

# 'Strong Foundations'? The Imperative for Reform in Saudi Arabia



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# 'Strong Foundations'? The Imperative for Reform in Saudi Arabia<sup>1</sup>

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June 2009

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Cover photo: Corbis

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## Preface

Associations are indispensable to the very survival of democracy and societal progress. Non-governmental organisations (NGOs) defending human rights at the local, national or international levels are the guardians of fundamental liberties, and often constitute the only framework through which minorities and other vulnerable segments of the population can ensure that their voices are heard, their rights are respected and their participation is guaranteed. The degree of effective use of freedom of association therefore constitutes an important barometer for judging the factual situation as regards democracy, human rights and participation in a country.

In addition to being a fundamental right in itself, freedom of association is also a precondition and safeguard of the defence of collective rights, freedom of conscience and religion. It therefore deserves special attention and vigilance. With the rise of transnational terrorism, recent years have witnessed freedom of association being suppressed in many countries in the name of national security. Obligations that expose the founders of associations to arbitrary admission criteria, pedantic verifications and unnecessary administrative hindrances are indicators of governments' efforts to exert political control. This may happen formally – via the adoption of laws that impose inappropriate limitations on freedom of association – or informally – through a failure to apply the law in practice and the predominance of informal rules that replace the rule of law.

Recognising the fundamental significance of freedom of association and a vibrant, active civil society for citizen participation and the dynamics of

democratisation, the Club of Madrid – an independent non-governmental organisation made up of seventy former heads of state and government dedicated to democratic practice – embarked, in February 2007, on a project aimed at strengthening dialogue on freedom of association across the Middle East and North Africa region. With the support of the European Commission's European Initiative for Democracy and Human Rights (EIDHR) and the United Nations Democracy Fund, the objective of the project has been to improve the capacity of both civil society and the authorities to construct a shared vision of how to promote freedom of association. In cooperation with FRIDE and local partners, the Club of Madrid has been engaging in efforts to strengthen dialogue between civil society and government and, on the basis of the Club of Madrid members' own leadership experience, it thus aims to contribute to fostering the inclusion of civil society. With this end in mind, the project hopes to propose constructive legal and policy reforms that contribute to advancing citizen participation in national political debates on freedom of association, and, more broadly, on democratic reform.

This report is one of a series of six country reports that provide independent analyses of the state of freedom of association and civil society in Morocco, Jordan, Bahrain, Egypt, Tunisia and Saudi Arabia, respectively. The reports are intended to accompany and support the aforementioned project led by the Club of Madrid, by identifying both outstanding challenges and civil society's ideas on how to resolve them. Each report is based on a substantial number of consultations and interviews with local civil society stakeholders, government representatives across all levels, parliamentarians, representatives of political parties, journalists, union activists, women's and human rights activists, and lawyers and political analysts, conducted throughout 2008. The aim of this independent analysis is that of facilitating public debate and further societal dialogue on freedom of association in the respective countries under observation. The main findings and recommendations summarise the views expressed by the numerous local stakeholders who kindly granted us some of their time for an interview.

<sup>1</sup> 'Strong foundations' refers to a speech by the late King Faisal (d. 1975), in which he pointed to the Saudi state being founded upon 'the principle of spreading justice among citizens, where king and citizen stand on an equal footing...' Quoted in Mohammed al-Osaimi, 'The politics of Persuasion: The Islamic Oratory of King Faisal Ibn Abdul Aziz', Riyadh: King Faisal Center for Research and Islamic Studies, 2008, p. 46

## Political Context: The Political Reform Process To Date

The Kingdom of Saudi Arabia was founded by Abdul-Aziz bin Saud in 1932 after a 30 year campaign to unify much of the Arabian Peninsula, thereby placing the al-Saud family in a pre-eminent position to rule from their traditional base of Najd province in the centre of the country. The first Saudi state was established in 1744 when Muhammad ibn Saud and Muhammad ibn Abd-al-Wahhab joined forces to forge a new political entity, an alliance between the temporal power of the al-Saud family and the conservative Salafi trend of Ibn Abd-al-Wahhab (later referred to as Wahhabism) that has conditioned the running of the state to this day. A strict interpretation of Islam with a strong reliance upon conservative Salafi doctrine underpinned such expansionism, which stressed the religious mission of the al-Saud conquests.

The al-Saud family's legitimacy has historically been based on its provision of political and economic security and its sheltering of the strict form of Islam decreed by the religious clergy (ulama) of the state, a *defender of the faith* role that is reflected in the king's official title of Custodian of the Two Holy Mosques. The official religious establishment in turn plays an important political role by bestowing Islamic legitimacy on the ruling family. The balance of power in this relationship has shifted towards the king in recent years as the al-Saud family has increasingly exercised its will over the religious establishment on matters that are seen as vital to its interests. However, the influence of the official ulama could be said to have diminished largely due to the emergence of unofficial Islamist currents rather than the assertiveness of the al-Saud family. Nevertheless, the official ulama continue to predominate in the day-to-day running of judicial and educational affairs, exercising an ideological control over society according to a strict observance of the

Hanbali School of Islamic jurisprudence (fiqh). Although the junior partner, the ulama remain the only other constituency of influence in government.<sup>2</sup>

An important part of the reform dynamics of the Saudi state concerns its condition as an oil-based rentier state. The kingdom was forged through conquest during the first part of the 20<sup>th</sup> century and to some degree has since been kept together by the distribution of oil largesse. The implications for political reform of the oil rentier states are well known. The distribution of rents is part of an implicit pact whereby the concept of 'no taxation without representation' is reversed and the populace accepts the right of the ruling elite to govern in exchange for economic security derived from oil revenue. Government thus co-opts the population with cradle to grave benefits and the distinction between public service and private interest becomes increasingly blurred. Historically, the al-Saud family has cemented its legitimacy by providing public sector employment. This economic dynamic reinforces the predominant trend of change initiated and imposed from above. In times of high oil revenues the government can use this largesse to soothe grievances through hand-outs and crack down on any unyielding dissidents: 'As the fruits of high oil prices flooded the country's coffers and allowed the government to reassert its position [...] as patron of its people, the sense of crisis has ebbed and the impetus for many changes has subsided.'<sup>3</sup> However, tying the kingdom's fortunes to fluctuating oil prices is both unpredictable and highly precarious.

In the 21<sup>st</sup> century King Abdullah recognises the limitations of the rentier state and the need for Saudi Arabia to reduce its oil dependency. He is aware of the need to find a new equilibrium, reducing dependence on the state in favour of private enterprise. For this purpose, in recent years he has directed almost 500 billion dollars towards projects aimed at diversifying

<sup>2</sup> See for example, G. Steinberg, 'The Wahhabi Ulama and the Saudi State: 1745 to the Present', pp.11-35, in P. Aarts and G. Nonneman (eds.), *Saudi Arabia in the balance: Political economy, society, foreign affairs*, London: Hurst, 2005.

<sup>3</sup> Hassan M. Fattah, 'After Saudis' First Steps, Efforts for Reform Stall', *The New York Times*, 26 April 2007.



the economy, not least in terms of improving education but also to ease regulations to stimulate foreign direct investment (FDI) that is vital to the success of the country's massive infrastructure projects, such as the six new economic cities being constructed. Such steps are encouraging, but it is far more difficult to break up the clientelist networks that have dominated the public sector and extend to the nascent private economy. Yet the dangers of maintaining the status quo are apparent. It is unlikely that the current living standards can be maintained in the future on oil revenues alone given that Saudi Arabia's population is expected to double by 2030. Even today, the remarkable wealth of the Saudi elite disguises the reality that even during a period where the global oil price approached 150 dollars a barrel, Saudi Arabia's GDP per capita was the second lowest of the six Gulf Cooperation Council countries, surpassing only Oman.<sup>4</sup>

Working from a base of entrenched rentierism, government policies to encourage diversification have seen some signs of bearing fruit – non-oil exports increased by 20 percent and inward investment of Gross Fixed Capital Formation (GFCF) has increased from 1 percent to 32.1 percent in 2006.<sup>5</sup> Nevertheless, it is unclear how much of this progress has been derived from assistance from oil-based subsidies and to what degree such investment is generated from wealth from oil revenues – in other words, impressive figures may be an example of 'forced growth' through massive and ultimately unsustainable government spending, indicating that the emerging private sector is largely (although by no means entirely) dependent on government favour, including through the granting of contracts. For all the billions of dollars invested in economic diversification, almost 90 percent of revenues and of export earnings still derive from oil.<sup>6</sup>

<sup>4</sup> Emirates Business, 'Advantages of GCC common market are still to be fully felt', 27 October 2008.

<sup>5</sup> N. Janardhan, 'Economic Diversification and Knowledge Economy in the Gulf', paper delivered at the Gulf Studies Conference, Exeter University, 3 July 2008.

<sup>6</sup> International Monetary Fund, *IMF Executive Board Concludes 2008 Article IV Consultation with Saudi Arabia, Public Information Notice (PIN) No. 08/102 August 12, 2008*,

Despite its entrenched political and religious power structure, Saudi Arabia has undertaken some steps towards reform in recent years, largely at the initiative of King Abdullah in response to demographic pressures and the rise of Islamist violence during 2003 and 2004. Where possible, King Abdullah has courted the support of unofficial Islamist leaders for his reform policies, a useful means of countering the official ulama's opposition to such measures. King Abdullah has shown a willingness to adopt a more inclusive approach to religious minorities and women who have been invited to partake in official state sponsored dialogues on the future of the country, which has outraged some conservative leaders in the country. To some degree, Abdullah has even gone so far as to challenge the founding ideology of al-Saud rule, namely the promotion of a strict Hanbali code of jurisprudence, by appointing religious scholars from the more moderate Hanafi, Shafi'i and Maliki schools to the Council of the Ulama in 2009. The king has also moved to reform the education system, which is still dominated by the conservative religious hierarchy, and appointed his son-in-law, Prince Faisal bin Abdullah bin Mohammad, as Minister for Education.

The diminishing powers of the religious police, the Commission for the Promotion of Virtue and the Prevention of Vice, also became clear when the king removed the former head of the Commission, replacing him with Abdulaziz al-Humain, who declared that his duty was to 'achieve the aspirations of the rulers'. 'Moral offences' are now dealt with by public prosecutors and the religious police have also been stripped of the right to detain suspects, who must be handed over to the regular police force.<sup>7</sup> To oversee this reform of Saudi Arabia's legal system, the king appointed a new Head of the Judicial Council, Saleh bin-Humaid, replacing his more conservative predecessor. The appointment of a woman deputy minister, Nora bint Abdullah al-Fayez, was also a first,

<sup>7</sup> <http://www.imf.org/external/np/sec/pn/2008/pn08102.htm> (29 April 2009).

<sup>7</sup> Aboud Al-Basha, 'Reform in Saudi Arabia – sincere policy change or token gesture?', *The Arab*, Issue 1, January/ February 2008.

reflecting King Abdullah's still-cautious moves to broaden women's role in society.<sup>8</sup>

Recent reform measures undertaken by King Abdullah remain fragile and easily reversible.<sup>9</sup> Consensus on the future direction of the country is by no means universal within the al-Saud family. The recent appointment of Prince Nayef bin Abdulaziz, the current Minister of the Interior, as second deputy prime minister - traditionally the post of the third in line to the throne - was greeted with dismay by many reformists within the country who view Nayef as a conservative force within the kingdom who may bring a halt to Abdullah's tentative reforms. Nayef views the potential erosion of the official Wahhabi-Salafi doctrine as a diminishing of the core legitimacy of the state itself and has resisted such moves, not from a pronounced sense of religious devotion, but rather a desire to maintain a firm grip on the levers of state power.

Until this most recent reshuffle of key government and judicial posts, many Saudi reformists had concluded that the initial reforms begun by King Abdullah – the convening of National Dialogues that recognised Saudi Arabia's regional and religious diversity, the establishment of a National Human Rights Society, the drafting of a law regulating civil society and the holding of municipal elections – had effectively ground to a halt. Yet the need for reform is generally accepted by many Saudis, though they disagree as to what form this should take. The most popular movement for change is the Sahwa (Awakening) movement, which emerged in opposition to the perceived supine nature of the country's official ulama in shifting their religious judgements to reflect the political interests of the al-Saud family.

Sahwa leaders such as Safar al-Hawali and Salman al-Audha enjoy a significant following in Saudi Arabia today among the religiously devout through the dissemination of audio-recordings of their teachings. The Sahwa movement has precipitated a major shift

away from the official state clergy and the sheer popularity of its leading clerics prompted a move from a policy of repressing the movement to one of accommodation. However, the movement is by no means monolithic – it ranges from a rigid Salafi interpretation of Islam to a more accommodating stance that seeks to co-habit with other Saudi Islamic sects such as the Shia Twelvers who reside mostly in the Eastern Province, or the Ismailis in the southern Najran province.<sup>10</sup> The disunity of the Sahwa, the entrenched conservatism of much of its leadership and the limited scope of its original objective – a rebalancing of power in favour of an independent ulama - has led some to question whether such a movement can possibly be regarded as 'reformist'.

Dissent in Saudi Arabia has commonly taken the form of petitions to the king. The original of these is the Memorandum of Advice drafted in 1991, many of whose signatories were arrested and some imprisoned. The regime did attempt to dissipate the tense atmosphere of the 1990s, however, by promulgating a Basic Law (al-Asasi), essentially a proto-Constitution outlining the rights of the country's citizens. After years of procrastination, an appointed assembly, the Shura Council, was also established in 1992. In recent years, by far the most influential petition has been that of January 2003, the 'Vision for the Present and Future of the Nation', which was signed by 104 academics, business leaders and religious scholars - a remarkable moment of pragmatism in a country where dissenting voices rarely manage to coalesce. Then Crown Prince Abdullah met with the signatories of the 'Vision' and thanked them for expressing their views on the future direction of the country. Indeed, the 'Vision' may have even offered a platform for the king to slowly begin a process of reform, despite opposition among other senior members of the royal family.

2003 would later become known as 'the year of petitions' and the success of the 'Vision' in stirring a national debate on the country's future prompted a second petition in

<sup>8</sup> The Arab News, 'Major government reshuffle', 15 February 2009.

<sup>9</sup> Amr Hamzawy, 'Abdullah's Choice is Security or Reform', *The Daily Star*, 4 August 2005.

<sup>10</sup> International Crisis Group, 'Saudi Arabia Backgrounder: Who are the Islamists?', Brussels: ICG Middle East Report No. 31, 21 September 2004.

September 2003 entitled 'In Defense of the Nation', a much more assertive document which explicitly criticised the slow pace of reform, the absence of popular participation in decision-making and the lack of elections for the Shura Council – a royal advisory body of 150 members that can propose legislative changes to the king. It was signed by 306 academics, writers and businesspeople, including fifty women, although not by many Islamists, who viewed it as too liberal. This was followed by another petition in December 2003 that was signed by Islamists, including several Sahwa leaders, liberals and Shia calling for the implementation of the reforms outlined in 'the Vision' and for the opening of a constitutional process. The sense of crisis as a consequence of the violence being perpetrated by Islamist insurgents throughout the country, many of whom were affiliated to or influenced by al-Qaeda, may have also influenced then Crown Prince Abdullah's decision to establish the National Dialogue Centre in an apparent effort to institutionalise dialogue across society on a series of issues relevant to the country.

In December 2003, a decree in the name of the incapacitated King Fahd, but driven by Crown Prince Abdullah, expanded the powers of the Shura Council. However, it was not until 2005 that the amendments were enacted and the council granted powers to initiate legislation. According to its new powers the council could send its recommendations directly to the king, by-passing the cabinet and thereby ensuring a more direct line to the executive and more autonomy in proposing, discussing and enacting new internal regulations. In the event of a disagreement with the cabinet, the council could respond to the government's arguments, leaving the king as final arbiter. But any expectations that the amendments might provide for partial elections of the council's members and endow it with some binding legislative and oversight powers did not materialise. In essence the Shura Council remains true to the Arabic term 'shura' in that it offers advice to the king without actually having a stake in enacting legislation. That power remains the king's alone.<sup>11</sup>

<sup>11</sup> Amr Hamzawy, 'Promoting Democracy and Human Rights in the Middle East: The Case of Saudi Arabia', Testimony

Upon his accession to the throne in 2005 King Abdullah pardoned three activists who had received prison sentences for refusing to recant a petition they signed in January 2004 calling for the establishment of a constitutional monarchy. 2005 also saw the holding of elections for the first time since some local government posts were elected in the 1960s. In this case the government permitted the holding of elections for half the seats on municipal councils, some claim as a consequence of US pressure.<sup>12</sup> However, voter turnout was disappointingly low, with some areas barely registering 20-30 percent of eligible voters. The low turnout and voting patterns may be partly explained however by the fact that the elected members of the municipal councils in reality wielded very little tangible power. In addition, the voting system within the councils was unclear and the president of each municipality was directly appointed by the government. Despite the semblance of electoral accountability, control of the municipalities remained very much with the Ministry of Municipal and Rural Affairs.

Scepticism among Saudis regarding the relevance of the councils was compounded by the government's prolonged delay in nominating appointed members to the councils - in some cases the process took over a year. Today, the commitment of many appointees is questionable, with most councils meeting only once a month.<sup>13</sup> Liberals tend to express dismay at the election of Islamist candidates, who were the resounding victors of the elections in 2005, yet this disregards the broad spectrum of Islamists elected, including many moderate candidates. The government, although sluggish in drafting regulations and appointing members to the councils in 2005, has recently moved to grant the municipal council some oversight powers over the performance of municipal employees and their administration of local finances.

before the House Committee on Foreign Affairs Subcommittee on International Organisations, Human Rights and Oversight, 14 June 2007, <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=19381&prog=zgp&proj=zdr1,zme> Accessed, 29 April 2009.

<sup>12</sup> Hassan M. Fattah, 'After Saudis' First Steps, Efforts for Reform Stall', *The New York Times*, 26 April 2007.

<sup>13</sup> Al Wasat, 9 January 2009.

This is an important step towards empowering the councils, although it remains to be seen how if such powers can be implemented in practice.<sup>14</sup>

The municipal council experiment, while not to be over-estimated in terms of transferring power to a democratically elected legislature, marks an important first step in introducing the concept of democratic transparency to Saudi Arabia. However, a lack of enthusiasm for elections in 2005 should not be interpreted as a rejection of the democratic process. Indeed, in some areas such as the predominantly Shia Eastern Province, municipal councils have proved an effective channel for citizens to express their frustrations with the working of local government to their representatives. It is an important first step and, if the government fulfils its promises to grant municipal councils tangible powers, Saudi citizens may yet come to value the accountability granted by such democratically elected councils. For the 2009 municipal elections, the government had reiterated its commitment to study recommendations that women be allowed to vote.<sup>15</sup> However, in May 2009 the government announced that it had extended the mandate of municipal councils for two years, effectively postponing elections that were due that year. Anticipated reforms with regard to women's rights have frequently been frustrated. The kingdom's eighth five-year development plan (2005-2009) aimed at increasing the percentage of women in the Saudi work force from 5.4 percent to 14.2 percent,<sup>16</sup> but in practice the government has been slow to put in place conditions that would allow such a target to be realised. Pronouncements by officials, such as that of allowing women to drive in the special economic zones, are therefore taken with a very large pinch of salt.<sup>17</sup>

At the national level, although the Shura Council is not elected, it is widely believed that King Abdullah has used it as a sounding board for reform. Its membership is drawn from throughout the country and includes many prominent representatives of the emerging private sector, who offer the king advice on key issues such as the diversification of the economy. However, their success in 'flying kites' on possible avenues for reform should not disguise the disappointment of many reformers that partial elections mooted for the Shura Council in 2003 never came to fruition.

Beyond the still largely unfulfilled promise of the municipal and Shura councils, King Abdullah's most important reform initiatives have concerned the practical workings of the judiciary and the educational system. In October 2007 King Abdullah announced a comprehensive overhaul of the kingdom's judicial system, issuing new laws regulating the judiciary and the Board of Grievances with a budget of seven billion Saudi riyals being allocated for the reforms. A supreme court was created to oversee the implementation of sharia as well as laws issued by the king, commercial courts, labour courts, personal status courts, and a fund for training judges. The Supreme Court was to take over the functions of the Supreme Judicial Council, until then the kingdom's highest tribunal, while the council was to continue to oversee the judiciary, focusing on administrative issues such as the choice of judges and the setting up of tribunals. The Board of Grievances was to continue to handle administrative disputes involving government departments.<sup>18</sup>

The new laws replaced regulations in force for more than 30 years in the case of the judiciary and about 25 years for the Board of Grievances. At the beginning of 2009 the King Abdullah Project for Developing the Judiciary was launched with the aim of preparing a strategic plan for the following 20 years to develop the judiciary and an executive plan for the first 5 years. It was also to lay down mechanisms for periodic reviews.

<sup>14</sup> UNDP- POGAR, <http://www.pogar.org/countries/theme.asp?th=6&cid=16>

<sup>15</sup> Arab News, 'Women may be allowed to vote in municipal elections', 27 April 2009.

<sup>16</sup> Arab News, 'One-Third of Government Jobs for Women: Sultan', 27 May 2007.

<sup>17</sup> Reuters, 'Saudi's economic cities under pressure to deliver', 20 August 2008.

<sup>18</sup> Arab Reform Bulletin, 'Saudi Arabia: Succession Law; Judicial Reform; Women Driving Campaign', Carnegie Endowment for International Peace, October 2007.

The new plan was expected to lead to the reorganisation and modernisation of the judicial system by unifying the different judicial departments under the Ministry of Justice, distributing specialisation and levels of litigation among the courts and providing an opportunity for all verdicts to be verified through the Supreme Court.<sup>19</sup> While such moves send a powerful message to the judiciary, institutional changes to regulate the legal system will likely take years to implement due a lack of capacity and the pronounced tendency of the Saudi bureaucracy to resist change.

Under the leadership of King Abdullah, the country also began an overhaul of its higher education system, although efforts seemed to be concentrated on quantity rather than quality. By 2007 the Ministry of Higher Education had opened more than 100 new universities and colleges in four years, funded by a 15 billion dollar budget, which had tripled since 2004. Education reform was also part of the efforts to diversify the Saudi economy and 'Saudiise' the kingdom's companies, a strategy to address a youth unemployment rate of 30 percent.<sup>20</sup> The King Abdullah Project for General Education Development (Tatwir) announced in 2008 allocated nine billion Saudi riyals over six years to guarantee the availability of a highly skilled work force in the future.<sup>21</sup>

Nonetheless, much progress remains to be made in reforming the curriculum of the country's secondary education system, where the training of teachers and school curriculum is to a large degree still controlled by the official ulama. Building universities, while alluring in the short term, will not be sufficient to reduce Saudi Arabia's alarming levels of unemployment, particularly as the country's population growth rate will remain at 2.5-3 percent

per annum for the foreseeable future and almost 40 percent of the population is under the age of 15.<sup>22</sup> The majority of Saudi Arabia's new graduates lack qualifications to seek employment in the ambitious new economic cities being constructed by the government – in 2003, 64 percent graduated with sharia or arts-based qualifications.<sup>23</sup> This, combined with restrictive policies of 'Saudiisation', which hinder the hiring of expatriate skilled labour, risks discouraging the type of foreign investment needed to diversify the country's economy.

The welcome initiatives taken by King Abdullah should not disguise the fact that the reform process depends entirely upon enlightened royal favour, which can be withdrawn at any time. Indeed, it can be argued that, with the weakening of the power of the official ulama in recent years, *more* power has been consolidated by the al-Saud family. Reformers and conservatives both have their champions within the royal house and the initiatives can swing either way according to future successions to the throne, highlighting the almost complete inability of the Saudi populace to grant or withhold their consent to a programme for government. Royal power remains absolute and the will of the Shura Council consistently reflects that of King Abdullah, to whom its members owe their appointment.

Criticism about the slow pace of the reform process is usually rebutted by the 'official' argument that Saudi society is too 'traditionally conservative' and that what is proposed is alien to Saudi culture, a mixture of western prejudices and unsuitable secular models. It is often pointed out that it has been the royal family that has led to the kingdom's reforms, introducing modern communications, cars, television and girls' education, all of which were rejected at the time by the broader population: 'We have lots of challenges here related to traditional structures, namely a hesitancy and mistrust for reform caused by purported ideological links to

<sup>19</sup> Adnan Al-Shabrawi, 'Judicial reforms set for launch today', Saudi Gazette, 21 April 2009.

<sup>20</sup> Zvika Krieger, 'Saudi Arabia: Reforms in Higher Education Raise Questions', Arab Reform Bulletin, Carnegie Endowment for International Peace, December 2007.

<sup>21</sup> Ministry of Education, [http://www.moe.gov.sa/openshare/englishcon/e13\\_09\\_2008\\_132008.html](http://www.moe.gov.sa/openshare/englishcon/e13_09_2008_132008.html)

<sup>22</sup> The Economist, 'Country Profiles: Saudi Arabia', accessed 1 June 2009.

<sup>23</sup> T. Niblock and M. Malik, *The Political Economy of Saudi Arabia*, Oxford: Routledge, 2007, pp. 208-209.

Western agendas and interference.<sup>24</sup> Reform, as the official argument goes, has been implemented by the more enlightened al-Saud family despite resistance from society. There are limitations to how far King Abdullah can push against such recalcitrance.

Yet such an argument is disingenuous in that historically it is the deep conservatism of the state, especially during the reign of King Fahd during the 1980s and 1990s, that has brought about deficiencies in the educational system and the almost complete lack of a secular civil society. It is important to recall that in addition to positive reforms introduced by Kings Faisal and Abdullah, the state has also been the instigator and enforcer of policies that have segregated spheres for men and women and placed restrictions on freedom of expression and association, policies which have ultimately served to entrench conservatism within the country. In contrast to a frequently heard narrative, these policies have not just been designed and carried out by a few overzealous clergy but by the whole of the Saudi state polity. Indeed, surveys that have been carried out often suggest that Saudi Arabians favour further moves towards the liberalisation of society in many spheres, not least women's rights.<sup>25</sup> With regard to the holding of elections, it may be that the government fears the further devolving of religious leadership away from the official ulama towards the language of dissent as expressed by political Islamists, which they believe could ultimately destabilise the country.

Characterising reform in Saudi Arabia is not straightforward due to the pronounced opacity of Saudi policy making. Saudi Arabia is trying to disprove the widely held belief that 'a sound democratic system – which includes transparency, the rule of law and accountability – is essential for the success of a market economy.'<sup>26</sup> Essentially it is trying to decouple political

from economic reform, or at least keep them on two separate tracks at highly variable speeds. Questions abound over the effectiveness of the limited political reforms undertaken to date, which seems to be tempered by the fact that they are established by decree under the prerogative of one person and the reality that 'there is only so much one person can do when you have a system that is dysfunctional.'<sup>27</sup> This dysfunctional system extends to a hugely bloated public sector system where millions of Saudis are employed but where initiative is choked by an opaque decision-making process. Furthermore, as Hassan al-Husseini, a former administrator at the King Fahd University of Petroleum and Minerals, has pointed out, 'when something is established by royal edict, then that same thing can be reversed by another royal edict. It's not like you have legal protection for such things in Saudi Arabia.'<sup>28</sup> In this sense many see reform tied only to King Abdullah and are unsure as to whether momentum will be continued after his death. However, it may be that King Abdullah's enduring legacy is to engender a situation whereby the momentum for reform is maintained from the pressure applied by a newly conscious Saudi society.

Any movement towards reform, however, has had no bearing on the underlying structures of power. Power is concentrated in the hands of the king and there are no formal institutional checks on his authority beyond the consultative role (shura) of senior princes from his own family. The king strives to be perceived as ruling according to Islamic law and attaining consensus among senior members of the royal family. Although the ministries are ostensibly appointed by the king, the effective partitioning of power since the reign of King Abdul-Aziz whereby ministries are granted perpetual zones of influence means that it is difficult for the king alone to effect meaningful change. For example, to implement changes to the Ministry of Defence requires the consent of the Crown Prince Sultan, who has been Minister for Defence for almost 50 years.

<sup>24</sup> Interview in Riyadh, June 2008.

<sup>25</sup> Nawaf Obaid, 'Saudi women must get the vote in 2009', *Financial Times*, 12 October 2004.

<sup>26</sup> H. el-Beblawi, 'Political and National Governance Reforms', Presented at the IMF/AMF High-Level Seminar on Institutions and Economic Growth in the Arab Countries, Abu Dhabi, December 2006, p. 16.

<sup>27</sup> <http://saudijeans.org/> 22 February 2009.

<sup>28</sup> Zvika Krieger, 'Saudi Arabia: Reforms in Higher Education Raise Questions', *Arab Reform Bulletin*, Carnegie Endowment for International Peace, December 2007.

Nonetheless, the king remains the prime driver of government policy and the ultimate source of judicial power.

There is no clear division between the executive, legislative and judicial branches of the Saudi government. The pseudo-legislature, the Shura Council, was established by royal decree in 1992 but acts mainly in an advisory capacity. Since 2005 it can also initiate legislation, though ultimately legislation can be promulgated unilaterally by the government. Discussion about possible, at least partial, elections to the council resumed after the fourth expansion of the council membership to 150 in April 2005, but these have not materialised. The government has issued no official pronouncements on the subject and there is no elected body to provide oversight of government ministries or agencies. In 2003, the king approved the creation of consultative councils at the municipal level, with half of the officials to be elected by popular vote. Yet, as in the case of the Shura Council, the municipal councils were given little legislative power. Indeed, the victory of conservative Islamists in securing a large share of municipal council seats in elections held in 2005 served as a means for the government to remind the West that democratic reform would have profoundly destabilising consequences for the country. Despite the gender-neutral language of the law for municipal elections, women were not allowed to vote.

Saudi Arabia's legal system is based primarily on the principles of sharia law supplemented by laws legislated by the government. The king is responsible for the implementation of judicial rulings. In addition to the sharia courts, there are a number of judicial and quasi-judicial institutions with specialised jurisdictions such as commercial or labour law.<sup>29</sup> There are very significant problems with Saudi Arabia's judicial system. In particular, judges continue to have wide

discretion to issue rulings according to their own interpretation of Islamic sharia, a problem aggravated by the fact that the Hanbali school of jurisprudence is a highly subjective form of jurisprudence drawing primarily upon centuries-old theoretical writings on the meaning of the Quran and Hadith.

Laws are either vague and open to wide interpretation by judges or simply not respected. For example, the Criminal Procedure Law of May 2002 protects a defendant's rights, defines regulations to be followed during the judicial process, prohibits torture and limits arbitrary detention to five days, but it is yet to be implemented.<sup>30</sup> Criminal defendants are still not informed of the possibility of appointing legal counsel, lawyers have difficulty obtaining official documents to prepare a defence, hearings are often held in camera, and there are summary court sessions in political cases and in cases of people charged with crimes punishable by death, amputation or flogging. In criminal cases detention is often extended in order to extract a confession and then proceed to trial. In the majority of political cases detainees are pressured to give information about their political beliefs and activities, and about other people working with them. They are usually made aware that their release is conditional on their repenting of their previous activities and on their signing an undertaking to cease these activities.<sup>31</sup>

Arbitrary arrest is facilitated by the wide powers of arrest enjoyed by numerous bodies acting without judicial authority and is often directed at suspected political and religious opponents of the government. These bodies include al-Amn al-Aam (the public security police), al-Mabahith al Amma (General Investigations) and religious police known as al-Mutawaeen or Hay'at al-amr bilmaruf wan nahi al-munkar, (the Committee for the Propagation of Virtue

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<sup>29</sup> Carnegie Endowment for International Peace and FRIDE, 'Arab Political Systems: Baseline Information and Reforms: Saudi Arabia', <http://www.fride.org/page/13/fride-carnegie-arab-political-systems—baseline-information-and-reforms> Accessed 6 May 2009.

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<sup>30</sup> Human Rights Watch, 'Precarious Justice, Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia', March 2008.

<sup>31</sup> Carnegie Endowment for International Peace and FRIDE, 'Arab Political Systems: Baseline Information and Reforms: Saudi Arabia', <http://www.fride.org/page/13/fride-carnegie-arab-political-systems—baseline-information-and-reforms> Accessed, 6 May 2009

and Prevention of Vice). The first two are accountable to the Minister of the Interior. Al-Mutawaeen, which is mandated to ensure adherence to established codes of conduct, is in theory a semi-autonomous agency, but in practice works closely with the police and the governors of the localities. It is required to hand suspects over to the public security police after questioning. The cases of those arrested for 'moral offences' are now dealt with by public prosecutors and not the religious police.

A vigorous counterterrorism campaign, which was launched in the wake of the terrorist attacks that began in 2003, has been highly praised abroad. Nevertheless, reformers have accused the government of using the campaign to silence any opposition. According to Matrouq al-Faleh, a liberal activist: 'The Interior Ministry considers all reformers as part of terrorism but that's the definition of a police state.' Reformers draw attention to the arrest of opposition activists engaged in political activities under the conditions of the anti-terrorism law, including in 2007 for a group that were involved in trying to set up a political party. He also accuses the government of holding terrorist suspects for years without putting them on trial.<sup>32</sup>

## Associations Landscape

Civil society in Saudi Arabia is overwhelmingly represented by charitable foundations with some link to the royal family. There are also a large number of religious organisations, with the remainder dedicated to cultural, social or professional issues, but none focus specifically on political or civil rights. The last few years have seen an uptick in the number of organisations and the incorporation of new fields of work such as family planning, drug awareness, youth

leadership and business development. It is extremely difficult to establish an association without the support of a member of the royal family, especially in terms of navigating administrative issues and attracting donations. Associations are strictly controlled by the Ministry of Social Affairs or some other official authority, depending on their field of action.

### *Charitable foundations and associations*

These account for the largest number of organisations and have the widest geographical representation. The difference between associations and foundations rests primarily on their financing. The first receive donations from various sources while the second from a single donor. The growth of charitable associations and foundations, especially those based in Riyadh, can best be understood in the context of the use of the charity sector by the royal family for political purposes. Royal donations have traditionally been used as a means of consolidating power by assuring the loyalty of subjects. While institutions have been modernised, underlying motivations remain unchanged. The distribution of rent feeds into the image of a magnanimous, generous and approachable royal family. The growth in the sector is also a reflection of the competition among princes for the title of the most generous or the most interested in the development of the country. State subsidies or princely donations are complemented by tapping the private sector, which willingly complies in part as a means to network with the royal family and thus ease the administrative burdens on conducting business in the kingdom. The encouragement by the state of private charity initiatives has been especially noticeable in the last few years.<sup>33</sup> This is driven by the fact that despite the increased budget, 'public' institutions cannot cope with the needs of the population, which are set to double within 20-30 years. The recent downturn in oil prices has highlighted the reality that the government can no longer sustain a policy of expanding an already bloated public sector as a means of distributing oil rents.

<sup>32</sup> Financial Times Special Report: Saudi Arabia, December 4, 2007.

<sup>33</sup> Amélie Le Renard, 'Pauvreté et charité en Arabie Saoudite : la famille royale, le secteur privé et l'État providence', *Critique internationale* 2008/4, n° 41, pp.137-156.



The - usually eponymous - charitable projects and foundations are often headed by members of the royal family. This personalisation of the distribution of rent to the poorest sectors of society serves as an exercise in control which encourages clientelism and confusion between the public and private domains. Such blurring of the line between welfare and royal donations acts as a means of legitimising the regime. Members of the royal family feed the ambiguity between the public and private sectors such that the statutes of charitable organisations and their type of aid (public or private, state or princely, entitled or allocated) remain ambiguous. In addition, the lines between welfare and charity are blurred by the lack of specific rights and entitlements. Even social security becomes associated with charity and both are treated as social development within official development plans.

The establishment of charitable foundations as a way of addressing poverty stands as an example of the approach to dealing with state problems. Rather than addressing the issue through the establishment or restructuring of public policies, it is addressed through an act of will, or a gesture on the part of the monarch.<sup>34</sup> Moves to regulate charitable organisation since 9/11, for example the requirement to fully disclose financial transfers, have been broadly welcomed as a means of restricting terrorist financing. Nonetheless, some civil society activists have expressed concern that, in the absence of protective and enforceable legislation, this information could be used for political purposes by the government to restrict funding to groups that do not meet their approval.

Since the 1960s, women have been participating in charitable organisations, generally under the aegis of princesses. In the charitable sector a female space first emerged through the creation of the female association Nahda<sup>35</sup> (founded by Princess Sara al-Faysal in 1962), followed by the opening of female sections in the biggest charity foundations charged with taking care of poor women, handicapped children, orphans etc.

<sup>34</sup> Ibid, pp.137-156.

<sup>35</sup> Recently won the first Chaillot prize for Human Rights Organisations in the Gulf.

### *Religious organisations*

Unofficial religious movements, like the state itself, tend to be orientated around individuals who espouse particular trends of Islam. However, not only has Saudi Arabia witnessed a diminishing of the power of the official clergy as a consequence of grievances against the perceived corruption of the regime and the death of prominent clerics such as the Grand Mufti, Sheikh bin Baz and Sheikh bin Uthaymin, but the influential Sahwa movement has also split into separate strands. Many popular Sahwa leaders, such as Salman al-Audha, have of late played a remarkably moderating role towards religious minorities and Islamic jurisprudence, while others, including Safar al-Hawali prior to his illness, have been reluctant to deviate from their own conservative interpretation of Islam. These clerics and the many other preachers formerly identified as belonging to the Sahwa movement enjoy a very significant following in Saudi Arabia.<sup>36</sup> The religious donations they have received have served to deepen their influence, and although the occasional misuse of these funds by conservative clerics to wage jihad outside Saudi Arabia has been well-documented, the emergence of unofficial religious committees inside the country whose purpose is to ease poverty in Saudi Arabia has to date received little attention. Jihadi organisations have been largely dismantled through a sophisticated counter-terrorism campaign led by Deputy Interior Minister Prince Mohamed bin Nayef, forcing many remaining jihadis to relocate to neighbouring countries such as Yemen, and although funding networks persist, the Saudi government has been widely praised for its increasing efficiency in tackling them.<sup>37</sup>

### *Chambers of Commerce*

The main private sector umbrella organisation is the Council of Saudi Chambers of Commerce and Industry, an influential organisation that helps mediate between Saudi companies and the state. Its members are

<sup>36</sup> S. Lacroix, 'Fundamentalist Islam at a crossroads, 9/11, Iraq and the Saudi religious debate', CSIS: Gulf Roundtable, 29 May 2008.

<sup>37</sup> Christopher Boucek, 'Saudi Arabia's "soft" counterterrorism strategy: Prevention, rehabilitation and aftercare', Washington DC: Carnegie Paper, 2008.

business people who come together to defend their mutual interests and coordinate their efforts. Their activities are financed by the members' subscriptions. Partial elections take place for the board of directors, and women have recently been allowed to join the organisation. The regional Chambers of Commerce, although in existence for decades, have become markedly more assertive during the reign of King Abdullah and have played a key role in his diversification programme. Together with the Supreme Economic Council, the Chambers of Commerce are routinely consulted on the future economic direction of the country, which constitutes a significant improvement from the days when laws were 'made up by a bureaucrat and a consultant in the backroom of a ministry'. The Chambers of Commerce have also occasionally intervened to advocate more liberal social policies in the interests of economic efficiency.<sup>38</sup>

#### *Professional and vocational associations*

Governmental permission is required to form professional groups and associations, which must be non-political. The government licenses professional associations such as the Saudi Chemists Association and the Saudi Pharmacists Society, which serve to coordinate members and issue professional licences. Regular elections are held to select their respective boards of directors. The associations have recently grown to include most specialisations and professions and they come under the authority of different government institutions depending on their field of work. The king also announced the creation of an independent journalists' organisation in early 2003, namely the Saudi Journalists Association. Yet many reformists have dismissed this organisation as effectively wholly controlled by the government, since its founding documents were allegedly promulgated by the latter, and the Information Ministry must approve all candidates for the board.<sup>39</sup>

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<sup>38</sup> Steffen Hertog, 'The new corporatism in Saudi Arabia: Limits of Formal Politics', in Abdulhadi Khalaf and Giacomo Luciani, *Constitutional Reform and Political Participation in the Gulf*, Dubai: Gulf Research Council, pp. 256-257.

<sup>39</sup> Interviews with journalists in Riyadh, June 2008, and Hertog, p. 247.

#### *Political parties*

Political parties are prohibited. Long-standing parties such as the Communist Party and the Arab Socialist Action Party of Saudi Arabia were disbanded in the 1990s after their leaders were granted amnesty in a deal with the Saudi government. With the demise of Nasserite and Marxist parties in Saudi Arabia, the most active movement that may be classified as a political organisation is the Muslim Brotherhood. The government continues to actively restrict access to works by the two most important Muslim Brotherhood intellectuals, Hassan al-Banna and Sayyid al-Qutb.<sup>40</sup> The Interior Minister, Prince Nayef, has claimed that the Muslim Brotherhood is at the root of all Saudi Arabia's problems. However, the structure of the organisation in Saudi Arabia is by no means clear.<sup>41</sup>

#### *Political salons (diwaniyas)*

These discussion groups held in private homes have been growing in number and act as an outlet for collective expression, such as, for example, the liberal 'Constitutional and Civil Society circle'. The issues discussed can include women's rights, elections and civil society. Nevertheless, even these informal groups are subject to frequent interference from the government, with the Ministry of the Interior insisting that some groups be registered.<sup>42</sup>

#### *Labour unions*

Trade unions, syndicates, collective bargaining and strikes are prohibited, with limited provisions for companies with over 100 workers. In April 2002 a new law was issued, permitting Saudi workers to establish labour committees in companies with 100 or more employees. The committee members are chosen by the workers and approved by the Ministry of Labour. The committee may make recommendations to company management to improve work conditions, increase productivity, improve health and safety and recommend training programs, while the Ministry of

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<sup>40</sup> Menassat, 'Saudi Arabia bans "extremist" Muslim Brotherhood books', 28 November 2008.

<sup>41</sup> Ain-alyaqeen, 29 November 2002.

<sup>42</sup> Rasheed Abou-Alsamh, 'Saudis cling to outlet for free expression', *The Christian Science Monitor*, 11 April 2007.

Labour and Social Affairs may send a representative to attend committee meetings. The ministry may dissolve a labour committee if it violates regulations or threatens public security. Foreign workers may not serve on the committee, though committee regulations provide that the committee should represent their views. Generally, however, due to the lack of enforceable legal protection for these committees and their inability to take legal industrial action, these measures have generally been met with scepticism and indifference by the Saudi population.

### *Human rights organisations*

There are two legal human rights organisations in Saudi Arabia.

The *National Society for Human Rights* (NSHR) was created in March 2004. Although it is said to be financially and administratively independent, it was created with 100 million Saudi riyals donated by King Fahd. The NSHR works to guarantee fundamental rights recognised by Islam: the protection of human life, religion, thought, line of descent, honour and property. Since its formation, the NSHR has monitored municipal elections in 2005 and visited over 30 prisons in coordination with international and regional human rights organisations, while maintaining good relations with government agencies. It receives citizens' complaints, intervenes on their behalf with the relevant authorities, and visits the prisons. It has also lobbied extensively for government agencies to receive human rights training, and is pushing for Saudi Arabia to abide by and ratify more international human rights-related treaties.

In its first report on human rights, published in 2007, NSHR highlighted the government's responsibility to protect human rights and requested that the legislative system adhere to the international agreements signed. It also stated that in response to a question regarding adherence to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the Foreign Ministry stated that the kingdom was in the final stages of signing both agreements. In terms of freedom of association, it alluded to the 'many

incomprehensible procedures and obstacles' and called for regulations legitimising the formation of organisations and the protection of the rights of the people who take part in them. The second report on human rights was published in 2009 and echoed calls in the first report for an elected Shura Council with broader authority. It also criticised the slow pace of implementation of judicial reforms, the abuse of power by the Commission for the Promotion of Virtue and Prevention of Vice and other security forces, and urged for an investigation into cases of prolonged detention of suspects and torture.<sup>43</sup>

King Abdullah decreed the establishment of a government human rights agency, the *Human Rights Commission*, on 12 September 2005 to 'protect human rights and spread awareness about them [...] in keeping with the provisions of Islamic law.' The organisation was chaired by former government official Turki al-Sudairi until February 2009, when he was replaced by Bandar Al-Aiban. The 18 board members are appointed by the king for a period of four years. The Commission functions as a government agency, and sees its role as similar to that of an Ombudsman. In this capacity, the Human Rights Commission acts on over 4000 complaints on average per year. By June 2008 it had received 17,000 complaints in total. The Commission has branches throughout Saudi Arabia, with two established specifically for women, and it seeks to enshrine Arab and Islamic concepts of human rights.<sup>44</sup> It appears to have been instrumental in the government reporting to the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) in January 2008.

The working group on the Universal Periodic Review of the Human Rights Council held its review of Saudi Arabia in February 2009, for which the Human Rights Commission had submitted a national report. In response to the review, the new head of the Human Rights Commission stated that the 'glass is 70 percent full of positives, remaining problems are small

<sup>43</sup> NSHR report criticises slow pace of reform, Arab News, 24 March 2009.

<sup>44</sup> Interviews in Riyadh, June 2008.

particles.<sup>45</sup> Among the recommendations included that did not enjoy the support of Saudi Arabia, ostensibly 'because they do not confirm to its existing laws, pledges, commitments or do not refer to the existing practices in Saudi Arabia', were two calling for the end of practices of incarceration, mistreatment and the application of travel bans against individuals on the basis of their religious or political beliefs.<sup>46</sup> Despite such reservations Saudi Arabia was successfully re-elected to serve on the UN Human Rights Council in May 2009.

A third human rights organisation, albeit not legally recognised, is Human Rights First. Despite applying for a licence in 2002, a response was never forthcoming. The organisation was established without official approval in 2003. Its mission is to fight for the application of the rule of law, for freedom of association and for freedom of expression.

#### *Institutions for public support and research centres*

There is a dearth of independent research centres in Saudi Arabia. The few that exist, such as the King Faisal Center for Islamic Studies and Research in Riyadh, tend to have senior royal patronage. Informal religious studies groups are by far the largest study groups in Saudi Arabia, constituting an informal but increasingly powerful network.

In 2003 the National Dialogue Center (NDC) was established by then Crown Prince Abdullah in order to institutionalise dialogue among broad sectors of society on a set of key issues for the development of the state. To date, the centre has held seven dialogue sessions on topics such as employment, youth, women, education and national unity. The centre is also involved in training youth in effective communication and dialoguing methods, with over 40,000 people trained to date. The centre has formal partnership agreements

<sup>45</sup> Walaa Hawari, 'New Human Rights chief welcomes UN's review process', Arab News, 17 February 2009.

<sup>46</sup> United Nations General Assembly, Human Rights Council, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review, Saudi Arabia, 4 March 2009. The rest of rejected recommendations referred to reservations on CEDAW and capital or corporal punishment.

with the Ministries of Education and Youth and also engages in training sessions within religious institutions. Its recommendations and dialogue conclusions are delivered to the king at the completion of each National Dialogue process. The first dialogue started with thirty male participants in 2003. The second then doubled the number of participants and had a gender balanced representation. The centre selects participants on the basis of including a wide variety of representatives from all segments of society. The dialogues are transmitted live and uncensored by Saudi television.<sup>47</sup> The NDC is widely criticised most notably for the lack of implementation of the dialogue conclusions. Critics also point to its ambiguous status as an organisation that is neither governmental nor fully independent. Arguably, although the dialogues have not achieved any concrete results, the establishment of the NDC did play an important signalling role, pointing to the need for reform and the possibility of openly discussing the subject, including with previously marginalised sectors of society.

## Legal Framework

### *a) Constitution and international treaties*

The Basic Law does not explicitly provide for freedom of association. Neither does it include explicit guarantees of basic rights such as freedoms of belief, expression, assembly or political participation.

Saudi Arabia has signed four out of seven of the United Nations' conventions including the Convention on the Rights of Children (1996), the Convention on the Elimination of Racial Discrimination (1997), the Convention Against Torture (1997) and the Convention on the Elimination of Discrimination Against Women (2000), but none that are relevant to Freedom of Association. Saudi Arabia has also signed five agreements of the eight ILO agreements related to human rights in the work domain.

<sup>47</sup> Interviews in Riyadh, June 2008

The fundamental rights and freedoms protected by the Universal Declaration of Human Rights and the treaties to which Saudi Arabia is a state party remain largely unprotected by domestic legislation. The provisions of the human rights conventions to which it is a state party are undermined by significant reservations. The language used in its reservations stating that it will implement provisions of international treaties in as much as they do not conflict with sharia does not clearly define the extent to which Saudi Arabia accepts its obligations according to these treaties. The reservations are too general and vague.<sup>48</sup>

### *b) National legislation*

Associations are governed by the memorandum on associations and charitable foundations enacted in 1990, which demands their conformity with sharia. An association is defined as a group of persons working towards a non profit goal. According to the memorandum the Ministry of Social Affairs is responsible for receiving and analysing applications for the creation of private (generalist) associations. Associations must justify that there is a social need for their creation in a particular domain or place. The associations which are authorised to operate in a certain area must put together a group of at least 20 qualified people 'of perfect morality'. All other associations, medical, scientific, medical or professional, must obtain authorisation from the ministry responsible for the activities in which they operate. Under the memorandum, foundations can be established by a single person (notably members of the royal family) but may not receive subsidies. Religious foundations are not legally distinct from charitable associations.<sup>49</sup>

A draft civil society law to replace the memorandum and regulate civil society organisations in the country was put forth by the Ministry of Social Affairs in

2006. The draft was revised, amended and approved by the Shura Council on 31 December 2007. The draft law is currently under discussion in the cabinet. The law calls for the establishment of a 'National Authority for Civil Society Organisations' to regulate the activities of NGOs. Its administrative council would be made up of representatives of the Ministries of Social Affairs, Islamic Affairs, Labour and Finance as well as chambers of commerce, other charitable associations and universities. It would be responsible for approving the registration of associations and supervising their activities and financial accounts. It would also manage an endowment fund with funds from budgetary subsidies, the Zakat, banking profits which pious individuals renounce, and income from investments. The Saudi local press discussed the shortcomings of the draft, pointing to the broad authority the commission would have (such as the power to dissolve an organisation without referring the case to a judicial authority) as well as the ambiguous registration process and the limits placed on collaboration with non-Saudi organisations. Despite the law's flaws, most activists would welcome any law that would provide a clearer regulatory framework.

### *c) Fiscal regime / taxation*

There is no taxation in the kingdom. Charitable associations with non-profit goals are exempt from Zakat.

### *d) Foreign associations*

Foreign associations are not allowed to operate in the kingdom. Foreigners, even Muslim foreigners, may not direct an association, in particular a charitable association, which must be directed by a Saudi national. This is a legacy of the long-standing fear of the Muslim Brotherhood and other non-state controlled Islamic doctrines taking root in Saudi Arabia.

<sup>48</sup> Amnesty International, 'Saudi Arabia Submission to the UN Universal Periodic Review, Fourth session of the UPR Working Group of the Human Rights Council February 2009', 8 September 2008.

<sup>49</sup> Michel Doucin (ed.), *Guide de la liberté associative dans le monde*, La Documentation Française, Paris, 2007.

## Key Obstacles

The legal and administrative environment is the biggest obstacle for civil society and militates against the independence, organisation and growth of associations. Despite an official discourse that emphasises the need for greater efficiency within the NGO sector, there is still no clear legislation governing the process of registration and administration. Licences are granted in very limited cases and often as special royal decrees. Applications for registration, especially for organisations focusing on public issues, are delayed for years, often with the excuse of the lack of specific law or authority.

State control over the associative fabric is quite strict. Different official authorities control the activities of organisations, depending on their field of action, and there is no unified and clear law regarding such supervision. Representatives of the Ministry of Social Affairs can attend general assemblies and the ministry must be notified at least 15 days in advance of the assembly taking place. Official authorities interfere in the arrangement of elections to the boards of directors by screening candidates beforehand, verifying the regularity of elections to the management board and even cancelling elections. Official representatives observe the associations' commitment to their by laws and regulations. The ministry also controls the finance of the organisations through an intranet that links all associations to the ministry. Accounts are controlled by administrators appointed by the ministry. These accountants audit each organisation and must visit them at least four times a year. The ministry receives the annual reports and has 20 days to raise any objections. It can also name a temporary management board. Associations which submit to such controls may receive government subsidies.<sup>50</sup> The memorandum on associations and charitable foundations grants the government the power to dissolve associations. In October 2004, Al-Haramain, the most important Saudi charitable foundation, was dissolved.

Peaceful political activities such as demonstrations, protests or strikes are prohibited. This lack of freedom of assembly also means that public activities require prior permission from the relevant authorities and this can take a long time. Activities are strictly limited to those related to the nature of the organisation and often speakers and lecturers undergo prior screening.

Funding is also problematic as it is usually linked to royal patronage. Private associations may receive donations and bequests. Associations with accounts under the supervision of the Ministry of Social Affairs may receive government subsidies. NGOs may not receive any financial support from foreign donors and fundraising activities are under strict control after 9/11.

## State – Civil Society Relations

King Abdullah, through the establishment of the National Dialogue Center and the Inter-faith dialogues, has signalled the opening of a limited but vital space for discussion on the future direction of the country. Importantly, this includes representatives who have not been consulted by the state in the past on matters of government. Such an exchange, however, has yet to produce major shifts in political accountability and human rights. 'While the political atmosphere is not as circumscribed as it was in past decades, the promise of continued political liberalisation which seemed to be in the air in the first half of this decade has not been borne out.'<sup>51</sup> The municipal councils are powerless, the Shura continues to lack legislative and oversight powers, judges continue to employ wide discretion and arbitrary rulings, teachers have not been replaced and petitioners continue to be jailed. Saudi reformers have

<sup>51</sup> F. Gregory Gause, III, 'Saudi Arabia and the Proposed Arms Sale', Testimony before House Committee on Foreign Affairs, 18 September 2007.

<sup>50</sup> *Guide de la liberté associative dans le monde.*

faced increased repression in recent years.<sup>52</sup> Sometimes it even seems like there is some backtracking, as reflected in the measure announced in 2005 whereby public employees cannot criticise the government – which, considering the dominance of public sector employment, greatly hinders constructive dialogue.

Relations between state and society are hampered by the fact that Saudi Arabia lacks an independent and vibrant civil society. Although there are close to 400 charitable organisations, non-governmental organisations require the patronage of a member of the royal family and organisations dealing with political and civil rights are explicitly prohibited. The nature of the state, in which government – or the royal family – provides and the population accepts, has severely constrained avenues for a two way dialogue. Freedom of expression is restricted by prohibitions of criticism of the government, Islam and the ruling family. Government critics and security suspects are commonly subjected to arbitrary arrest and detention for indefinite periods of time by the security forces under the direction of the Ministry of the Interior. Editors in Chief frequently receive letters from the Ministry of Information asking them not to write about certain matters, and self-censorship is so widespread that obvious media crackdowns on the printed press are not particularly evident or necessary. It is common knowledge that the Ministry of Information frequently violates the Basic Law and the Press Law, and that there is little if any recourse for journalists. International and regional human rights organisations' websites are also regularly blocked, including Freedom House and Reporters without Borders.<sup>53</sup> Academic freedom suffers in the same way, and as there are no independent research centres and no reliable data or statistics on which to base a dialogue between state and society. Even questionnaires for polls require government approval. Petitions originating from the people are discouraged and the National Dialogues are

presented as the only proper channel for some sort of structured dialogue.

Saudi reformers are a loose network from which core groups come together to initiate petitions and seek supporters. In the 1990s the Islamist Petition writers made more strident demands for accountability from the royal family, but petition-writers nowadays generally call for gradual political transformation within the framework of the monarchy and the state's Islamic character. Their proposals are for a common project to be led from above.<sup>54</sup> It remains unclear how representative they are of society but clearly Islamist reformers enjoy a wider appeal than their liberal counterparts.

As official channels of communication are ineffective or non-existent, tribal affiliation plays an important role in relations between citizens and the central government. Since the mid-1980s, older tribal sheikhs have been replaced by officially designated leaders loyal to the government that act as representatives on behalf of tribal members' interests. These leaders work through the regional councils and governors and deal with such issues as education, agricultural development, assistance in legal matters, transportation and communication improvement, welfare and social assistance, and helping to attain citizenship privileges.

As already outlined, although frequently misrepresented in the West as a monolithic state of Wahhabi conservatism, many Saudi citizens follow diverse schools of Sunni jurisprudence. King Abdullah has now begun to move to accept the legitimacy of such individual legal codes within state institutions. The government has also eased restrictions upon the practice of Sufism within the kingdom. The destruction of Sufi shrines and the brutal crackdown upon Sufi leaders after the conquest of the Hejaz in 1926 created a bitterness among many Saudi Sufis that remains to this day. Important gestures such as the attendance by

<sup>52</sup> Muhammad Helmy, 'Saudi Arabia: Human Rights, Reform, and the Rule of Law', *Arab Reform Bulletin*, Carnegie Endowment for International Peace, October 2007.

<sup>53</sup> Interview in Riyadh, June 2008.

<sup>54</sup> Toby Jones, 'Seeking a "Social Contract" for Saudi Arabia', *Middle East Report* 228, Fall 2003.

King Abdullah of the funeral of prominent Sufi leader, Muhammed Alawi al-Maliki, in 2004, who had been condemned as an unbeliever by leading members of the official ulama, and the support for tolerance of Sufi practices by the popular Sahwa leader, Salman al-Audha, has helped reverse a trend of oppression against the country's Sufi minority.<sup>55</sup>

While the practice of Sufism is not seen to constitute a potential threat to the integrity of the kingdom, relations between the Shia population and the government remained strained due to religious prejudice among certain senior officials and a fear of secessionism by the predominantly Shia, oil-rich Eastern Province. 10-15 percent of Saudi Arabia's citizens are Shia, of whom the majority belong the Shia Twelver school and reside in the Eastern Province, with a 400,000 strong Shia 'Ismaili' residing in Najran, a province in the south-west of the country lying along the border with Yemen.<sup>56</sup> In the case of the Shia Twelvers in the Eastern province, the government has done little to allay fears of foreign Shia clerics from Iran, Lebanon or Iraq wielding undue influence over Saudi Shia citizens by harassing Saudi clerics, including closing down religious schools in Qatif, thereby forcing many scholars to look towards more qualified Shia religious leaders from abroad rather than at home.

During the 1970s the Eastern Province witnessed serious unrest as the Shia populace rebelled against state harassment and the banning of Shia festivals such as Ashura. Violent opposition to the regime peaked in 1979 when a series of violent riots broke out in the wake of the Iranian revolution. Grievances fed the politicisation of Shiism in Saudi Arabia away from the quietism conventionally adhered to by Shia clerics towards the activism of leaders such as Sheikh Hassan al-Saffar. Although al-Saffar was a key spiritual leader during the often violent protests of the 1970s, he soon began to view open confrontation as a futile

path given the strength of the regime. Instead, after a negotiated agreement with King Fahd in 1993, the mainstream Shia leaders adopted a policy of engagement with the regime. This pragmatism and the caution with which Saudi Shia leaders approach their religious ties with Iranian-based clerics, preferring for the most part the spiritual guidance of Grand Ayatollah Ali al-Sistani in Najaf, Iraq, finally began to bear fruit during the reign of King Abdullah when Shia members were nominated to the Shura Council and played a prominent role in the royally-convened National Dialogues. The inclusion of the Shia was helped by the support offered not only by senior royals but by moderate members of the Sahwa movement.

While such moves have by no means satisfied Shia demands as laid out in the April 2003 petition, 'Partners in the Nation', King Abdullah has demonstrably broken with the orthodox Salafi campaign against Shiism. This is not uncomplicated in that many conservative clerics believe that among the founding principles of the teachings of Muhammad ibn Abd al-Wahhab is a rejection of Shiism as a legitimate form of Islam. However, King Abdullah's symbolic gestures have yet to translate into fundamental action to guarantee equal treatment for Shia citizens, who remain largely absent from senior government positions and are disproportionately absent from the appointed regional council of the Eastern Province.<sup>57</sup> A Saudi human rights activist summoned to the Foreign Ministry to explain himself following a speech drawing attention to religious discrimination in Saudi Arabia was informed that 'no such discrimination takes place in the kingdom' and that it was disingenuous to mislead the world to the contrary, to which he responded that it would be helpful if a Shia Ambassador could therefore explain this to the world but, alas, there was no such thing as a Shia Ambassador. This anecdote emphasises the need for words regarding religious equality to be put into action.

An obvious example of government foot-dragging in implementing reforms is apparent with regard to the

<sup>55</sup> Washington Post, 'In Saudi Arabia, a resurgence of Sufism', 2 May 2006.

<sup>56</sup> International Crisis Group, 'The Shiite Question in Saudi Arabia', Brussels: ICG, Middle East Report No. 45, 19 September 2005.

<sup>57</sup> Ibid.



educational sector where, although the government has frequently promised to remove all anti-Shia rhetoric from school textbooks, Shia citizens complain that teachers frequently demonise the Shia as unbelievers. This is hardly surprising given that the education system in the Eastern Province and Najran, as elsewhere, remains dominated by conservative Sunni teachers. Meanwhile, as one community leader outlined, many Shia feel that that they cannot turn to the judicial system for recourse against such 'hate-crimes'; 'Who am I going to complain to, a judge who is a Wahhabi Sheikh?'<sup>58</sup>

Although moderate religious leaders such as Hassan al-Saffar and community activists like Jaffar al-Shayeb, Tawfiq al-Sayif and Mohammed Mahfoodh have succeeded in convincing many of their co-religionists to pursue a policy of engagement with the government, recent events demonstrate that patience among the Shia populace may be finite and that a stagnation in reforms could lead to the empowering of a more extreme fringe within the community. During 2009 Shia Twelver pilgrims in Medina rioted after what they considered to be inappropriate monitoring by the religious police.<sup>59</sup> The subsequent killings of 3 pilgrims and beating and incarceration of many more led to unprecedented calls for secession for the Eastern Province and the founding of a new political movement, Khalas.<sup>60</sup> The government would do well to press on with the stated aim of ensuring that Saudi Shia feel a fully empowered part of the country's citizenry. A good next step would be the appointment of more Shia citizens to prominent government positions and the increased legitimisation of Shia codes of jurisprudence, such as the ja'afari school, as part of the Saudi legal system.<sup>61</sup>

<sup>58</sup> New York Times, 'Saudi Shiites, Long Kept Down, Look to Iraq and assert rights', 2 March 2005.

<sup>59</sup> The Economist, 'Shia unhappiness is rattling regimes in Saudi Arabia and elsewhere in the Gulf', 26 February 2009.

<sup>60</sup> Reuters, 'Saudi King visits oil-producing region after unrest', 26 April 2009.

<sup>61</sup> As of 2008, there were only seven Shia Twelver judges in Saudi Arabia, all of whom were based in the Eastern Province. Ismailis are completely absent from the judiciary. US State Department, 'International Religious Freedom Report 2008', accessed 3 July 2009.

In the south of Saudi Arabia, the small Saudi Ismaili minority (population approx. 400,000) suffered systematic discrimination in the aftermath of the appointment of the highly conservative Prince Mishal bin Saud bin Abdulaziz al-Saud in 1996. Religious freedoms became so curtailed, including the closure of mosques, the arrest of clerics and restrictions on religious schooling for young Ismailis, that the Ismaili community literally felt that it was under siege and began to arm itself in case of an attack upon its religious leader, Da'i al-Mutlaq (the Absolute Guide), at his home in Najran. Despite the fact that the Ismailis constitute an overwhelming majority of the population of Najran, they hold only a tiny minority of all senior government posts. More worryingly, the Saudi government in recent years has pursued a policy of naturalising Yemeni Sunnis from the Hadramawt region of Yemen, granting land plots, permitting the carrying of weapons and allegedly turning a blind eye to attacks upon Ismailis. This policy would appear to be remarkably short-sighted in that many of the tribes invited to live in Najran have been the most fertile recruiting ground for al-Qaeda in Yemen.<sup>62</sup>

Following a growing outcry domestically and internationally, King Abdullah removed Prince Mishal bin Saud bin Abdulaziz al-Saud as governor of Najran in late 2008 and appointed his son, Prince Mishal bin Abdullah bin Abdulaziz al-Saud, in his place. Encouragingly, the new governor, who has acquired a reputation for his intellect and diligence in working to reduce poverty in Saudi Arabia, has recently begun a programme to address the social and economic grievances of the Ismaili community, including the distribution of land to previously dispossessed Ismailis. However, it is too early to speculate to what degree this programme will succeed in easing tensions in Najran.<sup>63</sup>

Migrant workers in Saudi Arabia easily constitute the majority of the working population in Saudi Arabia.

<sup>62</sup> Human Rights Watch, 'The Ismailis of Najran; Second-class Saudi Citizens', September 2008.

<sup>63</sup> Arab News, 'Mishaal appointed Najran governor', 27 March 2009 and al-Okaz 'King presents large housing area as gift to people of Najran', 1 June 2009.

However, due to a lack of legal protection of individual rights in Saudi Arabia, not least labour laws and discrimination against low-paid immigrant labour, abuses perpetrated against migrant workers are rife and often go unpunished. For example, Saudi Arabia's *kafala* sponsorship system heavily restricts the ability of a migrant worker to change employment or even leave the country. Abuses perpetrated by Saudi citizens against migrant workers are routinely not investigated. However, the arbitrary incarceration of migrants by the police is commonplace and many foreign nationals are frequently denied access to consular assistance.<sup>64</sup> In a positive move, the Ministry of Labour announced in May 2009 that, after a five year study of the current sponsorship system, it will recommend that the government move to embrace a new system where private recruitment companies will sponsor migrant workers. Although enforcing the rights of migrant workers through new legislation is unlikely to succeed without a simultaneous reform of the judicial system, such a proposal at least would make it easier to monitor the sponsorship of foreign nationals.<sup>65</sup>

The discrimination of women in Saudi Arabia has been institutionalised by the state. Despite the signing of the Convention on the Elimination of All Forms of Discrimination against Women, with reservations concerning clauses that conflict with Islamic law, in 2000, Saudi laws systematically discriminate against women. Government policy often explicitly requires male consent for a range of everyday activities. This system of male guardianship, justified as a form of protection for women, curtails some of women's most basic rights. The Saudi state has institutionalised a strictly segregated principle of organisation disregarding customs and social conventions which were historically much more varied and flexible than is now acknowledged. Oil rent has been an important precondition for the development of a segregated female sphere as it has allowed for the creation of parallel female institutions. Thus reforms to address

discrimination tend not to question spatial segregation but rather propose the creation of additional specific institutions for women, such as the Princess Noura Bint Abdelrahman University for Girls, which is currently under construction. While the normalisation of women's role in the workplace creates new opportunities for improving literacy levels and skills, it is not a move towards de-segregation. Rather, it requires the feminisation of mixed places or the creation of women's sections within men's institutions, thus reinforcing sex segregation.<sup>66</sup> Nevertheless, the economic burden which such segregation entails has prompted senior government advisers to recommend the easing of such restrictions – some Saudi business leaders have urged that women be allowed to drive in the new economic cities. Meanwhile, the recently opened King Abdullah University for Science and Technology (KAUST) has broken taboos by introducing a co-educational curriculum.<sup>67</sup>

## What Political Reforms Are Required?

### (Local calls for reform)

Local calls for reform have become significantly less strident than in the 1990s in the aftermath of the Gulf war. Calls for change now propose a cautious and gradual approach that respects the monarchy and the Islamic character of the state, but they continue to represent individual appeals responding to different agendas rather than a cohesive movement with a well articulated and common vision. Liberal petitioners coalesce at times with Islamic reformers for pragmatic purposes, but there is no consensus on what a practical reform agenda for the future should look like. Furthermore, the population is cautious regarding

<sup>64</sup> Human Rights Watch, 'As if I am not human', New York, July 2008.

<sup>65</sup> Arab News, 'New system to replace sponsorship', 13 May 2009.

<sup>66</sup> Amélie Le Renard, 'Only for Women: Women, the State, and Reform in Saudi Arabia', *The Middle East Journal*, vol. 62, no. 4, Autumn 2008, pp. 610-29.

<sup>67</sup> The National, 'Global crisis casts shadow over Saudi's futuristic cities', 1 February 2009.

change and suspicious of any potential impositions from abroad.

One of the first steps to address this lack of consensus on the way forward would be to open up the space for association and for freedom of expression. Such measures would provide the necessary space to discuss and reach consensus on reform and thus address the government's claim that society is not ready for reform. For this purpose, the first step would be the approval of an acceptable and clear law governing NGOs, which would improve their legal environment and provide some form of protection from the arbitrary treatment of activists. The importance of this measure is reflected in the fact that civil society representatives are calling for the approval of the current civil society draft law which is stuck in the cabinet, despite its apparent shortcomings and overly intrusive prerogatives for government. The law should limit government interference, allow greater freedom of action for NGOs and put an end to the curtailment of their activities and areas of action. There should be judicial recourse for denial of registration, interference or dissolution. For now, the only acceptable space for a discussion of issues relevant to the development of the country is provided by the National Dialogues. As the latter initiative is the prerogative of the regime, there should be a government response to the recommendations issued at the conclusion of each Dialogues session, be it some form of acceptance and delivery of the changes recommended or their rejection. There should at least be room for an open two-way dialogue.

An open space for debate would help define a more cohesive approach to reform that would undoubtedly have an Islamist frame of reference and, in this sense, perhaps fall short of western liberal expectations. In any case, most local calls for reform are not clamouring for western liberal democracy; in fact, there is widespread suspicion of democratisation and the imposition from abroad of foreign concepts. Calls for reform emphasise the need for a fair society which respects equality, personal freedoms, accountability and a fair distribution of wealth. Reformers speak of

change from within and in accordance with Saudi Arabia's circumstances.

Nevertheless, global initiatives and international conventions are important. Saudi Arabia wants to comply with international practices and so internationally recognised standards act as important anchors for reform. For example, the UN initiative on anti-corruption served as an example taken up by the Shura Council in order to suggest a domestic anti-corruption strategy. Similarly, Saudi Arabia's accession to the World Trade Organisation was an important driver of legal reforms. In addition, reformers fighting for change can refer back to signed international agreements in an effort to defend their case. For this reason, it is important for Saudi Arabia to sign the international conventions on political, civil, social and economic rights, something which, according to their own accounts, they are close to doing. But signing up is not enough, as many problems within Saudi Arabia stem from patchy implementation or outright non-compliance.

In this sense, the lack of *codification* of much of Saudi law is a problem. Codification of existing law is crucial as it would allow comparison to international standards and put an end to the varied and idiosyncratic interpretations of the law made by judges and clerics.<sup>68</sup> In particular, there is a need to draft and adopt a penal code that specifies clearly which acts constitute criminal offences. Saudi Arabia also has a problem with *implementation*. Most notably, there is a need for implementation of the criminal procedure code introduced in 2002 which guarantees the protection of human rights by prohibiting torture, ensuring the defendants' right to a fair trial and their right to counsel. It also states that trials must be public. Judges, police investigators and other concerned agencies have yet to fully implement the code, in part due to the lack of executive regulations. The absence of such regulations has opened the door to personal

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<sup>68</sup> Tamara Cofman Wittes and Isobel Coleman, 'Economic and Political Development Trip Report, Towards a new US-Middle East Strategy', A Saban Center at Brookings-Council on Foreign Relations Project, February 2008.

interpretation and led to abuses and violations. There are also important provisions in the Saudi Basic Law that lack implementation and monitoring. For example, defendants must be afforded the right to a speedy trial, and Article 114 of the Basic Law, which permits the detention of suspects for up to six months, must not be interpreted freely. The Supreme Court should have the authority to overrule laws that contradict the Basic Law.<sup>69</sup> These reforms would represent a move towards ensuring the independence and efficacy of the judiciary, which coincides with the stated goals of the current judicial reform prompted by King Abdullah.

In terms of the legislative branch, although there are some calls for elections for the Shura Council, a greater priority seems to be endowing it with actual legislative and oversight powers. A first step towards elections would be to have fully elected municipal councils with genuine power on municipal issues and a real budget. Such a measure could then be followed by holding elections for the more powerful regional councils.

There is still considerable opacity surrounding budgetary issues. Although there is a widespread perception that King Abdullah himself is not corrupt and an appreciation of his curbing of personal expenditure by individual members of the royal family, there is a widespread concern that mechanisms for accountability with regard to state expenditure are extremely limited and should be extended. One of the most salient points of consensus in calls for reform is an end to corruption and the lack of transparency in government spending. There is a sense that resources are squandered with impunity by members of the ruling family.

There is a need for a clear legal definition of foreign nationals' rights, given that they represent close to fifty percent of the workforce. The establishment of a legal framework to protect their rights should be

accompanied by an awareness campaign. The reversal of the current abusive sponsorship system would constitute a good first step to ending the widespread abuse of migrants' rights.

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## Conclusion

King Abdullah enjoys a level of popularity in Saudi Arabia that is seldom acquired by a ruler with such extensive powers. He is viewed by many as a reforming and capable monarch who has taken bold measures to try and lever his country out of its natural resource dependency and severe demographic challenges. Importantly, King Abdullah has sought to redefine the country in terms of how it views itself, for example through reaching out to the Shia population and stressing the importance of providing opportunities for women in the workplace. Externally this has manifested itself in his embrace of a dialogue among the main religions of the world, reflecting his programme at home to build acceptance for a more diverse society. These symbolic gestures are very important and should not be underestimated. Yet the delicate balance of power within the al-Saud family has meant that King Abdullah has struggled in practice to implement many of the reforms aimed at curbing corruption and discrimination within the government. The weakness of the reform process is essentially that it is still utterly dependent on the grace of the king and has not acquired a strength or momentum of its own among the Saudi citizenry. This is not due to a lack of interest in public affairs - on the contrary, the relatively powerless National Dialogues attracted millions of viewers who were intrigued at the prospect of an uncensored discussion on the future direction of the country. Rather, the real cause lies in the restrictions preventing the emergence of an independent civil society and freedom of expression. Similarly, the low-turn out and election of predominantly conservative religious figures to the municipal council elections in 2005 may well have reflected the fact that Saudis were savvy enough to know that such councils had very little tangible power to secure practical benefits for their communities.

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<sup>69</sup> Muhammad Helmy, 'Saudi Arabia: Human Rights, Reform, and the Rule of Law', Arab Reform Bulletin, Carnegie Endowment for International Peace, October 2007.

The future path of reform in Saudi Arabia remains uncertain and the progress made is easily reversible. The commitment of the Interior Minister, Prince Nayef, to following the path set by King Abdullah is uncertain. He has been decidedly reticent in endorsing a programme for reform, especially with regard to empowering a national parliament chosen by the wider populace: 'When I go to the Shura assembly I meet members who are of the finest calibre in the country and that's what's important – the people and the quality. It's not important how they got there, it's important how they are.'<sup>70</sup> If he were eventually to accede to the throne, he might well prefer to revert back to the more conventional, less consultative rule of King Fahd. However, this entails its own risks: King Abdullah has astutely stressed the need for increased collective responsibility for the fate of the nation, taken

pains to be seen to consult widely among the populace and introduced democratic elections for the first time. This is a recognition that the al-Saud dynasty's future legitimacy cannot primarily rest on providing 'cradle to grave' benefits to the populace and must empower the potential of the country's youth to create their own opportunities. If Prince Nayef were to abandon this course, he would be perceived to be assuming complete control of the country's destiny again and would therefore also be held solely responsible for its ills. There is an obvious capacity in Saudi Arabian society to provide solutions to many of the country's future challenges, should an enabling framework be put in place to encourage educational innovation, develop a diverse civil society and advance freedom of expression. The government would be unwise to waste a resource of such infinite potential.

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<sup>70</sup> Gulf News, 'Nayef rules out Shura polls', 3 July 2007.

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Saudi Arabia has frequently been portrayed by outsiders as a monolith of conservative religious orthodoxy where government is exercised according to the rigours of a uniquely strict form of Islamic doctrine. Such a view obscures the diversity and fluidity of debate that courses through this relatively young and brittle nation. Under the rule of King Abdullah Saudi Arabia is slowly moving away from an exclusivist conservative doctrine towards a wider embrace of the beliefs and aspirations of its citizens. As this report makes clear, however, such a shift has been more in tone than substance. Despite rhetoric to the contrary, mechanisms have not emerged to ensure more accountable government nor has there been a significant restructuring of the legal system to guarantee the rights of citizens. The country's nascent civil society organisations operate within a narrow and vulnerable space, lacking the necessary legal guarantees to develop as a strong check on the abuses of power.

King Abdullah has recognised that demography and the demands of a new generation of Saudi citizens have rendered the kingdom's old oil-dependent 'rentier' habits redundant for the future. The report argues however that moves to diversify Saudi Arabia's economy and empower its youth with the skills to prosper in a global competitive environment cannot be separated from wider political reform that will sustain progress by ushering in a new era of participatory and accountable government. It concludes that Saudi Arabia must move away from its current almost total reliance upon the fortunes of its founding and ruling family towards a shared responsibility in charting the country's future direction.

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