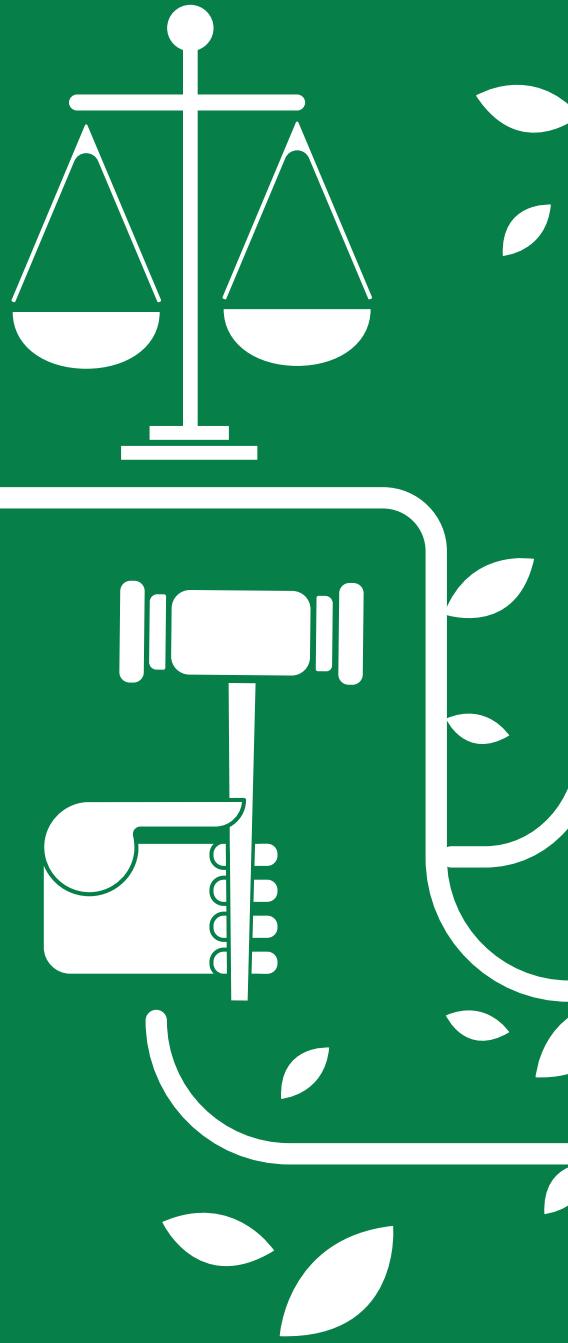


The Pretense of Progress

A report on the implementation of Saudi Arabia's recommendations from the special rapporteur on the independence of judges and lawyers



Americans for Democracy





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Americans for Democracy and Human Rights in Bahrain is a non-profit, 501(c)(3) organization based in Washington, D.C. Through engagement with U.S. government officials, intergovernmental actors, activists, and the public, we seek to foster awareness of and support for democracy and human rights in Bahrain.

The Bahrain Institute for Rights and Democracy is a London, UK based non-profit organization focusing on advocacy, education and awareness for the calls of democracy and human rights in Bahrain.

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ACRONYMS

ACPRA	Saudi Civil and Political Rights Association
ADHRB	Americans for Democracy and Human Rights in Bahrain
BIP	Saudi Bureau of Investigation and Prosecution
BIRD	Bahrain Institute for Rights and Democracy
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
ICCPR	International Covenant on Civil and Political Rights
MOI	Saudi Ministry of Interior
NGO	Non-Governmental Organization
NSHR	Saudi National Society for Human Rights
UN	United Nations

FOREWORD

In 2002, Saudi Arabia invited international human rights law experts acting with the authority of the United Nations Human Rights Council to travel to Saudi Arabia to assess the human rights situation in the Kingdom. Their mission ignited the interest of the international community, as Saudi Arabia had long-since developed a belligerent reputation towards human rights. The expert, the Special Rapporteur on the independence of judges and lawyers, arrived in a country that came in nearly last in most metrics for their respective fields. The expert conducted his assessments quietly, uncovering a vast array of problems and later producing recommendations for actions that the government might undertake in order to start fixing its human rights situation.

In the time since the expert conducted his assessments and issued his reports and recommendations, the government has made little progress in their implementation. While the government has made strides in reforming its criminal justice system, the new Anti-Terror Law has created an entirely separate and extremely arbitrary code of criminal procedure for those prosecuted under a vague definition of terrorism inclusive of vocal dissent against the government. Saudi prisons still torture suspects as a matter of course, and security officers and officials are not held accountable for their human rights transgressions. Saudi Arabia has not made significant movement towards establishing a system or jurisprudence or precedence, and Saudi judges still maintain wide authority in interpreting the most basic of Saudi laws. In many ways, Saudi Arabia has remained static or even taken backwards steps since the Rapporteur issued his report.

Very little has been done to hold the Government of Saudi Arabia accountable for implementation of human rights reform. The international community has largely stood back and watched as events unfold, sometimes vocally criticizing but more often sitting on their hands as the government increases execution rates and considers executing human rights defenders. With this report, Americans for Democracy and Human Rights in Bahrain (ADHRB) and the Bahrain Institute for Rights and Democracy (BIRD) hope to jump-start that conversation by providing a comprehensive evaluation of Saudi Arabia's implementation of the recommendations of the Rapporteur. Largely, we find the government's efforts inadequate.

The international community can no longer afford to stand idly by as its recommendations are continuously ignored. As the government opened itself to the critique of the Special Procedures, the government must also be held accountable for implementing their recommendations. This report provides the first step in creating such accountability by thoroughly analyzing Saudi implementation of every individual recommendation made by the Rapporteurs. It falls on the international community to continue the process by holding the government to its commitments under international human rights law, its international human rights obligations, and the recommendations of the Special Procedures.

A NOTE ON SHARIA

Any critique of the legal system in Saudi Arabia necessitates discussion of the Sharia; before getting into a discussion of what the report is, we first want to speak about what the report is not. This report is not in any fashion intended to level criticism towards the Sharia in general. The Sharia, as employed by many modern States and as espoused by many modern Muslim scholars around the globe, is a legitimate and justiciable source of law, and several interpretations of the Sharia are employed positively throughout the world.

The Saudi Arabian government espouses Wahhabi Islam based on an offshoot of the Hanbali school's interpretation of the Sharia. The Wahhabi interpretation of the Sharia necessitates the abandonment of precedent and jurisprudence, providing individual Saudi judges with wide discretion in making judicial decisions. The result has been the creation of an ad hoc system of justice discriminatory intolerant of its accused, a system that forgives corruption while criminalizing dissent. Any criticism directed at the Sharia by this report is aimed at that system and the Saudi interpretation creating it, and not at the Sharia as a whole.

METHODOLOGY

This report is the product of significant research performed by interlocutors on the ground as well as an extensive literature review of sources including news articles, government and NGO reporting, and scholarly articles. Due to the danger of reporting on human rights abuses in Saudi Arabia, this report does not provide the identities of its sources on the ground. Anonymized information concerning our sources is available upon request.

1. INTRODUCTION

In 2002, at the invitation of the Government of Saudi Arabia, the United Nations Special Rapporteur of on the Independence of Judges and Lawyers visited Saudi Arabia to conduct investigations into the human rights situation in the country as it related to his mandate. The Rapporteur belonged to a larger body of independent experts and their staff called the Special Procedures, funded through the Office of the High Commissioner for Human Rights and charged with investigating and commenting on human rights abuses throughout the world¹. Among other powers, the Procedures may request and conduct country visits to countries of concern, at the conclusion of which they may produce reports including their findings and recommendations².

The Special Rapporteur on the independence of judges and lawyers visited Saudi Arabia to examine the country's burgeoning criminal justice system. His visit would mark the first visit by a Special Procedure to Saudi Arabia, an event that would only be repeated once more when the Special Rapporteur on violence against women visited the country in 2008. The Rapporteur was invited by the Saudi government to evaluate the Saudi legal regime and make recommendations for its improvement. He arrived in a Kingdom that had only recently begun the process of developing a codified and consistent legal system. Saudi Arabia promulgated its first official law of criminal procedure in 1970. Prior to that time, and still significantly afterwards and reaching into modernity, Saudi courts and judges exercised the law at their discretion. Then and now, Saudi courts relied not on precedent but rather on the judge's individual interpretation of the Sharia, which held and still holds more weight in the Kingdom.

During his visit, the Rapporteur examined not only the systemization and codification of the rule of law, but also the role of lawyers within society and the independence of judges from government influence. While the Rapporteur noted that Saudi Arabia had made relative progress by authoring the 1970 Criminal Law and the 1975 Law of the Judiciary, he expressed significant concern over the amount of discretion enjoyed by Saudi judges, especially as regarded their ability to decide the substance and content of the law. The Rapporteur also commented on the legal protections available to detainees, the role of the prosecution in a criminal trial, and the status of the legal profession, finding every subject wanting in one degree or another. She concluded with recommendations pertaining to better institutionalizing the rule of law, segregating the legal practice and judiciary from government influence and developing the legal profession, and protecting the rights of the accused and convicted³.

1 "Special Procedures of the Human Rights Council." United Nations Human Rights: Office of the High Commissioner for Human Rights. Accessed January 20, 2015. <http://www.ohchr.org/en/HRBodies/SP/Pages/Welcomepage.aspx>.

2 Ibid.

3 "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003.

Taking care not to critique the Sharia, the Rapporteur issued a series of recommendations designed to improve the consistency of the legal system and better protect the rights of the accused and convicted. The Rapporteur paid special attention to the development of a precedential system of law, which he believed could be accomplished in a manner consistent with the Sharia, and the separation of judicial and prosecutorial powers from the government and the monarchy. In making these recommendations, the Rapporteur noted that a stable society requires a predictable judicial system; criminal behavior can only be discouraged when a society understands what conduct constitutes criminality. The Rapporteur also significantly addressed the issues of the treatment and safety of detainees, gripping with the role of the confession in Saudi law and the sometimes violent tactics employed by Saudi interrogators in securing their acquisition.

In total, the Rapporteur published 24 recommendations for correcting the criminal justice and procedure issues pertinent to the human rights situation and the rule of law in Saudi Arabia. Since the publishing of these reports, however, the Rapporteur has been unable to comment on the implementation of his recommendations, and independent non-governmental organizations have yet to provide analysis. This report aims to provide that commentary, examining the reports and recommendations of the Rapporteur in the context of the modern-day human rights situation in Saudi Arabia, investigating Saudi progress in implementing each individual recommendation. While it finds progress in some limited areas mostly pertaining to the systemization of the rule of law, the report largely concludes that the Saudi government has ignored the Rapporteur's recommendations, with progress most extremely limited in furthering the rights and security of detainees. The report concludes with a list of recommendations for the international community, and calls for the Special Rapporteur to seek a follow-up visit to conduct his own investigations into the implementation of their recommendations.

2. RECOMMENDATIONS

i. The Judiciary

INTRODUCTION

In his follow-up report, the Rapporteur expressed concerns over the status of judges, the powers of the Minister of Justice, and the absence of female judges in Saudi courts. His greatest concern—in regards to these issues—centered on the ability of Saudi judges to make independent decisions free from inducement or pressure. In his report, the Rapporteur wrote, “The independence of the judiciary is given high priority by the Government and the judiciary and this is generally reflected in the laws of Saudi Arabia. However certain structural conditions exist that could potentially undermine that independence.”⁴ Subsequently, the Rapporteur made four specific recommendations concerning the Saudi judiciary, which, if implemented, would rectify substantial problems in Saudi Arabia’s judicial system. This section determines that the Government of Saudi Arabia has failed to address most of the issues of concern, implementing meaningful reform in relation to only one of his recommendations.

RECOMMENDATIONS

A separate status should be established for judges outside of the civil service rules, one which recognizes the unique characteristics of judicial office and emphasizes the importance of independence, impartiality and service to the law.

Saudi Arabia has not established a separate status for judges outside of the civil service rules. The 2007 Law of the Judiciary reaffirms the status of judges as civil servants. Article 45 of the 2007 Law of the Judiciary states that “a member of the judiciary shall enjoy the rights and guarantees provided for in the Civil Service Law and Retirement Law and shall observe the duties provided for in the Civil Service Law which do not conflict with the nature of judicial positions.”⁵ Article 45’s vague language leaves room for arbitrary decisions concerning a judge’s behavior. As a result, judges continue to lack adequate protection from interference. In order to safeguard judicial independence, Saudi Arabia needs to establish a separate status for judges clearly stipulating the rights and duties specific to their work.

4 Ibid., 2.

5 Law of the Judiciary: Royal Decree No. (M/78). First ed. Kingdom of Saudi Arabia, 2007.

The king of Saudi Arabia still maintains significant power over the judiciary, further compromising its independence. Particularly problematic is the king's power to appoint or approve of key members of the judiciary, including members of the Supreme Judicial Council. The 1975 Law of the Judiciary gives the King power to determine the issues that the Supreme Judicial Council is allowed to examine.⁶

He can also issue Royal Orders to appoint chiefs in the Appellate Court,⁷ form Specialized Courts as per Shari'ah Procedure Law,⁸ promote members of the judiciary at will,⁹ alter judges' salaries,¹⁰ transfer judges from one branch of the judiciary to another,¹¹ discipline judges for misconduct,¹² and retire court officials for any reason.¹³ After ascending the throne in 2005, King Abdullah enacted a series of reforms that included the new Law of the Judiciary in 2007. The Law aims to promote judicial independence, giving the Supreme Judicial Council authority over all the judiciary's administrative tasks.¹⁴ However, the King continues to have ultimate control, and his laws are equivocal to provisions of Sharia.¹⁵

In 2009, King Abdullah rearranged the cabinet, appointing new health, education, legal, cultural, and media ministers. He also placed a woman in the position of deputy minister of women's education, appointed a new chief to the Supreme Judicial Council, and created a nine-member Supreme Court.¹⁶ In 2013, he appointed Sheikh Ghaihab al-Ghaihab as the head of the Supreme Court and Sheikh Salman bin Nashwan as secretary general for the Supreme Judicial Council. Critics draw parallels between the King's appointment of younger officials and the nation's modest liberalization in recent years.

The 2007 Law of the Judiciary states that the Supreme Judicial Council is charged with "attend[ing] to judges' personal affairs such as appointment, promotion, disciplining, assignment, secondment, training, transfer, granting of leaves, termination of service and the like, in accordance with established rules and procedures, in such a way as to guarantee the independence of the judiciary."¹⁷ Their appointment by royal order minimizes the degree to which they can be truly independent from the king and other high ranking royals.

6 Ibid., Article 8.

7 Ibid., Article 6.

8 Ibid., Article 26.

9 Ibid., Article 23.

10 Ibid., Article 54.

11 Ibid., Article 55.

12 Ibid., Article 83.

13 Ibid., Article 69.

14 Buys, Cindy, and Stephanie Macuiba. "Is Reform a Reality for Women in Saudi Arabia?" Illinois State Bar Association. June 1, 2012. Accessed January 20, 2015.

<http://www.isba.org/committees/women/newsletter/2012/06/isreformarealityforwomeninsaudiarab>

15 Law of the Judiciary: Royal Decree No. (M/78). First ed. Kingdom of Saudi Arabia, 2007. Article 11.

16 Ansary, Abdullah. "Saudi Judicial Reform and the Principle of Independence." Carnegie Endowment for International Peace. May 5, 2009. Accessed January 20, 2015. <http://carnegieendowment.org/2009/05/05/saudi-judicial-reform-and-principle-of-independence/fhpjy>

17 Law of the Judiciary: Royal Decree No. (M/78). First ed. Kingdom of Saudi Arabia, 2007.

The fact that no lawsuits have been successfully brought against leading members of the Saudi government is indicative of the influence enjoyed by the royal family over the judicial system.¹⁸ The international press has reported on cases brought against Saudi royals in recent years, but the scandals rarely make it to court. For example, Saudi Twitter user @mujtahidd has gained more than 1.5 million followers in recent years for uncovering fraudulence in the Saudi royal family.¹⁹ Though his identity and whereabouts are unknown to the public, @mujtahidd's information has proven reliable, and many of his followers suspect that he has a contact in the royal household. The government rebuts @mujtahidd's claims, but has not yet arrested him for fear of negative repercussions.

@mujtahidd pays special attention to royal money laundering and land reclamation. He claims that Abdul-Aziz bin Fahd, the late King Fahd's youngest son, used 12 billion riyals in state funds to construct a palace in Riyadh that surpasses the size of the king's residence. Construction of the 2,000,000m² palace began in 1994 and ended in 2003. The palace itself only cost 3 billion riyals. Bin Fahd kept the other 9 billion riyals for himself and his associates.²⁰ @mujtahidd also describes a conversation between Prince Mishaal bin Abdul-Aziz and King Abdullah. Mishaal asked the King about King Khaled. The King assumed that Mishaal meant the late King Khaled bin Abdul-Aziz, but Mishaal meant King Khaled al-Tuwaijri. King Abdullah proceeded to make a 30 billion riyal deal with Mishaal for the Haramain Rail Project for his silence about the King's slight of al-Tuwaijri's power and influence. Finally, @mujtahidd recently accused Deputy Minister of Defense Khaled bin Sultan of inflating the price of firearms in the latest Saudi-American deal and altering some companies' stock prices. Regardless of whether or not all of @mujtahidd's claims are true, none of them have been investigated by the Saudi government and no members of the royal family have been charged with fraud.²¹

The potential for the king to influence the Supreme Judicial Council may also affect other functions of the judiciary. Article 55 of the 2007 Law of the Judiciary establishes a Judicial Inspection Department, the mandate of which is to inspect the performance of judges and to investigate complaints submitted by and against them. The Council is charged with deciding the membership of this body. Additionally, under Section 5 of the 2007 Law of the Judiciary, the Council is responsible for disciplining judges reported to have violated their duties.²² As the Judicial Inspection Department consists of individuals who are chosen by a body that the king appoints, there is a significant risk that the Judicial Inspection Department could come under de facto control of the king.

¹⁸ "Countries at the Crossroads 2012: Saudi Arabia," Freedom House. Pg. 13. Web accessed on October 17, 2014.http://www.freedomhouse.org/sites/default/files/Saudi%20Arabia%20-%20FINAL_0.pdf.

¹⁹ Bar'el, Zvi. "The Twitter-jitters: 140 Characters That Shake a Kingdom - Middle East." Haaretz. January 4, 2014. Accessed January 20, 2015.<http://www.haaretz.com/news/middle-east/.premium-1.583089>.

²⁰ Farhat, Jomana. "Mujtahidd: A Tweeting Thorn in the Side of Al Saud." Al Akhbar English. February 20, 2012. Accessed January 20, 2015. <http://english.al-akhbar.com/node/4345>.

²¹ Ibid.

²² Law of the Judiciary: Royal Decree No. (M/78). First ed. Kingdom of Saudi Arabia, 2007.

²³ "The Basic Law of Governance." The Royal Embassy of Saudi Arabia. Accessed January 23, 2015. http://www.saudiembassy.net/about/country-information/laws/The_Basic_Law_Of_Governance.aspx.

In other respects, the king's influence over the judiciary is much more apparent. In addition to his right to appoint judges, Article 52 of the 1992 Basic Law of Governance gives the king the power to terminate judges at his discretion.²³ The 2007 Law of the Judiciary does not revoke this power. Article 67 only modifies the process by which judges are terminated, adding that judges are to be terminated by the Supreme Judicial Council pursuant to a royal order.²⁴ Judges may be removed for several reasons, including being deemed "unfit for the judiciary" by the Supreme Judicial Council or "obtaining below average grade in proficiency reports for three consecutive times."²⁵ Article 47 states that the king must approve appointments and promotions in the judiciary,²⁶ and Article 49 establishes that judges can only be "transferred, assigned or seconded outside the judiciary... by royal order pursuant to a decision by the Supreme Judicial Council."²⁷

The Supreme Judicial Council is responsible for determining the suitability of trainee judges during a two-year probationary period and newly appointed judges during a one-year probationary period. Article 59 of the 2007 Law of the Judiciary gives the Council the responsibility of disciplining judges for poor performance.²⁸ Under Article 55, the Council must evaluate all judges once and no more than twice per year.²⁹ The law does not provide for a guideline by which the Council performs these evaluations; if there is none, they may be performed in an arbitrary fashion and could potentially be heavily influenced by the king, given his position in appointing the Council.

Article 20 of the Law on the Judiciary should be amended. Substantive decisions of the General Panel should only be appealed through the regular appeals process.

Article 20 of the 1975 Law of the Judiciary alarmed the Rapporteur because it allowed the Minister of Justice—who, under Article 57 (a) of the Basic Law, is directly appointed by the King—to reject General Panel judicial decisions. With its passing of the 2007 Law of the Judiciary, Saudi Arabia addressed the Rapporteur's concern. Under the new law, the Ministry of Justice continues to oversee the administrative and financial functions of the judicial system; however, the Minister of Justice no longer holds the authority to interfere with the General Panel's decision-making process. Article 13 (4) of the 2007 law establishes that all General Panel judicial decisions are final upon a majority vote, and that when a tie arises, the Chief Judge is given the final vote.³⁰ This is a commendable move towards establishing judicial independence in Saudi Arabia. However, as the Chief Judge and the rest of the General Panel continue to be named by royal order, true judicial independence remains questionable.³¹

²⁴ Law of the Judiciary: Royal Decree No. (M/78). First ed. Kingdom of Saudi Arabia, 2007.

²⁵ Ibid., Article 67.

²⁶ Ibid., Article 47.

²⁷ Ibid., Article 49.

²⁸ Ibid., Article 59.

²⁹ Ibid., Article 55.

³⁰ Ibid., Article 13.

³¹ Ibid., Article 13.

Throughout his report, the Rapporteur additionally expressed concern over the appellate process in Saudi Arabia, specifically citing as problematic the small number of appellate courts existing in the country. Responding to the Rapporteur's concerns, in 2007 Saudi Arabia updated the law to provide for the establishment of one or more court of appeals in each of Saudi Arabia's provinces.³² Prior to Article 15, two cassation courts settled all appeals cases. Human rights organizations have commended the establishment of new appellate courts, which may have the effect of policing lower courts into making more consistent decisions.³³

In further efforts towards stabilizing the legal system and ensuring predictable results, Saudi Arabia has hesitantly begun moving towards the codification of Sharia law and establishing a system of precedent consistent with the doctrine of stare decisis.³⁴ Previously, cases in Saudi courts were settled on an individual basis, and the rule of precedent did not apply across the Saudi judicial system. In 2005, however, the Justice Ministry began compiling judicial rulings to guide judges, laying the groundwork for eventual application of the principles of stare decisis. In enacting the 2007 Law of the Judiciary, Saudi Arabia made yet another move towards implementing a system of precedent. Article 14 of this law states:

If a supreme court panel decides—in connection with a case before it—not to follow a precedent adopted by it or by another panel in the same court, or if a court of appeals panel decides not to follow a precedent established by a supreme court panel, the matter shall be put before the Chief judge of the Supreme Court to refer it to the General Panel of the Supreme Court to decide it.³⁵

Previously, Saudi judicial law did not require Supreme Court Panels to follow precedent.³⁶ The degree to which these moves towards establishing precedence will have any practical impact remains questionable, as the vast majority of Saudi law remains to be codified.

The power of the Minister of Justice to appoint extra judges under article [129] of the Law on Criminal Procedure should be abolished.

32 Ibid., Article 15.

33 Wilcke, Christoph. Looser Rein, Uncertain Gain: A Human Rights Assessment of Five Years of King Abdullah's Reforms in Saudi Arabia. New York: Human Rights Watch, 2010. 34-35.

34 Ibid., pp. 33-34.

35 Law of the Judiciary: Royal Decree No. (M/78). First ed. Kingdom of Saudi Arabia, 2007. Article 14.

36 Ibid.

Since the Rapporteur's visit, Saudi Arabia has not amended the 2001 Law on Criminal Procedure. As a result, the Rapporteur's unease over the Minister of Justice's power to appoint extra judges in certain cases has not been addressed. According to Article [129],³⁷ general courts consisting of three judges must reach a unanimous decision in order to issue a death sentence; if they cannot arrive at a unanimous decision, the Minister of Justice appoints two additional judges, and the five judges together decide the outcome by a majority vote.³⁸ Because the Minister continues to hold this power, the Saudi judicial system remains biased towards issuing death sentences. Symptomatic of this bias, Saudi Arabia carried out the highest number of death sentences per capita in 2007—with 135 executions³⁹—and executed 502 people from 2007-2013.⁴⁰

The Government should ensure the appointment of women judges.

Women are still prevented from acting as judges in Saudi courts. In his report, the Rapporteur noted that a member of the Board of Senior Religious Scholars informed him “that in Islamic jurisprudence there is no definite opinion that states that women cannot become judges.”⁴¹ However, the Hanbali school holds that women are not permitted to act as judges. The basis for this position is an example from Islam’s early period in which a woman was not allowed to become a judge, even though she was well-qualified.⁴²

Today, women are only allowed to practice law in Saudi Arabia under certain conditions. The government first permitted women to enroll in law school in 2006. Four years later, in 2010, officials began to reform the courts to allow women to represent other women in cases of child custody, divorce, and other family matters.⁴³ It was not until 2013, however, that the Kingdom first passed a law licensing women to practice law, and the first female legal office opened just last year.⁴⁴ Female law graduates largely continue to work in the women’s sections of law firms and government offices.⁴⁵ Even if Saudi Arabia were to lift the ban on women becoming judges tomorrow, women would still need to obtain the King’s approval, be “of good character and conduct,” and be innocent of any “crime impinging on religion or honor.”⁴⁶

37 Ibid., Article 120.

38 Ibid., Article 120.

39 “Death Sentences and Executions in 2007.” Amnesty International, 2008. <http://www.amnesty.org/en/library/asset/ACT50/001/2008/en/b43a1e5b-ffea-11dc-b092-bdb020617d3d/act500012008eng.pdf>.

40 Haddou, Leila. “Death Penalty Statistics 2013: Country by Country.” The Guardian. March 27, 2014. Accessed January 20, 2015. <http://www.theguardian.com/world/datablog/2014/mar/27/death-penalty-statistics-2013-by-country>.

41 “Civil and Political Rights, Including the Questions Of: Independence of the Judiciary, Administration of Justice, Impunity.” United Nations Economic and Social Council, 2003, 9.

42 Ibid.

43 Buys, Cindy, and Stephanie Macuiba. “Is Reform a Reality for Women in Saudi Arabia?” Illinois State Bar Association. June 1, 2012. Accessed January 20, 2015. <http://www.isba.org/committees/women/newsletter/2012/06/isreformarealityforwomeninsaudiarab>.

44 Miley, Cynthia. “Saudi Arabia Permits First Women Lawyers to Practice Law.” JURIST. October 7, 2013. Accessed January 23, 2015. <http://jurist.org/paperchase/2013/10/saudi-arabia-permits-first-women-lawyers-to-practice-law.php>.

45 Buys, Cindy, and Stephanie Macuiba. “Is Reform a Reality for Women in Saudi Arabia?” Illinois State Bar Association. June 1, 2012. Accessed January 20, 2015. <http://www.isba.org/committees/women/newsletter/2012/06/isreformarealityforwomeninsaudiarab>.

46 Law of the Judiciary: Royal Decree No. (M/78). First ed. Kingdom of Saudi Arabia, 2007. Article 31.

The strict teachings of Wahhabi Islam regarding the women's role in the legal system do not reflect the policies of other Muslim countries, where women are often found in the positions of lawyers and judges. For example, Pakistan appointed five women to judicial positions as early as 1994.⁴⁷ By 2005, 16 percent of lawyers and 10 percent of judges in the West Bank and Gaza were women. Women likewise represent 37 percent of judges and 29 percent of lawyers in Lebanon. The Yemeni Supreme Court appointed its first female judge in 2006. The next year, the Supreme Judicial Council of Egypt appointed 30 female judges. Jordan appointed its first female court chief in 2007 and the UAE appointed its first female judge in 2008.⁴⁸ Some of the Maghreb countries followed suit in 2009 when Tunisia appointed 470 female judges, Algeria appointed 547 female judges, and Morocco appointed 391 female judges.⁴⁹ As of a 2010 report from the Amman Center for Human Rights Studies, women hold 40 judicial positions in Jordan and make up 5.3% of the Kingdom's party leadership.⁵⁰

The position also defies international standards. Saudi Arabia ratified the Convention on the Elimination of all forms of Discrimination against Women (CEDAW); however, it maintained the reservation that, "In case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention."⁵¹ In 1985 the UN General Assembly endorsed the Basic Principles on the Independence of the Judiciary. Article 10 of the Basic Principles declares that, "In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status."⁵² Saudi Arabia's stance on female judges also violates the Arab Charter on Human Rights, to which Saudi Arabia is a signatory. Article 3 of the Charter stipulates that there can be no discrimination on the basis of sex.

47 Balchin, Cassandra. "Sitting in Judgement: For Men Only?" OpenDemocracy. August 2, 2010. Accessed January 20, 2015. <https://www.opendemocracy.net/5050/cassandra-balchin/sitting-in-judgement-for-men-only>.

48 "The Status and Progress of Women in the Middle East and North Africa." The World Bank: Middle East and North Africa Region. http://sitere-sources.worldbank.org/INTMENA/Resources/MENA_Gender_Compendium-2009-1.pdf.

49 Balchin, Cassandra. "Sitting in Judgement: For Men Only?" OpenDemocracy. August 2, 2010. Accessed January 20, 2015. <https://www.opendemocracy.net/5050/cassandra-balchin/sitting-in-judgement-for-men-only>.

50 Steinfort, Lavinia. "Amman Center for Human Rights Studies." A Cacophony of Voices: The Positions of Women in Jordan. June 23, 2013. Accessed January 20, 2015. <http://www.achrs.org/english/index.php/center-news-mainmenu-79/data-and-reports-mainmenu-37/350-a-cacophony-of-voices.html>.

51 "Declarations, Reservations and Objections to CEDAW." United Nations Entity for Gender Equality and the Empowerment of Women. Accessed January 23, 2015. <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>.

52 "Basic Principles on the Independence of the Judiciary." United Nations Human Rights: Office of the High Commissioner for Human Rights. Accessed January 20, 2015. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx>.

CONCLUSION

Since the Rapporteur's visit, Saudi Arabia has addressed only one of the Rapporteur's four recommendations concerning the judiciary. The 2007 Law of the Judiciary, while making strides in some areas, fails to guarantee judicial independence in Saudi Arabia. The government continues to treat judges as civil servants, rather than heeding the Rapporteur's call to provide them with a special status that would allow them to carry out their duties objectively. While the government has revoked the Minister of Justice's power to reject the General Panel's decisions, it has not removed his right to appoint extra judges in cases involving the death sentence, instead maintaining the ability of the government to affect their application. To date, there are no female judges in Saudi Arabia, and no forthcoming reforms appear to address this issue. In totem, there appears to be no real judicial independence in Saudi Arabia, as the judiciary remains highly vulnerable to pressure from the king and other leading governmental actors.

ii. The Prosecution

INTRODUCTION

The prosecution plays a vital role in a criminal justice system. In order for the system as a whole to be impartial, the prosecution must be independent in carrying out its duties. For this reason, the Rapporteur recommended that the Bureau of Investigation and Prosecution (BIP) be moved from the Ministry of Interior to the Ministry of Justice and that the BIP establish a relationship with international partners. The Ministry of Interior is charged with law enforcement and maintaining security; a Ministry of Justice should ensure that justice prevails. Consequently, the ability of Saudi Arabia's prosecutorial body to act impartially is compromised so long as it is overseen by the Ministry of Interior. Actively engaging with international partners would help Saudi Arabia to become familiar with best practices. The government has begun to establish contacts with international partners, but still houses the BIP under the Ministry of Interior.

RECOMMENDATIONS

The responsibility of the Bureau of Investigation and Prosecution should be transferred to the Ministry of Justice.

The government has not addressed the Rapporteur's recommendation. Oversight of the Bureau of Investigation and Prosecution (BIP) remains under the supervision of the Ministry of Interior, rather than the Ministry of Justice, which the Rapporteur recommended. This has a significant impact on the judicial process, as the BIP's tasks include:

1. Commencing investigations and taking control of investigations started by other government bodies;
2. Carrying out investigations;
3. Deciding on whether or not detention of the accused is warranted;
4. Determining if a prosecution is to be initiated;
5. Ensuring that court judgments are enforced;
6. Safeguarding the lawful treatment of the accused and convicted.⁵³

⁵³ "Civil and Political Rights, Including the Questions Of: Independence of the Judiciary, Administration of Justice, Impunity." United Nations Economic and Social Council, 2003, 11.

The BIP and the police and security forces still fall under the authority of the same ministry, calling the ability of the BIP to impartially prosecute suspects into question.⁵⁴ As the Ministry of Interior maintains responsibility over both the arresting and prosecuting agencies of the government, it has a vested interest in using its prosecutorial powers to justify its use of its police powers. According to the Rapporteur, “[t]he determination of the rights of the accused and the legality of the exercise of prosecutorial discretion is clearly a judicial function”; the BIP cannot objectively assess its own compliance with the law.⁵⁵

The Bureau of Investigation and Prosecution is encouraged to establish contacts with international partners, such as the International Association of Prosecutors.

In July 2014, Saudi representatives attended the 9th International Association of Prosecutors' Asia Pacific and Middle East Regional Conference, "Prosecutors at the Coalface."⁵⁶ The conference provided participants with insight from experts on a range of topics that generally affect prosecutors or may influence the outcome of a trial. It is unclear whether or not the Saudi participants attended the conference in any official capacity; however, even if these participants were not acting in an official capacity, this represents an attempt towards raising awareness in Saudi Arabia of international legal developments and best practices. That said, to the best of our knowledge, Saudi Arabia has yet to invite an independent, outside group to assess its investigative and prosecutorial procedures. Before there can be substantial reform in these areas, such observation must occur.

CONCLUSION

In order for Saudi Arabia's criminal justice system as a whole to be viewed favorably, the investigative and prosecutorial processes must be carried out in an impartial manner. The participation of Saudi representatives—whether in an official capacity or not—in the International Association of Prosecutors' conference should be commended, as it shows at least some degree of willingness on the part of the Saudi government to reach out to international partners and to increase familiarity with best practices in the Kingdom. However, the Bureau of Investigations and Procedures remains under the Ministry of Interior, rather than the Ministry of Justice; despite international engagement suggesting the contrary, substantial reform has not occurred.

54 Ibid., 19.

55 Ibid., 20.

56 Australian Association of Crown Prosecutors. 9th IAP Asia Pacific and Middle East Regional Conference. Sydney, Australia: July 2014. http://www.iap-association.org/getattachment/Conferences/Regional-Conferences/Middle-East-Asia-Pacific/9th-Regional-Conference-2014/IAP-AACP2014-Conference-BrochureMarch_14.pdf.aspx.

iii. Legal Profession

INTRODUCTION

At the time of the Rapporteur's visit, the role of Saudi lawyers was not well-defined, and lawyers were not considered an important part of the judicial system. In fact, the Rapporteur was told that judges commonly thought lawyers to be a hindrance, rather than a help, in determining the truth of a case.⁵⁷

In his report, the Rapporteur issued four recommendations concerning the legal profession. Specifically, the Rapporteur called on Saudi Arabia to speed up its process of registering lawyers, to restructure its criminal justice system so that there is a self-governing bar association, to encourage more women to practice law, and to ensure that lawyers are made available to all accused persons. With the exclusion of promoting a self-governing bar association, the Government of Saudi Arabia has made substantial efforts to address the Rapporteur's recommendations.

RECOMMENDATIONS

The Government should consider examining ways of speeding up the registration process without compromising its integrity.

The 2001 Code of Law Practice requires the Ministry of Justice to prepare a list of practicing and non-practicing Saudi lawyers. The list was not readily accessible on the Ministry's website in English or Arabic; however, in 2014, the Minister of Justice issued a statement in which he declared that the Government of Saudi Arabia had issued 1,486 total licenses.⁵⁸ Interlocutors report that an additional 800 wakeel (advocates) are registered in the country. While this represents an improvement from 2002, when there were only 81 licenses issued,⁵⁸ it is still an extremely low number for a country of 29 million people.

All lawyers, both registered and those yet to be registered, should discuss the formation of a self-governing bar association. Issues relating to the structure of the organization, the rights and duties of its members, including disciplinary provisions, and continuing legal education should be addressed.

57 "Civil and Political Rights, Including the Questions Of: Independence of the Judiciary, Administration of Justice, Impunity." United Nations Economic and Social Council, 2003, 11.

58 "رخصة صدرت للمحامين السعوديين.. غالبيتها في الرياض" Alhayat. March 16, 2014. Accessed January 20, 2015.

59 "Civil and Political Rights, Including the Questions Of: Independence of the Judiciary, Administration of Justice, Impunity." United Nations Economic and Social Council, 2003, 11.

There is still no self-governing bar association in Saudi Arabia. Interlocutors report that the government has blocked efforts towards the establishment of such an organization.

In the absence of an independent bar association, guidelines for legal practice—including the criteria by which lawyers are judged to be fit for legal practice, duties and rights of lawyers, and acceptable disciplinary action—are codified in the 2001 Code of Law Practice. Article 5 of the Code of Law Practice establishes a Lawyers Registration and Admission Committee, consisting of a chairman appointed from the deputies of the Ministry of Judges by the Minister of Justice,⁶⁰ a member who is a representative of the Board of Grievances, and a lawyer who has practiced law for at least five years and is also appointed by the Minister of Justice. This committee approves applications for legal practice. The Code of Law Practice states that if the Lawyers Registration and Admission Committee decides to reject an application, it must make the reasons for doing so available upon request.⁶¹

In order to appear in front of a court on behalf of a defendant, however, one does not need to be a licensed lawyer. Under Article 18 of the Code of Law Practice, defendants can be represented by a non-licensed lawyer, known as an attorney-in-fact; relatives “to the fourth degree”; and a trustee or guardian.⁶² In general, however, the best way to guarantee fair trials is to ensure that all defendants are represented by licensed lawyers who are familiar with the law and the rights of the accused.

The Government should take steps to encourage more women to practice law.

Since the Rapporteur’s visit, Saudi Arabia has encouraged more women to practice law. The first step came in 2005, when Saudi universities began allowing women to enroll as law students.⁶³ Following this step, women were permitted to act as legal consultants, but not to appear before courts.⁶⁴ In 2013, the government finally allowed women to practice law in the country—five years after the first female students graduated with their law degrees.⁶⁵ Demonstrating continued progress, Saudi Arabia’s first female law firm opened in January 2014.⁶⁶ However, interlocutors report that women continue to be a marginalized population within the legal profession in Saudi Arabia; as of December 2014, ADHRB’s interlocutors had identified only six female lawyers, none of which had been allowed to stand before court.

60 “THE CODE OF LAW PRACTICE [2001].” The Royal Embassy of Saudi Arabia. October 15, 2001. Accessed January 23, 2015. <http://www.saudiembassy.net/about/country-information/laws/CodePractice01.aspx>.

61 Ibid.

62 Ibid.

63 Carrington, Daisy. “Meet Saudi Arabia’s First Female Lawyer.” CNN. May 9, 2013. Accessed January 23, 2015. <http://edition.cnn.com/2013/05/09/business/saudi-arabia-first-female-lawyer/>.

64 “Civil and Political Rights, Including the Questions Of: Independence of the Judiciary, Administration of Justice, Impunity.” United Nations Economic and Social Council, 2003, 11.

65 Carrington, Daisy. “Meet Saudi Arabia’s First Female Lawyer.” CNN. May 9, 2009. Accessed January 23, 2015. <http://edition.cnn.com/2013/05/09/business/saudi-arabia-first-female-lawyer/>.

66 Iaccino, Ludovica. “Saudi Arabia Opens First Female Law Firm.” International Business Times. January 7, 2014. Accessed January 23, 2015. <http://www.ibtimes.co.uk/saudi-arabia-opens-first-female-law-firm-1431391>.

The Government should take steps to ensure the provision of legal representation to those that do not have access to it. This can be achieved, for example, through the creation of an office of public defenders, or the establishment of a referral system for lawyers who are willing to provide representation without charge, or the provision of financial resources to enable the securing of legal services.

The Government of Saudi Arabia approved the formation of a public defender program in January 2010. The public defender program is designed to ensure that Saudis who cannot afford a lawyer in a criminal trial are provided with one at the expense of the state.⁶⁷ This is significant, as in the past, many individuals in Saudi Arabia were tried and sentenced without the presence of a lawyer because they could not afford one, leaving them highly vulnerable to human rights abuses throughout their detentions and trial periods.

Despite the ostensible creation of the public defender program, however, the government appears to have failed to implement a public defender office. Interlocutors report that indigent Saudi defendants do not receive state-sponsored legal counsel in any situation. Further, in some situations an accused has even been denied the service of pro bono representation.⁶⁸ Human rights organizations have reported in the past that Saudi law did not require that accused persons be informed of their right to legal counsel, leaving it up to them to request such assistance.⁶⁹ It is unclear whether or not this continues.

CONCLUSION

Since the Rapporteur's visit, Saudi Arabia has undertaken several initiatives to address his recommendations, with the exception of instituting a self-governing bar association. Saudi Arabia has drastically increased its issuances of licenses to practice law, encouraged women to practice law, and established a public defender program. However, the number of licensed lawyers in Saudi Arabia is still quite low—especially women—and the availability of public defender program to all accused persons remains unclear.

67 "Saudi Arabia: Criminal Justice Strengthened." Human Rights Watch. January 14, 2010. Accessed January 23, 2015. <http://www.hrw.org/news/2010/01/14/saudi-arabia-criminal-justice-strengthened>.

68 "Saudi Arabia: Women's Rights Activist Detained: Souad Al-Shammari | Amnesty International." Amnesty International. November 6, 2014. Accessed January 23, 2015. <http://www.amnesty.org/en/library/info/MDE23/029/2014/en>.

69 "Precarious Justice: Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia." Human Rights Watch 20, no. 3 (E) (2008): 33. http://www.hrw.org/sites/default/files/reports/saudijustice0308_1.pdf.

iv. Legal Education

INTRODUCTION

As the legal profession was in a very early stage at the time of the Rapporteur's visit, he made recommendations that would help strengthen the profession in the long-term. Legal norms change over time, and in order to guarantee that Saudi lawyers are practicing in a way that incorporates the latest developments, the Rapporteur recommended that they be required to continue their legal education throughout their legal careers. Additionally, the Rapporteur called upon the government to mandate that international law and international human rights law be included in university curricula. The Government of Saudi Arabia has not meaningfully addressed either of the Rapporteur's recommendations.

RECOMMENDATIONS

Judges, prosecutors and lawyers should be required to take legal education on a continuing basis throughout their legal career in order to be able to keep abreast of the latest developments in law and procedure and developments in other jurisdictions.

Prospective Saudi judges and attorneys must meet specific educational requirements to work and accrue certain diplomas before qualifying for certain positions or practices.⁷⁰ Once a legal professional has received his diploma, however, the law views his education as finished. New laws regulating the practice of attorneys have not been updated or amended, and the 2007 Law of the Judiciary, while laying out a tiered criterion for the professional advancement of judges based in part on their level of education,⁷¹ mentions nothing about requiring judges to update their knowledge once a position has been acquired.

Consideration should be given to including compulsory courses in international law and international human rights law in university curricula.

⁷⁰ Law of the Judiciary: Royal Decree No. (M/78). First ed. Kingdom of Saudi Arabia, 2007. Article 3, 31-43.

⁷¹ Ibid.

Saudi authorities have not responded to this recommendation, which the Rapporteur put forward in order to address “a lack of knowledge in general about international and human rights law within Saudi Arabia.”⁷² Sporadically, one can find cases in which universities made space for the discussion of some human rights precepts; in 2009, for example, the Human Rights Council’s women’s section hosted an international human rights law workshop at Prince Sultan University.⁷³ According to Saudi newspapers, the language of human rights⁷⁴ and the discussion of the implications of international human rights law⁷⁵ are slowly entering the nation’s universities. This minor progress, however, falls well short of instilling the broad-based knowledge of international law that the Rapporteur believed necessary to support reforms in the Kingdom.

CONCLUSION

The Saudi system continues to lack emphasis on continuing education and on international law and international human rights. The 2007 Law of the Judiciary mandates that judges attain specific levels of education and experience in order to progress to higher positions, but does not necessitate that they keep abreast of the most recent developments in the legal field. Similarly, the government has not followed the Rapporteur’s recommendation to mandate that university students take courses in international law and in international human rights law. The government’s failure to mandate these courses is disappointing, as it would help to ensure that individuals are aware of their rights so that those rights are not disrespected by the criminal justice system.

72 “Civil and Political Rights, Including the Questions Of: Independence of the Judiciary, Administration of Justice, Impunity.” United Nations Economic and Social Council, 2003, 95.

73 “Saudi Arabia 2013 Human Rights Report,” U.S. Department of State, <http://www.state.gov/documents/organization/220586.pdf>, 31.

74 Essa, Ahmed. “التعليم وثقافة حقوق الإنسان.” Alhayat. September 17, 2014. Accessed January 23, 2015. [75 ”متدخلون في محاضرة «حقوق الإنسان» يطالبون بنهج ثابت في التصدي للاتهامات الدولية ضد المملكة.” Alriyadh. December 13, 2010. Accessed January 23, 2015. <http://www.alriyadh.com/584701>.](http://alhayat.com/Opinion/ahmed-alis-a/4630215/%D8%A7%D9%84%D8%AA%D8%B9%D9%84%D9%8A%D9%85-%D9%88%D8%AB%D9%82%D8%A7%D9%81%D8%A9-%D8%AD%D9%82%D9%88%D9%82-%D8%A7%D9%84%D8%A5%D9%86%D8%B3%D8%A7%D9%86.</p></div><div data-bbox=)

iv. Legal Procedures

INTRODUCTION

The Special Rapporteur cited significant concerns over the Saudi administration of justice,⁷⁶ framing his discussion of the Saudi state's legal process around the recently promulgated Law of Criminal Procedure (issued in November 2001).⁷⁷ The Rapporteur found the Law lacking in most respects; in the subsequent report, he wrote, "sometimes the provisions of the code favour the interests of an investigation over the rights of the accused."⁷⁸ Although the report clarifies that the Rapporteur did not aim to disaggregate the law in its entirety,⁷⁹ his investigation raised a set of issues concerning the legal procedures put in place by the law, including: review and administration of pre-trial detention, the accused's access to legal counsel, the accused's knowledge of his or her rights, the reliance on confessional evidence, the legal system's commitment to transparency, and the legal system's treatment of juveniles. The Rapporteur offered recommendations for improving the procedures governing all these areas, but in the twelve years since the report's publication, little to no progress has been made on these fronts, and in many ways the law has regressed since the Rapporteur's visit.

RECOMMENDATIONS

The law should be amended to ensure that accused persons are promptly brought before a court after their arrest or detention with any subsequent periods of detention being authorized by the court.

Individuals who are in detention and who have not been brought before a court should have their detention reviewed by a court.

Articles 114⁸⁰ and 119⁸¹ of the Law of Criminal Procedure delegated the process of reviewing and extending a detainee's detention to investigative bodies under the purview of the MOI, the BIP chief among them. Investigators and BIP officials may legally hold a detainee for up to six months without trial, and may confine him or her to incommunicado detention for up to sixty days if the interests of the investigation so required.⁸²

76 "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 46.

77 Ibid., par. 47.

78 Ibid., par. 96.

79 Ibid., par. 49

80 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library. http://www1.umn.edu/humanrts/research/saudiarabia/criminal_procedure.html.

81 Ibid.,

82 "Civil and Political Rights, Including the Questions Of: Independence of the Judiciary, Administration of Justice, Impunity." United Nations Economic and Social Council, 2003, 53.

Saudi judges are unable to intervene in these processes.⁸³ When the Rapporteur pressed this point, he was informed that judicial and investigative functions had to remain separate.⁸⁴ According to the Rapporteur, the law failed to guarantee the right of the accused to “trial within a reasonable time.”⁸⁵ There is little evidence that authorities have since adopted his report’s recommendations to amend the law or strengthened the protections afforded to these rights.

As of today, the BIP still exercises wide latitude in prolonging detention and enforcing incommunicado confinement,⁸⁶ and officials frequently refuse to enforce what little protections do exist. A Human Rights Watch letter from May 2014 states that an MOI-maintained database of detainees⁸⁷ listed 293 prisoners who had been detained without trial for longer than the six month period proscribed by law, sixteen of whom had been held for over two years.⁸⁸ The Department of State has previously reported that the number of political prisoners held in unlawful detention “could not be reliably ascertained,”⁸⁹ and thus the number of people who have remained in detention without trial for longer than six months could be significantly higher.

83 “Saudi Arabia 2013 Human Rights Report,” U.S. Department of State, <http://www.state.gov/documents/organization/220586.pdf>, 7, 10.

84 “Civil and Political Rights, Including the Questions Of: Independence of the Judiciary, Administration of Justice, Impunity.” United Nations Economic and Social Council, 2003, 56.

85 Ibid., par. 97.

86 United States Department of State. “Saudi Arabia 2013 Human Rights Report.” (2014), accessed January 30, 2015. <http://www.state.gov/documents/organization/220586.pdf>

87 “Government of Saudi Arabia.” Nafethah. Accessed January 23, 2015. <https://www.nafethah.gov.sa/>.

88 “Letter to Saudi Interior Minister on Arbitrary Detention,” Human Rights Watch, September 23, 2014, accessed October 28, 2014. <http://www.hrw.org/news/2014/09/23/letter-saudi-interior-minister-arbitrary-detention>.

89 “United States Department of State. “Saudi Arabia 2013 Human Rights Report.” (2014), accessed January 30, 2015. <http://www.state.gov/documents/organization/220586.pdf>.”

The authorities' discretion in extended pre-trial detention is apparent in its handling of the cases of Abdulrahman al-Hamid and Fadel Mekki al-Manasef. On April 17, 2014, al-Hamid, a human rights advocate and founding member of the Saudi Civil and Political Rights Association (ACPRA), was arrested on order of the BIP and kept from contacting his family.⁹⁰ Authorities held him incommunicado for a month, and he remains detained without charge at Buraydah prison in al-Qassim.⁹¹ Officials arrested Mr. al-Manasef, an activist who often addressed human rights complaints to public institutions, on October 2, 2011, and held him in solitary confinement for four months,⁹² far exceeding the sixty day period permitted by law. Authorities postponed his trial on several occasions, and the most recent update on his condition, from Front Line Defenders, reported that he had been imprisoned for over a year without trial.⁹³

The introduction of the Penal Law for Crimes of Terrorism and Its Financing has expanded the power to extend pre-trial detention. Article 5 of the law stipulates that, on top of the six months for which detention can already be prolonged, authorities may delay trial for an additional six months if such extension is required by the investigation;⁹⁴ under the law, a terrorism suspect may spend as much as 12 months in prison before seeing any review of his detention. Article 6 lengthens the period in which the accused may be held incommunicado, stating that such detention may "not exceed a period of 90 days."⁹⁵

Article 28 establishes "rehabilitation and correction centers" to dissuade terrorist sympathizers from their beliefs and aid them in reintegrating into society;⁹⁶ similar prison-based terrorist rehabilitation programs have existed in Saudi Arabia for the better part of a decade, with mixed results.⁹⁷ According to a 2010 RAND report, a fraction (231 of 3,033) of participants in these programs were released,⁹⁸ leaving the vast majority to be held at the discretion of authorities with a history of disrespecting due process rights.

When an accused person is arrested, he should be informed of his rights and provided with an opportunity to contact a lawyer. In the case of a foreign national, he should be informed of his right to seek consular assistance and provided with an opportunity to do so.

90 "URGENT ACTION," Amnesty International, April 29, 2014, accessed October 27, 2014, <http://www.amnesty.org/en/library/asset/MDE23/010/2014/en/da42a2a9-8cb5-40a3-9b1a-f47fb59ab57f/mde230102014en.pdf>.

91 "Muzzling dissent: Saudi Arabia's efforts to choke civil society," Amnesty International, October 9, 2014, accessed October 27, 2014, <http://www.amnestyusa.org/news/news-item/muzzling-dissent-saudi-arabia-s-efforts-to-choke-civil-society>.

92 "Saudi Arabia: One year pre-trial detention of human rights defender Mr. Fadel Mekki al-Manasef," Frontline Defenders, October 30, 2012, accessed October 28, 2014, <http://www.frontlinedefenders.org/node/20472>.

93 Ibid.

94 "Civil and Political Rights, Including the Questions Of: Independence of the Judiciary, Administration of Justice, Impunity." United Nations Economic and Social Council, 2003, 11.

95 "Text of the Regime for Terrorism Crimes in Saudi Arabia," As-Sakina.com; see also "Saudi Arabia: New Terrorism Regulations Assault Rights," Human Rights Watch, March 20, 2014, accessed October 27, 2014.

96 Ibid.

97 Marisa L. Porges, "The Saudi Deradicalization Experiment," Council on Foreign Relations, January 22, 2010, accessed November 5, 2014, <http://www.cfr.org/radicalization-and-extremism/saudi-deradicalization-experiment/p21292>.

98 Angel Rabasa, et. al., "Deradicalizing Islamist Extremists," RAND, 2010, accessed November 5, 2014, http://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG1053.pdf.

The Law of Criminal Procedure does not explicitly require authorities to inform the accused of his or her rights.⁹⁹ Articles 4, 64, 119 and 140, however, seem to protect the right of the detained to access legal counsel during periods of investigation and trial.¹⁰⁰ Still, uncertainty remains regarding the insurance of this right, as the law "does not specify a timeframe for access to a lawyer."¹⁰¹ After surveying the ambiguous legal landscape, the Rapporteur chose to reiterate that the accused has "the right to be represented by a lawyer at all times which cannot be removed in the interests of the investigation."¹⁰²

Saudi legal authorities have not upheld this right, failing to both adopt the Rapporteur's recommendations and comply with their own laws in the process. While articles 119 and 140 of the Law of Criminal Procedure ostensibly guarantee the accused's right to counsel, authorities often deny an accused the opportunity to consult with legal representation during investigation and trial.¹⁰³ In May 2014, the Saudi National Society for Human Rights (NSHR), a National Human Rights Institution supported by the Saudi government, claimed that officials in police stations and prisons regularly prevented detainees from accessing legal counsel.¹⁰⁴ Additionally, attorneys are sometimes barred from attending the hearings of their clients, as in the 2011 case of political activist Abd al-'Aziz al-Wuhaibi.¹⁰⁵

The Saudi legal system's adherence to a rigid interpretation of Wahabbi Sharia law potentially complicates the ability of defendants to receive competent legal representation. The 2001 Code of Law Practice mandated that practicing attorneys must be Saudi nationals, and that any non-Saudi lawyers practicing at the time of the law's promulgation were to receive temporary licenses.¹⁰⁶ Even though Saudi officials informed the Rapporteur that non-Muslim attorneys could represent a non-Muslim client before a Saudi court,¹⁰⁷ this does not appear to be formally ensconced in the law; as Saudi nationals must be Muslim, and all attorneys must be Saudi nationals, the chances for a non-Muslim defendant to secure the services of a non-Muslim attorney seem slim.

99 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library 2013.; see also "United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015. <http://www.state.gov/documents/organization/220586.pdf>."

100 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library 2013.

101 "United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015. <http://www.state.gov/documents/organization/220586.pdf>."

102 "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 101

103 "Saudi Arabia: UPR Submission September 2013," Human Rights Watch, September 30, 2013, accessed October 28, 2014. <http://www.hrw.org/news/2013/09/30/saudi-arabia-upr-submission-september-2013>.

104 "Detainees' access to lawyers questioned," Arab News, May 4, 2014, accessed October 28, 2014, <http://www.arabnews.com/news/565351>.

105 "Saudi Arabia: Abolish Terrorism Court," Human Rights Watch, April 27, 2012, accessed November 6, 2014, <http://www.hrw.org/news/2012/04/27/saudi-arabia-abolish-terrorism-court>.

106 "THE CODE OF LAW PRACTICE [2001]." The Royal Embassy of Saudi Arabia. October 15, 2001. Accessed January 23, 2015. <http://www.saudiembassy.net/about/country-information/laws/CodePractice01.aspx>.

107 "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 40.

The recent Penal Law for Crimes of Terrorism and Its Financing has largely maintained the ambiguous status quo concerning the accused's right to access legal representation. Article 10 of the law stipulates that the accused has the right to hire a practicing lawyer for his defense, but that the investigator determines the timeframe in which this right can be utilized.¹⁰⁸ In April 2014, authorities re-arrested attorney and prominent rights activist Waleed Abu al-Khair as he attended court to answer to separate charges; the Specialized Criminal Court later convicted and sentenced him under the anti-terror law.¹⁰⁹ The authorities did not inform his attorney of the sentencing.

Detained foreign nationals are especially vulnerable to the caprice of the Saudi legal system. Officials frequently deny, or fail to inform, detained foreign nationals of their right to seek consular assistance. Furthermore, neither the Law of Criminal Procedure nor the Penal Law for Crimes of Terrorism and Its Financing make any mention of this right. In January 2013, Saudi authorities arrested Jordanian national Khaled al-Natour as he arrived at King Khalid International Airport in Riyadh.¹¹⁰ Mr. al-Natour was held incommunicado for three months without being informed of the reasons for his detention, prohibited from contacting an attorney,¹¹¹ and further prevented from contacting Jordanian officials. Over a month after Mr. al-Natour's arrest, Saudi officials had not responded to repeated inquiries from the Jordanian Foreign Ministry on the condition of his detention.¹¹²

Migrant workers living in the kingdom experience the failures of the legal system most acutely, as authorities commonly deny these populations access to consular assistance.¹¹³ Even when the consular process is engaged, officials preclude or ignore its outcome. In June 2011, Saudi authorities executed Indonesian migrant worker Ruyati Binti Satubi Saruna without informing the Indonesian embassy in Jeddah of the decision; the Indonesian government had been attempting to request a pardon through official channels.¹¹⁴

A provision safeguarding the confidentiality of verbal and written communications between the accused and his lawyers should be included in the Code of Criminal Procedure.

108 "Text of the Regime for Terrorism Crimes in Saudi Arabia," As-Sakina.com, February 4, 2014, accessed October 27, 2014, <http://www.assakina.com/news/news2/37418.html>.

109 "New anti-terror law used to imprison Saudi Arabian human rights activist," Amnesty International, July 7, 2014, accessed November 12, 2014, <http://www.amnesty.org/en/news/new-anti-terror-law-used-imprison-saudi-arabian-human-rights-activist-2014-07-07>.

110 "Document – Saudi Arabia: Jordanian Held Incommunicado in Saudi Arabia," Amnesty International, February 26, 2013, accessed October 29, 2014, <http://www.amnesty.org/en/library/asset/MDE23/007/2013/en/2f136c11-54f0-4f40-a2cc-5ea15428093e/mde230072013en.html>.

111 "Saudi Arabia 2013 Human Rights Report," 9.

112 Dave Gavlak, "Jordan: No news of activist held in Saudi Arabia," Yahoo! News, February 25, 2013, accessed October 29, 2014, <http://news.yahoo.com/jordan-no-news-activist-held-saudi-arabia-141850936.html>.

113 Gethin Chamberlain, "Saudi Arabia's treatment of foreign workers under fire after beheading of Sri Lankan maid," The Guardian, January 12, 2013, accessed October 29, 2014, <http://www.theguardian.com/world/2013/jan/13/saudi-arabia-treatment-foreign-workers>.

114 Sophie Brown, "Saudi Arabia pledges to protect foreign workers, as Indonesian maids face execution," CNN World, February 21, 2014, accessed October 29, 2014, <http://www.cnn.com/2014/02/21/world/meast/saudi-arabia-indonesia-domestic-worker-agreement/>; see also Mathias Hariyadi, "After Ruyati's beheading, Jakarta stops migrants from going to Saudi Arabia," AsiaNews, June 24, 2011, accessed October 29, 2011, <http://www.asianews.it/news-en/After-Ruyati%20%99s-beheading,-Jakarta-stops-migrants-from-going-to-Saudi-Arabia-21925.html>.

As noted by the Special Rapporteur in his report,¹¹⁵ Article 84 of the Law of Criminal Procedure provides some safeguards for attorney-client privilege, stating that an investigator may not seize any documentation or correspondence exchanged between the accused and his legal representative.¹¹⁶ Saudi officials have not amended Article 84 to bring it more explicitly in line with the Rapporteur's recommendation. Additionally, investigators may still interrogate an accused without the presence of his counsel.

The Government should require the tape or video recording of all interrogations in their entirety.

As noted in the Rapporteur's 2003 report, interrogators are under significant pressure to secure a direct confession from the accused due to the stringent requirements that the Saudi interpretation of Hanbali Sharia law places on the testimony of witnesses.¹¹⁷ Per Article 162 of the Law of Criminal Procedure, a court can decide a case solely on the strength of the accused's confession if the judge is confident of its veracity.¹¹⁸ Saudi interlocutors assured the Rapporteur that "confessions must be given freely and willingly," and that the accused may retract his confession at any step of the legal process.¹¹⁹ While Article 102 of the Law of Criminal Procedure theoretically prohibits interrogators from coercing suspects into confessing by stipulating that the interrogation "not affect the will of the accused in making his statement,"¹²⁰ no written code specifically protects the right of accused to retract a confession.

In the report, the Rapporteur states that relying on confessional evidence "exacerbates the problems of prolonged detention."¹²¹ Though not explicitly acknowledged, these "problems" undoubtedly refer to the widespread instances of interrogators torturing detainees in order to extract confessions.¹²² This coercion remains a regular feature of the Saudi legal system, a practice which, if caught on film, could subject the offending interrogator to legitimate oversight.

¹¹⁵ "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 60.

¹¹⁶ "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library.2013.; see also United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015. <http://www.state.gov/documents/organization/220586.pdf>.

¹¹⁷ "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 65, 100.

¹¹⁸ "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library.2013.; see also United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015.

¹¹⁹ "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 64.

¹²⁰ "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library.2013.; see also United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015. <http://www.state.gov/documents/organization/220586.pdf>.

¹²¹ "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 100.

¹²² "Saudi Arabia executes four for hashish possession," BBC.com, August 19, 2014, accessed November 3, 2014, <http://www.bbc.com/news/world-middle-east-28851512>; see also "VII. Migrant Workers in the Criminal Justice System: Rights Denied," Human Rights Watch, accessed November 3, 2014, <http://www.hrw.org/reports/2004/saudi0704/10.htm>; Carol Crafty, "Terror suspect: Saudis tortured him," CNN.com, October 19, 2005, accessed November 3, 2014, <http://www.cnn.com/2005/LAW/10/19/abu.ali/>; Migrants accused of killing Britons retract confessions," Arab News, October 23, 2014, accessed November 3, 2014, <http://www.arabnews.com/news/648666>.

On paper, articles 2 and 102 of the Law of Criminal Procedure prohibit torture,¹²³ but authorities often violate this code in practice. While examples and testimonials of former and current detainees abound, the recent case of Hajras al-Qurey concisely illustrates the impact of these derogations. Authorities accused Mr. al-Qurey of trafficking drugs and utilized torture to coerce him into confessing, and a court sentenced him to death in January 2013; his defense attorney stated that the confession, which Mr. al-Qurey later retracted, was the only evidence presented by the prosecution.¹²⁴

Like videotaping, an attorney's presence could also curb the practice of extracting false confessions, but there exists significant ambiguity as to whether the law allows the accused to access an attorney during his or her interrogation. Article 70 of the Law of Criminal Procedure prohibits the investigator from separating the accused from his or her legal representation during the investigation, but Article 69 specifies that an investigator may, in the course of a private right of action, carry out the investigation in the absence of the accused's attorney if "deemed necessary for determining the truth."¹²⁵ Legal ambiguities aside, Saudi authorities frequently prevent attorneys from supporting clients during interrogation. During Mr. al-Qurey's interrogation, authorities did not permit him to access legal representation despite evidence of a mental handicap.¹²⁶

The Law on Criminal Procedure should be amended so that the right to be provided with an interpreter is explicitly guaranteed at all phases of the criminal process.

As noted by the Special Rapporteur in his report,¹²⁷ the Law of Criminal Procedure stipulates, "the court may seek the assistance of interpreters" if any parties to the proceedings or witnesses to the court do not understand Arabic.¹²⁸ This is a suggestion, not a mandate, and Saudi laws have not been reformed to reflect this recommendation; Saudi interlocutors' assurances to the Rapporteur that interpreters are provided to non-Arabic speakers¹²⁹ did not, and do not, match reality. As in other cases, the authorities' selective ignorance of the law leads to widespread abuse, particularly among migrant workers.

123 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library.2013.; see also United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015.

124 "Saudi Arabia: Scheduled beheading reflects authorities' callous disregard to human rights," Amnesty International, August 22, 2014, accessed November 3, 2014, <http://www.amnesty.org/en/news/saudi-arabia-scheduled-beheading-reflects-authorities-callous-disregard-human-rights-2014-08-22>.

125 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library.2013.; see also United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015.

126 "URGENT ACTION: Hajras al-Qurey Executed," Amnesty International, September 22, 2014, accessed November 3, 2014, <http://www.amnesty.org/en/library/asset/MDE23/024/2014/en/bc380fad-88c8-4551-a827-65b53efbeb47/mde230242014en.pdf>.

127 "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 72.

128 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library.2013.; see also United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015. <http://www.state.gov/documents/organization/220586.pdf>

129 "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 72.

Whether Saudi officials grant access to an interpreter varies from case to case, leaving workers to rely on ad hoc arrangements or their own limited knowledge of Arabic.¹³⁰ In other cases, officials do not permit even these minimal efforts. Saudi authorities denied Rizana Nafeek, a Sri Lankan migrant worker executed in 2013 after being convicted of murdering a child in 2007, access to an interpreter during both her interrogation and trial.¹³¹

A list of cases, and the courts that they will be heard in, should be placed on display in the entrances of court buildings and outside each court to facilitate access to interested members of the public.

In his report, the Special Rapporteur expressed significant concerns over the legal system's lack of transparency, noting that there was no public registry of court cases and that, if asked, a court registrar would not likely supply the time and location of a proceeding to someone without an apparent connection¹³² to the case. While there is no publicly available information on the subject, interlocutors report that the government has not yet taken up this practice, and that courts continue to obfuscate details surrounding their cases.

Derogations from the public nature of the court hearings should only be permitted in the circumstances outlined in Article 14 of the International Covenant on Civil and Political Rights.

The Rapporteur's transparency concerns extended to the manner in which judicial authorities could arbitrarily close court cases to the public. Article 155 of the Law of Criminal Procedure states that, while proceedings should be public, courts may close hearings or prevent the attendance of "certain classes of people" for purposes of security or public morality.¹³³ Furthermore, Article 33 of the 1975 Law of the Judiciary allows courts to close a session "in deference to morals...the sanctity of the family, or for the maintenance of public order."¹³⁴ The 2007 Law of the Judiciary makes no mention of keeping court hearings closed or open.¹³⁵ By adopting Article 14, paragraph 1 of the ICCPR, which specifies the accused's right to a public hearing,¹³⁶ Saudi authorities could have scuttled a mandate that the Rapporteur deemed "too broad in scope" which "undermines the transparency of the court system."¹³⁷

130 "As If I Am Not Human: Abuses against Asian Domestic Workers in Saudi Arabia," Human Rights Watch, July 2008, accessed October 30, 2014, http://www.hrw.org/sites/default/files/reports/saudiarabia0708_1.pdf, 86.

131 Hannah Osborne, "Beheaded Rizana Nafeek: Saudi Authorities Refuse to Return Body to Parents in Sri Lanka," International Business Times, January 24, 2013, accessed October 30, 2014, <http://www.ibtimes.co.uk/rizana-nafeek-parents-saudi-arabia-executed-beheaded-427422>.

132 "Report on the Mission to the Kingdom of Saudi Arabia (20-27 October 2002)," United Nations Economic and Social Council. 14 January 2003, par. 68.

133 "Law of Criminal Procedure – Saudi Arabia," University of Minnesota Human Rights Library.

134 The Law of the Judiciary, Royal Decree No.M/64, 14 Rajab 1395 [23 July 1975]

135 The Law of the Judiciary, Royal Decree No. (M/78), 19 Ramadan 1428H – 1 October 2007.

136 International Covenant on Civil and Political Rights," United Nations Human Rights, March 23, 1976 (ratified December 16, 1966), January 21, 2015, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

137 "Report on the Mission to the Kingdom of Saudi Arabia," par. 103.

Because Saudi officials have neglected to advance reforms insuring the transparency of legal proceedings, the openness of any judicial proceeding is determined on a court-by-court,¹³⁸ case-by-case basis. In 2013, Saudi courts closed the proceedings of many cases, citing overlap with concerns over national security, the accused's reputation, or the safety of the court. Saudi judges are capable of keeping prominent trials open to observers, as they did in the case of activist Eissa al-Nekhaify in 2013;¹³⁹ on the other hand, Abd al-'Aziz al-Wuhaibi, would-be founder of an unapproved political party, had his 2011 case heard in a less lenient court, and the judge barred both third-party observers and legal representation.¹⁴⁰ Additionally, concerns regarding the ability of security officers to police public access to court rooms have not been ameliorated. Observers seeking to monitor terrorism-related cases must first obtain permission from the Ministry of Interior.¹⁴¹

The Law for Crimes of Terrorism and its financing will only encourage more obfuscation in Saudi court operations. Article 8 of the law mandates that the Specialized Criminal Court, established in 2008,¹⁴² hear all terrorism-related cases.¹⁴³ Not only does the law fail to guarantee a public trial, but it also grants the court power to close the proceedings to even the defendant, formally permitting the judge to try the case in the absence of the accused.¹⁴⁴ The Specialized Criminal Court existed as a legal black hole before the promulgation of the new law and has been active in the targeting of human rights activists,¹⁴⁵ as witnessed by the case of political activist Mohamed al-Bajady, whose 2012 trial before the court was secret even to his family and attorneys.¹⁴⁶

Punishments imposed on individuals under the age of 18 years should not involve capital or corporal punishment.

138 United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015. <http://www.state.gov/documents/organization/220586.pdf>

139 Ibid., 12.

140 "Saudi Arabia: Abolish Terrorism Court," Human Rights Watch, April 27, 2012, accessed November 6, 2014, <http://www.hrw.org/news/2012/04/27/saudi-arabia-abolish-terrorism-court>.

141 United States Department of State. "Saudi Arabia 2013 Human Rights Report." (2014), accessed January 30, 2015. <http://www.state.gov/documents/organization/220586.pdf>

142 "Saudi Arabia: Abolish Terrorism Court," Human Rights Watch, April 27, 2012, accessed November 6, 2014, <http://www.hrw.org/news/2012/04/27/saudi-arabia-abolish-terrorism-court>.

143 "Penal Law of Terrorism and Its Financing," Kingdom of Saudi Arabia, January 31, 2014.

144 Google, "Citing 'Terrorism,'" Jurist; see also Article 12 of the Penal Law of Terrorism and Its Financing.

145 "Saudi Arabia: Abolish Terrorism Court," Human Rights Watch, April 27, 2012, accessed November 6, 2014, <http://www.hrw.org/news/2012/04/27/saudi-arabia-abolish-terrorism-court>.

146 "Saudi Arabia: Human Rights activist sentenced to four years following secret trial," Amnesty International, April 16, 2012, accessed November 6, 2014, <http://www.amnesty.org/en/for-media/press-releases/saudi-arabia-human-rights-activist-sentenced-four-years-jail-following-secr>.

The Special Rapporteur briefly commented on the harm that Saudi legal authorities inflicted on juvenile defendants. Article 13 of the Law of Criminal Procedure states that investigations and trials of child suspects must follow “the relevant laws and regulations.”¹⁴⁷ These other laws include the Juvenile Justice Act, the Juvenile Justice Regulations, the Detention and Imprisonment Act, the Detention Regulation and the Juvenile Homes’ Regulation.¹⁴⁸ Saudi officials assured the Rapporteur during his visit that juveniles could access legal representation, and that offenders under age eighteen were held in juvenile homes rather than adult facilities and provided with an education while in detention.¹⁴⁹ The Rapporteur’s recommendation, however, directly stemmed from concerns over the legally proscribed use of corporal punishment on juvenile convicts, and the application of capital punishment to Saudis less than eighteen years of age.¹⁵⁰

In this limited sense, the Saudi system has not adopted the Rapporteur’s recommendation; Saudi law still allows for the execution of convicts who committed their crimes under the age of eighteen, and corporal punishment—including flogging and amputation—remains “lawful as a sentence,” as stipulated by the 1975 Juvenile Justice Act.¹⁵¹ A juvenile can be executed when a judge, operating from the Saudi interpretation of Sharia law, determines that he or she has reached the “age of majority,”¹⁵² i.e., whether or not an adolescent has sufficiently progressed through puberty to be considered an adult.¹⁵³ Such interpretations are highly subjective and vary from judge to judge. The execution of juveniles, or those who committed crimes as juveniles, remains a regular occurrence within Saudi society.

As for the juvenile protections that Saudi interlocutors outlined to the Special Rapporteur, it is apparent that they are not evenly applied in practice. While the Ministry of Social Affairs operates thirteen “social observation homes,”¹⁵⁴ their populations are limited to boys; girls are often housed with adult populations, either in detention centers or in women’s welfare institutions.¹⁵⁵

¹⁴⁷ “Law of Criminal Procedure – Saudi Arabia,” University of Minnesota Human Rights Library.

¹⁴⁸ “Inhuman sentencing of children in Saudi Arabia,” Child Rights International Network, March 2013, Briefing for the 17th session of the Human Rights Council Universal Periodic Review in October 2013, 1.

¹⁴⁹ “Report on the Mission to the Kingdom of Saudi Arabia,” par. 70.

¹⁵⁰ Ibid.

¹⁵¹ “Inhuman sentencing of children in Saudi Arabia,” Child Rights International Network, March 2013, Briefing for the 17th session of the Human Rights Council Universal Periodic Review in October 2013, 1-2.

¹⁵² Ibid.

¹⁵³ “Adults Before Their Time: Children in Saudi Arabia’s Criminal Justice System,” Human Rights Watch, Volume 20, No. 4 (E), March 2008, accessed November 4, 2014, <http://www.hrw.org/reports/2008/saudicrd0308/saudicrd0308webwcover.pdf>, 14.

¹⁵⁴ “Adults Before Their Time: Children in Saudi Arabia’s Criminal Justice System,” Human Rights Watch, Volume 20, No. 4 (E), March 2008, accessed November 4, 2014, <http://www.hrw.org/reports/2008/saudicrd0308/saudicrd0308webwcover.pdf>, 14.

¹⁵⁵ Ibid.

Additionally, there is considerable confusion as to when children are old enough to bear criminal responsibility; for boys, the minimum age for criminal responsibility was raised from seven to twelve¹⁵⁶ during the last decade by the Council of Ministers, but Saudi authorities with powers of arrest have ignored this regulation,¹⁵⁷ and it does not apply to girls.¹⁵⁸ As for access to legal counsel, authorities can interrogate juveniles in the absence of a legal representative, and laws do not mandate that the state provide child defendants with free legal assistance.¹⁵⁹

CONCLUSION

Over a decade after the Special Rapporteur issued recommendations to improve the transparency of the Saudi legal system and better ensure the protection of the basic rights of the accused, Saudi authorities have made little effort to reform their legal procedures as written. Furthermore, the promulgation of the Penal Law for Crimes of Terrorism and Its Financing has increased the system's opacity and eroded several rights nominally guaranteed by prior law. In the end, however, the Saudi case demonstrates the irrelevancy of any code when the will and the mechanisms to enforce it are absent.

156 "Inhuman sentencing of children in Saudi Arabia," Child Rights International Network, March 2013, Briefing for the 17th session of the Human Rights Council Universal Periodic Review in October 2013, 1.

157 "Adults Before Their Time: Children in Saudi Arabia's Criminal Justice System," Human Rights Watch, Volume 20, No. 4 (E), March 2008, accessed November 4, 2014, <http://www.hrw.org/reports/2008/saudicrd0308/saudicrd0308webwcover.pdf>, 14.

158 "Inhuman sentencing of children in Saudi Arabia," Child Rights International Network, March 2013, Briefing for the 17th session of the Human Rights Council Universal Periodic Review in October 2013, 1.

159 "Adults Before Their Time: Children in Saudi Arabia's Criminal Justice System," Human Rights Watch, Volume 20, No. 4 (E), March 2008, accessed November 4, 2014, <http://www.hrw.org/reports/2008/saudicrd0308/saudicrd0308webwcover.pdf>, 14.

vi. Specific Case of British Detainees

INTRODUCTION

In late 2000 and early 2001, a number of explosive devices were detonated in the vicinity of Western targets in Riyadh, one of which took the life of British-born Christopher Rodway.¹⁶⁰ Claiming that the explosions stemmed from a “turf war” between foreign alcohol smugglers,¹⁶¹ Saudi security forces arrested a number of European and North American expatriates living in the Kingdom, seven of whom were British.¹⁶² The Special Rapporteur on the independence of judges and lawyers visited with four of the British detainees in October 2002. All four detainees alleged that interrogators had subjected them to torture, and that they had confessed under duress.¹⁶³ The Special Rapporteur reported that officials did not permit the men to contact legal counsel or family members during the period of their interrogation,¹⁶⁴ and that authorities did not allow the attorneys of the accused to represent them in court or to sufficiently review the case’s pertinent documentation.¹⁶⁵

RECOMMENDATIONS

The lawyers must be provided access to information, files and documents within the control of the competent authorities, specifically concerning the evidence against the accused;

The questionnaire filled out by the accused upon the request of their lawyers must be returned to the possession of their lawyers;

The details of the investigation into the allegations of torture should be provided to the lawyers of the accused.

As reported by the Rapporteur, while courts permitted some of the detainees’ attorneys to review the judgment in their cases, officials did not allow them to receive a copy of the verdict nor take notes on the court’s findings.¹⁶⁶

¹⁶⁰ Stuart Jeffries, “I would have confessed to anything,” The Guardian, May 9, 2005, <http://www.theguardian.com/world/2005/may/10/alqaida.saudiarabia>.

¹⁶¹ Ibid.

¹⁶² “Torture and Survival in a Saudi Prison,” Democracy Now, November 28, 2005, http://www.democracynow.org/2005/11/28/torture_and_survival_in_a_saudi.

¹⁶³ Report on the Mission to the Kingdom of Saudi Arabia, the Special Rapporteur on the independence of judges and lawyers, 14 January 2003, par. 76, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/102/64/PDF/G0310264.pdf?OpenElement>.

¹⁶⁴ Ibid., par. 76.

¹⁶⁵ Ibid., par. 77, 79.

¹⁶⁶ Ibid., par. 79.

After first being granted access to legal counsel, several of the accused completed a questionnaire for their attorneys which was then confiscated.¹⁶⁷ The Rapporteur also reported that officials withheld relevant information about the legal processing undergone by the accused, including the dates of their initial hearings, from the detainees' attorneys.¹⁶⁸

Authorities arrested the detainees before the 2001 Law of Criminal Procedure came into effect. Article 1, however, states that the law's provisions "shall apply to criminal cases that have not been decided and to proceedings that have not been completed prior to the implementation thereof."¹⁶⁹ The treatment of the detainees outlined above contravenes articles 4, 64, 70, and 140 of the law, which stipulate the accused's right to access an attorney; articles 35 and 102, which forbid torture and other coercive interrogation techniques; Article 84, which prohibits an investigator from seizing "any piece of paper or document" passed between the accused and his or her legal representative; Article 114, which mandates that the accused be brought before a court no later than six months after the date of his or her initial detention; and Article 161, which mandates that the court explain the charges to the accused during his or her trial.¹⁷⁰

Officials detained several of the men for years, releasing the last of them in August 2003 after the Saudi government granted them clemency.¹⁷¹ Neither the former prisoners nor their attorneys could be reached for comment.

167 Ibid., 17.

168 Ibid., 17.

169 "Law of Criminal Procedure—Saudi Arabia," University of Minnesota Human Rights Library, Royal Decree No. (M/39), October 16, 2001, accessed January 23, 2015, http://www1.umn.edu/humanrts/research/saudiarabia/criminal_procedure.html.

170 Ibid.

171 William Sampson, "How I survived chop chop square," The Guardian, October 14, 2008, accessed November 28, 2014, <http://www.theguardian.com/commentisfree/2008/oct/14/saudiarabia-humanrights>.

CONCLUSION

The numerous procedural malpractices of the Saudi legal system previously outlined (see Section Five) fully manifested themselves in the case of the British detainees. Courts did not arraign them in a timely manner. Interrogators and court officials never informed them of their legal rights, security officials granted them sparse and incomplete access to legal counsel, and prosecutors interfered with basic attorney-client privilege. Additionally, although the rapporteur's language is somewhat unclear on this point, the fact that the men did not know they were being tried while in court¹⁷² suggests that judges failed to supply them with interpreters. Ultimately, the case of the British detainees serves as a microcosm of the larger issues rendering the Saudi legal system's nominal protections ineffectual. Both before and after the Law of Criminal Procedure's promulgation, interrogators, prosecutors and courts acted with impunity, unmindful of reforms enacted by governing officials.

¹⁷² Report on the Mission to the Kingdom of Saudi Arabia, the Special Rapporteur on the independence of judges and lawyers, 14 January 2003, par. 77, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/102/64/PDF/G0310264.pdf?OpenElement>.

3. CONCLUSION

Over a decade since the Rapporteur issued his report, the Government of Saudi Arabia has made scant progress in implementing his recommendations. Certainly, the government has made commendable adjustments towards the creation of a burgeoning legal profession in the country, although even this small step forward has not been made without a degree of hesitation. In every other area, however, the government has significantly failed to implement many important recommendations; in the area of the rights of the accused and convicted, the government has even made things worse.

Saudi Arabia has taken few steps to advance the condition of the judiciary. While the government did establish additional appellate level courts and the judiciary appears to rely at least a little bit more on precedent and jurisprudence, the king still maintains significant control over the judiciary, resulting in a system significantly permissive of government action and corruption. Additionally, the prosecutorial, investigatory, and policing bodies are maintained under the same ministry, creating a conflict of interest likely to give rise to collusion resulting in the miscarriage of justice. Discrimination against women in the judicial system remains a concern, and the government has yet to appoint a female judge. Finally, while the government seems to be moving at least in some small manner towards a system of precedent, Saudi judges still enjoy broad discretionary powers in deciding cases.

The development of the legal profession remains entirely in the hands of the Saudi government. While the government has significantly increased the number of licensed lawyers in the country, the numbers remain small relative to the population of the country and the process for licensing rests at the discretion of the government. Upon license, the state does not require lawyers to continue their education, and the Rapporteur's recommendation to install human rights-related classes into legal curriculae has gone unheeded.

The government continues to ignore the rights of the accused and convicted. Prosecutors retain the power to arbitrary sentence accused persons to lengthy pre-trial detentions, and many accused do not realize their rights to a speedy trial. The emphasis on confession within the Saudi legal regime incentivizes torturous methods, and the government does not adequately respond to allegations that government security officers, interrogators, or prosecutors resorted to torture during their investigations. The Anti-Terror Law has further worsened the situation, giving the government broad discretion to target human rights defenders and peaceful protesters for the crime of dissenting from the government line.

The record being as it is calls into question the Saudi government's intent when it asked the Rapporteurs to assess the country in the first place. If the Saudi government never had any desire to comport with international human rights law, why invite an international human rights law expert to make recommendations for potential improvements? It's easy to speculate that the government had political ends in mind, and it's worth noting that the government successfully campaigned to join the Human Rights Council a decade after the Rapporteur on judges and lawyers came to the country. Saudi Arabia uses its position at the Council to fend off criticism of its

human rights record as well as the records of its allies and neighbors.

Regardless of motive, the fact that Saudi Arabia allowed a Special Procedure of the Human Rights Council into the country provides the international community with an opportunity. With the Rapporteurs having given international community an insider's examination of the country, it falls on the human rights-abiding countries of the world to hold the Government of Saudi Arabia accountable for its transgressions. Without accountability, Saudi Arabia will continue to persecute innocent victims under the guise of trials and justice.

The Rapporteur's recommendations were intended to bring Saudi law in line with modern international standards while still comporting with the requirements of the Sharia. In order for Saudi Arabia to respond to international concern and effectively join the rest of the world in instituting and maintaining a modern criminal justice system, the Saudi government must recommit to the Rapporteur's recommendations and institute broad and sweeping reform of its judiciary, prosecution, and criminal procedure.

RECOMMENDATIONS

To the Government of Saudi Arabia:

- 1. Comprehensively reform** the law of criminal procedure to more accurately adjudicate the guilt and innocence of the accused and protect against their arbitrary detention and torture;
 - a. **Replace** the Law of Terrorism and its Financing with a law that more strictly defines the scope of terrorism and provides proper due process rights for accused persons;
 - b. **Ban** the use of torture on persons in government custody, and overturn the convictions and vacate the sentences of any persons found to have been convicted based off of evidence obtained by means of torture, including any and all political prisoners; persons in government custody do not suffer lengthy pre-trial detentions;
 - d. **Examine** the reliance on confessions within the Saudi Arabian criminal justice system, with the goal of relying on evidence that does not incentivize the use of torture;
 - e. **Create** a criminal rule of evidence better safeguarding the rights of suspects, including the right of client-lawyer confidentiality;
 - f. **Provide** legal services to indigent suspects incapable of affording private criminal defense;
 - g. **Recommit** to all of the recommendations made by the Special Rapporteur on the Independence of Judges and Lawyers regarding criminal procedural reform;
- 2. Establish** clear independence and impartiality for the judiciary by firmly separating the judiciary from the control of the central government and the king;
 - a. **Mitigate** the influence of the King on the judiciary by creating a system wherein judges are appointed by an independent body of legal experts;
 - b. **Ban** the king of Saudi Arabia from modifying the most basic and fundamental laws of the land by royal decree;
 - c. **Appoint** further females to high governmental positions, including positions as judges and within the judiciary;
 - d. **Restrict** the ability of the public prosecutor to order lengthy pre-trial detentions;
 - e. **Investigate** any credible allegations into unlawful behavior by the Saudi royal family and by government ministers and employees;
 - f. **Create** an independent bar association;

3. **Ensure** transparency within the judicial system and the public prosecution;
 - a. **Create** independent Ombudsmen responsible for overseeing the Saudi Ministry of Interior and Ministry of Justice;
 - b. **Install** and utilize monitoring equipment in any and all places of detention;
 - c. **Ensure** that confessions obtained through the use of torture are not admitted into evidence and that acts of torture are fully and competently investigated;
 4. **Consider** reconciling progressive interpretations of the Sharia with the current Saudi legal framework;
 - a. **Examine** the interpretations of the Sharia adopted by other, more progressive Muslim societies and states;
 5. **Further develop** the role of human rights in Saudi society by ratifying and implementing international human rights conventions, including the International Convention on Civil and Political Rights and the International Convention on Economic, Social, and Cultural Rights;
 6. **Vacate** the seat at the Human Rights Council until such time as Saudi Arabia complies with established international human rights norms; and
 7. **Issue** a standing invitation to all Special Procedures of the Human Rights Council to visit the country and perform human rights assessments;
-

To the United Nations:

1. **Consider** issuing a resolution formally condemning the human rights situation in Saudi Arabia, making specific mention of the lack of progress that the country has made in modernizing its criminal justice system;
2. **Further enable** the Special Procedures of the United Nations to perform their duties as they relate to the Kingdom of Saudi Arabia:
 - a. **Insist** that the Government of Saudi Arabia permit further Special Procedures to visit the country to perform human rights assessments, and recommend that Saudi Arabia issue a standing general invitation to all Special Procedures of the United Nations;
 - b. **Encourage** further Special Procedures to issue new requests or reiterate old requests for permission to conduct country assessments in Saudi Arabia, including the Special Rapporteur on counter-terrorism and human rights, the Special Rapporteur on torture and other cruel, unusual, or degrading treatment or punishment, and the Special Rapporteur on the rights of migrants;
 - c. **Issue** recommendations based on the Special Rapporteur on the independence of judges and lawyers findings in Saudi Arabia's next cycle of its Universal Periodic Review;

d. **Hold accountable** the Government of Saudi Arabia by publicly commenting on the implementation of recommendations made by the Rapporteurs on the independence of judges and lawyers and violence against women and its causes;

3. Request that the Government of Saudi Arabia allow the United Nations Office of the High Commissioner for Human Rights to establish a permanent mission in Riyadh, complete with a full reporting mandate;

4. Consider requesting that the Government of Saudi Arabia vacate its seat on the Human Rights Council until such time as it complies with established international human rights standards.

To the International Community, the European Union, and the United States of America:

1. Hold accountable the Government of Saudi Arabia by publicly commenting on the implementation of the recommendations made by the Rapporteur on the independence of judges and lawyers, especially in the Kingdom's next cycle of its Universal Periodic Review

2. Condemn the lack of progress made by the Government of Saudi Arabia in reforming its criminal justice system by issuing resolutions in national and international parliaments and legislatures, including in the National Parliament of the United Kingdom, the Congress of the United States of America, and the European Parliament;

a. **Cease** all sales of any arms or weapons that may be used by the Government of Saudi Arabia to further endanger the lives of its citizens and residents;

b. **End** any foreign aid programs benefitting Saudi Arabia until such time as the government complies with international human rights norms;

d. **Issue** recommendations based on the Special Rapporteur on the independence of judges and lawyers findings in Saudi Arabia's next cycle of its Universal Periodic Review;

3. Condemn the Saudi Law of Anti-Terrorism and Its Financing as an infringement upon the rights of freedom of expression and assembly, and suggest changes that the government should make in order to better provide for the human rights of its citizens and residents;

4. Consider addressing concerns regarding ongoing human rights abuses in Saudi Arabia by passing a resolution at the Human Rights Council publicly condemning the human rights issues in the country and calling for concrete steps towards their resolution; and

5. Cease the export of migrant labor to Saudi Arabia until such time as the government amends the kafala system to provide for the human rights and against the human trafficking of migrants.

Appendix: Saudi Anti-Terrorism Law

The following document represents an unofficial translation of the Saudi Law of Terrorism Crimes and Its Financing, colloquially known as the Anti-Terror Law. It is not an official or exact translation, and it is presented in order to provide the public with an idea of the content of the law. It is not intended to be used for the purposes of exacting legal analysis.

LAW OF TERRORISM CRIMES AND ITS FINANCING

Chapter 1: Definitions

Article (1):

Wheresoever they appear in this law, the below terms are defined as follows unless context requires otherwise:

- a. Terrorist crime: Any act carried out either by an individual or collective criminal project, whether directly or indirectly, towards the purpose of disrupting public order; harming the security and stability of the community; risking national unity; disabling the Basic Law or any of its articles; harming the reputation or status of the country; damaging public facilities and natural resources; forcing or obstruct authorities; or threatening or inciting the commission of any of the aforementioned acts.
- b. The crime of funding terrorism: Any act of collecting, giving, receiving, allocating, transporting or transferring legitimate or illegitimate money or its interests, either in total or in part, for any individual or collective activity relating to the carrying out of an act of terrorism; carrying out for the purpose of this activity or its [involved] members any banking, financial or commercial transaction; collecting directly or through others money to use for advantage or benefit of a terrorism-related activity or promoting terrorism-related principles; knowingly providing places for training, refuge, the storage of any kind of weapons or forged documents, or any other kind of assistance or funding; and any act considered criminal under the convention of combating terrorism.
- c. Money: any assets or possessions of any value or type whether monetary or non-monetary, tangible or intangible, or transportable or not; documents and deeds in any form including digitalized or electronic systems; and bank credits including all types of cheques, transfers, stocks, shares, and letters of credits.
- d. Precautionary seizure: temporary ban, transfer, change, move, or confiscation of transferred funds and proceeds based on an order from the court or concerned authority.

- e. Public and private property and facilities: real estate and properties that are owned by the State, public figures, or dedicated for the public interest; and State-owned installations, those under its establishment, or services provided for public benefit, including properties owned by public figures, diplomatic missions, and international or humanitarian missions and organizations working in the country.
- f. Concerned authority: the specialized party—to combat, infer, arrest, investigate, publicly prosecute or try—according to this law.

Chapter 2: General Provisions

Article (2):

Criminal actions related to terrorism and its funding are major crimes requiring arrest.

Article (3):

The articles of this law are applicable to whosoever, whether they be a Saudi citizen or a foreigner, acts with the intention of committing, establishing, inciting, or participating in—outside the kingdom—any of the crimes stipulated in this law, while attempting to achieve the following:

1. Changing the ruling system in the kingdom;
2. Disabling the Basic Law or any of its articles;
3. Forcing the State to commit or obstruct it from carrying on certain acts;
4. Attacking Saudis abroad;
5. Damaging the country's public properties abroad including embassies, other diplomatic locations, or consulates;
6. Committing a terrorist act on board a vessel, aircraft, or other method of transportation registered with the Kingdom or carrying its flag; and
7. Harming the interests, economy, and national and social security of the Kingdom.

Chapter 3: Procedures

Article (4):

The Minister of Interior has the authority to issue arrest warrants against whosoever whoever is suspected of having committed any of the crimes stipulated in this law, and may delegate [this authority] based on regulations he sets.

Article (5):

An investigatory body may detain an accused involved in any crime stipulated in this law for a total period or successive periods not exceeding six months, and may extend pre-trial detention to an additional six months when required for the purpose of the investigatory process. In cases that require longer detention, the case should be referred to the specialized criminal court to decide on the matter of extension.

Article (6):

Without breaching the right of the accused to contact and inform his family about his arrest, the investigatory body may ban all contact with the accused for a period not more than 90 days when necessary for the interest of the investigation. In cases that require longer investigatory periods, the case shall be referred to the specialized criminal court to decide in the matter.

Article (7):

The accused cannot be temporarily released unless ordered by the Minister of Interior or his duly authorized representative.

Article (8):

The specialized criminal court shall rule on the crimes stipulated under this law, and may order revocation lawsuits and compensation lawsuits concerning its application. Rulings may be appealed at the specialized court of appeal, and may be subjected to objection in front of the specialized department at the Supreme Court.

Article (9):

The court may issue a verdict against the accused in absentia for committing any crimes covered in this

law, if [the accused] was rightly informed through any method of communication or official media outlet. Any persons thus convicted have the right to object to the verdict.

Article (10):

Within an adequate period of time to be decided upon by the investigatory body, any defendant accused of any crime cited in this law is entitled to hire a practicing lawyer to defend himself before the court.

Article (11):

In the event that the prosecution alleges the commission of more than one criminal action, at least one of which is stipulated under this law, the specialized criminal court shall rule in all crimes against the accused unless separate documents are submitted for those crimes outside of the jurisdiction of this law before referring the case to court.

Article (12):

The court may consult with experts, and may summon any person, including arrested persons or those belonging to investigatory bodies, to testify. When necessary, the court may receive testimony delivered by such persons without the presence of the accused and his lawyer, and in coordination with the public prosecution. The accused or his lawyer shall be informed of the content of expert report without revealing the expert identity. Such proceedings may only occur in the event that the court determines that the witness or expert requires additional protection according to dangerous circumstances and levels of risk.

Article (13):

As an exception to the provision [of law] regarding banking confidentiality, the Minister of Interior may, in exceptional cases, order and enable investigatory bodies to obtain data, information regarding bank accounts, deposits, safe deposits, treasuries, transfers, or transactions at financial institutions, if the investigatory body provides enough evidence of the commission of such criminal actions as stipulated in this law. The Minister of Interior, in coordination with the Governor of the Saudi Arabian Monetary Agency, issues the controlling regulations.

Article (14):

At the discretion of the specialized bodies, all parties must provide the specialized bodies, including employees of the criminal investigatory and interrogatory bodies, with information and data concerning the crime of funding terrorism.

Article (15):

The procedures for initiating an investigation or filing a lawsuit for crimes stipulated under or related to this law are not dependent on the complaint of the victim, his representative, or his inheritor. As a matter of public right, the public prosecutor may file such a lawsuit at the specialized criminal court after the completion of any pertinent investigation.

Article (16):

The Minister of Interior and his duly assigned representatives are entitled to arrest individuals and search houses and offices in relation to any crime stipulated under this law at any time during the period of time specified in a pertinent search warrant. When necessary, the Minister does not require the acquisition of a warrant to carry out such duties. However, the Minister should keep records explaining the reasons and grounds for urgency.

Article (17):

If sufficient evidence is available that a crime stipulated under this law has been or will be committed, the Minister of Interior and his duly assigned representatives may order the monitoring, confiscation and recording of letters, correspondence, publication, parcels, and all kinds of communications and phone conversations, if such action is useful for revealing the truth.

Article (18):

The Minister of Interior and his duly authorized representatives may order the urgent precautionary seizure of money, proceeds and mediums suspected of being purposed towards carrying out any crimes stipulated under this law. Such precautionary seizures will be authorized for up to three months at a time, after which the Minister may renew the seizure for another three month period, repeatable until the completion of the investigation. The seizure must be executed by the relevant party without delay.

Article (19):

During the trial, the specialized criminal court may order the precautionary seizure of money, proceeds and mediums, or its continuation of a previously-implemented seizure until the end of the trial. The seizure order shall be executed by specialized regulatory and supervisory parties without delay.

Article (20):

Board of directors, heads of financial institutions, specific non-financial jobs and occupations, and NGOs, its members, owners, employees, clients, and representatives shall be relieved from criminal responsibility that may ensue for implementing any obligations stipulated under this law or breaching any restriction ensuring the confidentiality of information, unless such action was undertaken in bad faith to harm the owner of the property.

Chapter 4: Final Provisions

Article (21):

The specialized criminal court may, for arguable reasons that lead the court to the belief that the accused will not again commit any crime stipulated under this law, suspend the execution of not more than half of the sentence time, in the event that the accused had not previously committed similar criminal action. The court should state the reasons for the partial suspension of the sentence and its verdict must be appealed. If after his release the convict again commits further criminal action stipulated under this law, the suspension shall be canceled and the punishment executed without prejudice towards the any punishment associated the further crime.

Article (22):

Conspiracy of two or more to perform a crime stipulated under this law merits increased punishment.

Article (23):

Without breaching the private right, the Minister of Interior may, before the start or after the completion of such procedures, suspend the accusation procedures against whosoever initiated reporting a crime stipulated under this law, cooperated with specialized authorities during investigation to arrest others involved or those who committed a crime of similar kind and severity, or guided the specialized bodies to wanted or dangerous individuals who have criminal plans or schemes similar in type and severity to such crimes.

Article (24):

The Minister of Interior may, for solid reasons, release the arrestee or convict of a crime stipulated under this law while the convict is serving his sentence.

Article (25):

Any defendant or convict of any crime or crimes stipulated under this law that has been harmed as a result of prolonged detention or imprisonment during the prescribed period is entitled to submit a compensation request to the Minister of Interior or his deputy before submitting the same complaint to the specialized criminal court. The request is considered by a settlement committee that is established for this purpose by the Minister of Interior consisting of not less than three members including forensic and official experts. The committee will arrive at decisions by majority during a period not more than 60 days from the request submission date.

Article (26):

The government will establish specialized centers with duties to raise educational awareness, correct ideas, and deepen the sense of national belonging of persons accused and convicted of crimes stipulated under this law. By the order of the Minister of Interior, the centers shall decide on the formation and duties of committees and the benefits of members and employees. Investigatory bodies may enroll arrestees and reported and suspected individuals in these centers in lieu of arresting them.

Article (27):

The Ministry of Interior shall establish rehabilitation and correction centers with duties of looking after suspected and convicted persons, facilitating their integration into the society, deepening their sense of national belonging, and correcting their misconceptions. The Minister of Interior shall establish regulations for these centers as well as the benefits for employees and cooperative individuals.

Article (28):

The Minister of Interior shall issue a decree on security procedures, rights, duties, breaches, punishments and the classification of detainees and prisoners in detention centers and prisons dedicated to implementing the provisions of this law and required to correct and improve their social situations and the wellbeing of their health.

Article (29):

Whosoever is involved in the implementation of the provisions of this law must be committed to the confidentiality of all accessed information. Information must not be disclosed except when necessary for the use of the specialized parties, and information must not be revealed to any person pertaining or relating to any procedure of reporting, inference, investigation, or prosecution of any crime stipulated under this law without reason.

Article (30):

Information may be exchanged between the specialized authorities in the Kingdom and relevant authorities in other countries which have current conventions and treaties with the Kingdom or based on reciprocity.

Article (31):

1. The right for the Kingdom to bring suit for any crime stipulated under this law does not expire by the lapse of the time;
2. Any accused persons in terrorism and funding terrorism case found to be incompetent should be referred to the specialized criminal court to take to take the necessary actions according to Shari'a rulings.

Article (32):

The Permanent Committee to Combat Terrorism under the Ministry of Interior may set the necessary mechanisms to implement Security Council resolution numbers (1267) and (1373), as well as any other related resolutions. Any such orders shall be issued by the Minister of Interior.

Article (33):

The Permanent Committee to Combat Terrorism under the Ministry of Interior may receive requests relating to the Security Council resolutions regarding combating the funding of terrorism from other countries, foundations and organizations.

Article (34):

The Committee on Mutual Legal Assistance under the Ministry of Interior may receive requests for mutual legal assistance concerning crimes related to funding terrorism.

Article (35):

As a national central body, the Financial Investigation Department of the Ministry of Interior holds the responsibility for receiving reports, collecting, analyzing and publishing information concerning suspicions of the crime of funding terrorism, and requesting precautionary seizures according to article (18) of this law. The Department may exchange information with relevant bodies according to article (25) of the Combating Money Laundering law.

Department may exchange information with relevant bodies according to article (25) of the Combating Money Laundering law.

Article (36):

Without prejudice to the rights of the well-meaning party, the investigatory body has the authority to appoint, track money, properties, assets, and other medium used in committing the crime of funding terrorism and may be confiscated.

Article (37):

Any information disclosed by financial institutions, specific non-financial businesses and occupations, and NGOs may be exchanged with specialized authorities in the Kingdom after adequately ensuring confidentiality. Authorities may only disclose the information necessary for use in an investigation or lawsuit related to the crime of funding terrorism.

Article (38):

Any person convicted of the crime of funding terrorism may be extradited to another country in accordance with a current convention between the Kingdom and the other country or based on the principle of reciprocity. If such a request made by another country is rejected, then the specialized court shall prosecute the suspect in the Kingdom using the investigation done by the requesting country.

Article (39):

The provisions contained in the appropriate articles of the Combating Money Laundering law and its implementation regulations are applicable to financial institutions, specific non-financial businesses and occupations, and NGOs in regards to funding terrorism, terrorist groups, or terrorism funders.

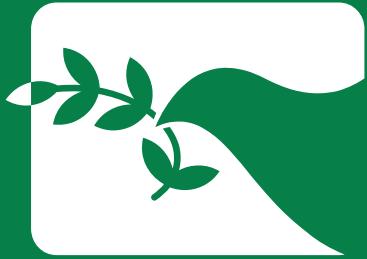
Article (40):

The relevant provisions of criminal procedure apply in the absence of contravening text in this law.

Article (41):

This law shall come into effect on the day following the date of its publication in the Official Gazette.

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