

Countries at the Crossroads 2012: Saudi Arabia

Introduction

The Saudi state is based on a historical partnership of the Al Saud ruling family and the religious elites of central Arabia. While the balance of power has been gradually shifting in favor of the ruling family over time, no new social actors have been able to enter the core of the regime for more than 200 years. New social groups emerging in the course of modern state-building, such as technocrats or businessmen, are given a role in high-level decision-making only if the Al Saud unilaterally decide to do so.

Saudi Arabia has very weak traditions of constitutional government; over much of modern Saudi history, the government has claimed that the Quran is the country's constitution and no further legal-institutional framework is necessary. The western region of Saudi Arabia, the Hijaz, underwent a brief period of semi-constitutional government in the 1920s when a regional representative body was elected and King Abdulaziz issued the "organic instructions" as a quasi-constitution for the Hijaz. The elected bodies soon lost their political importance, however, and the organic instructions became obsolete when the kingdom was gradually unified from the 1940s onward around an administration based in the central province and based on executive rather than legislative rule.

A partial return to a constitutional framework occurred in 1992 with the issuance of the Basic Law, which in practice however consecrated the kingdom's status as an absolute monarchy and created no space for popular sovereignty or democratic participation mechanisms.¹ Although the regime is quite explicitly undemocratic by international standards, its authoritarianism is of a unique nature: by regional standards, the use of coercion vis-à-vis the citizenry is less overt, and opposition is often co-opted rather than merely suppressed. Repression is considered a last resort, although it is more easily used vis-à-vis more marginal groups, such as Saudi Shiites or jihadist terror suspects, than vis-à-vis higher-profile Sunni political dissidents.

While formally unconstrained by organized social interests, Saudi rulers harbor great concerns about their reputation and the inclusion of the population in their patronage systems. Informal consultations have repeatedly brought down or reversed unpopular policies, and consensus-building within the royal family or among elites within the royal family is an important part of the decision-making process in most fields of policy. The king himself is constrained in his decision-making by his powerful brothers, making the kingdom in practice an oligarchic rather than an absolutist system. All of the senior princes regularly sound out public opinion on delicate policy issues through their clients and informants. While some senior princes are known to be more willing to consider social and cultural reform, and different princes have

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displayed different degrees of leniency towards political dissent, none of them harbor any serious interest in political reform.

The informal culture of political consultation in Saudi Arabia is strictly paternal. The consultation process is not institutionalized and is extended to different social strata to highly divergent degrees. The regime grants consultation to select individuals rather than citizens claiming it for themselves, and the regime can withdraw these privileges at will. Consultation often happens only among social elites, and most collective social interests lack the rights to formal collective action and therefore remain disorganized.

The religious sector is the best-organized interest group, and it has allowed itself to be bureaucratized by the Al Saud family since the late 1960s in return for considerable influence over the kingdom's educational and judicial system and the enforcement of public morals. The strict social authoritarianism of the Saudi system, in terms of restrictions of women's rights, religious rights, and cultural rights, is mainly enforced through the Saudi ulema (religious scholars) and the religious police. The latter are formally autonomous but de facto controlled by the Ministry of Interior and are in charge of supervising public morals, including gender segregation, closure of shops during prayer, propriety of publications on sale in Saudi shops etc. Their rights to enter private households and give "hot pursuit" to presumptive moral offenders have been significantly curtailed in recent years.²

Saudi Arabia has never held national elections. Municipal elections were held during a brief period of partial liberalization in the 1950s and early 1960s and were reintroduced in 2005, but only half of the municipal representatives are elected, and voting is limited to males over the age of 21. Otherwise, elections are limited to the boards of specific interest groups, such as professional associations and chambers of commerce.

King Abdullah, in power since 2005, has ushered in a slight degree of socio-cultural and political liberalization. Reforms, although often announced as ground-breaking, in many cases represent a return to historical precedents or implementation of promises several decades old. For example, the Basic Law passed in 1992 was promised several times since the 1950s, as was true of the appointed consultative council created the same year (its building was in fact erected in the early 1980s). Rather than indicating a step forward, the 2005 municipal elections were in fact more constrained than those held five decades earlier.

Under Abdullah, public discourse opened considerably, especially on socio-cultural issues, and a number of new, state-licensed interest groups were established. Just like other Gulf Cooperative Council (GCC) countries, however, Saudi Arabia's relative liberalization was reversed with the 2011 wave of pro-democracy uprisings, compounded by the progressive weakening of the octogenarian king and the strengthening of less liberal family members. Although no public mobilization happened outside of the Shiite East, control of Saudi media was tightened and numerous dissidents arrested (see below).

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Gradual change on social issues like women's employment is possible, but political opening and constitutional reform now appear unlikely, as numerous dissidents have been imprisoned in a crackdown that started in February 2011 and lasted throughout the year.

At the same time, citizen demands for reform remain relatively weak. Oppositional mobilization is limited to a small group of dissidents, and the paternal authoritarianism of the Al Saud family is unlikely to change substantially in the coming years.

High oil prices have further boosted the regime's confidence that it can endure regional unrest without major political concessions. The state is mainly financed through international oil rents, and there is no domestic taxation, which decreases citizens' political bargaining power. The regime has accumulated savings equivalent to three complete national budgets, allowing it to continue and expand its policies of patronage. Even assuming very low oil prices of around 50 dollars per barrel, the government could continue spending at the current until at least the rest of the current decade before having to start raising debt. Quite likely, prices will be higher and it will have considerably more time. Given increasing spending and domestic oil consumption, a fiscal crisis is bound to happen at some point, but is probably still at least a decade away.

Accountability and Public Voice

Saudi Arabia does not hold national elections and after the release of some "trial balloons" on the issue in the mid-2000s, the topic has again disappeared from public discourse. The king appoints the 150 members of the Majlis Al-Shura, a consultative council with limited but gradually increasing legislative powers, every four years; terms can be renewed once. Since a 2003 reform, the Majlis can propose legislation, but it still cannot overrule the cabinet without the king's support. Despite its lobbying efforts, it has no control over the national budget and no access to the government's accounts.

The second round of municipal elections were due to be held in spring 2009 but were postponed to September 2011, supposedly for administrative reasons, including the challenge posed by the regime's promise to allow women to vote.³ Despite this administrative issue having been cited as a pretext for postponement, however, women were again prevented from voting when the delayed elections were held in 2011. King Abdallah has now again pledged the female franchise for the upcoming elections in 2015, and has also promised to appoint female members to the Majlis Al-Shura in the future.⁴

Turnout and interest in the 2011 municipal elections were low, and they passed mostly without event.⁵ Many council members are disillusioned about the local bodies' impact given the

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strict limits on its political competences. The majority of incumbents in the larger cities are middle-of-the road Islamists, most of whom ran on fairly apolitical platforms focused on the improvement of local services. Their ideological orientation likely reflects that of Saudi society at large, but firm conclusions on political and ideological preferences are difficult in light of the very low turnout. On average, the appointed half of local council members tends to be less socially conservative, reflecting the paradox that socially liberal elites in Saudi Arabia are generally close to the regime due to the small base of public social support they have.

Smaller groups of political dissidents of liberal or moderate Islamist background regularly petition the regime for national elections and constitutional reform, most recently in spring 2011.⁶ The regime has ignored the entreaties, reminded the petitioners of the reforms already under way or, in recent cases, warned them—usually in summons to a senior prince—not to exhort the Al Saud family in any public way. Dissidents involved in constitutional petitions have on occasion been imprisoned, often on the initiative of the Ministry of Interior headed by Crown Prince Naif, who died in June 2012.

Saudi politics are based on patronage, both formally through subsidized public services and broad-based state employment, and informally through princely networks of privilege in business and the administration. The most senior princes have been running large bureaucratic bodies for decades, and have used these for building up large clienteles. Major institutions under royal control such as the Ministries of Defense and Interior and the National Guard are allotted significant shares of the national budget, which are used for procurement (often through local intermediaries), the building of housing compounds, the operation of special hospitals and educational institutions, and large-scale employment. The major security institutions in the country have become synonymous with the princes who oversee them, giving them a position that even the king cannot challenge.

The judiciary does not directly supervise administrative matters, and although the Majlis Al-Shura can question ministers, it has no means to dismiss or penalize them or to scrutinize their accounts. Individual citizens can to a limited extent hold the government accountable through the “Board of Grievances,” an administrative tribunal that arbitrates, among other things, conflicts between individuals and government. The Board of Grievances, just like other courts, is staffed with sharia-trained judges. The king appoints them and other senior judicial personnel, but members of the Board are usually from among the more liberal wings of the religious establishment. Verdicts in citizens’ favor are issued regularly, but usually concern apolitical issues such as getting degrees recognized by the government, being reinstated into a job by a specific ministry, being indemnified for damages to property, or getting administrative fines lifted.

There is a disciplinary board to investigate bureaucratic abuse, but it is an internal administrative mechanism, itself part of the Saudi bureaucracy and not accountable to the public.

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The kingdom's new anti-corruption commission body accepts anonymous reports,⁷ but has not yet reported to the public in detail about its activities.

Influence-peddling with regard to civil service appointments does occur, but the bureaucracy generally appoints on the basis of clear, if inflexible civil service rules.⁸ Promotion rules are rigid, linked to education levels, years of service, and performance reports that hardly discriminate between different civil servants, thereby limiting superiors' discretion. There are very few dismissals. Both carrots and sticks are weak in the bureaucracy, giving many positions the character of sinecures, a feature typical of rentier states like Saudi Arabia. The state is relatively institutionalized, but rigid and unaccountable. Pockets of efficiency such as the central bank (SAMA) or the national oil company (Saudi Aramco) perform significantly better than the rest of the state, but their operation is similarly opaque to citizens.

Opportunities for civic participation in Saudi Arabia have somewhat improved in recent years due the Majlis Al-Shura and other new government bodies such as the Supreme Economic Council that invite interest groups for hearings. The Majlis also receives hundreds of petitions every year, which usually focus on administrative complaints. Consultation is granted rather than claimed as a right, and the choice of who is consulted and which issues are debated is quite selective. The state-licensed National Human Rights Society for example, has been engaged in important exchanges with the Ministry of Labor on foreign workers' rights and the Ministry of Interior on prison conditions, but has since its licensing in 2004 been operating as a quasi-monopoly on human rights lobbying. Its main focus is on lower-level issues of public service quality, bureaucratic malfeasance, and social questions like domestic violence rather than political rights. It also occasionally functions to defend the regime vis-à-vis an international audience, for example when its members publicly claimed in February 2011 that there are no problems of religious freedom in Saudi Arabia.⁹ There are non-licensed human rights groups focusing on more political issues such as the Adala Center for Human Rights or the Saudi Civil and Political Rights Association headed by Muhammad al-Qahtani, who is currently in court for charges of sedition.

Saudi business plays an increasingly substantial role in economic policy deliberations through circulation of drafts laws in the kingdom's regional Chambers of Commerce and Industry. At the same time, labor or consumer interests remain badly organized. A recently created Consumer Protection Association has been publicly criticized for inaction.¹⁰ Some indirect lobbying on less sensitive policy issues can happen through the Saudi press, whose reporting is a genuine concern of bureaucrats who are afraid of princely punishment when an agency is reported on negatively.

At the time of writing, a much-discussed NGO law issued in draft form in 2008 was still pending in the Council of Ministers.¹¹ It has been criticized for a variety of restrictions, notably on local groups' international contacts.¹² There currently is no overall framework regulating civic groups; instead, groups are subject to an arbitrary licensing regime under which they in fact

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often need a princely patron to be officially recognized and then are usually attached to the line ministry in charge of the policy area that is seen as closest to their activities (charities are hence attached to the Ministry of Social Affairs, while professional groups are attached to the Ministry of Higher Education, the rationale being that they represent graduates of a specific profession). Civic groups can in principle be shut down arbitrarily and there is no effective recourse mechanism against such decisions.

The weakness of Saudi civil society is however not only the result of a restrictive licensing regime, but to at least the same extent due to the weakness of bottom-up pressures emerging from society. Civil society traditions in the kingdom are weak, and society remains organized on a kinship or at least informal basis. The new “civil society” groups that have appeared in recent years are often state-generated and -supported, functioning along corporatist lines, and materially dependent on the regime. They include professional groups (e.g. the journalists’ association), welfare and consumer groups as well as bodies claiming to represent women’s or pensioners’ interests. The strength of autonomous social organizations in general has been greatly weakened by the Saudi rentier state since the 1960s, as Saudis have become individually dependent on the state to the detriment of collective action. Whether the increase of political activism among a small stratum of young Saudis in the wake of the Arab spring indicates a longer-term trend remains to be seen.

The boundaries of freedom of expression in Saudi Arabia tend to fluctuate with the political climate. While freedom of speech expanded considerably in 2003 and 2004, a certain tightening on political topics – but not social or cultural issues – has happened after 2005 and notably after early 2011. There are no formal safeguards guaranteeing freedom of speech; articles 39 of the basic law merely states that “Information, publication, and all other media shall employ courteous language and the state's regulations, and they shall contribute to the education of the nation and the bolstering of its unity. All acts that foster sedition or division or harm the state's security and its public relations or detract from man's dignity and rights shall be prohibited.” Most major Saudi (and Arab) newspapers are directly or indirectly controlled by royal factions: Okaz and Saudi Gazette by the Prince Naif faction, Arab News and Al-Sharq Al-Awsat by Prince Salman and his sons, Al-Hayat by Prince Khaled bin Sultan, and Al-Watan by the Al-Faisal faction of the ruling family. The latter outlet is seen as the most liberal, but none of them would openly advocate substantial political reform; controversial debates are mostly limited to social and cultural questions. Regime institutions can also exert considerable informal pressure on local media. Foreign correspondents are on occasion expelled when their reporting gets too critical, and journalists and editors are on occasion dismissed or prohibited from writing. Control through the Ministries of Information and Interior has been tightened since early 2011.

Self-censorship in Saudi newspapers is pervasive; the appointment of editors in chief needs approval by the Ministry of Information, which is closely linked to the Ministry of Interior, and which conducts regular meetings with senior press representatives. The media licensing policy is restrictive, and even media outlets not directly owned by princes are usually

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under the patronage of specific wings of the Al Saud family. A press tribunal set up under the 2000 Law of Printed Matters and Publications, and administered by the Ministry of Information, decides about complaints against the press brought by private individuals. Media law amendments in April 2011 made insults of regime elites (including religious leaders) a punishable offense.¹³

Although space exists to publicly discuss socio-cultural questions like educational reform and women's issues, the political red lines in public discourse are as clearly drawn as ever. Criticism of the royal family or individual royals remains taboo, as do calls for substantial change to the political system.

More than 90 percent of Saudi households have satellite dishes and Al-Jazeera is widely watched. A prohibition on dishes stemming from the 1990s has never been enforced and has now become obsolete. The political content of satellite channels is less of a topic of debate in Saudi Arabia than the moral issues posed by permissive entertainment channels.

The internet in Saudi Arabia is censored under the auspices of the Communications & Information Technology Commission with considerable technological effort,¹⁴ with moderate effectiveness. Internet cafes allowing anonymous access are widespread in Saudi cities.

Civil Liberties

Although repression of the country's nonviolent opposition, whether religious or liberal, is not particularly bloody or systematic, it is arbitrary in nature and has had a chilling effect on political life. Abuse occurs, but it has not been systematic – with the exception of members of violent jihadi groups who apparently were subjected to brutal interrogations for several years from the mid-1990s on. Since the mid-2000s on, thousands of suspected jihadists have been held imprisoned without access to a court. Trials have been held at an increasing pace since late 2008, and have been opened to the public in early 2011 after an initial phase of secret trials. In April 2011, the Ministry of Interior reported that 1,612 out of a total of 5080 suspects had been handed prison sentences.¹⁵ Estimates of the actual number of detainees vary widely, however, and reach 12,000 and more.¹⁶ Some of the suspects not directly involved in political violence have been given the option of re-education camp instead of being imprisoned. This option is not open to hard-core activists.

Peaceful dissident prisoners until recently numbered in the tens rather than the hundreds. Local attempts to mobilize opposition in the wake of the Arab spring as well as pre-emptive action by the Ministry of Interior have reportedly led to the arrest of at least 300 Saudi demonstrators and intellectuals in early 2011, however, many of whom remain incarcerated.¹⁷

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A group of 17 prominent peaceful Islamist dissidents that had been arrested in late 2007 were sentenced to up to 30 years in prison in November 2011.¹⁸ A draft anti-terror law that was leaked in summer 2011 would further legitimize imprisonment for peaceful dissent and extended detention without trial.¹⁹ It has not been ratified yet.

The state-licensed National Human Rights Society has conducted several waves of prison inspections, and the state of Saudi prisons appears to be better than in most of other Arab countries. Human Rights Watch were allowed access to a Saudi prison in 2006, and have documented cases of abuse such as beatings, hanging prisoners by their handcuffs or denying them access to medical care.²⁰ The Criminal Procedures Law formally prohibits mistreatment, guarantees access to a lawyer and sets a maximum term for trial without detention. Prisoners enjoy no effective recourse mechanisms if these stipulations are violated, however, and there are special security prisons controlled by the Ministry of Interior in which prisoners can be held in complete isolation. There are no effective protections against arbitrary arrests, which are reported to be common among lower-class expatriates.

Sharia is the official basis of criminal justice, and there is no code of criminal law in Saudi Arabia, only a law of procedures for criminal trials, which includes a presumption of innocence rule and right of access to a lawyer (see above). Sanctions include corporal punishments and capital punishment by beheading. While severe corporal punishments such as amputations are rare, flogging is common.

Domestic terrorism has abated after its peak in 2004 due to greatly improved intelligence and policing efforts, but residual networks of violent activists exist. Shootouts in recent years have been rare and usually initiated by the police; there is currently no significant danger to either local or foreign population. The main militant group is Al Qaeda on the Arabian Peninsula, which has grown out of networks of returnees from jihad in Afghanistan and other Islamic conflict regions. AQAP was originally focused on purging Saudi Arabia of the presence of Westerners, but its aims have since come to include the fall of the Al Saud regime that has been fighting them.

Foreign residents from non-Western countries are often subject to harsh police treatment. Crime levels in Saudi Arabia are relatively low and the prosecution of crime is often rather harsh. Corporal punishment through flogging is practiced regularly. Saudi citizens tend to be much better protected against crime than low-income foreign workers. While many male workers on the informal labor market know what they get themselves into, foreign housemaids are often reported to be trafficked to new employers against their will, who keep them as virtual prisoners and frequently subject them to psychological and physical abuse, including sexual molestation. The scale of this phenomenon is difficult to estimate.

Reacting to the international debate about labor rights in the Gulf, the cabinet has issued anti-human trafficking regulations in July 2009 that provide for prison terms of up to 15 years for

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traffickers. The illegal “free visa” system in which official Saudi “sponsors” of foreign workers informally resell them to other, unofficial employers remains widespread, however. It will be impossible to eradicate unless Saudi labor laws which currently create a relationship of bondage between foreigners and their official employers are changed fundamentally.²¹ Although there have been a number of changes to Saudi labor regulations, sponsorship reform appears to be on the backburner for the time being. The continued lobbying of the National Human Rights Society for the wholesale abolition of sponsorship seems to have had little resonance.²²

Saudi and foreign women remain subject to strict rules and constraints, and women’s campaigns to improve their legal and de facto situation continue. Women are legally required to have a male guardian’s permission for travel and basic administrative transactions. As of 2008 Saudi businesswomen no longer require a male guardian’s approval for domestic travel, the Ministry of Interior has allowed independent foreign travel for women above 45, and women can in principle switch jobs without approval of their guardian.²³ These changes have not been well implemented in practice however, as lower-level bureaucrats frequently continue to require a guardian’s permission even if it is not formally required anymore. Although entitled to their own ID cards since 2001, women can still have trouble obtaining them and getting their validity recognized in practice. The abolition of guardianship for women’s businesses that was announced in 2009 has not been followed up on.²⁴

Marriage continues to require a guardian’s approval on the woman’s side, the female franchise was postponed to the 2015 municipal elections and the ban on female driving continues. Several women protesting against the latter by driving their own cars were temporarily imprisoned in May 2011.²⁵ A ban on male clerks in lingerie shops that has been much reported upon in the international press is unlikely to lead to fundamental change to women’s subordinate status on the labor market.

Reports about the violation of women’s property rights by male guardians acting on their behalf in inheritance disputes and business life are frequent. Although the official requirement that businesswomen need a male agent to act on their behalf has been suppressed, a new rule now demands the presence of a male “manager.” While the latter’s power of attorney can be more easily limited, businesswomen remain hamstrung in their direct dealings with the administration.

The government’s idea of women’s cultural, economic, and political life seems to be based on a “separate but equal” principle that calls for a parallel administrative and economic infrastructure for women – a costly policy depriving women of opportunities and effectively limiting most of their employment to a few sectors such as health and education.²⁶ While separation is widely enforced, equality is not, resulting in less well funded facilities for women, fewer chances to participate in public life, and far fewer jobs, despite what are on average better scholarly achievements of female students. About twice as many men as women work in the civil

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service (not counting security agencies, which employ mostly men), and female private employment is miniscule.²⁷

King Abdullah has made women's social issues one of the primary items on his reform agenda, has received several women's delegations and appointed the first female deputy minister in February 2009 (in the Ministry of Education). The situation of Saudi women has not yet changed fundamentally, however. The female employment strategy ratified by the cabinet in 2004 has remained ineffective, as fewer than 60,000 Saudi women were employed in the private sector in 2010, out of a total of more than 5 million Saudi females of working age (some 295,000 are employed by government).²⁸

Although there is no specific codification of the rights of disabled, the government makes significant efforts to cater to disabled citizens through employment quotas and support to specialized charities. Disabled as well as female employees count twice as much as male employees towards the fulfillment of official "Saudization" employment quotas in the private sector.

Saudi society is informally stratified into nationals who have a genealogy linking them to major Arabians tribes and those without such genealogy. The latter are usually called "khadhiri" and estimated to be about one third of all Saudis. They are often socially discriminated against. Despite repeated official calls against tribalism, no effective steps have been taken against the phenomenon –which admittedly would be difficult to combat, as the discrimination involves mostly private decisions such as marriage.

There is a politically salient division in Saudi society between Sunnis and Shiites. The Twelver Shiites in the Eastern Province and in Medina, which constitute about 10-15 percent of the national population, have been discriminated against since the conquest of their region by the Al Saud in the 1913, and parts of them have on occasion mobilized violently against the Al Saud regime. The same is true about the Ismaili (Sevener Shiite) minority in the South around the city of Najran.

The religious rights of both minorities improved until 2010, as restrictions on their public religious rituals and the construction of places of worship have been relaxed, though not abandoned, under Abdullah. Since then, state control over public spaces has been tightened again. Dating back to 2009, following clashes in Medina between Shiites and religious police, security forces have repeatedly harassed Shiite clergy, closed husseiniyyas, and restricted observance of ashura commemorations. Shiites remain discriminated against in state employment: There is no Shiite cabinet minister and only five of 150 members of the Majlis Al-Shura are Shiite.²⁹ The state-supported religious establishment is often viciously anti-Shiite, an attitude shared by many Central Province Sunnis. The state-controlled religious education, although undergoing reform on the textbook level, often still entails negative teachings about the Shiite faith in the classroom, and they can be subject to harassment by the religious police.

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Eastern Province Shiites have been involved in repeated deadly clashes with Saudi security forces in 2011 and 2012.³⁰ The government's willingness to escalate as well as the willingness of young protesters to use violence seem to have increased in the context of the Arab spring, the crisis in Bahrain and tense relations with Iran.

While the religious freedoms of non-Sunni Muslims remain constrained, non-Muslims enjoy no freedom of worship and preaching. Islam is the state religion and missionary activities as well as the construction of non-Muslim places of worship are strictly prohibited. Non-Muslim religious practices are only tolerated in private, and the religious police cracks down on larger gatherings – even if its leeway has been somewhat curbed in the recent years. Services take place at best in embassies, a practice for which Western Christians enjoy more (informal) leeway than Asian Christians.³¹

The Sunni religious establishment is largely bureaucratized, as they work in the Ministries of Islamic Affairs and Religious Endowments, Justice, and Hajj as well as various state-controlled institutions of religious education. The king appoints the Grand Mufti, the members of the Higher Council of Ulama and of the Presidency for Scientific Research and Religious Edicts, the official fatwa administration.

While in private Saudis are rather free to express their opinions, independent collective action and political criticism by organized groups are seldom tolerated by the regime. When dissidents are jailed, this is usually because they have started to organize – as for example in February 2011, when an attempt to create an “Islamic Ummah Party” led to the swift arrest of the group's founders.³² Freedom of association is absent from the Basic Law and unions have been outlawed since the time of King Saud, who first faced collective action by oil workers in the 1950s. In May 2001, the Council of Ministers sanctioned the formation of labour committees on an enterprise level. In all companies with more than 100 employees the latter have the right to form a committee, although there is no obligation to do so. So far only a small number of large foreign and state-owned companies seem to have formed one, and their purpose seems to be not collective bargaining, but attending to workers' welfare. A national workers' council set up a under the auspices of the Ministry of Labour in 2010 seems to be active only sporadically.³³

Public demonstrations in Saudi Arabia are not tolerated. Attempts to organize public protests in major Saudi towns in February and March 2011 failed due to heavy police presence, were heavily prosecuted and led to arrests numbering in the hundreds. Only Shiite towns in the Eastern Province have seen larger demonstrations during the last two years, often leading to clashes with police and mass arrests.

Rule of Law

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The Saudi judiciary is currently undergoing a phase of reorganization, which has led to the creation of a supreme court and courts of appeal, relegating the previously dominant supreme judicial council to administrative functions within the judicial system. Specialized commercial and labor courts have been in the making since 2007, and progress appears to be slow. Judges are appointed by the king, but officially are accountable only to god and the precepts of sharia. Over the years, the government has created a growing body of positive law, especially on commercial matters, but in practice this is not always recognized by the sharia courts – which in turn has led the government to create a number of quasi-judicial tribunals within the bureaucracy to attend to specific areas of commercial and administrative law. The judicial reforms are meant to undo some of this fragmentation and force a stronger recognition of positive law on the judicial system proper. The supreme court is supposed to adjudicate on matters of precedence, guiding the remainder of the system.

The Saudi judiciary is rather independent from political interference on a day-to-day level. A problematic corollary of this in the Saudi context however is that judges have vast discretion. There are no juries and individual judges usually decide on both verdict and punishment. Precedence until recently has not been recognized in the Saudi interpretation of Islamic law. Efforts are now made to collect judgments, but these are usually very short and officially rely on a limited set of volumes on religious law that have little to say on many aspects of modern life and can be interpreted in very different ways.

The position of judge requires religious training, usually in the strictly Hanbali Sunni Saudi system. The judiciary therefore tends to discriminate against non-Sunni minorities. Courts can refuse to recognize and enforce the secular regulations emerging from the bureaucracy. This has happened regularly on commercial matters, although such autonomy from positive law now appears on the decline. While corruption problems in Saudi courts appear to be limited, their unpredictability and slowness pose major problems. For its 2012 Doing Business survey, the World Bank gave Saudi Arabia rank 138 out of 183 countries in the category “enforcing contracts,” almost unchanged from previous years.³⁴

Judicial reforms had been announced many times, but first practical steps were taken in early 2009, when Abdullah replaced senior conservative figures in the religious and judicial systems and a plan was issued to implement the infrastructure and training for the new supreme and specialized courts announced in November 2007. Since then, however, few details have emerged on the progress of the reforms. It is unclear whether the new specialized courts will be more predictable and accountable than the existing sharia courts, given that they will be staffed by the same judges. A true shift of the judicial system towards statutory law will require the training of a new generation of judges, which is beginning only now. The sharia institutes in Saudi universities, from which judges will continue to graduate, remain in the hands of the

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conservative religious establishment, and providing additional training in secular law will take a long time.

Compliance mechanisms to implement judicial rulings in Saudi Arabia are weak. Ministries and police often do not enforce judgments, and defendants in legal disputes frequently sabotage court procedures simply by not showing up, a practice against which judges seem to have limited recourse.

The judicial system is not independent vis-à-vis senior royals and no cases are known where leading regime figures were successfully sued in Saudi courts. Non-royal public officials are sometimes prosecuted for transgressions in office, but details of such cases are usually unavailable.

All Saudi security forces, whether for internal or external defense, are directly attached to senior royal figures. Institutions headed by senior princes like the Ministries of Defense and Interior or the National Guard are largely autonomous bodies with their own infrastructure and rules. The cabinet and other ministries as well as the judiciary have very limited control over them, as they are at the core of the kingdom's informal power structure as it has grown over decades. They have their own health, housing and educational institutions, and their recruitment and procurement structures are separate from the rest of government.

While Ministry of Defense and National Guard are less involved in domestic politics, the Ministry of Interior has extensive policing, political security, and regulatory functions. It is strongly involved in policy-making also on non-security issues such as regulation of foreign investment or safety inspections of commercial facilities. It is often the main addressee of dissidents' complaints about censorship, arbitrary detention, and limits on Saudi political life in general. The Ministry operates largely independently of the judiciary, and the public prosecution is de facto attached to it and not to the Ministry of Justice. While the Ministry of Interior is with few exceptions not known to systematically mistreat Saudi prisoners, it has the de facto power to detain individuals at will and keep them in detention without trial. It is perceived as even more powerful in the wake of the Arab Spring.

Saudi Arabia's economic traditions are fairly liberal in comparison with most of the developing world, as the country has never gone through a phase of nationalizations or class struggle. Private property hence is generally respected, and the business sector is thriving. Certain infractions on property rights are possible however, and it can be difficult or impossible to seek remedy. Examples include the expropriation of cover-up businesses, companies in economic sectors limited to Saudi ownership that are formally registered under a Saudi's name but are in fact owned and run by foreigners who usually pay the formal owners a monthly fee. The arrangement can allow the Saudi partner to expropriate the actual foreign owners.

Property rights can also be compromised when royals muscle their way in on business deals or companies of commoners, by browbeating them into ceding ownership stakes or forcing

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foreign companies to operate through them instead of their commoner partners. While it is difficult to verify the scale of this phenomenon, many stories of such encroachments circulate. Another area in which property rights are often insecure is land deeds, especially in peripheral regions that are due for development and in older urban areas where titles can overlap and are not well documented. Much abuse is reported in this field; appropriation of state and private lands is one of the main channels of rent-seeking and patronage in the kingdom, although there appears to be increasing prosecution of land-related corruption on lower levels of the bureaucratic hierarchy.³⁵ The land registration system, though currently in the process of reform, remains opaque and underdeveloped; public access to it is limited.

Anticorruption and Transparency

The bureaucratic environment in Saudi Arabia is better than that in most poor developing countries, but remains significantly worse than that in most OECD economies. Oil income seems to have enabled a certain professionalization of the Saudi bureaucracy over the decades, but has also increased opportunities for rent-seeking.

Comparative statistics such as the World Bank's "governance indicators" for government effectiveness and regulatory quality continue to put Saudi Arabia on a middling rank, slightly below the global average and below countries like Ghana or India – a position it has held since the indicators were first issued in 1996. Local surveys also document that most businessmen still see Saudi Arabia as the most difficult place to do business among the Gulf monarchies. While certain regulations and procedures have been simplified, the bureaucracy continues to be slow-moving, unaccountable and rather interventionist, making extensive documentation demands and on occasion trying to change the articles of association of private companies.

While this environment does not automatically lead to corruption, it facilitates its mundane occurrence. Bribery happens, but with the potential exception of the labor bureaucracy and the security sector, is less widespread than in poorer Arab countries such as Syria or Egypt; Saudi Arabia scores just slightly above the international average on the World Bank's "control of corruption" governance indicator in 2010. Informal reports indicate an increase in misappropriation in the course of the dramatic increases in state spending that has happened in recent years.

Several of the leading state-owned enterprises such as Aramco and Saudi Arabian Basic Industries Company continue to be efficiently administered and perceived as generally clean, although the information available about their governance is rather limited. Other state-owned

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assets, such as the national airline Saudia, have a worse reputation. Saudia is currently being prepared for privatization under a well-respected new CEO which could mean that the worst days of opaque procurement and illicit ticket resales are over.

As far as institutions are well-run, this is mostly because of their specific organizational histories and the special royal protection and attention they enjoy. Formal accountability mechanisms are limited, and Saudi Arabia has no effective incompatibility rules separating public and private interests. Most of the leading princes have large business interests, and many non-royal ministers are involved in business on a smaller scale, not least as several of them have been recruited from leading business families. There are no rules demanding a public declaration of the assets of officeholders.

Procurement in the security apparatus is surrounded by rumors of rent-seeking and corruption, and some large-scale cases have come to the attention of Western media.³⁶ The most prominent such story has been associated with the ongoing Al-Yamamah airplane contract, in the course of which British Defense contractor BAE is supposed to have channeled more than one billion UK pounds of bribes through various front companies and private accounts to senior Saudi decision-makers. Transgressions in the security apparatus are punished, if at all, internally.

As far as anticorruption rules are enforced, this generally happens behind closed doors, although there has been more public reporting on administrative investigations during the recent two years.³⁷ Such reports always relate to non-royals, and usually to lower-level figures indicted for relatively minor offenses. There is a “Corruption Investigation Department” at the Ministry of Interior investigating corruption cases in the administration; malfeasance is also investigated by the government’s Investigation and Control Board. In May 2011, an anti-corruption commission was created,³⁸ leading to some duplication of jurisdictions but also a greater public focus on issues of bureaucratic propriety.

Although there has been more reporting on the investigative activities of the government’s General Auditing Bureau in recent years, the audited accounts of government agencies are not published and available only to very few government functionaries. The bureau, which was founded in 1971 and whose senior functionaries are appointed by the king, has little control over royal agencies. Although the annual closing accounts of the national budget are very detailed, they are usually produced several years after the end of the budget year and kept secret. None of the investigative bodies in the government are accountable to the public.

Apart from the above-mentioned Board of Grievances, citizens have no formal recourse mechanisms against bureaucratic abuse. Saudi Arabia has no ombudsmen; the closest equivalent is the petitions committee in the Majlis Al-Shura, which considers individual letters by citizens (to the order of a couple of hundred a year) and can request follow-up information from individual government agencies. Informal channels of complaint, often through princes, are

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usually preferred to formal ones. Results can come out in favor of private citizens, but such cases are usually limited to conflicts with bureaucrats, not senior regime figures.

There are no personal income taxes in Saudi Arabia, and the income tax on foreign firms was simplified in a 2004 law that brought the kingdom closer to international practices. The tax assessment process can still be slow and cumbersome, however, and the calculation of religious tax (zakat) on domestic companies in particular is often less than clear, although this works in favor of companies more often than in favor of the government.

The general transparency of the Saudi government has improved a bit under King Abdullah, but starting from a very low foundation. Several ministries, including health, interior, and labor, now have spokesmen and more documents such as laws, bylaws, sectoral statistics and annual reports are available on ministerial websites (usually in Arabic and sometimes in English). Saudi Arabia still lacks a functioning depository for all laws and regulations, however, which are instead often diligently collected by local law firms and consultants. Ministerial circulars have the force of law but often remain unpublished and are perceived by some businessmen as a tool of arbitrary power in the hands of ministers and their deputies.

Information on bureaucratic performance and the use of public funds is still very scarce. The kingdom's closing accounts have not been publicly available since the 1990-91 Gulf war; the only published figures on actual government spending are two aggregate numbers on total current and total capital spending issued by the Ministry of Finance at the end of every budget year. A fundamental right to information is hence violated, and there are no mechanisms for citizens to request details on state spending.

The national budget is not subject to legislative review, as the (unelected) Majlis Al-Shura has no power over it. Instead, the budget is negotiated bilaterally between the powerful Ministry of Finance and the Saudi government's various line agencies, which in turn do not usually have access to the detailed budgets of other agencies. The planned budget that is reported publicly before the start of the fiscal year only contains ballpark figures on intended sectoral spending and on general project spending; a detailed breakdown by smaller administrative units or specific projects is lacking.

Revamped bidding rules and the introduction of e-tendering at a number of ministries seems to have augmented the transparency of procurement in specific instances. An improvement across the board, including the security agencies, is unlikely however. Saudi Arabia has not signed up to the WTO government procurement rules when accessing the organization in 2005, and tendering practices can differ significantly from one agency to the next.

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Recommendations

After the Arab Spring, the Saudi regime has retrenched and any talk of even partial democratization has been nipped in the bud. One could argue that in the face of ideological and sectarian fragmentation, deep regionalism, and weakly organized formal interest groups, substantive and immediate democratization could yield instability and social conflict. It is all the more important however that meaningful liberalization of the organizational field takes place so as to allow an independent civil society to emerge that can represent and integrate all major social interests in the country. This step could prepare the country for a more substantive and smooth transition to subsequent constitutional rule, including full elections to an empowered Majlis Al-Shura with control over the national budget and, possibly, a non-royal prime minister supported by the majority of the Majlis. Such constitutionalization would allow the stabilization of the Saudi polity, and of the Al Saud's role in it, in the long run. The following steps are imperative in this process:

- Organizational space for NGOs and political interest groups, including ones that bridge the ideological boundaries of Saudi society, needs to be guaranteed. The pending NGO law needs to be substantially revised with a view to issuance in the near future. It must include guarantees against arbitrary administrative intervention and prevent the bureaucracy from meddling with organizations' budgets and the composition of their boards. Groups should be automatically licensed after a pre-defined period after their application unless there is an explicit justification not to do so, subject to judicial appeal, and they should only be dissolvable through court order. Most Saudis are patriotic and allowing them to organize does not pose a threat—on the contrary, a more lively civil society could mean a significantly reduced burden on the Saudi paternal state.
- The government should create legal protection for freedom of speech, whether practiced individually or collectively, in private or public. The space for it has fluctuated considerably in recent years. When it was widened, then this happened not on the basis of formally guaranteed rights, but rather the paternal benevolence of the rulers which could be rescinded any day. For productive political debate, freedom needs to be formally guaranteed by statute and the government needs to rescind its control over editors and media.
- The government should pass a law on transparency and access to governmental information, including budgetary data, that specifies and guarantees access procedures, creates an ombudsman on public information and recourse mechanisms in case of denial, and minimizes ambiguous language that could be used to deny information requests. The closing accounts of the national budget should be published. The regime in many regards has less to hide than many bystanders believe.
- The Al Saud family needs to work towards a clearer separation of itself and the government. This does not mean that the most senior princes have to exit government service, but that clearer incompatibility rules need to be created regarding public and

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private interests, and that princes need to be held accountable in the regular courts. The expansion of the ruling family in government in general needs to be discouraged. The more the Al Saud get involved in the quotidian management of the state, the more they expose themselves to public criticism and the harder they make it to reform the state and the governance of their own family. Confining themselves to “high politics” will be an important step of self-preservation, and will facilitate the mid-term accountability of the bureaucracy at large that should be run by commoners.

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