

**United Nations Human Rights Council
Universal Periodic Review
Saudi Arabia**

Submission of The Becket Fund for Religious Liberty

8 September 2008



1350 Connecticut Avenue NW
Suite 605
Washington, D.C. 20036
T: +1 (202) 955 0095
F: +1 (202) 955 0090

The Becket Fund is a nonprofit, interfaith, public interest law firm protecting the free expression of all religious traditions.



United Nations Human Rights Council Universal Periodic Review of Member-State Saudi Arabia

The Becket Fund for Religious Liberty, in special consultative status with ECOSOC, submits this analysis of the rule of law and religious freedom law in Saudi Arabia as a contribution to the Universal Period Review of UN member-state Saudi Arabia.

1. Legal Framework

Commitment to International Standards of Religious Freedom

As a member of the United Nations, Saudi Arabia has agreed to the principles expressed in the Universal Declaration of Human Rights, which protects the fundamental right to freedom of religion or belief, including the right to choose one's own faith.

Saudi Arabia has made efforts recently to advance religious freedom. In June 2008, King Abdullah arranged a conference of Islamic scholars, clerics and other figures in Mecca to promote reconciliation between Sunni and Shia, and in July he organized an interfaith conference in Madrid to promote dialogue between Muslims, Christians, and Jews.¹

Constitutional Analysis

Saudi Arabia is an Islamic state ruled by an absolute monarchy. In 1992, the Government published its Basic Law to establish the system of government, rights of citizens and residents, and powers and duties of the Government.² According to Article 1, "The Kingdom of Saudi Arabia is a sovereign Arab Islamic state with Islam as its religion; God's Book and the Sunnah of His Prophet . . . are its constitution." Thus, the ultimate sources of Saudi law are the Qur'an, Sunna, and Shari'a law.

Despite its international commitments, Saudi Arabia makes no legal provision for freedom of religion. In fact, the Government of Saudi Arabia controls all religious practices and allows no independent religious authorities. Under the auspices of protecting Islam and Islamic social morality, the state imposes Islamic tradition and belief not only as state religion, but also as a coercive social framework enforced by religious police.

The role of the King and the state in upholding Islam and protecting Mecca and Medina is considered a primary function; indeed, the official title of the head of state is "Custodian of the Two Holy Mosques."³ These roles are codified in Basic Law, Article 23: "The state protects Islam; it implements its Shari'ah; it orders people to do right and shun evil; it fulfills the duty regarding God's call."

¹ "Saudi king calls for end to Islamic extremism." Associated Press. 5 June 2008.
<http://www.msnbc.msn.com/id/24970557/> "Saudi king opens inter-faith summit." Al Jazeera Net. 16 July 2008.
<http://english.aljazeera.net/news/europe/2008/07/2008716155745164721.html>

² U.S. State Department Report, IRF Saudi Arabia 2007. Reporting period spanned parts of 2006-07. In 2004, the U.S.

³ U.S. State Department Report, IRF Saudi Arabia 2007.

The rule of law in Saudi Arabia is subject to judicial interpretation of Shari'a. The Government does not publish a penal code or an official interpretation of Shari'a.

2. Implementation of Shari'a Law

Interpretation

According to Article 26 of the Basic Law, the state protects human rights and freedoms only in accordance with Shari'a as interpreted by the Saudi courts. The courts are largely guided by the Saudi family monarchy. The King oversees the Council of Senior Ulema, an advisory body of reportedly 21 Sunni religious jurists, including the Minister of Justice.⁴ To further screen legislation so that it is compliant with Shari'a law, the monarch nominates both the Council of Ministers, which is responsible for government administration, and the 120-member Majlis as-Shura, which studies legislation and makes recommendations to the ruling family.⁵

Most judges follow the conservative Hanbali school of Shari'a, which encourages original legal reasoning rather than the use of precedent.⁶ Saudi Shari'a, with its strict literal interpretation of the Qur'an and the Sunna, calls for adulterers to be stoned, thieves to have their limbs severed, non-Muslims caught practicing their religion to receive public lashings, and apostates to be executed.⁷ Despite Government approval in 2001 of a 225-article penal code forbidding torture, Saudi prisons have been known to torture detainees and implement Shari'a punishments for both men and women including flogging, amputation, and beheading.⁸

The justice system does not ensure due process,⁹ legal representation for defendants, or protection from torture,¹⁰ and laws are generally applied arbitrarily, in accordance with the existing social hierarchy that privileges well-connected Saudi citizens.¹¹

⁴ U.S. State Department Report, IRF Saudi Arabia 2007.

⁵ Eleanor Abdella Doumato, "Saudi Arabia," *Freedom House*. Accessed online 28 August, 2008 at <http://www.freedomhouse.org/template.cfm?page=182>.

⁶ "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." Human Rights Watch, "Precarious Justice: Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia." March 2008 Volume 20, No. 3(E). Accessed online September 5, 2008 at http://hrw.org/reports/2008/saudijustice0308/5.htm#_Toc193616919.

⁷ *Religious Freedom in the World*. Ed. Paul A. Marshall. Rowman and Littlefield, Lanham: 2008. pp 347.

⁸ Eleanor Abdella Doumato, "Saudi Arabia," *Freedom House*. Accessed online 28 August, 2008 at <http://www.freedomhouse.org/template.cfm?page=182>.

⁹ For example, judicial proceedings are usually closed to the public. U.S. State Department Report, IRF Saudi Arabia 2007.

¹⁰ "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, faces abuse when refusing to incriminate him or herself, and waits excessive periods of time before trial, where he or 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." Human Rights Watch, "Precarious Justice: Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia." March 2008 Volume 20, No. 3(E). Accessed online September 5, 2008 at http://hrw.org/reports/2008/saudijustice0308/5.htm#_Toc193616919.

¹¹ Eleanor Abdella Doumato, "Saudi Arabia," *Freedom House*. Accessed online 28 August, 2008 at <http://www.freedomhouse.org/template.cfm?page=182>.

Jurisdiction

All citizens, regardless of their personal beliefs, are under the jurisdiction of Shari'a courts presided over by Sunni judges. The minority Shi'a population may have civil cases tried by Shi'a judges, but these decisions can be over-ruled by Sunni judges.¹²

Treatment of Religious Minorities

The Saudi interpretation of Shari'a does not give equal treatment to religious and ethnic minorities, foreigners, or women.¹³ Only Sunnis may practice religion in public. Though the Government has stated its policy to protect universal private worship, this right remains undefined in law and is not always respected in practice.

Non-Muslims and Muslims who do not adhere to the Government's interpretation of Islam face significant political, economic, legal, social, and religious discrimination, including limited employment and educational opportunities, under-representation in official institutions, and restrictions on the practice of their faith and on the building of places of worship and community centers.¹⁴ The right of foreigners to practice their religion is not respected, and scores of foreign workers and their family members have been arrested and deported in recent years.¹⁵ As a result of these incidents, many non-Muslims worship secretly in fear of the police.¹⁶

The Government reinforces its interpretation of Islam by funding thousands of conservative clerics.¹⁷ Moreover, the majority of citizens are Sunnis, who typically support the state-sanctioned

¹² "The Government permits Shi'a judges to use their own version of Shari'a to adjudicate cases limited to family law, inheritance, and endowment management. However, there were only seven Shi'a judges, all of whom were located in the Eastern Province. . . . The Sunni Shari'a courts could, and did, overrule judgments of Shi'a judges, and other government departments could choose not to implement judgments rendered by Shi'a judges. The Government also replaced unexpectedly at least one Shi'a judge during the reporting period." U.S. State Department Report, IRF Saudi Arabia 2007.

¹³ Article 8 of the Basic Law declares equality for all, but only in accordance with Shari'a. Some Saudi interpretations of Shari'a do not accept a woman's testimony in criminal cases and claim that non-Muslim men may testify only in cases of "necessity." Human Rights Watch, "Precarious Justice: Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia." March 2008 Volume 20, No. 3(E). Accessed online September 5, 2008 at http://hrw.org/reports/2008/saudijustice0308/5.htm#_Toc193616919.

¹⁴ "Shi'a who wished to build a new mosque were required to obtain the permission of the [Ministry of Islamic Affairs], the municipality, and the governorate, which is functionally part of the Ministry of Interior; the latter office's approval was not necessary for Sunni mosques. While the Government approved construction of new Shi'a mosques in Qatif and some areas of Al-Ahsa, sometimes after lengthy delays, it did not approve construction of Shi'a mosques in Dammam, home to a significant number of Shi'a." U.S. State Department Report, IRF Saudi Arabia 2007.

¹⁵ "On December 29, 2006, the mutawwa'in [religious police] raided a private gathering of the Ahmadiyya religious group. Reportedly, the mutawwa'in detained 49 members, including at least 19 women and children (including a 6-month-old infant), and 14 youths. There were 25 Indians, 23 Pakistanis, and 1 Syrian. Nine other Ahmadiyya foreign workers were arrested in early January 2007. All of these individuals and their families were deported to their countries of origin. . . . In February 2007 two more Ahmadiyya guest workers were arrested in Riyadh and deported. The Government did not provide an explanation for their arrests or for the earlier deportations. There was no indication that the Ahmadiyya foreign workers, some of whom lived in the country for as long as 25 years, were guilty of breaking any laws." U.S. State Department Report, IRF Saudi Arabia 2007.

¹⁶ U.S. State Department Report, IRF Saudi Arabia 2007.

¹⁷ "The Ministry of Islamic Affairs, Endowment, Call, and Guidance (MOIA) is responsible for 72,000 Sunni mosques and employs 120,000 persons, including 72,000 imams. The grand muftis of the two holiest mosques in Mecca and Medina report directly to the King." U.S. State Department Report, IRF Saudi Arabia 2007.

interpretation of Islam.¹⁸ This contributes to additional economic and social discrimination against religious and ethnic minorities.

Since the first UN resolution combating the “defamation of religions” was passed in 1999 by the Commission on Human Rights, Saudi Arabia has been supportive of this annual resolution, which has traditionally focused on the “defamation of Islam.”¹⁹ However, in March 2008, the Majlis al-Shura voted against the resolution because certain phrases might have promoted respect for non-Muslim religions. Several members of the Council expressed concern that the terms “religions and religious figures” contained in the text were too vague, and could possibly lead to the recognition and promotion of “pagan religions” within the Kingdom.²⁰

Capital Punishment

Under Saudi Shari’a, the Government can impose the death penalty for a variety of offences including apostasy and blasphemy.²¹ Most capital punishment trials fail to meet basic international standards, and foreigners are especially likely to be executed. In 2007, a Turkish citizen was sentenced to death for blasphemy, and the Saudi Government is holding him while his appeal is pending. No executions on grounds of apostasy have been reported recently;²² however, in May 2007 a Saudi citizen reported that he was arrested and tortured because he had converted to Christianity.²³

Enforcement of Religious Law

Religious morality and social behavior are enforced by the Commission to Promote Virtue and Prevent Vice (CPVPV), a semi-autonomous agency with authority to monitor and punish public behavior.²⁴

The CPVPV oversees the mutaww’in, or religious police, who ensure that, among other things, public establishments close five times a day for prayer, women observe strict dress codes, and unrelated men and women are never alone together. Punishments for infractions include harassment, torture, and death.²⁵ Despite King Abdullah’s public statement in October 2005 that peo-

¹⁸ “The majority of citizens are Sunni Muslims who predominantly subscribe to the Government sanctioned interpretation of Islam.” U.S. State Department Report, IRF Saudi Arabia 2007.

¹⁹ Religious defamation measures, like anti-blasphemy laws, protect the subjective sentiments of the hearer rather than the peaceful speech of the speaker. They are routinely applied only against religious minorities and dissenters within majority faiths, belying their purported purpose of protecting the vulnerable.

²⁰ Abeer Mishkhas, “Of Fatwas and Infidels,” Arab News, 27 March 2008.

<http://www.arabnews.com/?page=7§ion=0&article=108283&d=27&m=3&y=2008>.

²¹ “Capital offenses include adultery, apostasy, ‘corruption on earth,’ drug trafficking, sabotage, (political) rebellion, and murder during armed robbery.” Human Rights Watch, “Enforcing the International Prohibition on the Juvenile Death Penalty,” for the Secretary General’s report on the follow-up to the General Assembly resolution 62/149 on a death penalty moratorium. 30 May 2008. Accessed online 28 August 2008 at <http://www.hrw.org/pub/2008/children/HRW.Juv.Death.Penalty.053008.pdf>.

²² *No Place to Call Home: Experiences of Apostates from Islam, Failures of the International Community*, Christian Solidarity Worldwide. 2008. pp 45.

²³ U.S. State Department Report, IRF Saudi Arabia 2007.

²⁴ The Ministry of Interior does not have authority over the CPVPV, but the CPVPV reports to the King through the royal court. U.S. State Department Report, IRF Saudi Arabia 2007.

²⁵ According to the Associated Press, on February 4, 2008, religious police detained a female businesswoman for “sitting with a man who is not a relative and exchanging words and laughter with him.” The woman was released

ple are free to practice their faith in private, the mutawwa'in are known to prevent practice of religion in homes.²⁶ The Government often fails to enforce procedural standards on the mutawwa'in that would limit their autonomy and protect against such abuses. The mutawwa'in also prosecute a disproportionate number of foreigners, who have limited recourse in the justice system.²⁷

The Government also seeks to maintain control over outside religious influences on its citizens by separating national and foreign students and restricting internet and media access.²⁸

Education

All Saudi public school students receive mandatory religious instruction in state-sponsored Sunni Islam, regardless of their own religious beliefs.²⁹ According to Article 13 of the Basic Law, education must "aim at instilling the Islamic faith in the younger generation." In contrast with the UDHR, which requires education to promote "understanding, tolerance, and friendship among all . . . religious groups," textbooks used in Saudi schools promoted violence toward, and killing of, apostates and those considered polytheists.³⁰ Following international protests and calls to change the offensive texts, the Saudi Government claimed it had revised the texts and released new versions, but the U.S. Commission on International Religious Freedom found evidence that large sections of the sample "revised" textbooks were not edited but simply torn out or covered by correction fluid. The Saudi Government revised and released the texts once again, but as of June 2008, many still promoted violence and intolerance.

3. Recommendations

During the Universal Periodic Review, the UN Human Rights Council should take care to consider religious freedom in its evaluation of Saudi Arabia. We respectfully recommend that the UNHRC evaluate Saudi Arabia's failures to develop and implement laws protecting religious freedom and other human rights, taking special care to note its discrimination against women, religious minorities, and foreigners. The UNHRC should hold Saudi Arabia accountable for international agreements and standards of Religious Freedom to which they have agreed.

approximately five and a half hours after interrogation and a forced confession. Donna Abu-Nasr, "New Criticism for Saudi Religious Police." February 19, 2008. <http://abcnews.go.com/International/wireStory?id=4312508>.

²⁶ *Religious Freedom in the World*. pp. 348.

²⁷ According to an official report issued by the CPVPV in January 2007, during one year there were 390,117 incidents involving 402,725 persons, of whom only 101,143 were citizens. U.S. State Department Report, IRF Saudi Arabia 2007.

²⁸ In 2007, the Government blocked access to websites with religious material that it considered offensive, including the Shi'a website rasid.com. U.S. State Department Report, IRF Saudi Arabia 2007.

²⁹ U.S. State Department Report, IRF Saudi Arabia 2007.

³⁰ The U.S. Commission on International Religious Freedom found that the textbooks "also include highly intolerant passages about non-Sunni Muslims, such as Shi'a, Ismailis, and Ahmadis, and non-Muslims, such as Jews and Baha'is." (June 11, 2008) http://www.uscirf.gov/index.php?option=com_content&task=view&id=2206&Itemid=1).