



NGO: EUROPEAN CENTRE FOR LAW AND JUSTICE (ECLJ)

**UNIVERSAL PERIODIC REVIEW
2013**

RELIGIOUS FREEDOM IN SAUDI ARABIA

www.ECLJ.org
4, quai Koch
67000 Strasbourg, France
Phone: +33 (0)3.88.24.94.40
Fax: +33 (0)3.88.24.94.47

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative Status before the United Nations Economic and Social Council. The purpose of this report is to highlight systematic human rights abuses in Saudi Arabia for the 2013 Universal Periodic Review (UPR). These abuses primarily result from the Saudi Arabian government's intolerance of religious freedom and discrimination against minorities. In Saudi Arabia, all citizens must adhere to Islam, and conversion to another religion is punishable by death.¹

Government Restricts Religious Freedom and Discriminates Against Minorities

2. The 2009 UPR expressed concerns about the violations of the freedom of religion,² and recommended that Saudi Arabia provide freedom of religion in its national legislation.³ Additionally, the UPR recommended that Saudi Arabia “reinforce its efforts in the area of the implementation of obligations under international human rights law, in particular those pertaining to freedom of opinion and expression.”⁴ In Saudi Arabia, there is no legal recognition of, or protection under the law, for freedom of religion, and it is severely restricted in practice.⁵ The country is a monarchy and the King is both head of state and government. The legal system is based on the government's official interpretation of Sharia law. Sunni Islam is the official religion. Sunni Muslims comprise ninety percent of the population while approximately ten percent are Shia Muslims. Of the twelve million foreigners, there is a small Christian population, including Eastern Orthodox, Protestants, and Roman Catholics.⁶

3. According to Open Doors, a religious freedom watchdog, Saudi Arabia ranks second only to North Korea on the list of countries suffering under the worst religious persecution in the world.⁷ As of 2012, the Saudi government has “failed to implement a number of promised reforms related to promoting freedom of thought, conscience, and religion or belief.”⁸ It has continued to severely restrict religious freedom. The Commission to Promote Virtue and Prevent Vice (CPVPV) is a semiautonomous agency that exists to monitor social behaviour and enforce

¹U.S. DEP'T OF STATE, *2011 International Religious Freedom Report – Saudi Arabia*, 1 (30 July 2012), <http://www.state.gov/documents/organization/193117.pdf> [hereinafter *2011 Int'l Religious Freedom Report*].

²Rep. of the Working Group on the Universal Periodic Review, Human Rights Council, 11th sess., Mar. 2009, para. 59, U.N. Doc. A/HRC/11/23 (Mar. 2009) [hereinafter 2009 Working Group Report].

³*Id.* para. 33.

⁴*Id.* para. 87(5).

⁵*2011 Int'l Religious Freedom Report*, *supra* note 1, at 5.

⁶*Id.* at 2.

⁷*World Watch List Countries*, OPENDOORS,

http://www.worldwatchlist.us/?utm_source=opendoorsusa.org&utm_medium=referral&utm_campaign=wwl&utm_content=homepage-banner, (last visited 22 Feb. 2013).

⁸U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, USCIRF ANNUAL REPORT 2012 - COUNTRIES OF PARTICULAR CONCERN: SAUDI ARABIA (20 Mar. 2012) [hereinafter USCIRF ANNUAL REPORT 2012].

morality consistent with the government’s interpretation of Islam.⁹ Members of the CPVPV are also known at the mutawwain.¹⁰ The mutawwain have a history of committing abuses, such as killings, with impunity.¹¹

Discrimination against Women

4. In addition to severely restricting religious freedom, the Saudi government discriminates against women and other minorities. The 2009 UPR recommended that Saudi Arabia “develop a comprehensive national action plan for the promotion of gender equality,” and “adopt all necessary measures to incriminate violence against women.”¹² As of 2012, women are banned from driving, are restricted from engaging in sports, and are limited in dress and work.¹³ Women, especially foreign women, are harassed by the mutawwain for failure to observe strict dress codes, such as the failure to “cover their hair.”¹⁴

Legal Restrictions on Religious Beliefs

5. In Saudi Arabia, the Basic Law states that the Quran and the Sunna are the constitution.¹⁵ Christians and other minorities are not allowed to publically profess or practice their faith and experience discrimination, harassment, detention, and if noncitizens, deportation.¹⁶ There is no separation of religion and the state.¹⁷ Blasphemy, apostasy, and proselytizing by non-Muslims are punishable by death.¹⁸ The judicial system is also based on Sharia law, and the Consultative Council is responsible for approving laws and regulations that are compatible with Sharia.¹⁹ The Government restricts the establishment of places of worship and public training of non-Sunni clergy.²⁰ Additionally, the public education system enforces the teaching of Islam, and the textbooks are intolerant of Christianity and other religions.²¹

Arrest and Detention

6. In February 2013, fifty-three Ethiopian Christians were arrested at a private house church after gathering for private religious worship.²² The group was placed under arrest by the mutawwain, and three of the Christian leaders were charged with “seeking to convert Muslims to

⁹*Id.*

¹⁰*Id.*

¹¹*Id.*

¹²2009 Working Group Report, *supra* note 2, para. 87(17).

¹³World Report 2013—Saudi Arabia, Human Rights Watch (31 Jan. 2013), <http://www.hrw.org/world-report/2013/country-chapters/saudi-arabia>.

¹⁴2011 *Int’l Religious Freedom Report*, *supra* note 1, at 16–17.

¹⁵*Id.* at 3.

¹⁶USCIRF ANNUAL REPORT 2012, *supra* note 8.

¹⁷*Id.*

¹⁸2011 *Int’l Religious Freedom Report*, *supra* note 1, at 5.

¹⁹*Id.* at 4.

²⁰USCIRF ANNUAL REPORT 2012, *supra* note 8.

²¹*Int’l Religious Freedom Report*, *supra* note 1, at 18.

²²Benjamin Weinthal, *Saudi Religious Police Arrest Ethiopian Workers for Practicing Christianity*, FOX NEWS (21 Feb. 2013), <http://www.foxnews.com/world/2013/02/21/saudi-religious-police-arrest-ethiopian-workers-for-practicing-christianity/>.

Christianity.”²³ During 2011, non-Muslims throughout the country were detained and harassed for engaging in private religious worship.²⁴ On December 15, 2011, thirty-five Christian Ethiopian workers were arrested and detained for holding a prayer vigil.²⁵ The arrestees included twenty-nine women, and six men, all of whom were charged with “mixing of the sexes.”²⁶ These arrestees were imprisoned for over seven months “in barbaric prison conditions, where the men faced severe beatings and the women were subjected to sexually intrusive torture methods.”²⁷ Eight months after the arrest these Christians were deported.²⁸ Also, in January 2011, two Indian Christians “were beaten and arrested” by religious police in an “apartment in which they had recently conducted a regular [worship] meeting.”²⁹

Restriction on Bibles

7. In addition to discrimination in the form of arrests and detentions, the Saudi government discriminates against Christians by restricting the use of Bibles. While Saudi Arabia does not currently restrict Bibles for personal use, the Foreign and Commonwealth Office states that “[i]mporting larger quantities than [one] can carry severe penalties.”³⁰ In fact, “[c]ustoms officials routinely open mail and shipments to search for contraband, including non-Muslim materials, such as Bibles and religious videotapes.”³¹

Apostasy Charges

8. Raif Badawi, an online activist who founded the “Saudi Arabian Liberals” website, has been charged with the crime of apostasy.³² Badawi was first detained in 2008, and then in 2009 a travel ban was placed on him.³³ In December, 2012, a court moved forward with the apostasy charge, and Badawi was required to sign documents that would allow his trial to proceed.³⁴ As of January 31, 2013, a Saudi court lowered the charges to “insulting Islam through electronic channels.”³⁵

²³*Id.*

²⁴*Int’l Religious Freedom Report*, *supra* note 1, at 8.

²⁵Nina Shea & Jonathan Racho, *Persecuted for Praying to God in Saudi Arabia*, NAT’L REVIEW ONLINE (8 Feb. 2012), <http://www.nationalreview.com/corner/290616/persecuted-praying-god-saudi-arabia-nina-shea>.

²⁶*Id.*

²⁷Weinthal, *supra* note 22.

²⁸Shea & Racho, *supra* note 25.

²⁹*Saudi Arabia: Persecution of Christians*, MIDDLE EAST CONCERN (2011), http://meconcern.org/index.php?option=com_content&view=article&id=263:saudi-arabia-persecution-of-christians&catid=25:saudi-arabia&Itemid=9#_ftn1.

³⁰*Travel & Living Abroad: Saudi Arabia*, FOREIGN & COMMONWEALTH OFFICE, <http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/middle-east-north-africa/saudi-arabia> (last updated 15 Feb. 2013).

³¹*Freedom of Religion in Saudi Arabia—Restrictions on Religious Freedom*, ARABIC BIBLE, <http://www.arabicbible.com/for-christians/1438-freedom-of-religion-in-saudi-arabia.html?start=3>, (last visited 22 Feb. 2013).

³²*Saudi Arabia: Travel Ban against Blogger Mr. Raif Badawi for Criticising Religious Police*, FRONT LINE DEFENDERS, (12 Dec. 2009), <http://www.frontlinedefenders.org/node/2281>.

³³*Id.*

³⁴*Saudi Arabia Uses Capital Offence of ‘Apostasy’ to Stifle Debate*, AMNESTY INT’L, (24 Dec. 2012), <http://www.amnesty.org/en/news/saudi-arabia-uses-capital-offence-apostasy-stifle-debate-2012-12-24>.

³⁵*Saudi Arabia: Sweeping Injustices*, Human Rights Watch (31 Jan. 2013) [hereinafter *Sweeping Injustices*], <http://www.hrw.org/news/2013/01/31/saudi-arabia-sweeping-injustices>.

9. Mohammed al-Bjadi, a human rights activist, is serving a four-year-sentence for “setting up a human rights organization.”³⁶ In February, 2012, twenty-three year old Saudi blogger, Hamza Kashgari, “fled from Saudi Arabia to Malaysia because of potential apostasy and blasphemy charges.”³⁷ He was deported from Malaysia back to Saudi Arabia and placed in detention.³⁸ Kashgari, Badawi, and al-Bjadi are just a few examples of the many people who have been arrested in Saudi Arabia expressing an opinion “that deviate[s] from the official lines.”³⁹

10. Again, these blasphemy and apostasy charges violate international norms of freedom of religion and expression, such as Articles 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR),⁴⁰ and Articles 18 and 19 of the Universal Declaration of Human Rights (UDHR).⁴¹ Although Saudi Arabia is not a party to the ICCPR and abstained from voting for the UDHR,⁴² as a UN Member it must not violate the fundamental rights of its citizens or non-Muslims who live in the kingdom. As a member of the UN, Saudi Arabia is bound by Article 55 of the UN Charter which calls for “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”⁴³ Furthermore, it has pledged “to take joint and separate action in co-operation with the Organization for the achievement of the purpose set forth in Article 55.”⁴⁴ Freedom of religion is a fundamental right, which neither the ICCPR nor the UDHR limit under any circumstances,⁴⁵

³⁶*Sweeping Injustices*, *supra* note 35.

³⁷USCIRF ANNUAL REPORT 2012, *supra* note 8.

³⁸*Id.*

³⁹*Id.*

⁴⁰International Covenant on Civil and Political Rights, 16 Dec. 1966, arts. 18, 19, 999 U.N.T.S. 171 [hereinafter ICCPR].

⁴¹Universal Declaration of Human Rights, arts. 18, 19, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (10 Dec. 1948).

⁴²*United Nations Yearbook Summary, 1948*, NAT'L COORDINATING COMM. FOR UDHR 50 (24 Apr. 1998), <http://www.udhr.org/history/yearbook.htm>.

⁴³U.N. Charter art. 55(c).

⁴⁴*Id.* art. 56.

⁴⁵Article 18 of the ICCPR states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

ICCPR, *supra* note 40. In addition, CCPR General Comment 22 on the ICCPR states

Article 18 distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19.1. In accordance with articles 18.2 and 17, no one can be compelled to reveal his thoughts or adherence to a religion or belief.

unlike the limitations that may be placed on the freedom of expression.⁴⁶ Because of the general acceptance of both the ICCPR and the UDHR, many international scholars consider the right to freedom of religion or belief as *jus cogens*, from which no derogation is allowed: “The basic elements of the freedom of religion and belief have no doubt the status of *jus cogens*, or international customary law. A state is thus obliged to respect the right regardless of ratification of international texts.”⁴⁷ Thus, as a UN Member, Saudi Arabia must respect religious freedom, regardless of its views about the ICCPR or the UDHR. Were Saudi Arabia to contest this view and claim that all rights are subject to Islamic Sharia, even this argument by the Saudi Government can be easily refuted in the light of the government’s practice of limiting freedom of religion. At the minimum, Sharia allows at least the People of the Book (Jews and Christians) to be able to practice their religion when they are under the protection of an Islamic government.⁴⁸ Saudi Arabia has violated its own law by restricting private religious worship⁴⁹ and generally fostering an atmosphere of intolerance toward Christians.⁵⁰

Conclusion

11. While Saudi Arabia has promised to enact human rights reforms,⁵¹ it has failed to do so and continues to be intolerant of religion and opinion deemed as deviation from the government’s stance in these areas. Current evidence shows that the government also discriminates against women. Its efforts at reform have been too limited and ineffective. Impunity exists for those committing violent acts against religious minorities. The 2013 UPR must urge Saudi Arabia to implement measures to ensure freedom of expression and religion. True justice can only be obtained when every citizen is free from persecution.

General Comment no. 22: The Right to Freedom of Thought, Conscience and Religion (Art. 18) CCPR/C/21/Rev.1/Add.4. (30 July 1993).

⁴⁶Article 19 of the ICCPR states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

ICCPR, *supra* note 40.

⁴⁷*Freedom of Religion*, FORUM 18, 9 (Feb. 2001), <http://www.forum18.org/PDF/freedomofreligion.pdf>.

⁴⁸See HADITH OF SAHIH BUKHARI, Vol. 2, Bk. 17, No. 46, Vol. 2, Bk. 13. No. 3044 (“Allah has not permitted you to enter the houses of the people of the Book without permission, or beat their women, or eat their fruits when they give you that which is imposed on them.”); see also ABDULLAH YUSUF ALI, THE MEANING OF THE HOLY QUR’AN, *Surah* 2:122, 3:64, 113, 5:5, 29:46 (10th ed. 1999).

⁴⁹*Int’l Religious Freedom Report*, *supra* note 1, at 8.

⁵⁰*Id.* at 8.

⁵¹World Report 2011—Saudi Arabia, Human Rights Watch 1, (Jan. 2011), <http://www.hrw.org/world-report-2011/saudi-arabia>.