions against occupied Syrian Golan, occupied Arab territories, occupied Palestine, Kuwait under Iraqi occupation, and southern Lebanon (U.N. Doc. E/CN.4/1992/L.2, L.3, L.4, L.46 and L.70 (1992)).

³⁵⁸ For example, Saudi Arabia attended the 6th U.N. Crime Congress in Caracas, Venezuela (1980), the 7th U.N. Crime Congress in Milan, Italy (1985), and the 8th U.N. Crime Congress in Havana, Cuba (1990) (U.N. Doc. A/CONF.87/14/Rev.1 (1980); U.N. Doc. A/CONF.121/22/Rev.1 (1985); and U.N. Doc. A/CONF.144/28 (1990)). It attended the 8th Session of the U.N. Committee on Crime Prevention and Control (1984), as well as the 9th (1986), 10th (1988), and 11th (1990) sessions of the Crime Commit-

also has hosted since 1984 the annual Riyadh Conference on Criminal Justice, coordinating United Nations and regional efforts to improve criminal justice systems, including the protection of the human rights of individuals in such systems.³⁵⁹

In its participation at the United Nations Crime Committee and Crime Congresses, Saudi Arabia joined unanimous resolutions supporting many important human rights declarations and principles in the criminal justice field, including standards for the minimum treatment of prisoners,³⁶⁰ independence of the judiciary

(U.N. Docs. E/1984/16; E/1986/25; E/1988/20; and E/1990/31).

³⁵⁹ The Riyadh Conference did not meet in 1991 because of the gulf war, but has met annually in January or February of every year since 1984. See, e.g., *Draft Report of the Third Joint Coordination Meeting of the United Nations Crime Prevention and Criminal Justice Branch (CSDHA), the United Nations Institutes (UNSDRI, UNAFEI, ILANUD, HEUNI) and the Arab Security Studies and Training Center (ASSTC)* (Riyadh, February 16-17, 1987). Topics addressed in the 1987 Meeting included juvenile justice, police and security officer training programs, research projects, justice for victims, street children, domestic violence, abuses of power, and a criminal information network.

³⁶⁰ *Standard Minimum Rules for the Treatment of Prisoners, adopted by E.S.C. Res. 663C (XXIV), adopted August 30, 1955* (originally adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I, A. (1956)). Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners were adopted by E.S.C. Res. 1984/47, U.N. ESCOR Supp. (no. 6) at chap. IV, U.N. Doc. E/1984/16 (1984), see also *Report of the Secretariat to the Sixth U.N. Congress*, U.N. Sales No. E.81.IV.4 at chap. 1, sect. C.6, para. 4., (1980). The Procedures were recommended formally by the Committee on Crime Prevention and Control in 1984 and the Sixth United Nations Congress on the Prevention of Crime

ry,³⁶¹ codes of conduct and principles on the use of force by law enforcement officials,³⁶² principles on the role of lawyers,³⁶³

and the Treatment of Offenders, in Caracas in 1980. Saudi Arabia attended and voted for both the Standard Minimum Rules and the Procedures for Effective Implementation of the Standard Minimum Rules in the Committee and Congress proceedings noted above.

³⁶¹ *Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. See Report of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Sales No. E.86.IV.1. Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary, after recommendation by the Committee on Crime Prevention and Control at its tenth session, were adopted by E.S.C. Res. 1989/60, ESCOR Supp. (No. 10), U.N. Doc. E/1988/20 (1988). Saudi Arabia was present and voted for the Basic Principles and the Procedures for Effective Implementation of the Basic Principles at both the Crime Committee and U.N. Congress proceedings noted above.*

³⁶² *Code of Conduct for Law Enforcement Officials, G.A. Res. 34/169, adopted Dec. 17, 1979, and Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials, E.S.C. Res. 1989/61 (1989), reprinted in COMPENDIUM OF UNITED NATIONS STANDARDS AND NORMS IN CRIME PREVENTION AND CRIMINAL JUSTICE, U.N. Doc. A/CONF.144/INF.2, at 22 and 25 (1990) [hereinafter COMPENDIUM]; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Report of the Eighth United Nations Congress, U.N. Doc. A/CONF.144/28, at 117 (1990).*

³⁶³ *Basic Principles on the Role of Lawyers, adopted by Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana in 1990. See Report of the Eighth United Nations Congress, supra note 362, at 124.*

guidelines for the prevention of juvenile delinquency,³⁶⁴ standard minimum rules for non-custodial measures,³⁶⁵ protections against torture,³⁶⁶ safeguards guaranteeing protection of the rights of

³⁶⁴ The United Nations Guidelines for the Prevention of Juvenile Delinquency ("The Riyadh Guidelines") were unanimously recommended for adoption by the Eighth United Nations Congress in Havana. *See Report of the Eighth United Nations Congress, supra* note 362, at 37. The Riyadh Guidelines were prepared in part in collaboration with the Arab Security Studies and Training Centre in Riyadh which hosted the International Meeting of Experts on the Development of the United Nations Draft Guidelines for the Prevention of Juvenile Delinquency, held at Riyadh from February 28 - March 1, 1988. *Id.* at 38. The United Nations Rules for the Protection of Juveniles Deprived of their Liberty were also unanimously recommended to the U.N. General Assembly by the Eighth United Nations in Havana. *Id.* at 49. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") were adopted unanimously by the General Assembly in 1985 by G.A. Res. 40/33 after having been previously recommended for adoption by the Seventh United Nations Congress. *See INSTRUMENTS AND RESOLUTIONS RELATING TO THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES, U.N. Doc E/CN.4/Sub.2/1987/CRP.1* at 3 (1987).

³⁶⁵ The United Nations Standard Minimum Rules for Non-custodial Measures ("The Tokyo Rules") were unanimously recommended for adoption by the Eighth United Nations Congress in Havana in 1990. *See Report of the Eight United Nations Congress, supra* note 362, at 21.

³⁶⁶ Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 3452 (XXX), U.N. GAOR Supp. (No. 34) at 91, U.N. Doc. A/1034 (1975).

those facing the death penalty,³⁶⁷ basic principles of justice for victims of crime and abuse of power,³⁶⁸ recommendations on the treatment of foreign prisoners,³⁶⁹ guidelines for the roles of prosecutors,³⁷⁰ and principles on the prevention and investigation of extra-legal, arbitrary, and summary executions.³⁷¹ Saudi Arabia, however, has failed to provide reports of its own crime statistics and criminal investigation programs for many of the

³⁶⁷ Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty, E.S.C. Res. 1984/50 (1984), COMPENDIUM, *supra* note 362, at 28; Recommendations by the Economic and Social Council Regarding Implementation of the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty (E.S.C. Res. 1989/64 (1989)). *Id.* at 29.

³⁶⁸ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, G.A. Res. 40/34, COMPENDIUM, *supra* note 362, at 50; Recommendations by the Economic and Social Council on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E.S.C. Res. 1989/57 (1989)). *Id.* at 52.

³⁶⁹ Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the Treatment of Foreign Prisoners, adopted unanimously by the Seventh United Nations Congress in Milan (1985). COMPENDIUM, *supra* note 362, at 73.

³⁷⁰ Guidelines on the Role of Prosecutors adopted unanimously by the Eighth United Nations Congress in Havana in 1990. *Report of the Eight United Nations Congress*, *supra* note 362, at 195.

³⁷¹ Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, E.S.C. Res. 1989/65, U.N. Doc. E/1989/INF/7 (1989).

Crime Committee and Crime Congress studies of such phenomena.³⁷²

C. Saudi Arabia's Critique of the Human Rights Practices of Other Countries

Saudi Arabia often has criticized the human rights practices of other countries. At the 1991 session of the United Nations Commission on Human Rights, for example, the representative from Saudi Arabia condemned human rights atrocities committed by Iraq in Kuwait and re-affirmed Saudi Arabia's support for human rights protections.³⁷³

³⁷² For example, Saudi Arabia failed to submit reports in connection with the 6th U.N. Crime Congress's survey of juvenile justice systems (A/CONF.87/14/Rev.1 (1980)), the 7th U.N. Crime Congress's Survey on Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (A/CONF.121/18 (1985)), the 7th U.N. Crime Congress's survey on the Implementation of the U.N. Standard Minimum Rules for Treatment of Prisoners (A/CONF.121/15 (1985)), the 8th U.N. Crime Congress's Survey on Crime Trends (A/CONF.144/6 (1990)), and the 8th U.N. Crime Congress's survey on the Implementation of the U.N. Standard Minimum Rules for Treatment of Prisoners (A/CONF.144/11 (1990)). Several persons interviewed by the Minnesota Lawyers Committee, who were familiar with Saudi Arabia's participation in the Crime Committee and Crime Congress proceedings, reported that Saudi Arabia often has failed to respond to requests for criminal statistics about their country, despite voting for resolutions authorizing such criminal statistic studies.

³⁷³ The Saudi Arabian delegate said that Saudi Arabia "had not signed the human rights Conventions because of its reservations on certain provisions of the Conventions. This did not mean that it did not respect human rights. Iraq had committed atrocities in Kuwait. The Iraqi representative should be the last persons [sic] to speak about human rights." U.N. Press Release

Saudi Arabia has been a frequent co-sponsor of resolutions in the Commission on Human Rights condemning Israel, Iraq, and other governments for their human rights violations, and regularly has voted with the majority of member states in the United Nations General Assembly in condemning human rights violations by Israel and South Africa.³⁷⁴

At the International Conference on Human Rights held in Teheran in 1968, Saudi Arabian representatives criticized human rights abuses in South Africa, Southern Rhodesia, South West

HR/2745, at 4 (February 25, 1991).

³⁷⁴ See, e.g., General Assembly Resolutions 39/2 (Sept. 28, 1984) (South Africa); 39/72 (Dec. 13, 1984) (*apartheid*); 3/15 (Nov. 23, 1984) (South Africa); 30/146 (Dec. 14, 1984) (Israel); 39/49 (Dec. 11, 1984) (Palestine); 40/64 (Dec. 10, 1985) (*apartheid*); 40/96 (Dec. 12, 1985) (Palestine); 40/168 (Dec. 16, 1985) (Middle East); 40/161 (Dec. 16, 1985) (Israeli practices); 41/43 (Dec. 2, 1986) (Palestine); 41/162 (Dec. 4, 1986) (Middle East); 41/95 (Dec. 4, 1986) (South Africa); 42/23 (Nov. 20, 1987) (*apartheid*); 42/66 (Dec. 2, 1987) (Palestine); 42/209 (Dec. 11, 1987) (Middle East); 42/124 (Dec. 7, 1987) (South Africa); 43/21 (Nov. 30, 1988) (Palestine); 43/50 (Dec. 5, 1988) (*apartheid*); 43/54 (Dec. 6, 1988) (Middle East); 43/175, 43/176 and 43/277 (Dec. 15, 1988) (Palestine); 43/92 (Dec. 8, 1988) (South Africa); 44/2 (Oct. 6, 1989) (Palestine); 44/27 (Nov. 22, 1989) (*apartheid*); 44/40 (Dec. 4, 1989) (Middle East); 44/41 and 44/42 (Dec. 6, 1989) (Palestine); 44/143 (Dec. 15, 1989) (South Africa); 45/67 and 45/69 (Dec. 6, 1990) (Palestine); 45/83 (Dec. 13, 1990) (Middle East); 45/176 (Dec. 19, 1990) (*apartheid*); 45/144 (Dec. 14, 1990) (South Africa); 46/74 and 46/76 (Dec. 11, 1991) (Palestine); and 46/82 (Dec. 16, 1991) (Middle East).

Africa, the Portuguese colonies, and the occupied territories of Palestine, Jordan, Syria, and the United Arab Republic.³⁷⁵

At the 19th Islamic Conference of Foreign Ministers of the Organization of the Islamic Conference, Prince Saud Al-Faisal, Minister of Foreign Affairs of Saudi Arabia and Chairman of the 18th Islamic Conference, noted with concern the situations of Muslim minorities in countries controlled by non-Muslims.³⁷⁶ At the Fifth Islamic Summit Conference held in Kuwait in January 1987, King Fahd expressed concern for human rights violations in the Iran-Iraq war, Palestine, Lebanon and Afghanistan.³⁷⁷

³⁷⁵ *Summary Records of the Teheran Conference*, U.N. Doc. A/CONF.32/SR.14, at 3-5 (1968). The representative from Saudi Arabia noted that his country had supported the original resolution creating the Conference and that this "testified to the importance which [Saudi Arabia] attached to the defence of human rights and to the measure of its concern at the fact that in the second half of the twentieth century, there were still Members of the United Nations acting in defiance of opinion and of international law. Not only in South Africa, Southern Rhodesia, South West Africa and the Portuguese colonies were flagrant violations of human rights occurring; the same was happening in the occupied territories of Palestine, Jordan, Syria, and the United Arab Republic." *Id.* at 3-5.

³⁷⁶ Draft Final Communique of the Nineteenth Islamic Conference of Foreign Ministers, held in Cairo, Arab Republic of Egypt, at 14 (Muharram 9-13, 1411 A.H., July 31 to Aug. 4, 1990) [hereinafter Draft Final Communique]. The Communique also expresses the concern of the members of the Conference that "the States of Eastern and Western Europe and other States would respect the human rights and Islamic identity of the Muslim communities and minorities existing in their countries and their right to practice their religion." *Id.* at 49 (para. 44).

³⁷⁷ See *Fifth Islamic Summit Conference*, 335 NEW HORIZON 2-4 (February 1987).

D. Human Rights and Islamic Law

Islam is considered by many to be the first major religion to recognize and promote the basic dignity and respect for humankind we now refer to as human rights. Islam not only proclaims that these rights may be exercised by all, but that all humankind has an obligation to exercise these rights and must not remain silent when the rights of others are being abridged.³⁷⁸

³⁷⁸ See, e.g., Mohammed Zafrullah Khan, Pakistan Ambassador to the U.N., *Remarks before the U.N. General Assembly upon passage of the Universal Declaration of Human Rights*, 182ND PLENARY MEETING, 3D SESSION, PT. 1, 118, at 890, U.N. Doc. A/777 (1948) ("Islam not only recognizes but advocates the concept of human rights, including specifically the freedom of conscience and religion and its implications for the individual"); Bassiouni, *supra* note 70, at 13-14 ("[Islam's] cornerstone was individual and collective morality. . . . Unlike other sources of law, the Qur'an emphasizes duties rather than rights. It insists upon the fulfillment of individual obligations before the individual can claim his privileges."); Cornelius, *The Ethical Basis of Democracy and Human Rights in Islam*, in ISLAMIC CONCEPT OF HUMAN RIGHTS 29, 34 (S.M. Haider ed. 1978) ("Justice in Islam is no secular quality or function; it is enjoined as an act which is equivalent to standing out firmly for God, an act which, honestly performed, attracts the love of God. In the dispensation of justice is involved the ascertainment of a right."); Sajoo, *Islam & Human Rights: Consonance or Dichotomy*, TEMPLE INT'L & COMP. L.J. 23, 25 (Spring 1990) ("A prime example of how Islam was far more progressive in its earliest doctrines than the Judeo-Christian faiths was the principle of equality, irrespective of race or status"); Khan, *Human Rights*, in ISLAMIC CONCEPT OF HUMAN RIGHTS, *supra*, at 14, 17 ("In order to deliver mankind from every type of humiliation, slavery, injustice, tyranny and war, the world had to wait for a prophet who appeared in the Arabian desert after some thousand years of the start of historical life. The Holy Prophet Muhammad (peace be upon him) for the first time bestowed all those fundamental rights to man which were necessary to elevate him on the highest pedestal of humanity."); and 12 REVUE

The Government of Saudi Arabia has published and distributed material from its diplomatic missions in which it claims that Islam guarantees human rights in many ways:

Freedom of conscience is laid down by the Qur'an itself. "There is no compulsion in religion." (2:256)

The life and property of all citizens in an Islamic state are considered sacred whether a person is Muslim or not.

Racism is incomprehensible to Muslims, for the Qur'an speaks of human equality in the following terms: "O mankind! We created you from a single soul, male and female, and made you into nations and tribes, so that you may come to know one another. Truly, the most honored of you in God's sight is the greatest of you in piety. God is All-Knowing, All-Aware." (49:13)³⁷⁹

Likewise, at the 1974 Conference of Paris, where Saudi canonists and eminent European jurists met to discuss the "Muslim Doctrine and Human Rights in Islam," the Saudi representatives presented a paper emphasizing that basic human rights are immuta-

EGYPTIENNE DE DROIT INTERNATIONAL (in Arabic) 1-21 (1956) ("Islam recognized the concept of fundamental freedoms and human rights long before the Western legal systems; human rights in Islamic law is a necessary consequence of the doctrine of *tauhid*, the basic Islamic precept that there is no god but Allah").

³⁷⁹ EMBASSY OF SAUDI ARABIA, UNDERSTANDING ISLAM AND THE MUSLIMS: SAUDI ARABIA YESTERDAY AND TODAY 30 (1989).

ble and fundamental to Islam and the Saudi Arabian legal system.³⁸⁰

Saudi representatives also have made key presentations before United Nations bodies such as the Working Paper presented by H.E. Dr. Maarouf Al Dawalibi, Counsellor, Royal Court of Riyadh, in a 1984 United Nations Seminar on Religious Freedom.³⁸¹ In this Working Paper Dr. Al Dawalibi noted that

as shown by its historical record, its categoric scriptural prohibition of coercion in religion and its prohibition of the persecution of any person on grounds of religion or belief, [Islam] has been tolerant of other religions with whose followers it has coexisted and co-operated without discrimina-

³⁸⁰ D.A. ALLUBNANI, HISTORICAL SURVEY ON THE KINGDOM OF SAUDI ARABIA AND ITS LEGISLATIVE SYSTEM BASED UPON KORANIC LAW, *presented to The First Conference of Paris (October 23, 1974)*. The immutable human rights principles described include:

- a) Non-discrimination of human dignity; (b) Protection of man's rights, that is his liberty, the inviolability of his house, his property, and his person, his right to employment and to the benefits of his work, and also the responsibility incumbent on society to offer him a proper and decent life;
- c) Lack of any compulsion in religion; and d) Equality before the law.

Id. at 14.

³⁸¹ Al Dawalibi, *supra* note 356.

tion. In fact, Muslims are duty-bound to protect other religions³⁸²

Several Islamic and Arab organizations also have endorsed human rights principles, affirming that respect for basic human rights is compatible with the teachings of Islam.³⁸³ The most recent and significant of these endorsements came from the 19th Islamic Conference of Foreign Ministers, held in Cairo in August 1990, adopting the Cairo Declaration on Human Rights in Islam.³⁸⁴

³⁸² *Id.* at 3.

³⁸³ See the Cairo Declaration on Human Rights in Islam, *supra* note 88; Arab Convention on the Prevention of Torture and Inhumane or Degrading Treatment, International Institute of Higher Studies in Criminal Sciences (Draft 1990); Charter of Human and People's Rights in the Arab World, International Institute of Higher Studies in Criminal Sciences (Draft 1987); Universal Islamic Declaration of Human Rights, Islamic Council of Europe (1981); Islamic Charter of Human Rights (draft prepared during an international seminar attended by over 50 distinguished Muslim jurists and political philosophers convened in Kuwait) (reported in INTERNATIONAL COMMISSION OF JURISTS, HUMAN RIGHTS IN ISLAM (1982) and in Paul, *Islam and the State: The Problems of Establishing Legitimacy and Human Rights*, 12 CARDOZO L. REV. 1057, 1068, n. 26 (1991)); *Resolution of the First International Conference on the Protection of Human Rights in the Islamic Criminal Justice System*, Siracuse, Italy, May 31, 1979; Arab Covenant on Human Rights, *draft prepared at Symposium of Human Rights and Fundamental Freedoms in the Arab Homeland*, Baghdad, Iraq, May 18-20, 1979 (see AL-HUKUKI AL-ARABI 80-91, Special Issue (1979) (a journal issued by the Secretariat General of the Union of Arab Jurists)).

³⁸⁴ Res. 49/19-P, Aug. 5, 1990, Draft Final Communique, *supra* note 376, at 55, para. 53. The Draft Final Communique urged all Member States of the Islamic Conference to draw inspiration from the Cairo Declaration

The Cairo Declaration is the product of a careful study by the Islamic Conference's Committee of Legal Experts. A meeting of the Committee of Experts was held in Tehran on December 26-28, 1989, during which time a draft Declaration was prepared.³⁸⁵ The final Declaration received unanimous approval by the Foreign Ministers of the 19th Islamic Conference at its August 1990 session, which included representatives from all major Islamic countries in the world, including Saudi Arabia.³⁸⁶

Among human rights affirmed in the Cairo Declaration are the rights to equality, life, property, educational opportunities, asylum, travel, work, fair wages and fair treatment, privacy, equal treatment before the law, fair trials and the presumption of inno-

with respect to human rights in their countries. The text of the Cairo Declaration appears *infra* as Appendix A.

³⁸⁵ See *id.* at 55, para. 3.

³⁸⁶ Attending the 19th Islamic Conference in Cairo were the Member States of Afghanistan, Algeria, Bahrain, Bangladesh, Benin, Brunei Darussalam, Burkina Faso, Cameroon, Chad, Comoros, Djibouti, Egypt, Gabon, Gambia, Guinea, Guinea-Bissau, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Maldives, Mali, Mauritania, Morocco, Niger, Nigeria, Oman, Pakistan, Palestine, Qatar, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Syria, Tunisia, Turkey, Uganda, United Arab Emirates, and Yemen. Mozambique also attended as an observer state, as well as the Turkish Muslim Community of Kibris and the Moro National Liberation Front. Draft Final Communiqué, *supra* note 376, at 1-3. The Conference Report also indicates attendance by many respected Islamic institutions and foundations, including the Islamic Fiqh Academy (Jordan), Islamic Committee of the International Crescent (Benghazi), the Muslim World League (Riyadh), the Islamic Call Society, the Islamic Council of Europe, the World Muslim Congress, World Islamic Council for Da'wa and Relief, and the International Islamic Charitable Foundation. *Id.* at 4-9.

cence, freedom of expression, participation in the affairs of one's country, and against arbitrary arrest and torture.³⁸⁷ The Declaration states that "fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion and . . . no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments" ³⁸⁸

Many Islamic scholars and writers also have affirmed the basic compatibility between Islamic principles and human rights.³⁸⁹ Some, however, have argued the Shari'a is inconsis-

³⁸⁷ See text of the Cairo Declaration *infra* at Appendix A.

³⁸⁸ Cairo Declaration on Human Rights in Islam, *supra* note 88, preambular para. 4.

³⁸⁹ See ISLAMIC CONCEPT OF HUMAN RIGHTS *supra* note 378 (this book contains essays by distinguished Islamic jurists in Pakistan, including: Cornelius, *The Ethical Basis of Democracy and Human Rights in Islam and Concept of Justice in Islam*; Haider, *Equality Before Law and Equal Protection of Laws as Legal Doctrines for the Prevention of Discrimination and Protection of Minorities*; Hassan, *Human Rights: Origins and Growth*; Hussain, *Due Process of Law: Process of Shari'ah*; Khan, *Human Rights*; Malik, *Islamic Concept of Human Rights*; and Saraf, *Evolution of the Concept of Human Rights and the Role of the United Nations*); THE ISLAMIC CRIMINAL JUSTICE SYSTEM *supra* note 70 (this book contains essays by distinguished Islamic experts, including: Al-Saleh, *The Right of the Individual to Personal Security in Islam*; Awad, *The Rights of the Accused Under Islamic Criminal Procedure*; and Bassiouni, *Sources of Islamic Law, and the Protection of Human Rights in the Islamic Criminal Justice System*); Adegbite, *Human Rights in Islamic Law*, 7 J. ISLAMIC & COMP. L. 1 (1977); Ahmad, *Labour Welfare in Islam*, 7 ISLAMIC & COMP. L.Q. 301 (1987); Anderson, *Modern Trends in Islam: Legal Reform and Modernisation in the Middle East*, 20 INT'L & COMP. L.Q. 1 (1971); Hasain, *Human Rights in Islam*:

tent with international concepts of human rights in three important areas: women's rights, the right to religious freedom, and Islamic punishments.³⁹⁰ Notwithstanding these differences, it is important to note that all other basic human rights are fully consistent with and expressly endorsed by the Shari'a.³⁹¹

Principles and Precedents, 3 ISLAMIC & COMP. L.Q. 103 (1983); Khadduri, *Human Rights in Islam*, in THE ISLAMIC CONCEPTION OF JUSTICE 233 (1984); Mahmood, *The Islamic Law on Human Rights*, 4 ISLAMIC & COMP. L.Q. 32 (1984), and *The Grandeur of Womanhood in Islam*, 6 ISLAMIC & COMP. L.Q. 1 (March 1986); Nawaz, *The Concept of Human Rights in Islamic Law*, 11 HOWARD L.J. 325 (1965); Shams, *Shari'ah and Western Jurisprudential Thoughts: a Comparative Overview*, 4 ISLAMIC & COMP. L.Q. 249 (1986); and Sajoo *supra* note 378.

³⁹⁰ See A.A. AN-NA'IM, TOWARD AN ISLAMIC REFORMATION (1990) (lack of religious freedom, gender and religious discrimination); S. TABANDEH, A MUSLIM COMMENTARY ON THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 35-67 (1970) (on the contrast between Shari'a views of the status and rights of women and that envisaged by Article 16 of the Universal Declaration of Human Rights); Arzt, *The Application of International Human Rights Law in Islamic States*, 12 HUM. RTS. Q. 202 (1990) (religious and individual freedoms); Coulson, *The State and the Individual in Islamic Law*, 6 INT'L & COMP. L.Q. 49 (1957) (lack of individual liberties and an independent judiciary); and Mayer, *Islam and the State*, 12 CARDOZO L. REV. 1015 (1991) (gender and individual freedom).

³⁹¹ Verse 30:32 of the *Quran* addresses the right to life. Many verses have been viewed as guaranteeing rights against arbitrary arrest and detention, including 4:58, 5:8, and 7:25. Due process or equality before the law is guaranteed by verses 42:15, 4:58, and 5:8. The right to privacy in one's home and affairs is protected by verses 24:27 and 49:12. Verse 2:256 of the *Quran* states "there is no compulsion in religion." Racism and discriminatory treatment are prohibited by Verse 49:13 and numerous others. The Prophet is said to have proclaimed "People are all equal as the teeth of a comb." See Mughal in ISLAMIC CONCEPT OF HUMAN RIGHTS, *supra* note 378, at 78.

Moreover, many Islamic countries, including Saudi Arabia, have accepted international human rights instruments in the past which would appear to conflict with the Shari'a. Slavery, for example, is permitted by the *Quran*,³⁹² yet Saudi Arabia has

Freedom of expression and opinion is said to be protected by verses 26:151-52 which advises Muslims to "obey not the command of those who have crossed limits. They spread disorder in earth and reform not." The Prophet is also reported to have said "The greatest struggling for the sake of God is a word of justice before an unjust ruler." Hussain, *supra* note 389, at 244. The 4th Caliph, Hazrat Ali, is also reported as guaranteeing the right of opinion to a group known as the Kharjis during his time: "As long as you don't enforce your opinion by sword you have full freedom." Malick, *supra* note 389, at 59. The first known pronouncement of the principle of independence of the judiciary is attributed to the Caliphs Umar and Ali in early Muslim times. *Id.* at 64. The Caliph II is reported during his reign to have sent a directive to the Governor of Basra, directing him that "(i) judgeship is a trust; (ii) decisions be taken after consideration of all relevant facts and the decision must be enforced; (iii) equality of parties before law should be maintained; (iv) parties be allowed to reconcile but conciliation should not be repugnant to Islamic creed; (v) a revision of judgment should be permitted to attain the main objective of justice and redress of grievances; (vi) Sharia must be applied. The plaintiff should be allowed time to present evidence and proof; (vii) all Muslims can act as witnesses except those who are convicted and perjured; and (viii) kinsmen of a plaintiff were debarred from appearing as witness." *See Khan, supra* note 389, at 97.

³⁹² Both the *Quran* and the *Sunna* permit slavery. *See, e.g.,* A.A. AN-NA'IM, TOWARD AN ISLAMIC REFORMATION 171-175 (1990) ("There is no verse in the Qur'an which directly sanctions the enslavement of any person, but many verses do so by implication when, for example, the Qur'an speaks of a Muslim's right to cohabit with his slave concubine"); M. KHADDURI, ISLAMIC LAW OF NATIONS 80 (1966) (reports of *Sunna* and other early traditions showing the free practice of slavery during the Prophet's time); Greenidge, *Slavery in the Middle East*, MIDDLE EASTERN AFF. (December 1956). The Shari'a permits a slave to be acquired through military

joined the overwhelming majority of nations, both Islamic and non-Islamic, to ratify the Slavery Convention of 1926 and the Supplementary Convention against slavery-like practices of 1956.³⁹³

Likewise, as evidenced from the consensus of most nations of the world, the other human rights standards enumerated in the Universal Declaration and other international instruments promote values of collective morality which merit close study by Saudi Arabia's Islamic leaders to determine how they also may be interpreted and applied consistent with the basic teachings of Islamic law.

It should be noted, for example, that the Hanbali school — the leading school of Islamic law in Saudi Arabia — is distinctive among the Sunni schools for its strong belief in the sanctity of private contracts.³⁹⁴ It is reported, for example, that a private

conquest or purchase. An-Na'im *supra* at 173, n.45. When slaves are sold, a mother must not be separated from her child. M. KHADDURI, *WAR AND PEACE IN THE LAW OF ISLAM* 131-32 (1955). Emancipation of slaves is encouraged under the *Quran*, but is not required. See *Quran* 9:60, 2:177, 4:92, 58:3, 90:11-13. Verse 24:33 of the *Quran* encourages a Muslim to grant the wish of a slave who wants to contract for emancipation in exchange for the payment of money or services.

³⁹³ See *supra* note 344.

³⁹⁴ See Leites, *Modernist Jurisprudence as a Vehicle in Gender Role Reform in the Islamic World*, 22 COL. HUM. RTS. L. REV. 251, 283 n.111 (Spring 1991) (the Hanbalis conclude that the *Quran* and *Sunna* place few restrictions on the ability of an individual or state to enter into binding contracts). See also Anderson & Coulson, *The Moslem Ruler and Contractual Obligations*, 33 N.Y.U. L. REV. 915, 922 (1958) (quoting Ibn Taymiyya's

contract entered into between a bride's family and her prospective husband, can, under the Hanbali school, legally bind the husband to marry only one wife, even though the *Quran* would otherwise have permitted the husband to marry up to four wives.³⁹⁵ It is not inconsistent with this legal theory for other types of public or private contracts, such as international human rights treaties, to restrict other provisions of the Shari'a which are inconsistent with

statement "God has commanded that contracts be fulfilled and this is of general application," and citing another Hanbali scholar, Ibn al-Qayyim, for maintaining that all contracts and stipulations must be regarded as valid unless they are explicitly forbidden by the lawgiver); Koundes, *The Influence of Islamic Law on Contemporary Middle East Legal Systems: The Formation and Binding Force of Contracts*, 9 COL. J. TRANSNAT'L. L. 384, 428 (Fall 1970) (discussing Saudi Arabia's commitment to private contracts and their binding nature). Ibn Qudama, another authoritative jurist of the Hanbali school has noted that if a ruler concludes a truce and then dies, his covenant does not die with him but must be observed. Anderson & Coulson, *supra*, at 926.

The *Quran* also admonishes in verse 5:1 to "observe your contracts" and in verse 16:91-94 "don't break your oaths." In a famous December 1950 meeting with Mr. F.A. Davies, Chairman of the Board of Aramco, King Abdul Aziz Ibn Saud is reported to have strongly supported the importance of private contractual obligations: "You can have confidence in us because our religion and our law make it our bounden duty to keep our compact with you. I have given you my pledge and my peace. You walk in the length and breadth of my land and enjoy the same security and protection as my own subjects." *Quoted by* Dr. Saba Habachy, K.B.E., in J.N.D. ANDERSON, *ISLAMIC LAW IN THE MODERN WORLD* xii (1959). It also is reported widely by Muslim lawyers that "the contract is the Sharia or sacred law of the contracting parties." *Id.* at xiii. Noted Hanbali scholar ibn Taymiyya is quoted as stating "Muslim law does not distinguish between a treaty, a contract of public or administrative law and a contract of civil or commercial law. . . . [All] must be observed since God is a witness to any contract entered into." *Id.* at xvii.

³⁹⁵ Leites, *supra* note 394, at 268.

human rights principles — a position advocated by some Islamic authors.³⁹⁶

For all of the reasons indicated, the Minnesota Lawyers Committee calls upon Saudi Arabia to enhance its stature and credibility among the family of nations by ratifying the basic

³⁹⁶ See, e.g., Bassiouni, *supra* note 70, at 17 ("If, therefore, a Muslim state, or even the ideal Islamic state, wishes to adhere to all existing human rights conventions, it may do so without any legal or philosophical impediments."); Cornelius in *ISLAMIC CONCEPT OF HUMAN RIGHTS*, *supra* note 378, at 267 ("Today, in the Constitutions of most modern Muslim states, there are chapters guaranteeing human rights, whose wording follows the earlier western examples, for the most part."); Paul, *supra* note 383, at 1067 (noting that international conferences of eminent Muslim jurists have had no difficulty in framing Islamic charters of rights, patterned after the international instruments); Sajoo, *supra* note 378, at 26-7 ("The Muslim conception of human rights — based on 'justice' as the pervasive doctrinal ethic . . . provides abundant scope for the realization of individual freedoms, in consonance with the welfare of society at large."); Schacht, *Islamic Law in Contemporary States*, 8 *AM. J. OF COMP. L.* 133, 138 (1959) ("The solutions provided by Islamic law go decisively and consistently in favor of the rights of the individual, of the sanctity of contracts, and of private property, and they put severe limits to the action of the state in these matters. . . . Islamic law protects man as an individual as much as possible from interference with his rights and interests by the state."). See also U.N. Commission on Human Rights, *Statement of World Muslim Congress to U.N. Secretary General on the Question of the Realization of the Right to Development*, UN Doc. E/CN.4/1991, at 27-8 (1991) ("The World Muslim Congress reaffirms the necessity of all nations and peoples to co-operate in efforts for the good of mankind, and in the prevention of injustice and violation of the basic human rights; for the support of all the basic principles on which the United Nations has been established for the benefit of human society and permanent peace, and for welcoming United Nations endeavours towards the protection of human rights in all its facets, and honourable freedom and way of life for all mankind.").

treaties on human rights, by publicly declaring its support for fundamental human rights, by promoting and protecting human rights in Saudi Arabia, by studying and seeking harmony of basic international notions of human rights with Islamic law, and by being accountable to the rest of the world for its human rights practices.

**APPENDIX A The Cairo Declaration on Human Rights
in Islam**

RESOLUTION NO. 49/19-P
ON THE
CAIRO DECLARATION ON HUMAN RIGHTS
IN ISLAM

The Nineteenth Islamic Conference of Foreign Ministers (Session of Peace, Interdependence and Development), held in Cairo, Arab Republic of Egypt, from 9-14 Muharram 1411H (31 July to 5 August 1990),

Keenly aware of the place of mankind in Islam as vicegerent of Allah on Earth;

Recognizing the importance of issuing a Document on Human Rights in Islam that will serve as a guide for Member States in all aspects of life;

Having examined the stages through which the preparation of this draft Document has, so far, passed and the relevant report of the Secretary General;

Having examined the Report of the Meeting of the Committee of Legal Experts held in Tehran from 26 to 28 December, 1989;

1- Agrees to issue the Cairo Declaration on Human Rights in Islam which will serve as a general guidance for Member States in the field of human rights.

THE CAIRO DECLARATION
ON
HUMAN RIGHTS IN ISLAM

The Member States of the Organization of the Islamic Conference,

Reaffirming the civilizing and historical role of the Islamic Ummah which God made the best nation that has given mankind a universal and well-balanced civilization in which harmony is established between this life and the hereafter and knowledge is combined with faith; and the role that this Ummah should play to guide a humanity confused by competing trends and ideologies and to provide solutions to the chronic problems of this materialistic civilization.

Wishing to contribute to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'ah;

Convinced that mankind which has reached an advanced stage in materialistic science is still, and shall remain, in dire need of faith to support its civilization and of a self motivating force to guard its rights;

Believing that fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion and that no one

as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments, which are contained in the Revealed Books of God and were sent through the last of His Prophets to complete the preceding divine messages thereby making their observance an act of worship and their neglect or violation an abominable sin, and accordingly every person is individually responsible — and the Ummah collectively responsible — for their safeguard.

Proceeding from the above-mentioned principles,

Declare the following:

ARTICLE 1:

(a) All human beings form one family whose members are united by submission to God and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious belief, political affiliation, social status or other considerations. True faith is the guarantee for enhancing such dignity along the path to human perfection.

(b) All human beings are God's subjects, and the most loved by Him are those who are most useful to the rest of His subjects, and no one has superiority over another except on the basis of piety and good deeds.

ARTICLE 2:

(a) Life is a God-given gift and the right to life is guaranteed to every human being. It is the duty of individuals, societ-

ies and states to protect this right from any violation, and it is prohibited to take away life except for a Shari'a prescribed reason.

(b) It is forbidden to resort to such means as may result in the genocidal annihilation of mankind.

(c) The preservation of human life throughout the term of time willed by God is a duty prescribed by Shari'a.

(d) Safety from bodily harm is a guaranteed right. It is the duty of the state to safeguard it, and it is prohibited to breach it without a Sharia-prescribed reason.

ARTICLE 3:

(a) In the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as old men, women and children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered and clothed. It is prohibited to mutilate dead bodies. It is a duty to exchange prisoners of war and to arrange visits or reunions of the families separated by the circumstances of war.

(b) It is prohibited to fell trees, to damage crops or livestock, and to destroy the enemy's civilian buildings and installations by shelling, blasting or any other means.

ARTICLE 4:

Every human being is entitled to inviolability and the protection of his good name and honour during his life and after

his death. The state and society shall protect his remains and burial place.

ARTICLE 5:

(a) The family is the foundation of society, and marriage is the basis of its formation. Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from enjoying this right.

(b) Society and the State shall remove all obstacles to marriage and shall facilitate marital procedure. They shall ensure family protection and welfare.

ARTICLE 6:

(a) Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform; she has her own civil entity and financial independence, and the right to retain her name and lineage.

(b) The husband is responsible for the support and welfare of the family.

ARTICLE 7:

(a) As of the moment of birth, every child has rights due from the parents, society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be protected and accorded special care.

(b) Parents and those in such like capacity have the right to choose the type of education they desire for their children, provided they take into consideration the interest and future of the children in accordance with ethical values and the principles of Shari'a.

(c) Both parents are entitled to certain rights from their children, and relatives are entitled to rights from their kin, in accordance with the tenets of the Shari'a.

ARTICLE 8:

Every human being has the right to enjoy his legal capacity in terms of both obligation and commitment, should this capacity be lost or impaired, he shall be represented by his guardian.

ARTICLE 9:

(a) The question for knowledge is an obligation and the provision of education is a duty for society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee educational diversity in the interest of society so as to enable man to be acquainted with the religion of Islam and the facts of the Universe for the benefit of mankind.

(b) Every human being has the right to receive both religious and worldly education from the various institutions of, education and guidance, including the family, the school, the university, the media, etc., and in such an integrated and balanced manner as to develop his personality, strengthen his faith in God and promote his respect for and defence of both rights and obligations.

ARTICLE 10:

Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism.

ARTICLE 11:

(a) Human beings are born free, and no one has the right to enslave, humiliate, oppress or exploit them, and there can be no subjugation but to God the Most-High.

(b) Colonialism of all types being one of the most evil forms of enslavement is totally prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all States and peoples to support the struggle of colonized peoples for the liquidation of all forms of colonialism and occupation, and all States and peoples have the right to preserve their independent identity and exercise control over their wealth and natural resources.

ARTICLE 12:

Every man shall have the right, within the framework of Shari'a, to free movement and to select his place of residence whether inside or outside his country and if persecuted, is entitled to seek asylum in another country. The country of refuge shall ensue his protection until he reaches safety, unless asylum is motivated by an act which Shari'a regards as a crime.

ARTICLE 13:

Work is a right guaranteed by the State and Society for each person able to work. Everyone shall be free to choose the work that suits him best and which serves his interests and those of society. The employee shall have the right to safety and security as well as to all other social guarantees. He may neither be assigned work beyond his capacity nor be subjected to compulsion or exploited or harmed in any way. He shall be entitled — without any discrimination between males and females — to fair wages for his work without delay, as well as to the holidays allowances and promotions which he deserves. For his part, he shall be required to be dedicated and meticulous in his work. Should workers and employers disagree on any matter, the State shall intervene to settle the dispute and have the grievances redressed, the rights confirmed and justice enforced without bias.

ARTICLE 14:

Everyone shall have the right to legitimate gains without monopolization, deceit or harm to oneself or to others. Usury (*riba*) is absolutely prohibited.

ARTICLE 15:

(a) Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership, without prejudice to oneself, others or to society in general. Expropriation is not permissible except for the requirements of public interest and upon payment of immediate and fair compensation.

(b) Confiscation and seizure of property is prohibited except for a necessity dictated by law.

ARTICLE 16:

Everyone shall have the right to enjoy the fruits of his scientific, literary, artistic or technical production and the right to protect the moral and material interests stemming therefrom, provided that such production is not contrary to the principles of Shari'a.

ARTICLE 17:

(a) Everyone shall have the right to live in a clean environment, away from vice and moral corruption, an environment that would foster his self-development and it is incumbent upon the State and Society in general to afford that right.

(b) Everyone shall have the right to medical and social care, and to all public amenities provided by society and the State within the limits of their available resources.

(c) The State shall ensure the right of the individual to a decent living which will enable him to meet all his requirements and those of his dependents, including food, clothing, housing, education, medical care and all other basic needs.

ARTICLE 18:

(a) Everyone shall have the right to live in security for himself, his religion, his dependents, his honour and his property.

(b) Everyone shall have the right to privacy in the conduct of his private affairs, in his home, among his family, with regard to his property and his relationships. It is not permitted to spy on him, to place him under surveillance or to besmirch his good name. The State shall protect him from arbitrary interference.

(c) A private residence is inviolable in all cases. It will not be entered without permission from its inhabitants or in any unlawful manner, nor shall it be demolished or confiscated and its dwellers evicted.

ARTICLE 19:

(a) All individuals are equal before the law, without distinction between the ruler and the ruled.

(b) The right to resort to justice is guaranteed to everyone.

(c) Liability is in essence personal.

(d) There shall be no crime or punishment except as provided for in the Shari'a.

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

ARTICLE 20:

It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him. It is not permitted to subject him to physical or psychological torture or to any form of humiliation, cruelty or indignity. Nor is it permitted to subject an individual to medical or scientific experimentation

without his consent or at the risk of his health or of his life. Nor is it permitted to promulgate emergency laws that would provide executive authority for such actions.

ARTICLE 21:

Taking hostages under any form or for any purpose is expressly forbidden.

ARTICLE 22:

(a) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'a.

(b) Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil according to the norms of Islamic Shari'a.

(c) Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical values or disintegrate, corrupt or harm society or weaken its faith.

(d) It is not permitted to arouse nationalistic or doctrinal hatred or to do anything that may be an incitement to any form of racial discrimination.

ARTICLE 24:

All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'a.

ARTICLE 25:

The Islamic Shari'a is the only source of reference for the explanation or clarification of any of the articles of this Declaration.

Cairo, 14 Muharram 1411 A.H.
5 August 1990

**APPENDIX B International Human Rights Instruments
Signed or Ratified by Arab and Islamic
Countries but not by Saudi Arabia³⁹⁷**

The International Covenant on Civil and Political Rights³⁹⁸ and the International Covenant on Economic, Social and Cultural Rights³⁹⁹ have been ratified by Afghanistan, Algeria, Cameroon, Egypt, Gabon, Gambia, Guinea, Iran, Iraq, Jordan, Lebanon, Libya, Mali, Morocco, Niger, Senegal, Somalia, Sudan, Syria, Tunisia, and Yemen. The International Covenant on Civil and Political Rights has also been ratified by Uganda.

The International Convention on the Elimination of All Forms of Racial Discrimination⁴⁰⁰ has been ratified by Afghanistan, Algeria, Bangladesh, Benin (s),⁴⁰¹ Burkina Faso, Cameroon, Chad, Democratic Yemen, Egypt, Gabon, Gambia, Guinea, Iran, Iraq, Kuwait, Jordan, Lebanon, Libya, Maldives, Mali,

³⁹⁷ Including all demographically Muslim countries. *See Chart of Ratification supra* note 353.

³⁹⁸ *See supra* note 106.

³⁹⁹ *See supra* note 352.

⁴⁰⁰ International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, *entered into force* Jan. 4, 1969.

⁴⁰¹ An "(s)" denotes signed but not yet ratified.

Mauritania, Morocco, Niger, Nigeria, Pakistan, Qatar, Senegal, Sierra Leone, Somalia, Sudan, Syria, Turkey (signed but not yet ratified), Uganda, the United Arab Emirates, and Yemen.

The Convention on the Elimination of All Forms of Discrimination against Women⁴⁰² has been signed or ratified by Afghanistan (s), Bangladesh, Benin (s), Burkina Faso, Cameroon (s), Egypt, Gabon, Gambia (s), Guinea, Guinea-Bissau, Indonesia, Iraq, Jordan (s), Libya, Mali, Nigeria, Senegal, Sierra Leone, Turkey, Uganda, and Yemen.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁴⁰³ has been signed or ratified by Afghanistan, Algeria, Cameroon, Egypt, Gabon (s), Gambia (s), Guinea, Indonesia (s), Libya, Morocco (s), Nigeria (s), Senegal, Sierra Leone (s), Somalia, Sudan (s), Turkey, and Uganda.

The Convention on the Political Rights of Women⁴⁰⁴ has been ratified by Afghanistan, Albania, Democratic Yemen, Egypt, Gabon, Guinea, Indonesia, Lebanon, Libya, Mali, Mauritania,

⁴⁰² Convention on the Elimination of All Forms of Discrimination against Women, *entered into force* Sept. 3, 1981, G.A. Res. 34/180, U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46 (1980), *reprinted in* 19 I.L.M. 33 (1980).

⁴⁰³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), *entered into force* June 26, 1987.

⁴⁰⁴ Convention on the Political Rights of Women, 193 U.N.T.S. 135, *entered into force* July 7, 1954.

Morocco, Niger, Nigeria, Pakistan, Senegal, Sierra Leone, and Turkey.

The Convention on the Nationality of Married Women⁴⁰⁵ has been ratified by Albania, Guinea (s), Libya, Malaysia, Mali, Pakistan (s), Sierra Leone, and Uganda.

The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages⁴⁰⁶ has been ratified by Benin, Burkina Faso, Democratic Yemen, Guinea, Mali, and Niger.

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others⁴⁰⁷ has been ratified by Afghanistan, Albania, Algeria, Bangladesh, Burkina Faso, Cameroon, Djibouti, Egypt, Guinea, Iran (s), Iraq, Jordan, Kuwait, Libya, Mali, Mauritania, Morocco, Niger, Pakistan, Senegal, Syria, and Yemen.

⁴⁰⁵ Convention on the Nationality of Married Women (G.A. Res. 1040 (XI), Jan. 29, 1957, *entered into force* Aug. 11, 1958). See UNITED NATIONS, A COMPILATION OF INTERNATIONAL INSTRUMENTS, U.N. Doc. ST/HR/1/Rev.3, at 269 (1988).

⁴⁰⁶ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 521 U.N.T.S. 231, *entered into force* Dec. 9, 1964.

⁴⁰⁷ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (G.A. Res. 317 (IV), Dec. 2, 1949). See UNITED NATIONS, A COMPILATION OF INTERNATIONAL INSTRUMENTS, U.N. Doc. ST/HR/1/Rev.3, at 181 (1988).

The Freedom of Association and Protection of the Right to Organise Convention (ILO Convention No. 87)⁴⁰⁸ has been ratified by Albania, Algeria, Bangladesh, Benin, Burkina Faso, Cameroon, Chad, Comoros, Egypt, Gabon, Guinea, Kuwait, Mali, Mauritania, Niger, Nigeria, Pakistan, Senegal, Sierra Leone, and Yemen.

The Right to Organise and Collective Bargaining Convention (ILO Convention No. 98)⁴⁰⁹ has been ratified by Albania, Algeria, Bangladesh, Cameroon, Comoros, Democratic Yemen, Egypt, Gabon, Guinea, Guinea-Bissau, Indonesia, Iraq, Jordan, Lebanon, Libya, Malaysia, Mali, Morocco, Niger, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Syria, Turkey, Uganda, and Yemen.

⁴⁰⁸ 68 U.N.T.S. 17.

⁴⁰⁹ 96 U.N.T.S. 257.

**APPENDIX C Correspondence with the
Government of Saudi Arabia**

A draft copy of this report was sent to the Ambassador of Saudi Arabia two weeks before publication. The cover letter transmitting the draft appears on the following two pages. The Minnesota Lawyers Committee received no response from the Ambassador.

MLIHRC**Minnesota Lawyers International Human Rights Committee**

*A private, nongovernmental organization of lawyers, jurists
and other individuals committed to the promotion and
protection of human rights worldwide.*

22 April 1992

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Your Royal Highness:

On behalf of the Minnesota Lawyers International Human Rights Committee ("Minnesota Lawyers Committee" or "Committee"), I have the honor to submit for your comments a draft report which the Minnesota Lawyers Committee has prepared concerning human rights in the Kingdom of Saudi Arabia.

The Minnesota Lawyers Committee was formed in 1983 and now has over 1000 members. It is an independent, international nongovernmental organization committed to the promotion and protection of human rights. The Committee has no affiliation to any political movement, political party, or government. It accepts no government funds. Although the Committee is based in the United States, it has no connection with the United States Government and is supported wholly by private contributions.

As part of its mission of promoting human rights, the Committee's lawyers have investigated human rights practices in more than fifteen countries, including Albania, Argentina, Australia, Democratic Peoples Republic of Korea, Guatemala, Haiti, Israel and the Occupied Territories, Kenya, Republic of Korea, Mexico, the Philippines, Romania, Tunisia, the United States, and Uruguay, among others. Committee members have submitted findings to the United Nations, have submitted writs of habeas corpus on behalf of disappeared persons, and have written standards for the investigation of suspected cases of arbitrary killings.

The Minnesota Lawyers Committee works to promote and protect human rights that are of concern to the entire international community. In this regard, we note that Saudi Arabia is bound by the provisions of the United Nations Charter, including a commitment to uphold human rights.

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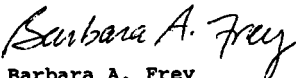
Embassy of Saudi Arabia
22 April 1992
Page Two

I am writing to provide your government with an opportunity to review the enclosed draft report and provide comments if you desire. Copies of this draft also have been sent to various news agencies with a press report embargoed for 7 May 1992. The Minnesota Lawyers Committee will make this report public on that date.

During the next two weeks, the Committee will continue to revise the enclosed draft report and would welcome any comments which you or your government may wish to provide concerning the report. If your government is able to respond by 6 May 1992, the Committee shall endeavor to reflect your government's comments as fully as possible in our continuing research on human rights in Saudi Arabia.

The Committee looks forward to hearing from your government.

Yours very truly,



Barbara A. Frey
Executive Director

Enc.

GLOSSARY OF ARABIC TERMS

Abaaya	Cloak, outer wrap (worn by women)
Al-Husseinat	Community halls used by the Shi'a to conduct funerals, weddings, and other religious ceremonies
Al-Mabahith	Saudi Arabian General Directorate of Investigations
Al-Shurtah	Saudi Arabian Public Security Police
Ashura	A commemoration held each Islamic year by the Shi'a, in memory of the death of Hussein, the grandson of the Prophet
Diwan al-mazalim	Board of grievance
Diyya	Compensation for <i>qisas</i> crimes
Falaqa	A form of torture consisting of beating on the soles of the feet
Fatwa	Religious decree, formal Islamic legal opinion

Fiqh	Opinions and commentaries of Muslim jurists
Hadd	Same as <i>Hudud</i> crimes
Hadith	Sayings of the Prophet (also known as <i>Sunna</i>)
Halal	Permissible, allowed, or legal under Islamic law
Hanbali	One of the main Sunni schools of jurisprudence; predominant in Saudi Arabia
Hudud	Crimes for which mandatory punishments are prescribed by the Shari'a (for example, theft and adultery)
Ijma	Consensus of the Islamic legal authorities on legal questions
Ikhwan	Brethren (a Muslim purist movement)
Imam	Religious leader
Iqama	Residency permit
Majlis	Meeting, counsel (usually refers to open public meetings with the King)
Mutawwi'un	Religious police
Qisas	Crimes for which retaliation or compensation is prescribed by the Shari'a (for example,

	murder)
Qiyas	Deduction by analogy (form of legal reasoning)
Quran	The holy book of Islam
Shari'a	Islamic law
Shi'a	A minority denomination of Islam; partisans of Ali
Sunna	Second source of Islamic law derived from sayings and deeds of the Prophet Muhammad
Sunni	The majority denomination of Islam; those who follow the <i>Sunna</i> , the tradition of the Prophet (approximately 90% of the world's Muslim population)
Ta'azir	Crimes for which the discretionary punishments are prescribed in the Shari'a (for example, false testimony)
Tawheed	Islamic belief in monotheism, including avoiding the worship of objects or idols
Ulema	Islamic Religious Scholar
Wahhabi	Religious reformers who became active in Arabia in the early 1800s and are still predominant in Saudi Arabia today; they

follow the Hanbali school and preach strict obedience to the *Quran* and *Hadith*

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me in the House of Saud

Arrest and Torture. Saudi Arabia's security forces exercise unchecked discretion to arrest and detain Saudi citizens and physical and psychological torture are widespread.

Concentration Camps. The Saudi Government is detaining in desert camps over 50,000 refugees from the war with Iraq. Conditions at the camps are poor.

Foreign Workers From Developing Countries are Treated like Slaves. Millions of Saudi's foreign workers, particularly women serving as domestic servants, suffer dreadful treatment by their Saudi employers and the Saudi Government. The Saudi Government mandated that domestic workers who run away from abusive employers to their own embassies be turned over to the Saudi Government.

Institutionalized Discrimination Against Women. Women in Saudi Arabia are treated as second class subjects. Segregation of the sexes has become a social and adverse consequence for women. Women may not travel without a male member of their family, nor may women drive in Saudi Arabia.

Religious Intolerance and Discrimination. Persons practicing another religion besides Islam are subject to arrest and, if a foreigner, deportation. The Shi'a Muslim religious minority in Saudi Arabia is the target of a government campaign of intimidation, economic discrimination, and cultural repression.

The Minnesota Lawyers International Human Rights Committee is a nongovernmental organization committed to promoting and protecting human rights. The Committee, with 1,000 grassroots members, advocates against individual human rights abuses, works to strengthen institutions and laws that protect human rights, investigates human rights practices, and provides public education.

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