



**UPR Submission
Saudi Arabia
March 2013**

Summary

Saudi Arabia continues to commit widespread violations of basic human rights. The most pervasive violations affect persons in the criminal justice system, women and girls, migrant workers, and religious minorities. Persecution of political and religious dissidents is widespread. Human Rights Watch published detailed reports on violations against these persons between 2008 and 2012, including *Steps of the Devil*; *Looser Reign Uncertain Gain*; *Slow Reform*; *Returned to Risk*; *Denied Dignity*; and *the Ismailis of Najran*.

Criminal Justice System

Saudi Arabia's criminal justice system violates the most basic international human rights standards and detainees routinely face systematic violations of due process and fair trial rights. Since 2008, authorities have detained thousands for expressing their peaceful political and religious opinions under vague and politicized charges.

One of the central problems associated with Saudi Arabia's justice system stem from the fact that it does not have a promulgated criminal (penal) code. As a result, citizens and residents have no way of knowing with any precision what constitutes a criminal offence and judges are free to criminalize acts in accordance with their interpretations of Islamic law and prophetic traditions – the two agreed-upon sources of Shariah law. Previous court rulings do not bind Saudi judges, and there is little evidence to suggest that judges seek to apply consistency in sentencing for similar crimes. The absence of a clear criminal code allows judges to enforce seemingly arbitrary charges against individuals including “harming the reputation of the Kingdom”, “establishing contact with outside organizations”, and “disobedience of the parents.”

Saudi Arabia failed to implement the recommendation accepted during the previous UPR in 2009 to “amend its criminal procedural code to bring it in line with international human rights standards and conduct a systematic campaign among Saudi Arabian judges to apply this amended Code”. Saudi Arabia promulgated a Law of Criminal Procedure in 2002 but it does not permit detainees to challenge the lawfulness of their detention before a court and fails to guarantee access to legal counsel in a timely manner. The code also permits for pre-trial detention of up to six months without judicial review, and does not make statements obtained under duress inadmissible in court. Judges routinely ignore provisions of the Law of Criminal Procedure.

In 2008, Saudi Arabia set up Specialized Criminal Courts to try terrorism cases, but authorities have increasingly used these courts to prosecute peaceful dissidents on politicized charges and in proceedings that violate the right to a fair trial. Persons on trial are frequently denied the right to consult lawyers, and proceedings are closed to the public.

Saudi courts impose the death penalty after patently unfair trials in violation of international law, and impose corporal punishment in the form of public flogging, which is inherently cruel and degrading.

Human Rights Watch has documented numerous examples of law enforcement officials subjecting suspects to torture and ill-treatment, including prolonged solitary confinement. Authorities often do not inform individuals of the crime of which they are accused or the evidence supporting the accusation. An accused person often does not have access to a lawyer and waits excessive periods of time before trial, where she or he is often unable to examine witnesses or evidence and present a legal defence.

Contrary to the recommendation it accepted during its previous UPR in 2009 to “amend the Code of Criminal Practice to stipulate that only individuals aged over 18 will be tried as adults,” Saudi Arabia’s juvenile justice system failed to protect the rights of juvenile defenders. Judicial discretion regarding the base for arrests and length of detention for children is exacerbated by the lack of law setting an age below which a child should not be tried as an adult. Judges continue to sentence to death persons for offenses committed while under age 18 and Saudi Arabia is one of just three countries world that continues to use the juvenile death penalty.

Authorities have failed to investigate abuses by security forces, which have lead to the deaths of up to 12 protesters in the Eastern province since 2011, or to take steps to prevent further deaths and abuses by security forces towards protesters.

The members of the Human Rights Council should strongly urge the government of Saudi Arabia to:

- Promulgate a penal code and amend the Law of Criminal Procedure to comply with international human rights law;
- Make the Bureau of Investigation and Public Prosecutions independent of the Ministry of Interior and ensure prosecutors uphold due process rights;
- End the trials of political detainees in Specialized Criminal Courts;
- End all forms of the death penalty and judicially sanctioned corporal punishment.
- Ensure that children are only detained as a measure of last resort, and for the shortest possible time;
- Investigate all abuses committed by security forces, including allegations of torture and ill-treatment and allegations of excessive use of force against demonstrators.

Freedom of Expression, Belief, and Assembly

Saudi Arabia failed to implement recommendations it accepted during the previous UPR in 2009 to “enact and implement a Law of Association” and to “enable them to work in independence without being supervised by official authorities.” Saudi Arabia still does not allow political or human rights associations and authorities have responded to growing calls for political reforms by prosecuting political leaders, human rights activists, academics, and dissidents. Trials and detention of human rights activists have increased, and encompass members of the Saudi Association for Civil and Political Rights (ACPRA), al-Adala Center for Human Rights, and members of a Jeddah reformist group who courts sentenced to up to 30 years imprisonment after they

attempted to set up a human rights organization. Authorities also arrested prominent academics, journalists, and lawyers, and the whereabouts of some- including prominent author Turki al-Hamad -remain unknown.

The judicial system has also been used to prosecute individuals for expressing their religious views. Insulting Islam carries the death penalty and a number of persons being held in detention after expressing their religious opinions may be at risk of the death penalty, including Hamza Kasghari.

Saudi Arabia did not demonstrate progress on the recommendations made during the previous UPR in 2009 to “ensure adequate protection for all religious minorities, with a view to gradually allowing public practice of other faiths and beliefs.” Saudi Arabia does not tolerate public worship by adherents of religions other than Islam and systematically discriminates against its Muslim religious minorities, in particular Shia and Ismailis. The twelve Shia are the largest religious minority in the Kingdom, believed to number two to three million persons, and live predominantly in the Eastern province. Discrimination against Shia encompasses religious freedoms, government employment, the education system where Shia may not teach religion in class, and bias in the judiciary where judges sometimes disqualify Shia witnesses on the basis of their religion and exclusively follow tenants of Sunni religious law. Official discrimination against Ismailis also encompasses government employment, religious practices, education, and the justice system.

Since the outbreak of protests in the Eastern province in 2011, authorities have used disproportionate force against Shia protesters, resulting in at least 12 deaths and dozens of injuries.

The member states of the Human Rights Council should strongly urge the government of Saudi Arabia to:

- Publicly and officially rebut hate speech against Shia, Ismailis and other religious or ethnic minorities;
- Set up a national institution, as recommended by the United Nations Committee on the Elimination of Racial Discrimination, empowered to receive claims of discrimination, to make public recommendations for remedy and to review and recommend changes in official and private discriminatory policies and practices;
- Terminate all Ministry of Information and Ministry of Islamic Affairs censorship regarding the possession, production, and exchange of Ismaili or Shia religious material;
- Pass legislation that protects from discriminatory government interference construction of buildings of worship for religious minorities, and permit religious minorities to teach and practice their religious beliefs without intimidation;

Enact and implement a Law of Association that enables civil society organizations to work independently without being supervised by official authorities.

Women’s Rights

By accepting recommendations 18, 19 and 20 during its previous UPR in 2009, Saudi Arabia took a number of important commitments on women’s rights. However, little has been done to genuinely implement these recommendations.

But Saudi Arabia failed to demonstrate any progress on implementing the important accepted recommendations to “abolishing of the male guardianship system”. Under the discriminatory Saudi guardianship system, girls and women are forbidden from travelling, getting married, or conducting official business without permission from their male guardians. This system is grounded in the most restrictive interpretation of an ambiguous Quranic verse and constitutes the most significant impediment to the realization of women’s rights in the Kingdom. The guardianship system enables authorities to treat women like legal minors who are entitled to little control over their own lives and well-being, or that of their children, and routinely prioritizes the wishes of male guardians over the rights of females whom they hold authority over.

Saudi Arabia also failed to take effective measures “to ensure the eradication of violence against women” and “amend legal provisions to (...) prevent violence against women.” Male guardianship over adult women also contributes to their risk of family violence. Survivors of family violence, social workers, and lawyers told Human Rights Watch about the difficulty of removing male guardianship of women and children, which remains at the discretion of individual judges even in cases of abuse. The absence of codified legislation protecting women places women at further risk and makes it difficult for survivors of family violence to access sufficient protection or redress mechanisms. The government failed to enact a 2011 draft law to combat violence against women and children.

Since the previous UPR in 2009, little has been done to further implement the recommendation to “abolish legislation and practices which prevent women from participating fully in society on an equal basis with men.” Since 2008, the Saudi government has taken steps to expand women’s political participation by allowing them to run and vote in municipal elections and take part in the consultative Shura Council.

Since the previous UPR, a specific progress has been accomplished on the recommendation to end “restricted access by women to work” by adopting legislative reforms that expanded women’s rights in the workforce by allowing them to work in limited areas such as clothing stores, for which no guardian permission is required. These decisions, however, reinforce strict sex segregation in the workplace mandating that male workers not interact with women. The Ministry of Justice also approved granting Saudi female lawyers the right to obtain law practice licenses but it is unclear whether steps have been taken to implement this decision. While such reforms represent important steps forward, their efficacy is limited by the male guardianship system which denies women the overall ability to make independent choices in most employment and educational affairs.

The member states of the Human Rights Council should strongly urge the government of Saudi Arabia to

- Promulgate by royal decree the dismantling of the legal guardianship system for adult women;
- Establish an oversight mechanism to ensure government agencies no longer require guardian’s permission for women to work, travel, marry, study, or access any public service;
- The Ministries of Higher Education, Interior, and Labour should issue clear and explicit directives to their staff prohibiting them from requesting a guardian’s presence or permission to allow a woman to access any service; and
- Approve legislation that provides clear protections and redress mechanisms for women facing domestic violence.

Migrant Workers

Over 9 million migrant workers fill manual, construction, and domestic service jobs in Saudi Arabia, and constitute more than half of the workforce. Human Rights Watch has documented the multiple abuses facing some laborers, including non-payment of wages, excess working hours, and poor living conditions.

The restrictive *kafala* (sponsorship) system, which ties migrant workers employment visas to their employers, fuels exploitation and abuse. Under this system, migrant workers residency permits are tied to 'sponsoring' employees, whose written consent is required for workers to change employers or exit the country. Employers routinely confiscate workers' passports and some exploit their position of power to withhold workers wages for months or years. Human Rights Watch has documented numerous cases where workers were unable to escape from abusive conditions or to return home after completion of their contracts because their employer denied them permission to leave the country. The Labour Ministry has proposed abolishing the kafala system but no changes have taken place.

Migrant domestic workers – 1.5 million of whom are employed in Saudi Arabia- and agricultural workers remain excluded from the 2005 labor law, denying them protections afforded to other workers such as a day off once a week, limits on working hours, and access to labor courts. Many domestic workers report working 15-20 hour days, seven days a week, and face other abuses including forced confinement in the workplace, food deprivation, psychological and sexual abuse. The government has announced its intention in the past to develop an annex to the labor law that covers migrant domestic workers, but it has failed to do so.

Some migrant workers still face the death penalty, often after having limited access to legal counsel and translators during court proceedings.

While Saudi authorities and official human rights bodies are able to assist some migrant workers in seeking redress and compensation for their abuses, in other instances they ignore workers complaints, return workers to abusive situations, prosecute workers on the basis of counter-complaints made by employers, or negotiate unfair settlements between employers and workers. Courts also often fail to process individual cases including those involving trafficking.

The member states of the Human Rights Council should strongly urge the government of Saudi Arabia to

- Abolish the sponsorship (*kafala*) system so that workers visas are no longer tied to individual sponsors, and workers are able to transfer employment or leave the country at will;
- Extend labor protections to domestic and agricultural workers and create a timeline for implementation;
- Cooperate with labor-sending countries to monitor domestic workers working conditions, facilitate rescues, ensure recovery of unpaid wages, and arrange for timely repatriation;
- Create shelters for survivors abuse and ensure their access to medical care and legal aid.