

Saudi Arabia

I. Introduction

Saudi Arabia is the country with the largest land area in the Middle East (1,960,582 km² - 14th in the world) and is home to 27,019,000 people (relatively low density as most of the land is uninhabited desert). The capital Riyadh has a population of 4,193,000. Foreign workers constitute a very large proportion of the population. An estimated 10 million people of non-Saudi ethnicity who are residents but not citizens of the kingdom, originate mostly from other Arab countries and Asia. Foreign nationals have varied religious backgrounds, while the native population is all Muslim (85% Sunni, 15% Shia) and ethnically Arab. There is a small minority of remaining Bedouin desert tribes.

Saudi Arabia is an absolute monarchy where all legislative and executive power is concentrated in the hands of the King and the royal family. The King appoints a Council of Ministers accountable to him. There are no political parties or free and fair elections. The 1992 Basic Law confirms the hereditary nature of the monarchy, as well as proclaiming the Koran to be the country's constitution and the Sharia its law. The official ideology is Wahabism, which according to John Esposito and some other scholars is among the most conservative forms of Sunni Islam.¹ The country has formally been in a state of war with Israel since its creation in 1948.

Saudi Arabia has the world's largest petroleum reserves and more than half of its economy is based on oil trading. Its GDP per capita (\$13,800 in 2007) is high for the region and one of the reasons the country's Human Development Index places it in the medium 76th place in the world distribution. It scores low on indicators of educational achievement, especially enrollment rates (58.6%), but this is compensated with the high GDP levels.² Life expectancy at birth is 72 years and the rate of literacy is 79%.

II. Disadvantaged Groups

Women are severely and legally discriminated against in the kingdom. This affects all aspects of their lives, including education, employment and family. Women make up 10%³ of the workforce (the lowest proportion in the world), as there are numerous restrictions on the jobs they can do in order to prevent their direct contact with men. All institutions, public or private, are sex-segregated (schools, hospitals, restaurants). Women cannot be examined by a male doctor, travel abroad or leave the house without their husband/male guardian's permission. Women are not allowed to drive or ride bicycles and there is a Committee to Promote Virtue and Prevent Vice (a governmental entity commonly known as the "religious police") to enforce a dress code, with severe punishments in place. As Saudi criminal law is based on conservative Islamic principles, women face harsher treatment than men in the justice system. They cannot testify in court except when testimony relates

¹ John L. Esposito, *What Everyone Needs to Know About Islam*, p.50 For another report see <http://fas.org/sgp/crs/misc/RS21695.pdf>

² http://hdr.undp.org/hdr2006/statistics/countries/country_fact_sheets/cty_fs_SAU.html

³ <http://www.undp.org.sa/News%20&%20Events/2005/UN%20Week/Women%20&%20MDGs%20Reading%20kit/Final-Report/English.pdf>

to a matter that occurred in the absence of men, and even then their testimony is regarded as non-factual. These laws make women particularly vulnerable to assault and/or rape, since the criminal justice system always places greater weight on the testimony of the perpetrator. Sharia family law contains a number of discriminatory provisions relating to marriage, inheritance, custody and divorce. Abortion is allowed only during a limited period of time when there is a proven risk to the mother's life and subject to a medical committee's approval.⁴ The UN's Gender Empowerment Measure (GEM) indicates the extent to which women participate in economic and political life, and Saudi Arabia scores 92nd of 93 countries for which measurements have been made, indicating that the level of women empowerment is extremely low.⁵

Non-Muslims (mostly migrant workers) are severely discriminated against. They may not testify in court and are expected to adhere to strict Muslim principles. Foreign women are expected to dress according to the mandatory dress code and not leave the house unaccompanied. Violators face caning, harassment and fines. Since the only officially recognised religion is Islam, non-Muslims may not practice their religion in public, assemble to worship or proselytize. (Proselytizing can be the distribution of any kind of religious non-Islamic materials, including Bibles). Apostasy (converting from Islam to another faith) is punishable by death. One of the functions of the "religious police" is to ensure that both Saudi citizens and expatriates adhere to Islamic morals. During the fasting month of Ramadan, all eating, drinking or smoking in public is prohibited. At any time of the year, eating pork and drinking alcohol is forbidden and these laws are rigorously enforced by the "religious police". The Committee on the Elimination of Racial Discrimination in its 2003 observations expressed concern about the existence of substantial prejudice against migrant workers, particularly those originating from non-Muslim backgrounds in Asia and Africa.⁶

Saudi Arabia reportedly practices open **anti-Semitism**. Authors of a report published in 2006 by Freedom House's Center for Religious Freedom and the Institute for Gulf Affairs⁷ examined textbooks used for instruction in Saudi schools. They found, among other things, that some texts contained "instruction that 'the struggle between Muslims and Jews' will continue 'until the hour [of judgment]' and that 'Muslims will triumph because they are right'".⁸ Examined textbooks also: "[T]each the *Protocols of the Elders of Zion* as historical fact and relate modern events to it. Discuss Jews in violent terms, blaming them for virtually all the 'subversion' and wars of the modern world."⁹

Refugees from Palestine and Iraq are denied citizenship rights and live in camps in sub-standard conditions, as well as discrimination in employment.¹⁰ Their number is estimated at 310,913 (including 70,000 stateless persons) by the UNHCR. The country is not party to either the 1951 Convention or the 1967 Protocol relating to the status of refugees.¹¹

⁴ <http://annualreview.law.harvard.edu/population/abortion/SAUDIARABIA.abo.htm>

⁵ http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_SAU.html

⁶ [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CERD.C.62.CO.8.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CERD.C.62.CO.8.En?Opendocument)

⁷ http://www.hudson.org/files/publications/CRF_SaudiReport_2006.pdf

⁸ Ibid. p. 14

⁹ Ibid.

¹⁰ [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CERD.C.62.CO.8.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CERD.C.62.CO.8.En?Opendocument)

¹¹ <http://www.unhcr.org/statistics/STATISTICS/4641bebf11.pdf>

Members of the **Shia minority** are subjected to officially-sanctioned political and economic discrimination. Very few of them hold positions in the government or armed forces. The Government restricts Shia employment in the oil and petroleum industry and discriminates against them through unofficial restrictions on the number of Shia students admitted to universities and important positions. The testimony of Shias in court is given less weight than that of Sunnis. Most of their religious celebrations are not permitted and those that are permitted are monitored by the police. Shia religious books and proselytizing are banned.

Anyone who has the misfortune of having to go through Saudi Arabia's criminal justice system (and who does not have a way to buy himself out¹²) is placed at a severe disadvantage. Those who are detained, according to numerous independent reports, are at risk of been routinely tortured and face harsh penalties including death (sometimes by execution in public), amputations and flogging (the number of lashes is left to the discretion of the judge). Sentences can consist of several thousand lashes in public, leading to severe physical and mental traumas, for which no medical help is offered.¹³ There are many reports of suspects being held for an unlimited time in incommunicado detention.¹⁴ The recently (since terrorist attacks on the US in 2001) adopted anti-terrorist legislation has contributed to extended detention times and accusations of wide-spread torture of detainees.¹⁵

People of different **sexual orientation** face legal discrimination, since any sexual activity outside of a heterosexual marriage is considered illegal. Punishments for homosexuality or being involved with anything connected to gay rights range from imprisonment, deportation (for foreigners), lashes, and for repeat offenders - execution. In 2000 the Saudi government reported that it had sentenced 9 men to long jail terms with lashing for the crime of cross-dressing and homosexuality¹⁶.

People infected with **HIV/AIDS** are by law entitled to free medical care and protection from discrimination, and the Saudi government has published educational programs and adopted policies to combat the spread of the virus. However, the social stigma attached to those affected is very strong, so most hospitals decline to treat infected patients and many schools are reluctant to distribute information about the disease. According to the government, more than 10,000 Saudi citizens are infected; unofficial sources put the number at 80,000. Foreigners, however, are not entitled to any medical care or protection and are deported to their country of origin as soon as deemed fit to travel. Anyone applying for a residence permit must supply proof of their HIV-negative status.

III. The Law

1. International Law

The Kingdom of Saudi Arabia has acceded to the International Convention against Torture in 1997, the International Convention on the Elimination of All Forms of Racial Discrimination in 1997, the Convention on the Elimination of All Forms of Discrimination

¹² <http://www.freedomhouse.org/template.cfm?page=22&country=7265&year=2007>

¹³ <http://hrw.org/englishwr2k7/docs/2007/01/11/saudia14717.htm>

¹⁴ [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.CR.28.5.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CAT.C.CR.28.5.En?Opendocument)

¹⁵ <http://www.freedomhouse.org/template.cfm?page=22&country=7265&year=2007>

¹⁶ http://www.sodomylaws.org/world/saudi_arabia/saudinews02.htm

against Women in 2000 and the Convention on the Rights of the Child in 1996. Saudi Arabia has not acceded to any of the optional protocols. It has ratified 15 of the ILO's Conventions, including C111 Discrimination (Employment and Occupation) Convention and C100 Equal Remuneration Convention.

It has also ratified the Convention on the Prevention and Punishment of the Crime of Genocide, 1948; The Four Geneva Conventions of 12 August 1949 and the 1977 Protocols Additional to the Geneva Conventions of 12 August 1949; and the UNESCO Convention against Discrimination in Education, 2001.

Regional Agreements

Saudi Arabia is a founding member of the Arab League, as well as the Organisation of the Islamic Conference, the headquarters of which are located in the Saudi city of Jeddah. It is signatory to its charter, the Cairo Declaration on Human Rights in Islam.¹⁷

It is also a member of the Organisation of Petroleum Exporting Countries (OPEC) and the Gulf Cooperation Council (GCC), organisations with mainly economic aims, which also plan to strengthen cooperation and integration of policies between states.

2. Constitution

The formal constitution has been declared to be the Koran. However, the 1992 Basic Law is often taken as the supreme law and its provisions are alike to those of constitutions. Equality is mentioned as one of the values underlying Saudi society: according to Article 8 [Government Principles], "Government in the Kingdom of Saudi Arabia is based on the premise of justice, consultation, and equality in accordance with the Islamic Sharia"¹⁸ Article 26 [Human Rights] provides: "The state protects human rights in accordance with the Islamic Sharia." According to Article 27 [Welfare Rights]. "The state guarantees the rights of the citizen and his family in cases of emergency, illness and disability, and in old age; it supports the system of social security and encourages institutions and individuals to contribute in acts of charity." Article 47 states: "The right to litigation is guaranteed to citizens and residents of the Kingdom on an equal basis. The law defines the required procedures for this."

3. Domestic Legislation

Saudi legislation proposed by the Council of Ministers must be ratified by royal decree to ensure its compliance with the Sharia law. The justice system consists of religious courts whose judges are appointed by the royal family. The king functions as the highest court of appeal and has the power to pardon.

The criminal code is unwritten and penalties are left to judge's discretion, based on precedent and tradition. There is an Imprisonment and Detention Law, which sets forth executions of the acts of imprisonment and detention. It establishes a Supreme Prisons

¹⁷ <http://www.religlaw.org/interdocs/docs/cairohrislam1990.htm>

¹⁸ <http://www.servat.unibe.ch/law/icl/sa00000.html>

Council charged with monitoring the execution of imprisonment procedures¹⁹. There is an extensive civil and commercial code aiming to encourage economic development.

Labour and Workmen Law²⁰

The law as amended in 2005 contains articles that extend protection to previously unregulated workers and it recognizes the right of women to work in “all sectors compatible with their nature”, as well as forcing large companies to establish nurseries and day-care centers. However, the law discriminates against foreigners and migrant workers by stipulating that at least 75% of any company’s employees must be Saudi citizens, enforcing a policy of “Saudization” adopted to reduce the kingdom’s dependency on foreign labour.

Order No. 37 of 1994 underlines that employers must provide equal remuneration for equal conditions and environment of work between male and female workers. There is also an Order of the Council of Ministers (No. 85 of 1997) related to providing disabled persons with employment opportunities.²¹

Social Insurance Law

Chapter 1, article 2.7 of the Social Insurance Law²² explains that, “The term “contributor” means any person who is subject to insurance, be he a man or woman, thus the use thereof in a masculine form in any provision shall include the woman insofar as it is appropriate.”

Chapter 2, Article 2 states: “1. The Occupational Hazards Branch shall be compulsorily applied to all workers without any discrimination as to sex, nationality or age. 2. The Annuities Branch shall be compulsorily applied to all Saudi workers without any discrimination as to sex...”

Significantly, domestic workers and servants are excluded from the protection of the social insurance law.

IV. Realising the Right to Non-Discrimination

Human rights have a long way to go in Saudi Arabia. Trade unions and political parties are banned, as well as are public protests and demonstrations. There are practically no independent civil society associations or NGOs and human rights defenders are subject to abuse and mistreatment. Regime critics are often arrested, harassed and banned from public speaking. In September 2006 Wajeha al-Huwaider, a women’s rights activist was detained and forced to cease her human rights advocacy as a condition for release. Many international organisations, including Amnesty International, are denied access to the country.²³

¹⁹ www.glin.gov

²⁰ http://www.saudia-online.com/labor_workmen_law.htm

²¹ The texts of these orders are available upon request from the NATLEX database

²² <http://www.gosi.com.sa/SocialInsurance.php>

²³ <http://web.amnesty.org/report2005/sau-summary-eng>

As is evident from the foregoing, anti-discrimination legislation is extremely weak in Saudi Arabia. Censorship is heavy and extends to all forms of media and communications (press, TV, books, Internet, etc.). Anything deemed offensive to Islam, the government or the monarchy is prohibited. Reporters Without Borders has placed Saudi Arabia in the 161st place in their survey of 167 countries on press freedom, indicating extraordinary high levels of censorship.²⁴ Without the essential freedoms of expression and association, it is very difficult to pursue the promotion of equal rights and the creation of a civil society.

There is, however, some optimism as the Saudi government is slowly waking up to the criticisms it faces from the international community. It has allowed severely restricted non-partisan local elections as a tentative step towards democracy and approved the creation of a National Society for Human Rights, which is concerned with monitoring compliance with the country's obligations under international law and has called for judicial reform.²⁵

²⁴ http://www.rsf.org/article.php3?id_article=19391

²⁵ <http://hrw.org/englishwr2k7/docs/2007/01/11/saudia14717.htm>