



## UPR Submission

### Saudi Arabia

September 2008

#### Summary

Saudi Arabia commits systematic and widespread violations of several basic human rights. In this submission we describe five large groups of people whose rights are affected: women, religious minorities, foreign migrant workers, and those in the criminal justice system, including children, on which Human Rights Watch published detailed reports in 2004 and 2008: [Perpetual Minors](#); The Ismailis of Najran; "[As If I Am Not Human](#)"; [Exported and Exposed](#); [Bad Dreams](#); [Adults Before Their Time](#); and [Precarious Justice](#).

#### Women's Rights

Under a strict system of male guardianship, adult women generally must obtain permission from a guardian, normally a father or husband, to work, travel, study, or marry. The Saudi government denies women the right to make even the most trivial decisions on behalf of their children. 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 Saudi authorities essentially treat adult women like legal minors who are entitled to little authority over their own lives and well-being.

Male guardianship over adult women also contributes to their risk of family violence and makes it nearly impossible for survivors of family violence to avail themselves of protection or redress mechanisms. Social workers, physicians, and lawyers told Human Rights Watch about the near impossibility of removing male guardianship of women and children, even from abusive male guardians.

Even where permission from a male guardian is not mandatory or even stipulated under the government's own guidelines, some officials will ask for it. For example, some hospitals require a guardian's permission to allow women to undergo certain medical procedures and to be discharged. Saudi officials have also disrespected modifications of the guardianship system. Most airport officials continue to ask all women for written consent from their guardian, despite a recent Ministry of Interior decision allowing women over 45 to travel without permission.

Strictly enforced sex segregation further hinders women's ability to participate fully in public life. In 2005 the Saudi government justified excluding women from municipal elections due to the absence of separate voting booths for women. For employers, the need to establish separate office spaces and women's inability to interact with many government agencies without a male representative provide a significant disincentive to hiring women. In education, segregation often means that women are relegated to unequal facilities with inferior academic opportunities. University policy also restricts the number and types of programs offered to female students.

Saudi Arabia's accession to the United Nations Convention on the Elimination of all Forms of Discrimination against Women in 2001 obliges Saudi Arabia to take action to end discrimination against women without delay. For as long as it fails to take steps to eliminate the discriminatory practices of male guardianship and sex segregation, the Saudi government is violating its international commitment to guarantee women and girls their rights to education, employment,

freedom of movement, marriage with their free and full consent, and health, including protection from and redress for family violence.

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 request a guardian's permission to work, travel, study, marry, access health care, or any public service;
- The Ministries of Health, Higher Education, Interior, and Labor should issue clear and explicit directives to their staff prohibiting them from requesting a guardian's presence or permission to allow a woman access to any service; and
- Appoint a committee tasked with examining the ways in which strict sex segregation prevents Saudi women from fully participating in public life.

### **Religious Minorities**

The Twelver Shia are the largest religious minority in the kingdom, believed to number two to three million persons, and live predominantly in the Eastern Province. In 2008, Human Rights Watch documented discrimination against the Ismailis, a lesser known religious minority, who are believed to number up to one million and live predominantly in Najran in southwest Saudi Arabia. Official discrimination against Ismailis encompasses government employment, religious practices, education, and the justice system. Government officials exclude Ismailis from decision making and publicly disparage their faith.

Relations between the Ismaili minority and the Saudi government sometimes have been hostile. Tension between local authorities hailing from outside the Najran region and the Ismaili population culminated in a confrontation between armed Ismaili demonstrators and police and army units outside the Holiday Inn hotel in Najran city in April 2000 over the arrest of an Ismaili cleric. Following the clashes in April 2000, Saudi authorities imprisoned, tortured, and summarily sentenced hundreds of Ismailis and transferred hundreds of Ismaili government employees outside the region. Underlying discriminatory practices have continued unabated. Previously, seven of the 35 department heads of local government were local Ismailis; now only one remains. Almost no Ismailis work as senior security personnel or as religion teachers.

In recent years, Ismaili religious teachings take place in secret, and importing religious texts is banned. Ismailis have not received permission to build or repair mosques, or only with difficulty. At the same time, mosques with Wahhabi preachers employed by the state are springing up at a rapid pace, even in almost exclusively Ismaili areas.

In August 2006, Saudi Arabia's highest judge, Shaikh Salih al-Luhaidan, declared to an audience of hundreds that Ismailis "outwardly appear Islamic, but inwardly, they are infidels." A subsidiary body to the Council of Senior Religious Scholars tasked with officially interpreting Islamic faith, ritual, and law, in April 2007 termed Ismailis "corrupt infidels, debauched atheists." Official textbooks state that the Ismaili faith constitutes the sin of "major polytheism," effectively declaring its adherents infidels. In Najran, Wahhabi teachers have flogged and insulted Ismaili children on the basis of their faith.

In the justice system, too, official biases against Ismailis have caused personal hardship and set dangerous precedents. Wahhabi judges in March and May 2006, respectively, annulled the marriage of an Ismaili man to a Sunni woman because of his lack of religious qualification, and barred an Ismaili lawyer from representing his Sunni client.

Over the past 10 years, Ismailis have repeatedly raised their concerns to the government, including the Human Rights Commission (an official body), but found little attention. Intelligence officers arrested Ismaili Shaikh Ahmed bin Turki Al Sa'b for having petitioned King Abdullah to

remove Najran's governor, Prince Mish'al bin Sa'ud bin Abd al-'Aziz. He remains in detention as of this writing.

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

- Publicly and officially rebut hate speech against 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;
- Ensure that Ismailis can participate in national and local public affairs and policy initiatives by appointing a representative number of qualified Ismailis to public sector jobs and high government offices in the Najran region;
- Terminate all Ministry of Information and Ministry of Islamic Affairs censorship regarding the possession, production, and exchange of Ismaili or Shia religious material; and
- Pass legislation that protects from government interference construction of buildings for worship or other Ismaili religious purposes, teaching and learning of Ismaili religious beliefs and practices, and Ismaili worship and religious observance.

## **Migrant Workers**

In 1962, then-King Faisal abolished slavery in Saudi Arabia. Over forty years later, many of the eight million migrant workers in the kingdom continue to suffer extreme forms of abuse and labor exploitation that sometimes rise to slavery-like conditions. These workers, primarily coming from India, Indonesia, the Philippines, and Sri Lanka, fill jobs in the construction, domestic service, health, and business sectors.

Saudi Arabia's restrictive *kafala* (sponsorship) system, which ties migrant workers' employment visas to their employers, fuels exploitation and abuse. Under this system, an employer assumes responsibility for a hired migrant worker and must grant explicit permission before the worker can transfer employment or leave the country. Employers routinely confiscate workers' passports and many 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 upon completion of their contracts because their employer denied them permission to leave the country.

Domestic workers comprise less than a quarter of the migrant workforce, but embassies from labor-sending countries report that abuses against domestic workers account for the vast majority of the complaints they receive. The Saudi Labor Law, amended through Royal Decree No. M/51 on September 27, 2005, excludes all domestic workers, denying them protections guaranteed to other workers, such as a day off once a week, limits on working hours, and access to labor courts. Most domestic workers report working 15-20 hours a day, seven days a week. The government has repeatedly announced that it will develop an annex to the labor law to cover domestic workers, but has yet to do so. In addition to labor exploitation, many domestic workers endure a range of abuses including forced confinement in the workplace, food deprivation, severe psychological, physical, and sexual abuse, and instances of forced labor, trafficking, slavery, and slavery-like conditions.

While Saudi authorities are able to assist some migrant workers to claim their wages and return home, 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. Given the difference in bargaining power, in negotiated settlements, migrants often return home without their full salaries or redress for other abuses.

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

- Reform the visa sponsorship 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;
- Adopt the proposed annex to the 2005 Labor Code extending labor protections to domestic workers, ensure these equal those provided other workers, and create a timeline and tools for implementation;
- Cooperate with labor-sending countries to monitor domestic workers' working conditions, facilitate rescues, ensure recovery of unpaid wages, and to arrange for timely repatriation; and
- Cooperate with labor-sending countries to notify them about detained nationals and to create shelters for survivors of abuse, including medical care, counseling, and legal aid.

## **Criminal Justice System**

The violations of defendants' rights are so fundamental and systemic that it is hard to reconcile Saudi Arabia's criminal justice system, such as it is, with a system based on the basic principles of the rule of law and international human rights standards. The violations derive from deficiencies both in Saudi Arabia's law and practices.

Saudi Arabia has not promulgated a penal (criminal) code. Accordingly, citizens, residents, and visitors have no means of knowing with any precision what acts constitute a criminal offense. 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. 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. In 2002 Saudi Arabia promulgated the country's first criminal procedure code, but it does not protect basic rights of defendants. For example, the Law of Criminal Procedure (LCP) does not permit a detainee to challenge the lawfulness of her detention before a court, fails to guarantee access to legal counsel in a timely manner, and contains no provision for free legal assistance to the indigent. The LCP grants the prosecutor the right to issue arrest warrants and prolong pretrial detention for up to six months without any judicial review. The LCP does not make statements obtained under duress inadmissible in court, or protect a defendant's right not to incriminate herself. Judges routinely ignore, and are even ignorant of, the provisions of the Law of Criminal Procedure.

Pervasive injustices and systematic and multiple violations of defendants' rights characterize the practice of Saudi criminal justice. Individuals in Saudi Arabia may find themselves detained and arrested for behavior that is not inherently criminal, or for apparently (and unwittingly) offending vague legal prohibitions. Saudi interpretation of Sharia also criminalizes "deviant sexual behavior," regardless of consent. In July, police reportedly arrested 55 persons in Saihat for attending a "gay dance party." In October 2007, officials reportedly carried out sentences against two men of 7,000 lashes each for "sodomy" in a public square in Baha.

Law enforcement officials frequently subject suspects to torture and ill-treatment, including prolonged solitary confinement, especially when they refuse to incriminate themselves. The LCP permits incommunicado detention for up to 60 days. The authorities often do not inform individuals of the crime of which they are accused, or the evidence supporting the accusation. An accused person typically does not have access to a lawyer, and waits excessive periods of time before trial, where she is often unable to examine witnesses or evidence and present a legal defense, not least because of a presumption of guilt and shifting charges.

Saudi Arabia's juvenile justice system fails to protect the rights of juvenile defenders. Judicial discretion regarding the bases 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. A 2006 announcement raising the age of criminal responsibility for boys—there is none for girls—from seven to 12 years is not fully observed. Judges have sentenced to death at least 12 persons for offenses committed while under age 18, including two cases of juvenile offenders who were

executed in 2007, one as young as 13 at the time of the offense. Judges also regularly order corporal punishment as a judicial penalty.

In addition, authorities often treat foreign children who are victims of trafficking primarily as offenders, and often arrest, detain, or deport them for begging or lack of legal residency. Many of the officially estimated 24,000 children trafficked from 18 countries who are arrested for street selling and begging are at risk of irreparable harm in their home countries once deported.

Outside of the criminal justice system, the Ministry of Social Affairs can detain both boys and girls indefinitely, even though the children may neither have been charged nor convicted of an offence. Ministry of Social Affairs staff need only decide that the child needs additional "guidance" or that their guardians have failed to claim them. Such detention is subject to judicial review for boys, but not for girls.

Saudi Arabia's domestic intelligence agency, the *mabahith*, has arrested human rights activists, religious activists, academics, and advocates of political reform, and held some for over 10 years without charge. The *mabahith* has detained human rights activist Matrook al-Faleh since May 19, 2008 without charge. Faleh, like all others detained by the *mabahith* have no effective access to legal counsel or the courts. In rare cases, secret tribunals sentence detainees, but former prisoners reported that they were detained well beyond the expiry of their sentence. The *mabahith* currently holds around 2,000 terrorism suspects without legal charge or trial, some for over five years.

The Commission for the Promotion of Virtue and Prevention of Vice (CPVPV) is an authorized law enforcement agency that carried out 400,000 arrests in 2005 for matters ranging from violations of dress they deemed to be "immodest", to "illegal" mingling between men and women, failure to attend prayer, and alcohol or drugs offenses. Girls are at special risk of arbitrary detention and prosecution for vague offenses such as "mingling" or "seclusion," which can include being found alone with a male who is not a family member. Under recent reforms, CPVPV agents must wear identifying badges, may make arrests only when accompanied by a regular policeman, and may not detain arrested suspects at their centers. In 2007, reportedly for the first time, CPVPV members faced criminal charges of murder and abuse of power in three separate incidents, but the courts acquitted the officials.

In October 2007 the government amended two laws, the Law of the Judiciary and the Law of the Board of Grievances, which improve judicial independence. The laws also set up new specialized courts for personal status, commercial, labor, and traffic disputes. Furthermore, a new supreme court will be able to hear a variety of appeals. The king announced \$1.8 billion in government funding to build and staff new courts and train old and new judges. However, the government has made no progress toward implementing the reformed laws. A committee royally appointed in 2005 to codify penal provisions has yet to produce a draft.

The member states 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;
- Make the Bureau for Investigation and Public Prosecutions independent of the Ministry of Interior and ensure prosecutors uphold due process rights;
- Institute a system providing defense lawyers free of charge to indigent defendants, juveniles, and those in capital cases;
- End the juvenile death penalty and judicially sanctioned corporal punishment for all;
- Ensure that children are only detained as a measure of last resort, and for the shortest possible time; and
- Ensure that no foreign child is repatriated to a situation that places him or her at risk of irreparable harm.