

Bad Dreams: Exploitation and Abuse of Migrant Workers in Saudi Arabia

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SUMMARY

“It was like a bad dream” is the way one migrant worker from the Philippines summed up his experiences in Saudi Arabia. Another worker, from Bangladesh, told us: “I slept many nights beside the road and spent many days without food. It was a painful life. I could not explain that life.” A woman in a village in India, whose son was beheaded following a secret trial, could only say this: “We have no more tears, our tears have all dried up.” She deferred to her husband to provide the account of their son’s imprisonment and execution in Jeddah.

It is undeniable that many foreigners employed in the kingdom, in jobs from the most menial to the highest skilled, have returned home with no complaints. But for the women and men who were subjected to abysmal and exploitative working conditions, sexual violence, and human rights abuses in the criminal justice system, Saudi Arabia represented a personal nightmare.

In 1962, then-King Faisal abolished slavery in Saudi Arabia by royal decree. Over forty years later, migrant workers in the purportedly modern society that the kingdom has become continue to suffer extreme forms of labor exploitation that sometimes rise to slavery-like conditions. Their lives are further complicated by deeply rooted gender, religious, and racial discrimination. This provides the foundation for prejudicial public policy and government regulations, shameful practices of private employers, and unfair legal proceedings that yield judicial sentences of the death penalty.

The overwhelming majority of the men and women who face these realities in Saudi Arabia are low-paid workers from Asia, Africa, and countries in the Middle East.

This report gives voice to some of their stories.

It is based on information gathered from migrant workers and their families in mud brick houses off dirt roads in tropical agricultural areas of southwest India, in apartments in densely packed neighborhoods of metropolitan Manila, and in simple dwellings in rural villages of Bangladesh. The victims include skilled and unskilled workers; Muslims, Hindus, and Christians; young adults traveling outside their home countries for the first time; and married men, and single and divorced women, with children to support.

In Saudi Arabia, these workers delivered dairy products, cleaned government hospitals, repaired water pipes, collected garbage, and poured concrete. Some of them baked bread and worked in restaurants; others were butchers, barbers, carpenters, and plumbers. Women migrants cleaned, cooked, cared for children, worked in beauty salons, and sewed custom-made dresses and gowns. Unemployed or underemployed in their countries of origin, and often impoverished, these men and women sought only the

opportunity to earn wages and thus improve the economic situation for themselves and their families.

This report is the first comprehensive examination of the variety of human rights abuses that foreign workers experience in Saudi Arabia. The voices of these migrants provide a window into a country whose hereditary, unelected rulers continue to choose secrecy over transparency at the expense of justice. The stories in this report illustrate why so many migrant workers, including Muslims, return to their home countries deeply aggrieved by the lack of equality and due process of law in the kingdom. In an important sense, this report is an indictment of unscrupulous private employers and sponsors as well as Saudi authorities, including interior ministry interrogators and *shari'a* court judges, who operate without respect for the rule of law and the inherent dignity of all men and women, irrespective of gender, race, and religion.

Some of the most frightening and troubling findings of the report concern mistreatment of women migrant workers, both in the workplace and in Saudi prisons. The report also provides an intimate view of the workings of Saudi Arabia's criminal justice system, through the eyes of migrant workers with first-hand experience of its significant flaws. And it is the families and friends of migrants who were beheaded, pursuant to judicial rulings, who describe how Saudi authorities kept them and consular officials in the dark until well after the executions were carried out. The mortal remains of these victims were not returned to their families, who until now have no information about what happened to the bodies.

Labor Exploitation

Each chapter of this report includes testimonies from migrant workers who entered the kingdom legally, in full compliance with Saudi government regulations. Many of them paid hefty sums of money to manpower recruitment agencies in their home countries to secure legal employment visas, often assuming substantial debt or selling property to finance the cost. Once in the kingdom, they found themselves at the mercy of legal sponsors and *de facto* employers who had the power to impose oppressive working conditions on them, with effective government oversight clearly lacking. Unaware of their rights, or afraid to complain for fear of losing their jobs, the majority of these workers simply endured gross labor exploitation.

To cite only a few examples, we interviewed migrant workers from Bangladesh who were forced to work ten to twelve hours a day, and sometimes throughout the night without overtime pay, repairing underground water pipes for the municipality of Tabuk. They were not paid salaries for the first two months and had to borrow money from compatriots to purchase food. An Indian migrant said that he was was paid \$133 a month for working an average of sixteen hours daily in Ha'il. A migrant from the Philippines said that he worked sixteen to eighteen hours a day at a restaurant in Hofuf, leaving him so exhausted that, he told us, he "felt mentally retarded." The employer of a

migrant from Bangladesh, who worked as a butcher in Dammam, forced him to leave the kingdom with six months of his salary unpaid.

Women Migrant Workers

Some women workers that we interviewed were still traumatized from rape and sexual abuse at the hands of Saudi male employers, and could not narrate their accounts without anger or tears. Accustomed to unrestricted freedom of movement in their home countries, these and other women described to us locked doors and gates in Riyadh, Jeddah, Medina, and Dammam that kept them virtual prisoners in workshops, private homes, and the dormitory-style housing that labor subcontracting companies provided to them. Living in forced confinement and extreme isolation made it difficult or impossible for these women to call for help, escape situations of exploitation and abuse, and seek legal redress.

We learned that hundreds of low-paid Asian women who cleaned hospitals in Jeddah worked twelve-hour days, without food or a break, and were confined to locked dormitories during their time off. Skilled seamstresses from the Philippines told us that they were not permitted to leave the women's dress shop in Medina where they worked twelve-hour days, and were forbidden to speak more than a few words to customers and the Saudi owners.

Many women employed as domestic workers in cities throughout the kingdom reported that they worked twelve hours or more daily. Most of them also lived in around-the-clock confinement, at the decision of their private employers, cut off from the outside world. One woman from the Philippines, whose employers in Dammam did not provide her with sufficient food, described how she enlisted help from the family's Indian driver, to whom she was forbidden to speak. She told us that she wrote lists of what she needed and threw them out the window to the driver. He made the purchases, and "delivered" them to her by tossing the packages onto the roof of the house, where she retrieved them. Another Filipina, who also worked for a family in Dammam, said that she constantly watched the locked front gate of the house, waiting for an opportunity to escape after her male employer raped her in June 2003.

Human Rights Abuses in the Criminal Justice System

Some migrant workers experienced shocking treatment in Saudi Arabia's criminal justice system. For those migrants who were executed following unfair trials that lacked any form of transparency, it was their still-grieving families who provided us with pertinent information.

In many cases, the condemned men did not know that they had been sentenced to death, and their embassies were only informed after the fact. "No advance information is given to us before beheading of Indians," an Indian diplomat said in a television

interview in 2003. “We generally get the information after the execution from local newspapers.”

In cases of execution documented in this report, the bodies were not returned to the families, and relatives told Human Rights Watch that they received no official information about the location in Saudi Arabia of the mortal remains.

An undetermined number of foreigners have been sentenced to death in the kingdom and are now awaiting execution. Details of their trials, and the evidence presented to convict them, are treated as closely held state secrets.

Saudi Arabia continues to flaunt its treaty obligations under international and domestic law. Consular officials have not been notified promptly of the arrests of their nationals. Criminal suspects are not informed of their rights under the law. Interrogators from the ministry of interior torture suspects with impunity, behind the curtain of prolonged incommunicado detention, in the quest for confessions whose veracity is tenuous at best. Migrant workers told Human Rights Watch of how they were forced to sign confession statements that they could not read, under the threat of additional torture. A twenty-three-year-old Indian tailor described two days of beatings in police custody. On the third day, his interrogators gave him two pages handwritten in Arabic and instructed him to sign his name three times on each page. “I was so afraid that I did not dare ask what the papers were, or what was written on them,” he said.

Migrants’ accounts of their trials before *shari’a* courts provide evidence of a legal system that is out of sync with internationally accepted norms of due process. No one we interviewed had access to legal assistance before their trials, and no legal representation when they appeared in the courtroom. One Indian migrant worker told us about a judge who repeatedly called him a liar when he answered questions during his trial. A worker from the Philippines, who was imprisoned for five years before he was brought before a court for the first time, described how a judge sentenced him to 350 lashes because his interrogators had extracted a false confession. The judge justified this corporal punishment because the coerced confession, obtained under threats and torture, was untrue. Interviews with women migrants in the women’s prison in Riyadh indicated that most of them had not been informed of their rights, had no understanding of the legal basis for their arrest or the status of their cases, and had no access to lawyers or other forms of legal assistance.

The Need for Government Action

The stories narrated in this report underscore the pressing need for the government of Saudi Arabia to recognize that its laws and regulations facilitate the exploitation and abuse of vulnerable migrant workers, and reform its laws and practices accordingly.

Some major recommendations are highlighted below, and a full range of recommendations, to Saudi government officials and actors in the international community, is presented in Chapter IX.

One of the most tragic aspects of the situation is that many migrants silently accept the exploitation and deprivation of their rights because they view themselves as powerless and without effective remedy. These workers arrive in Saudi Arabia ignorant or only vaguely informed about the rights they have under existing Saudi law and the actions they can take when inequities and mistreatment occur.

This is a problem that their own governments could address, in part, by way of substantive and effective education before these workers depart for the kingdom. But the government of Saudi Arabia has the primary responsibility to promote and protect the rights of the country's large migrant worker population in a much more aggressive and public manner, consistent with its obligations under international law. Authorities should provide a clear enumeration of the specific rights that migrant workers are entitled to enjoy under the kingdom's laws and regulations. They should spell out the specific legal duties of sponsors and employers, provide a comprehensive list of practices that are illegal, and offer detailed instructions about how and where migrant workers can report abuses. This information should be practical, not theoretical. It should draw on specific abuses that migrants are most likely to face, such as those described in this report, and provide authoritative comments and advice. The information should be translated into the languages of the countries of origin of migrant workers, and provided to every worker on his or her arrival in the kingdom as a routine matter of immigration practice. The government should also identify additional means to communicate this information to migrant communities throughout the kingdom as a further demonstration of its commitment to greater protection of their rights.

Saudi authorities must also recognize that many migrant workers are simply too afraid to report abusive treatment for fear of alienating sponsors or *de facto* employers, inviting retaliatory punishment, and losing their jobs. Government officials must take steps to communicate directly with migrant workers in the kingdom – using all available means, including broadcast as well as print media – to provide assurances that no one will be rendered jobless and summarily deported for complaining about illegal practices and abusive working conditions.

The Saudi government says that it plans to reduce the number of foreign workers by 50 percent over the next decade.¹ This objective does not lessen the urgent need for the state to remedy the exploitation of migrant workers who are now in the kingdom and to end discriminatory practices that severely circumscribe their rights under Saudi law. Even if the government's planned downsizing is achieved within ten years, the kingdom will still be required under domestic and international law to protect the rights of those migrant workers who remain.

¹ Sultan Al-Dossary, "Govt Expects to Cut Expat Labor by 50% in 10 Years," *Arab News*, February 5, 2004.

If Saudi authorities do not take serious steps to address the patterns of abuse of migrant workers, the issue will continue to be a subject of investigation and scrutiny, on the agendas of international human rights organizations, nongovernmental migrant rights groups in countries of origin, and coalitions of women's rights and human rights organizations in the Muslim world and elsewhere.

There is public sentiment in the kingdom, and elsewhere in the Gulf region, sympathetic to the plight of migrant workers. No less than the kingdom's highest Muslim religious authority, Grand Mufti Sheikh Abdul Aziz Al Sheikh, has already acknowledged that migrants suffer "exploitation and oppression."² His comments, published in 2002 in the Saudi daily *al-Madinah*, included the observation that "Islam does not permit oppressing workers, regardless of religion....As we ask them to perform their duty, we must fulfill our duty and comply with the terms of the contract." The Grand Mufti criticized intimidation of migrant workers, and said that it was "illegal and a form of dishonesty" to withhold their salaries or delay payment of wages under threat of deportation. He counseled that Islam prohibits "blackmailing and threatening [foreign] laborers with deportation if they refuse the employers' terms which breach the contract."

Another example comes from the neighboring island nation of Bahrain, where the Bahrain Center for Human Rights (BCHR), a nongovernmental organization, is campaigning for greater protection of women domestic workers. A BCHR official in 2003 described these women as "the most abused of the workforce," and charged that the government was not doing enough "to break the chain of exploitation that binds them." The group urged civil society organizations in Bahrain, including women's rights groups, to take up the issue.³

METHODOLOGY

The testimonies in this report were obtained from interviews with migrant workers in Bangladesh, India, and the Philippines who had returned from Saudi Arabia, some of them as recently as December 2003. Human Rights Watch was forced to research this subject from outside Saudi Arabia because, as of this writing, the kingdom remains closed to investigators from international human rights organizations.

We selected Bangladesh, India, and the Philippines for field research for several reasons.

First, the migrant workers from these three countries are among the largest expatriate communities in Saudi Arabia. In 2003, the Saudi government estimated that there were

² "Saudi cleric preaches workers' rights," BBC News World Edition, September 3, 2002; *Agence France-Presse*, "Saudi mufti warns employers against breach of contract," September 2, 2002.

³ Meera Ravi, "Women's non-governmental organizations and human rights bodies should be more involved in monitoring the work conditions," *Bahrain Tribune*, June 25, 2003.

one million to 1.5 million Indians in the kingdom and the same number of Bangladeshis. The Philippines government reported in the same year that over 900,000 of its citizens lived and worked in the kingdom.

Second, these countries provided the diversity that we sought among interviewees: the workers whose accounts appear in this report include Muslims from Bangladesh, Hindus and Muslims from India, and Christians and Muslims from the Philippines.

We found migrants from Bangladesh the least educated; they typically were unskilled younger men from rural villages whose salaries in Saudi Arabia were the lowest we recorded. We interviewed Indian migrants in cities, towns, and rural agricultural villages of Kerala, the small southwestern state of about 33 million people located on India's Malabar coast between the Indian Ocean and the Arabian Sea. The Keralite migrants generally had more schooling than their Bangladeshi counterparts and worked in a broader range of skilled and unskilled jobs. Migrants from the Philippines had the highest education levels, including women with some college education who earned \$200 a month as domestic workers in the kingdom. Most of the Filipino male migrants whom we interviewed were skilled workers, ranging from mechanics to engineers, who commanded the highest comparative salaries. Despite this diverse mix of migrant workers, we documented surprisingly similar problems that cut across gender, ethnic, religious, and socioeconomic lines, including a pattern of human rights abuse in the kingdom's criminal justice system.

The subjects covered in this report make clear that comprehensive documentation of the conditions facing migrant workers in Saudi Arabia would be best served by conducting the research in the kingdom. In addition to the value of being able to speak directly with officials, sponsors, and employers, such research would allow us to meet with some of the thousands of migrant men and women in the kingdom's prisons and deportation centers whose stories need to be heard and told.

An undetermined number of migrant workers have been sentenced to death and are awaiting execution. Independent human rights investigators should be permitted to talk to them about their interrogations and trials. There are also over thirty government labor offices throughout the kingdom where some workers file complaints against abusive employers, as well as "safe houses" where abused migrants are sheltered.

In this report, we have changed the names of the migrant workers whom we interviewed, based on concern for their safety, should they decide to return to Saudi Arabia, and for the security of their relatives who were working in the kingdom at the time we conducted our interviews. The full names of these men and women are on file at Human Rights Watch. The only exception to this rule is cases of migrant workers who were executed or who have been sentenced to death. In such cases, their real names are provided.

As of this writing, discussions were ongoing between Human Rights Watch and the Saudi government about access to the kingdom for the purpose of human rights research. We had access as an organization only once, in January 2003. During this visit, which was limited to two weeks, our representatives met in Riyadh with numerous senior government officials as well as Saudi lawyers, journalists, academics, other professionals, and members of the 120-member consultative council (*majlis al-shura*). But the terms of reference for this visit did not include field research.

Without such access, Saudi Arabia remains on our list of closed countries for the purpose of human rights research. The alternative methodology used to prepare this report should indicate to the Saudi government that -- despite the additional time and expense -- Human Rights Watch is prepared to document human rights abuses, even if access to the kingdom is denied. Our strong preference, however, is to work in a more open and direct manner, with the active cooperation of the government. We hope that senior Saudi officials will see the merits of this approach and open the kingdom's doors to researchers from Human Rights Watch and other international human rights groups.

KEY RECOMMENDATIONS

The most recent information from Saudi Arabia's ministry of labor indicates that expatriates in the kingdom total 8.8 million men and women, a significant number, given that the indigenous population is an estimated 18 million (see Chapter I). This report provides extensive documentation of the varieties of labor exploitation and human rights abuses that foreign workers face in the kingdom. The significant size of Saudi Arabia's expatriate population, and the serious nature of the problems that they often encounter, necessitate bold and innovative remedial actions from the government.

The detailed recommendations of Human Rights Watch -- to the government of Saudi Arabia, its various ministries, and other concerned international and regional parties -- are presented in Chapter IX of the report.

Among our key recommendations to the government of Saudi Arabia are the following:

- (1) Initiate an independent, thorough, and public national inquiry into the situation of migrant workers in the kingdom.**

Saudi authorities have never comprehensively and publicly assessed the realities that many migrant workers in the kingdom face. As a result, there is limited official and public awareness of the nature and scope of the problem. Accordingly, Human Rights Watch urges that His Royal Highness Crown Prince Abdullah bin Abdul Aziz Al Saud, First Deputy Prime Minister and Commander of the National Guard, should appoint an

independent and impartial Royal Commission to investigate and report on the serious problems and abuses that migrant women and men in the kingdom face on a daily basis.

As part of the commission's mandate, it should hold public hearings in all major cities throughout the kingdom. Migrant workers, and their families and advocates, should be invited to give testimony at these hearings, as should regional and international nongovernmental organizations with expertise on migrant workers issues and rights.

The commission should be required by law to complete its inquiry within a defined period of time, and make its findings and recommendations public.

(2) Take immediate action to inform all migrant workers in the kingdom of their rights under Saudi and international law.

This report makes clear that large numbers of migrant workers are unaware of the rights that they have under existing law. Because such workers typically face language barriers and live in the kingdom for only a few years at a time, more concerted government efforts are necessary to inform them of their rights. Accordingly, we call on the government to promulgate by royal decree an enforceable "bill of rights" for migrant workers. It should be publicized widely in the kingdom, using print and broadcast media and other means of public outreach. The decree should be issued simultaneously in Arabic and all the languages of the countries of origin of the major migrant worker communities in the kingdom.

This "bill of rights" should delineate, in a comprehensive and comprehensible manner, all the rights that are granted to migrant workers under the kingdom's laws and regulations. It should serve as a practical educational tool for workers and employers alike, and clarify legal and other ambiguities that lead to abusive treatment.

(3) Impose significant penalties on Saudi employers and sponsors who exploit migrant workers and place them at risk.

Pursuant to Saudi Arabia's international legal obligations, the use of forced or compulsory labor should be a specifically defined criminal offense under domestic law.

In addition, substantial penalties should be imposed on employers who withhold the passports and residency permits of migrant workers, and those who charge illegal fees for official immigration documents.

(4) Make domestic labor-law protections inclusive.

One shortcoming that Saudi authorities should address urgently is the absence of legal protections for women and men employed in domestic service and agricultural work in the kingdom. Such individuals are excluded even from the flawed and limited labor protections currently in force under Saudi law. The protections of the kingdom's labor law should extend to all migrant workers, irrespective of their gender and job descriptions, however menial such jobs may be considered.

(5) End the forced confinement of women migrant workers.

The executive branch of government and consultative council (*majlis al-shoura*) should take immediate legislative steps to ensure that no migrant woman worker is held against her will at places of private or public employment and residence. Regulations to this effect should be promulgated as an urgent matter, and widely publicized to the Saudi public, using all print, broadcast, and other media.

These regulations should impose substantial penalties on employers who continue the practice, and provide fair and equal compensation to the victims, commensurate with the length and severity of their confinement.

(6) End the imprisonment of women and children for “illegal” pregnancies.

End as an urgent matter the arrest and imprisonment of migrant and Saudi women and children who become pregnant voluntarily or because they were victims of sexual violence. Women and children currently in prison should be immediately released, and provided with social and other supportive services as required.

(7) Address as an urgent matter the serious flaws in the kingdom's criminal justice system.

The arrest and detention practices of the ministry of interior should be brought into immediate conformity with provisions of the Vienna Convention on Consular Relations.

Anyone arrested as a criminal suspect in the kingdom should be informed of his or her rights under the kingdom's laws, including those set forth and guaranteed in the new criminal procedure code. This information should be provided orally and in writing, in languages that all suspects can understand.

Effective judicial oversight of interior ministry personnel is urgently needed. Authorities should take immediate steps to ensure judicial supervision of the investigation of all criminal suspects, for the purpose of ending such practices as abusive interrogations, torture, and coerced confessions.

Authorities should also make public detailed information about all persons, Saudi citizens and foreigners alike, who have been sentenced to death in the kingdom and are awaiting execution. The implementation of all death sentences should be suspended until it can be determined independently that the defendants were not tortured and their confessions were not coerced.

I. MIGRANT COMMUNITIES IN SAUDI ARABIA

Over the last two decades, migrant workers worldwide have played an increasingly significant role in the economies of their countries of origin. Between 1980 and 2002, the annual total remittances from these workers increased from \$17.7 billion to \$80 billion.⁴ In 2001, migrants' remittances to developing countries "were double the amount of foreign aid and ten times higher than net private capital transfers," one study reported.⁵

The six states of the Gulf Cooperation Council (GCC) – Bahrain, Kuwait, Qatar, Oman, Saudi Arabia, and the United Arab Emirates – are home to approximately ten million foreign workers, with the largest number in Saudi Arabia.⁶ The GCC's secretariat for economic affairs found that migrants employed in its member states remitted \$27 billion to their homes countries in 2002.⁷ Sixty percent of that total – \$16 billion – came from migrant workers in Saudi Arabia.⁸

There were seven million expatriates in the kingdom, about one-third of the total population, Dr. Ali al-Namlah, Saudi Arabia's then-long-serving minister of labor and social affairs, told Human Rights Watch in January 2003.⁹ He added that 5.5 million of the total number of foreigners were workers, and the remainder their dependents. New statistics were disclosed in May 2004, indicating an even higher number of expatriates.

⁴ Devesh Kapur and John McHale, "Migration's New Payoff," *Foreign Policy*, November 1, 2003.

⁵ *Ibid.*

⁶ Deficiencies in demographic and labor statistics of the GCC states should be noted. A recent International Monetary Fund (IMF) study reported: "Labor statistics in GCC countries...are scant and vary significantly across countries in terms of coverage, quality, measurement, and timeliness. In addition, the data available are incomplete because information on military and security personnel is excluded. Statistics on unemployment are also not regularly collected." Ugo Fasano and Rishi Goyal, "Emerging Strains in GCC Labor Markets," IMF Working Paper, WP/04/71, April 2004. One illustration is the discrepancy between the statistics provided to Human Rights Watch in January 2003 by Saudi Arabia's minister of labor and social affairs about the kingdom's migrant population (33 percent of the total population), and those issued by the kingdom's Central Department of Statistics, which put the non-Saudi population in mid-2002 at 25.8 percent of the total. See Saudi Arabia General Investment Authority, "Population and Labor Force," www.sagja.gov.sa (retrieved January 20, 2004).

⁷ Majed Al-Bassam, "\$16b Remittances," *Arab News*, March 26, 2004.

⁸ Migrants in the United Arab Emirates accounted for 16 percent of the total -- \$4 billion. *Ibid.*

⁹ Human Rights Watch interview, Riyadh, Saudi Arabia, January 25, 2003. In March 2004, the council of ministers divided the ministry of labor and social affairs into two separate ministries; as of this writing, Dr. Namlah headed the ministry of social affairs and Dr. Ghazi al-Gosaibi served as the newly appointed minister of labor.

According to labor minister Dr. Ghazi al-Ghosaibi, there were 8.8 million foreigners in the kingdom representing almost 50 percent of the indigenous population.¹⁰

The statistics department of the ministry of economy and planning reported in 2004 that non-Saudis accounted for 67 percent of the kingdom's labor force.¹¹ Foreigners held 90 to 95 percent of the private sector jobs, Dr. Namlah told Human Rights Watch. He described Saudi Arabia as "a land of opportunity" for qualified low-wage workers. Indeed, throughout the GCC states, jobs created in the private sector other than in the oil industry typically require only low skills and pay low wages.¹²

The largest expatriate communities in Saudi Arabia include one million to 1.5 million people each from Bangladesh, India, and Pakistan, and another 900,000 each from Egypt, Sudan, and the Philippines. The wages that these and other migrant workers send home places Saudi Arabia second only to the United States as the source of the largest amount of remittance payments in the world.¹³ Remittances from Saudi Arabia totaled some 285.3 billion riyals – about U.S. \$76 billion – in the five-year period between 1995 and 1999.¹⁴ The government has repeatedly stated its intention to reduce the number of foreign workers in the kingdom and replace them with hundreds of thousands of unemployed Saudis, a process termed "Saudiization" of the labor force.¹⁵

The kingdom is the number one destination for migrants from Bangladesh. The annual remittances of Bangladeshis working abroad total almost \$3 billion, with \$1.7 billion of the total from Saudi Arabia alone.¹⁶ Many of the one million to 1.5 million Bangladeshi migrants in the kingdom are illiterate, and they pay exorbitant fees to manpower recruiting agencies to obtain employment visas. The average fee ranges from \$2,000 to \$2,500, according to a Bangladesh-born economist who worked in Saudi Arabia until 2003 and provided assistance to exploited migrant workers there.¹⁷ The Saudi government indicated in October 2003 that it would hire additional workers from Bangladesh, whose salaries are among the lowest in the kingdom.¹⁸ The same month,

¹⁰ "Expatriates Number 8.8m," *Arab News*, May 25, 2004.

¹¹ "Foreigners reportedly remit SR 585 billion in decade," Council of Saudi Chambers of Commerce, www.saudichambers.org.sa (retrieved January 20, 2004).

¹² According to Fasano and Goyal, "most new jobs in the GCC area have been primarily created in the relatively low-skill and low-wage sectors of the private non-oil economy, which continues to have access to a plentiful supply of expatriate workers at internationally competitive salaries."

¹³ In 2001, according to the International Monetary Fund Balance of Payments Yearbook, remittances from the U.S. totaled \$28.4 billion; Saudi Arabia was in second place, with \$15.1 billion, followed by Germany, Belgium, and Switzerland. See Dilip Ratha, "Workers' Remittances: An Important and Stable Source of External Development Finance," *Global Development Finance 2003*, World Bank, 2003.

¹⁴ Nadim Kawach, "Expats remit \$76b during Saudi five-year plan period," *Gulf News*, September 5, 2003.

¹⁵ Saudi Arabia's Seventh Five-Year Development Plan, for example, envisioned the replacement of some 466,600 foreign workers with Saudi citizens between 2000 and 2005.

¹⁶ M. Ghazanfar Ali Khan, "More Workers to Be Hired From Bangladesh," *Arab News*, October 29, 2003.

¹⁷ Human Rights Watch interview, Riyadh, Saudi Arabia, January 23, 2003.

¹⁸ There are also skilled Bangladeshis working in Saudi Arabia as architects, doctors, nurses, laboratory technicians, and in hotel management. "Saudi Arabia to recruit more manpower from Bangladesh," *The Daily Star* (Dhaka), October 26, 2003.

Bangladesh's ambassador in Riyadh, S.K. Sharjil Hassan, reported that "Bangladeshi housemaids have begun arriving in Saudi Arabia for the first time."¹⁹ This legal migration of women from Bangladesh will supplement their informal movement to Saudi Arabia and other Gulf states that has long been recognized.²⁰

Indian workers abroad send approximately \$3.5 billion home in remittances each year, and the largest Indian expatriate community in the world is in Saudi Arabia. According to the Indian embassy in Riyadh, 3.5 million Indians are employed in the Gulf states, including about 1.5 million in Saudi Arabia, of whom 30 percent are Muslim. Eighty-five percent of Indians in the kingdom work in unskilled or blue-collar jobs, although the embassy reported that number of Indians with white-collar jobs is expanding. Indian migrants also pay "huge sums" to manpower recruiters for even the most menial jobs in Saudi Arabia, with 100,000 rupees – about \$2,209 – the average fee for an employment visa.²¹

Since the oil boom years of 1970s, Saudi Arabia has also been the leading employer of Pakistani migrant workers, whose remittances remain a major source of foreign exchange as Pakistan's poverty rate climbs.²² Of the 217,025 Pakistanis who traveled abroad for employment between November 2002 and October 2003, the destination of 62 percent of them was Saudi Arabia.²³ Pakistan's overseas workers returned \$4.19 billion in remittances in the fiscal year that ended in June 2003.²⁴ Total remittances are believed to be higher than officially reported because some Pakistani migrants bypass commercial banks in favor of informal but well-developed (*hundi*) networks.²⁵

There are some 7.6 million Filipinos working abroad, and their remittances from January to October 2003 reportedly totaled U.S. \$6.9 billion, according to statistics that the

¹⁹ M. Ghazanfar Ali Khan, "More Workers to be Hired from Bangladesh," *Arab News*, October 23, 2003.

²⁰ The Asian Development Bank noted in 2001 that there was "a sizeable number" of undocumented Bangladeshi migrant women in the Gulf states and Southeast Asia. See "Women in Bangladesh," Country Briefing Paper, August 2001.

²¹ Interview with Talmiz Ahmad, then-Ambassador of India, Riyadh, Saudi Arabia, January 25, 2003.

²² "Export of manpower occupies a central place in the economic development of Pakistan. It is the number two source of foreign exchange earnings for the country. In year (2002-2003) this figure touched US\$ 4.28 billion....[B]etween the years 1973-2002, 3.1 million workers in various categories left abroad from Pakistan for foreign employment, mostly in Gulf countries." Rashid Ahmed Mughal, "Migration: overseas employment and poverty alleviation," *Business and Finance Review* (Jang Group, Pakistan), February 9, 2004, <http://www.jang.com.pk/thenews/feb2004-weekly/busrev-09-02-2004/p6.htm> (retrieved February 10, 2004).

²³ These statistics were reported by Pakistan's federal minister for labor, manpower, and overseas Pakistanis, Mian Abdus Sattar Leleka. See Muhammad Anis, "217,025 sent abroad for jobs in one year: Laleka," *The News*, November 15, 2003.

²⁴ Mohiuddin Aazim, "BD trying to catch up with Pakistan: Remittances," *Dawn*, February 10, 2004.

²⁵ *Hundi* channels are generally more efficient than the formal banking system. "In a typical *hundi* transaction, the migrant worker transfers a sum in foreign currency to an agent overseas under the agreement that the local moneychanger of that agent transfers the rupee equivalent at an agreed exchange rate to the migrant's family or nominee....Hundi dealers offer door-to-door and same day service, which is particularly welcome in remote areas." Zulfiqar Hyder, "Workers' Remittances, Resident FCAs and Kerb Premium: A Cointegration Analysis," State Bank of Pakistan Working Papers No. 2/02, June 2002.

Philippines Central Bank reported.²⁶ Over 900,000 were working in Saudi Arabia, according to the Philippines Department of Foreign Affairs.²⁷

There are at least 850,000 workers from Indonesia and Sri Lanka in Saudi Arabia. The overwhelming majority of them are women and, in some cases, girls whose dates of birth have been falsified.²⁸ Of the 500,000 Indonesian migrants in the kingdom, over 90 percent are women domestic workers, the labor attaché at the Indonesian embassy in Riyadh, Muhammad Sugiarto, reported.²⁹ Migrant rights and women's rights organizations in Jakarta were stunned and outraged when Saudi authorities secretly beheaded an Indonesian domestic worker, Warni Samiran Audi, in June 2000.³⁰ But the flow of women continued: by 2003, Indonesian workers were leaving for Saudi Arabia at the rate of 19,000 a month.³¹

Sri Lankan migrants, the majority of whom work in the Middle East, send home an estimated \$1.2 billion annually, said the country's minister of employment and labor, Mahinda Samara-Singhe, in December 2002. He also reported that there were 350,000 Sri Lankan workers in Saudi Arabia, 160,000 in the United Arab Emirates, 80,000 in Lebanon, 40,000 each in Kuwait and Oman, and 30,000 each in Qatar and Jordan.³² The proportion of Sri Lankan migrants who are women has grown steadily, from 33 percent of the total in 1986 to 65 percent by 1999.³³ The overwhelming majority of Sri Lankan women migrants in the Middle East region are employed as domestic workers.³⁴

The Government's Legal Obligations

The government of Saudi Arabia has legal obligations to protect everyone in the kingdom, citizens and foreigners alike, from illegal practices, discrimination, and human rights abuses such as arbitrary arrest, prolonged incommunicado detention without charge, torture, and unfair trials. The Basic Law, adopted in 1992 by royal decree,

²⁶ "Remittances from Philippine Migrant Workers Up 4.8%, Jan-Nov," *Asia Pulse*, January 16, 2004.

²⁷ Department of Foreign Affairs, "RP Lauds Saudi Government for Foiling Terror Attacks; To Pursue Benefits Owed to Filipina Bombing Victim," Press Release No. 677-03, November 27, 2003.

²⁸ See Chapter IV for information about a fifteen-year-old Indonesian girl who was reportedly brutalized by her Saudi employers.

²⁹ Saeed Albayyat, "Indonesia to ban maids for Kingdom," *Saudi Gazette*, February 23, 2003.

³⁰ According to the Saudi interior ministry, Warni Samiran Audi was sentenced to death for killing Fatima Ibrahim al-Firaydan, the wife of her employer. She allegedly beat the woman on her head with an iron pipe after an argument. The beheading of this domestic worker brought to sixty the number of reported executions in Saudi Arabia that year. Associated Press, "Indonesian maid beheaded in Saudi Arabia," June 19, 2000.

³¹ "Indonesian Migrant Workers Hit by Saudi Arabian Visa Cuts," *Asia Pulse*, April 17, 2003.

³² Sunita Menon, "Lanka plans money transfer strategy," *Gulf News*, December 22, 2002.

³³ International Organization for Migration, "IOM Calls for an End to Violence Against Migrant Women and the Trafficking of Women and Children into Sexual Bondage," Press Release, No. 858, March 7, 2003. Also see Asian Development Bank, "Women in Sri Lanka," Country Briefing Paper, May 1999.

³⁴ Centre for Women's Research (Colombo), "Sri Lanka Shadow Report on the UN Convention on the Elimination of All Forms of Discrimination against Women," December 2001.

provides for protection of human rights and the security of Saudi citizens and foreign residents.³⁵

The rights guaranteed in the Basic Law are supplemented by additional rights that Saudi Arabia has pledged to uphold as a state party to international human rights treaties. These include the Slavery Convention; the Vienna Convention on Consular Relations; the Convention on the Rights of the Child; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Elimination of All Forms of Discrimination against Women. The provisions of these treaties are part of the kingdom's domestic law, and therefore can be invoked before *shari'a* courts and other judicial and administrative bodies.

Saudi Arabia is not a party to two bedrock human rights treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The government informed a United Nations committee in March 2003 that it would "soon accede" to both treaties.³⁶

The Framework of Discrimination

Asian migrant rights activists commented bitterly to Human Rights Watch about racial discrimination in Saudi Arabia. Noting that slavery was not abolished there until 1962, they argued that its legacy continues to influence the perception and treatment of migrant workers. Saudi Arabia is a state party to the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), but the government has done little to bring practical meaning to the treaty's guarantees. As part of legal obligations under this treaty, the government is required to "assure to everyone" within its jurisdiction "effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination."³⁷

Human Rights Watch is unaware of how the government has made this treaty obligation operational for migrant workers in the kingdom. For example, the government's report to the United Nations about its compliance with the treaty made no mention whatsoever

³⁵ Article 26 of the Basic Law states: "The State shall protect human rights in accordance with Islamic Shari'ah." Article 37 states: "The state shall ensure the security of all its citizens and expatriates living within its domains. No individual shall be detained, imprisoned or have his actions restricted except under the provisions of the law." Article 43 states: "The *majlis* of the King and the *majlis* of the Crown Prince shall be open to all citizens and to anyone who may have a complaint or a grievance. Every individual shall have the right to communicate with public authorities regarding any topic he may wish to discuss."

³⁶ Committee on the Elimination of Racial Discrimination, Concluding Observations: Saudi Arabia, 21/03/2003, paragraph 8, CERD/C/62/CO/8. (Concluding Observations/Comments), March 20, 2003 [hereinafter CERD report].

³⁷ Article 6.

of the millions of foreign workers and their families living in the kingdom. In March 2003, the United Nations Committee on the Elimination of All Forms of Racial Discrimination, which reviewed the government's report, noted the "high proportion of migrant workers in Saudi Arabia,"³⁸ and requested statistics "disaggregated by migrants' national origin, which would provided a better understanding of the economic and social standing of non-citizens in Saudi Arabia."³⁹

The committee expressed concern "about allegations of substantial prejudice against migrant workers, in particular those coming from Asia and Africa," and asked the government to provide information about this issue, particularly the situation of women migrant workers in the kingdom.⁴⁰ The committee also commented about the "disproportionate number" of foreigners facing the death penalty and their lack of legal assistance, and urged the government to provide the information about specific cases that the Special Rapporteur on extrajudicial, summary, and arbitrary executions had requested.⁴¹

The committee stated that the government's report contained "insufficient information...on how the Convention is applied in practice, and on what factors and difficulties affect its full implementation." It added that "the mere statement of the general principle of non-discrimination" in the kingdom's Basic Law and other regulations "is not a sufficient response to the requirements of the Convention." The committee recommended that the government enact legislation that specifically prohibits racial discrimination and develop mechanisms to monitor the implementation of the law.

Religious Discrimination

Intolerance of religious diversity in Saudi Arabia has been well documented elsewhere.⁴² Migrant workers who are not Muslims but are religiously observant must adjust to the absence of houses of worship for their religious faiths, and refrain from public display of religious symbols such as Christian crosses or the *tilaka* – the distinctive "holy spot" – that many Hindus apply on the forehead between the eyes. Private worship in community with others must always proceed cautiously and not be conspicuous. Some migrants described to us how they were forced to arrive in very small numbers over long periods of time to attend private religious services in designated private places so as not to arouse the suspicion of Saudi citizens or the feared religious police.⁴³

³⁸ CERD report, Paragraph 16.

³⁹ CERD report, Paragraph 20.

⁴⁰ CERD report, Paragraph 17.

⁴¹ CERD report, Paragraph 18.

⁴² See, for example, United States Commission on International Religious Freedom, *Annual Report*, May 2004, <http://www.uscirf.gov/reports/12May04/finalReport.php3>.

⁴³ The religious police in Saudi Arabia, officially known as the Commission for the Promotion of Virtue and Prevention of Vice, is the government-funded entity that monitors public behavior, enforcing its own version of religious orthodoxy. Its personnel – reportedly numbering 4,500 in Riyadh and its thirteen other offices throughout the kingdom – interact with the public, Saudis and foreigners alike, in a manner that some victims view as harassment. The religious police force businesses to close during daily prayers; admonish men to go to

Saudi authorities continue to arrest foreigners, including Muslims, for peaceful private religious practice. Followers of Sufi orders continue to face harassment because Sufism, with its individualized and mystical approach to Islam, is perceived as a sharp departure from strict Islamic orthodoxy.⁴⁴ In September 2003, the daily *al-Madinah* reported that the religious police in Sakaka, acting on a complaint, raided a house at 11 p.m. and arrested sixteen migrant workers for “allegedly practicing Sufism.” According to the newspaper, the police “arrested the leader of the group and confiscated a picture of him which his supporters venerated. The group has lived in the area for several years and has been in the habit of distributing Sufi writings among the expatriate community.” During the raid police reportedly seized magazines, videocassettes, and other materials.⁴⁵ More recently, the religious police in Mecca reportedly arrested over 200 migrant workers from Bangladesh and Burma for attending a party in celebration of St. Valentine’s Day, where alcohol was allegedly consumed. Following the arrests, the kingdom’s highest religious authority, Grand Mufti Sheikh Abdul Aziz Al Sheikh, was quoted as saying: “What these workers did in a holy place by celebrating and singing and drinking alcohol is a very grave sin.” He remarked that Valentine’s Day is “an infidel tradition that has no place in Islam.”⁴⁶

Human Rights Watch was informed that discrimination against Hindus -- often disparaged as “polytheists” by orthodox Sunni Muslim clerics and their followers -- has eased somewhat. A prominent Indian Hindu who lived for many years in Saudi Arabia told us that advertisements for jobs in the kingdom, placed in Indian newspapers in 1996 and 1997, requested applications from “Muslims and Christians only.” This practice, she said, was discontinued. Hindus do not require temple visits to practice daily religious rites, although such rites require an image of a religious deity. Until about ten years ago, according to this source, the handbags of Hindu women were opened at the airport and religious images and idols were confiscated. The seizure of Hindu prayer books at the airport has stopped, the source added. “In a subtle and quiet way,” she concluded, “some of the harsher aspects are being softened,” and there has been “tremendous change at the airports.”⁴⁷

the mosque during prayer times; confront and sometimes insult in a derogatory manner women for “inappropriate” dress, particularly for not being full-face veiled; and strive to maintain strict segregation of the sexes, including harassment and sometimes detention of persons in private company who are not married or related by blood. “The commission strives to rectify evil deeds with the help of preventive methods as much as possible....Our men are present everywhere. They are not denied admission to any place,” said its head, Sheikh Ibrahim ibn Abdullah ibn Ghaith. See “No informers or women employed by anti-vice body,” *Arab News*, November 2, 2002.

⁴⁴ The historical roots of Sufism are typically traced back to the earliest days of Islam. Strictly orthodox Muslims view the religious and esoteric practices of the Sufi orders as prohibited “innovations” under Islam.

⁴⁵ “16 Expats Arrested for Practicing Sufism,” *Arab News*, September 29, 2003, citing *al-Madinah*.

⁴⁶ *Agence France-Presse*, “Religious police arrest 200 Asians for Valentine’s party at Mecca holy site,” February 17, 2004.

⁴⁷ Human Rights Watch interview, Riyadh, Saudi Arabia, January 25, 2003.

Gender Discrimination

The rights of women migrant workers are compromised by the prevailing gender segregation in the kingdom, restrictions on freedom of expression (particularly dress codes) and freedom of movement, and gender inequality in the justice system. The tolerance of domestic violence in Saudi households sets the stage for physical and sexual abuse of migrant women domestic workers.⁴⁸ The forced confinement that Saudi employers impose upon many low-paid women workers can be viewed as an extreme extension of the power that men can and do wield over the movement of Saudi women under law and social custom. Women migrants, like their Saudi counterparts, face a system of Islamic jurisprudence under which women's testimony carries half the weight of the testimony of men. Victims of sexual violence, including rape, have little prospect of holding their assailants accountable in *shari'a* courts.

Compensation for Unnatural Deaths: Gender and Religious Discrimination

Under the Islamic jurisprudence prevailing in Saudi Arabia, the legal heirs of migrant workers face discrimination based on gender and religion when they seek compensation for murder and accidental death of loved ones in incidents such as road accidents.⁴⁹ The kingdom's National Committee for Traffic Safety reported that 4,848 people were killed and another 32,361 injured in traffic accidents in 2000.⁵⁰ To our knowledge, the government has not publicly reported the number of foreigners included in these statistics, but it is likely that they represent a sizeable proportion. For example, of the eighty-one Sri Lankan migrants who died in 2002 in Saudi Arabia, 32 percent of them were killed in road accidents.⁵¹

During our research for this report, we heard numerous complaints about the lack of information about cases of unnatural death of migrant workers and delays in the repatriation of their remains. To cite one recent example, the family of Manuel Abance -- a Filipino father of four young children who had been employed in the kingdom since 1999 -- learned that he was killed in a road accident in October 2003. According to Migrante International, the migrant rights nongovernmental organization in the Philippines, Manuel was hit by a car that a Saudi national was driving, and his body was dragged for several meters. The group told Human Rights Watch that the police did not interview the Filipino eyewitness who was with Manuel when the accident occurred, and

⁴⁸ The U.S. State Department reported in 2004 that "physical spousal abuse and violence against women... appeared to be common problems." See Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices - 2003*, February 25, 2004.

⁴⁹ It is widely recognized that Saudi Arabia's roads and highways are dangerous. According to the U.S. State Department: "Traffic accidents are a significant hazard in Saudi Arabia. Driving habits are generally poor, and accidents involving vehicles driven by minors are not uncommon. In the event of a traffic accident resulting in personal injury, all persons involved (if not in the hospital) may be taken to the local police station. Drivers are likely to be held for several days until responsibility is determined and any reparations paid. In many cases, all drivers are held in custody regardless of fault." Bureau of Consular Affairs, Consular Information Sheet, Saudi Arabia, current as of February 24, 2004.

⁵⁰ *Saudi Press Agency*, "Statistics of road accidents in Saudi Arabia," February 27, 2002.

⁵¹ Of the eight-one deaths, forty-three reportedly died of natural causes, seven were reported as suicides, and twenty-six were killed in road accidents. Asia Pacific Migration Research Network, "Sri Lanka, Recent Events," 2003.

the family did not know if a police report was filed. “Everything is vague,” a Migrant activist said. She added that it took one month for Manuel’s remains to be repatriated, and that his wallet and other personal possessions were not returned.⁵² Police investigations and reports in accident cases are important because this is how individual responsibility for the death is determined, and *shari’a* court judges use these reports to calculate compensation awards for the legal heirs of the victims.⁵³

The compensation provided in cases of unnatural deaths is determined by the gender and religion of the victim. Cases involving Muslim men receive the full compensation amount, while those involving Christian and Jewish men receive half of the amount. According to the U.S. government, legal heirs of victims who practiced “polytheistic” religions – such as Hindus, Buddhists, and Jains – receive one-sixteenth of the total compensation amount.⁵⁴ The Consulate General of India in Jeddah has reported that in cases of accidental death or murder, the maximum amount of financial compensation “generally admissible” is 100,000 riyals – about \$26,690-- for male Muslims; 50,000 riyals for male Christians and Jews; and 6,666.66 riyals – about \$1,778 -- for Hindus, Buddhists, Jains, and other polytheistic faiths. Compensation provided to the heirs of women victims of unnatural death receive fifty percent less than their male counterparts in each religious category.⁵⁵

II. THE FOREIGN LABOR SPONSORSHIP SYSTEM AND ITS ABUSES

“They said that my contract from the Philippines was not valid and I had to sign another piece of paper in Arabic.”

-- Seamstress who worked in Medina and returned home in 2003.

The labor law in Saudi Arabia, in effect since 1969, requires every foreign worker to be under contract with and guaranteed by a sponsor (*kafeel*, in Arabic).⁵⁶ “We do not have immigrant workers, but workers by contract,” is the way Saudi Arabia’s then-minister of labor and social affairs, Dr. Ali al-Namlah, explained the system.⁵⁷ One of the longstanding problems with this system is that legal sponsors are not necessarily the *de facto* employers of foreign workers, particularly those in the lowest-paying job categories. Another is the apparent ease with which some Saudi citizens have managed to disassociate themselves legally from sponsorship responsibilities, with adverse

⁵² Human Rights Watch interview with Malett Balaoro, Quezon City, Philippines, December 15, 2003.

⁵³ See Embassy of India, Riyadh, “Death Case Formalities” in *Death Cases of Indian Nationals*, www.cgjeddah.com/deathbooklet.htm.

⁵⁴ See U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report for 2003*, December 18, 2003.

⁵⁵ Embassy of India, Riyadh, “Settlement of Death Compensation Claims,” in *Death Cases of Indian Nationals*, www.cgjeddah.com/deathbooklet.htm

⁵⁶ Article 49(c). This article of the law also provides for authorized non-Saudi employers to contract foreign workers. The labor law was approved by Council of Ministers Decision No. 745 on 24 Sha’ban 1389 H. (November 4, 1969), and promulgated by Royal Decree No. M/21 on 6 Ramadan 1389 H. (November 6, 1969).

⁵⁷ Human Rights Watch interview, Riyadh, Saudi Arabia, January 25, 2003.

consequences for workers under their guarantee. Subsequent chapters of this report include case examples of these abuses.

It is the responsibility of sponsors to secure employment visas from the Saudi government for the foreign workers they wish to hire. After the visas are obtained, many sponsors turn to manpower recruitment agencies to identify the workers and bring them legally to the kingdom. These agents charge both the sponsor and the prospective employees for their services of making the match. Once workers are recruited in their home countries, and the fees paid to the agents, their passports are stamped with visas at Saudi embassies abroad. These visas allow them to enter the kingdom for the purpose of employment.

Once foreign workers arrive in Saudi Arabia, they are not issued work permits unless they have employment contracts signed by the sponsor and themselves. The only contracts with legal validity are those written in Arabic.⁵⁸ The contract must include the agreed-upon terms of employment, and “must be in writing, drawn up in Arabic and in duplicate, one copy to be retained by each of the two parties.”⁵⁹ The labor law states that a contract “concluded for a specified period shall terminate upon the expiry of its term. If both parties continue to enforce the contract thereafter, it shall be considered renewed for an unspecified period.”⁶⁰

Saudi courts do not recognize contracts signed by recruiting agents or other parties.⁶¹ In cases of bilingual contracts, the Arabic copy is the authoritative one.⁶² The U.S. embassy in Riyadh, for example, cautions prospective American workers: “Before you sign a contract with a Saudi company, it is extremely important you obtain an independent English translation of the contract. The official and binding version of the contract that you sign is the Arabic text. Some Americans have signed contracts that in fact did not include all of the benefits they believed they were acquiring.”⁶³

Workers’ Contracts and Wages: False Promises

Many migrant workers never see these Arabic-language contracts in their home countries or are forced to sign such documents when they reach Saudi Arabia. A senior Indian diplomat in Riyadh conceded that manpower recruiting agents in India were “extremely corrupt and very exploitative,” but also placed blame squarely on Saudi sponsors and employers. He told Human Rights Watch that Indian workers typically sign contracts with local recruiting agents but these contracts are often confiscated when workers arrive

⁵⁸ The U.S. State Department points out, “Verbal assurances or side letters are not binding under Saudi law. In the event of any contract dispute, the Saudi authorities refer to the contract.” Consular Information Sheet for Saudi Arabia, Bureau of Consular Affairs, Washington, D.C., February 2, 2004.

⁵⁹ Article 77 of the labor law.

⁶⁰ Article 72.

⁶¹ “Basic Legal Information for Indian Workers in the Kingdom of Saudi Arabia,” March 31, 2002.

⁶² *Ibid.*

⁶³ “Travel Tips on Saudi Arabia,” <http://jeddah.usconsulate.gov/wwwhcn29.html> (retrieved February 12, 2004).

in the kingdom. They are then forced to sign a new Arabic contract without knowing its content.⁶⁴

Migrant workers from the Philippines, India, and Bangladesh all complained to Human Rights Watch about salary reductions once they reached Saudi Arabia. They were shocked to learn that their actual monthly salaries were significantly lower than what was promised to them in their home countries. For example, the employer of Raymond Beltran, a restaurant worker from the Philippines, presented him with a contract written in Arabic when he arrived at Dammam airport in September 2002 and instructed him to sign it. "I could not read the contract, and he did not give me a copy," Raymond told us. He later learned that the new contract specified his monthly salary as \$267, not the \$300 that he was promised in the Philippines.⁶⁵ In another case, an electrical engineer from the Philippines, who was employed at a hotel in Dhahran from February 2001 until February 2003, told us about the unskilled Indians, Bangladeshis, and Sri Lankans who worked there. He said that they had been promised monthly salaries in their home countries ranging from 700 to 800 riyals – about \$187 to \$213 – but "received only half of that." All of these workers had assumed significant debt to finance their visas to Saudi Arabia, so they "just kept their mouths shut and did their work," the engineer reported.⁶⁶

An Indian Muslim migrant worker told us about his experience in 2000, on his third employment visa to Saudi Arabia as a driver. At that time, he was thirty-seven years old, and the sole source of support for his wife and three children in a village near Calicut, in Kerala state. He said that he paid 60,000 rupees -- about \$1,300 -- to a manpower agency in Mumbai for a visa to work with a private company. The agency told him that the monthly salary was 1,500 riyals, or about \$400. He said that he signed a contract in Arabic, which he could not read except for the numerals of his promised salary. The agency did not give him a copy of the contract, explaining that it would be sent separately to the company in Saudi Arabia. When he arrived in the kingdom, he was informed that his actual salary was only 1,000 riyals -- about \$267 -- and never received a copy of the contract from his employer.⁶⁷

One of the most striking features of some of the testimony that we obtained from migrant workers was their belief that the exploitation they experienced in Saudi Arabia was an aberration. Propelled by desperate economic circumstances in their home countries, and perhaps misplaced naïve optimism, they returned a second or third time to the kingdom with hopes of better conditions, only to experience salary reductions again. One illustration is the case of Abdul Jabbar from India, who told us about his ten-year history of false promises.

⁶⁴ Human Rights Watch interview, Riyadh, Saudi Arabia, January 25, 2003.

⁶⁵ Human Rights Watch interview, Quezon City, Philippines, December 8, 2003.

⁶⁶ Human Rights Watch interview, Quezon City, Philippines, December 9, 2003.

⁶⁷ Human Rights Watch interview, Calicut, Kerala, India, December 3, 2003.

He traveled to Saudi Arabia legally for the first time in 1992, when he was in his twenties, for a job as a maintenance worker. A local recruiting agent – to whom he paid 50,000 rupees, financed with the sale of some of his father’s agricultural land -- promised him a monthly salary of 800 riyals. Abdul Jabbar told us that he was paid only 270 riyals a month and labored for two-and-a-half years before returning home. He went to the kingdom again in 1995, this time with a promised job as a driver/salesman with a monthly salary of 1,000 riyals. When he arrived, he learned that his actual salary was only 400 riyals. Abdul Jabbar fled this employer and worked at odd jobs – without legal status and thus in constant danger of arrest because he did not have an official residency permit. Unwilling to continue under such stressful circumstances, he returned to India two years later in a general amnesty that the government offered for undocumented foreign workers. In 1999, Abdul Jabbar borrowed money to obtain another legal visa, on the promise of a job with a monthly salary of 1,200 riyals (\$320). But the salary was only 500 riyals, or about \$133. He told us that his wages were raised in increments, and by the time he returned to India in 2003 he was earning 1,000 riyals a month.⁶⁸

Some low-paid workers have found other aspects of their contracts modified. This happened to Maya, a seamstress from the Philippines, when she reported for her job in Medina in April 2002 to begin what she understood was a two-year contract. “They said that my contract from the Philippines was not valid and I had to sign another piece of paper, in Arabic,” she told us. Maya learned later that the new contract specified a three-year term of employment, not the two years that she had agreed to in the Philippines. The contract terms stated that if Maya worked for less than the three-year term she would be responsible for paying the cost of her roundtrip transportation from the Philippines to Saudi Arabia.⁶⁹

Most migrant workers incur substantial debt to finance their legal immigration to the kingdom and are anxious to begin sending money home to their families, so they typically accept lower wages and other contract changes with little or no protest. The overwhelming majority of recently returned migrants that Human Rights Watch interviewed expressed fear that any complaint would jeopardize their employment. In other cases, workers fled their employers or asked to be returned home, often sustaining substantial financial losses in the process. The evidence suggests that these practices have been a persistent pattern, affecting unskilled and skilled workers alike.

Job Substitution

Sometimes the jobs promised to migrant workers do not exist, and once in the kingdom they are forced to accept alternative work that does not match their skills or the job description they believed was specified in their initial employment contract. Saudi

⁶⁸ Human Rights Watch interview, Calicut, Kerala, India, December 4, 2003.

⁶⁹ Human Rights Watch interview, Quezon City, Philippines, December 18, 2003. Section C(2) of the Standard Employment Contract for Filipino Household Workers in Saudi Arabia states that the employer “shall provide the worker with free passage from Manila to the site of employment and upon termination of the contract from the site of employment back to Manila.” A copy of one of these contracts, executed in October 2001, is on file at Human Rights Watch.

Arabia's labor law specifically bans this practice unless the worker agrees in writing to perform other work. Article 79 of the law states in pertinent part: "[E]xcept in cases of necessity and as dictated by the nature of the work, a workman may not be called upon to perform a work which is essentially different from the work agreed upon, unless he so agrees in writing and provided that this is done on a temporary basis." Employers of low-paid migrant workers widely disregard this provision of the law.

For example, thirty-year-old Orlando, a diesel engine mechanic from the Philippines, was forced to work as an agricultural laborer in 2003. He told us that he signed a two-year contract with a manpower agency in Manila to work as a mechanic in Ha'il. The contract specified a monthly salary of 1,200 riyals, or about \$320. When Orlando arrived at the airport in Ha'il in August 2003, the Indian driver of his Saudi employer met him and explained that his job was with the sponsor's brother who managed a farm with some two hundred sheep, another two hundred goats, and five camels. Orlando was responsible for operating a tractor to cut feed for the animals and, with four Indian workers, tending the livestock. He told us that his Indian colleagues were also skilled workers who had accepted jobs as electricians, welders, and refrigeration mechanics. When Orlando complained, he said his employer told him: "If you don't like it, go back to the Philippines."

The men were required to work long hours seven days a week, from 6:30 in the morning until 7 p.m. or 8 p.m. at night. Orlando said that he was paid 1,000 riyals a month (\$267) and his Indian coworkers 700 riyals (\$187). At the end of his second month of work, Orlando was disgusted and informed his employer that he wanted to return home, even though he feared he would forfeit the placement fee of 23,000 pesos -- \$418 -- that he paid to the manpower agency in Manila to obtain his visa. He said he had heard about a government labor office where he could complain but pointed out that he had no opportunity to go there and file a complaint.⁷⁰ His employer drove him directly to the airport in Ha'il, where his passport was returned to him, along with a ticket to Manila. The employer did not pay Orlando for his second month of work.⁷¹

The most harrowing account of job substitution that we heard came from Kattayadan Subair, an Indian migrant worker who traveled to Saudi Arabia in 1994, when he was twenty-three years old. He said that he paid a local Indian travel agent 55,000 rupees -- about \$1,200 -- for an employment visa as a gardener at a private home. The agent told him that the monthly salary was 800 riyals, about \$213. Subair never worked as a gardener. His Saudi employer forced him to work as a shepherd in an isolated location for monthly wages of 400 riyals. Subair found himself a victim of forced labor and was unable to return home until 1997.

When Subair first met his Saudi sponsor in Jouf, the man communicated with him through an Indian worker from Tamil Nadu who spoke Arabic. He informed Subair that

⁷⁰ See Chapter V for information about the government's mechanisms for addressing labor-related grievances.

⁷¹ Human Rights Watch interview, Neguilan, La Union, Philippines, December 13, 2003.

he had no position for a gardener and he would be working as a shepherd. When Subair said this was unacceptable and asked to be sent home, the sponsor beat him and confiscated his belongings. The next morning, the sponsor drove Subair and his fellow Indian to a remote desert area, where they were responsible for tending a herd of about fifty sheep. There was no permanent lodging at the site, and the sponsor sent food and water every two days. “The heat was so intense that it burned the hair on my body, and in the winter it was so cold that the water turned to ice,” Subair remembered, shaking his head.

After three months, he decided to escape. He began walking under the cover of darkness, hoping to reach a village or town. When a passing truck stopped and the Saudi driver offered him water, Subair told his story and mentioned his sponsor’s name. “The driver must have called him because he found me, drove me back, and beat me black and blue,” he said. “I never tried to escape again.”

Subair finally prevailed upon the Sudanese worker who delivered food and water to the site to bring him paper and an envelope so he could write a letter to his family. The Sudanese mailed the letter, in which Subair described his situation in detail. Back in India, his father and uncle complained repeatedly to the agency that placed him with the sponsor, and contacted local politicians who managed to involve the Indian embassy in the case.

The family’s persistent advocacy had an impact. The sponsor visited Subair and showed him a letter he had received from the Indian embassy. “I’m sending you back tomorrow,” he said. The sponsor paid Subair 5,000 riyals, returned his passport, and drove him to Jouf. Subair told us that he did not recognize himself when he finally had access to a mirror: he had not bathed in over two years and also had a very long beard. He recuperated for fifteen days with a fellow Indian from Kerala who operated a teashop, and then spent 1,700 riyals of his accumulated “salary” to purchase a one-way ticket to India.

“I worked in that desert for two years and three months. There were fifty sheep when I started and over four hundred by the time I left,” Subair estimated.⁷² He neglected to mention his financial losses: even at his lowered monthly salary of 400 riyals, his employer underpaid him by 5,800 riyals. Deducting the cost of the return ticket from what he was paid, his net monthly income amounted to 122 riyals, or \$33 at current exchange rates.

Cases discussed in the chapters that follow provide additional examples of salary reductions and job substitution. These practices, combined with exploitation on the job, have prompted migrant workers to flee from their employers, leaving them without legal status in the kingdom and subject to arrest and deportation.

⁷² Human Rights Watch interview, Arrecode, Kerala, India, December 1, 2003.

“Free Visa” Illusions

Some migrant workers pay large sums of money to manpower agents in their home countries to secure what they believe are advantageous “free visas” that will allow them the flexibility to find their own jobs in the kingdom with only a nominal sponsor. These ostensibly legal documents are generated when Saudi citizens or companies apply for and are granted visas for foreign workers that they have no intention of employing. According to *Arab News*, “In the Eastern Province alone, there are dozens of companies which exist only on paper. On the basis of their being registered and licensed, they apply for visas and then sell them.”⁷³

An ambassador with years of experience in the kingdom told Human Rights Watch in 2003 that “every Saudi of a certain standing can obtain free visas.” When the visas are secured, sponsors sell them to intermediaries who are linked to recruiters in sending countries. The migrants who arrive in the kingdom with “free visas” typically must find their own work with an employer and remit monthly payments to the Saudi sponsor named on their visas.

“There is nothing called a ‘free work visa’ according to [Saudi] law,” the Indian government has warned its expatriates. “Hence the arrangement of allowing the worker to work freely with any other sponsor is illegal. The worker in this category, if caught working with a person other than his sponsor, is repatriated back to his country.”⁷⁴ A senior Indian diplomat, describing these visas as “a bogus concept,” told Human Rights Watch that workers arriving on such visas typically are required to pay a monthly fee to the Saudi sponsors, who have already generated income from the sale of the visas to manpower recruiting agents, who also pass along the cost to the worker.⁷⁵

An economist who worked in Saudi Arabia until 2003, and closely monitored migrant labor issues, made similar observations. He also explained the lucrative nature of the “free visa” system for those Saudi citizens who exploit it:

There is no free visa as such. However, at times, some unscrupulous Saudi businessman manages visas or work permits for more persons than needed in his facility. Let's say, he needs ten persons only. However, he somehow managed twenty work permits. He sells each work permit for 5,000 riyals and thus makes 100,000 riyals [about \$26,600]. Once all twenty workers arrive in the kingdom, he would employ ten as required and he would allow the other ten to work outside wherever they can get a job. He would transfer their visa individually to

⁷³ Saeed Haider, “Stoppage of Sponsorship Transfer Jolts Job Market,” *Arab News*, March 2, 2004.

⁷⁴ Consulate General of India, “Booklet on Basic Legal Information for Indian Workers in the Kingdom of Saudi Arabia,” Jeddah, Saudi Arabia, <http://www.cgjeddah.com/main.html>

⁷⁵ Human Rights Watch interview, Riyadh, Saudi Arabia, January 25, 2003.

companies or persons that would recruit them. For each transfer, he would make at least an additional 2,000 riyals [about \$5,300 for ten workers]. Since it is an easy process to make money quickly, many recruiters love it.⁷⁶

Not all migrant workers have absorbed the message that there is nothing “free” about these visas, and they suffer various forms of exploitation because the system continues to operate under various permutations. For example, Babul, a twenty-two-year-old Indian from a farming family in Kerala state, paid 150,000 rupees (about \$3,300) to a travel agency for what he was told was a “free visa” to Saudi Arabia. He was assured that the visa would enable him to work in any job that he could find.⁷⁷ Babul flew to Jeddah in September 2002 and traveled by bus to Abha, to meet Umar, the Indian intermediary who had arranged the visa. Four days later, Babul met his Saudi “sponsor,” who gave him an *iqama* (residency permit) and told him to look for a job. He soon discovered from prospective employers that his visa specified agricultural work only, which limited his possibilities of employment.

Babul complained to Umar, who told him that the visa could be changed if he agreed to pay 8,000 riyals, or about \$2,133. Babul, who had already borrowed 100,000 rupees -- \$2,200 -- to pay the agency in India for his visa and related expenses, could not assume additional debt and desperately searched for employment in Abha. “I learned later that Umar cheated many people,” he told us.

Over the next three months, Babul said, he found work in various unskilled jobs – at a hotel, a poultry farm, a supermarket, and a gas station – but was dismissed without pay once the employers insisted on seeing the visa in his passport. Babul then moved to Jeddah, where he lived with Indian friends for five months. He worked in a hotel for one month and was paid 900 riyals (\$240), the only income he earned during his stay in the kingdom. The hotel dismissed him when his illegal status became apparent. Babul told us he decided that his only option was to return home. He left his passport and *iqama* at the apartment of his friends, and stood at a location in Jeddah where he was sure the police would apprehend him. He was soon arrested as an illegal resident and deported after eight days, in May 2003. He did not inform the police or Indian consular officials who visited him in jail about his experiences with Umar or his Saudi sponsor. “I did not think to tell them, and they did not ask me,” he said.⁷⁸

In 2003, Ibrahim, an Indian driver, suffered major financial loss in a “free visa” scheme. He told Human Rights Watch that he paid a recruiting agent in India 100,000 rupees --

⁷⁶ Dr. Abdul Momen, “Expatriate Workers in Saudi Arabia: Keep the Dream Alive!” undated ten-page report. Copy on file at Human Rights Watch.

⁷⁷ He contributed 50,000 rupees of the total from his personal savings and borrowed the balance from neighbors in his village.

⁷⁸ Human Rights Watch interview, Calicut, Kerala, India, December 5, 2003.

about \$2,200 -- for a "free visa." He was arrested and deported less than two months after his arrival in Saudi Arabia, suffering a major financial loss.

According to Ibrahim, the recruiter in India gave him a telephone number to call when he arrived in Riyadh. Through this number, he reached an Indian intermediary who reportedly had secured the visa and sent it to India. After ten days, this intermediary brought Ibrahim to a travel agency run by Saudis, where Ibrahim surrendered his passport and paid 700 riyals, about \$187, in additional "fees." Ibrahim received no receipt. He was instructed to return the next day and finally meet his Saudi sponsor. The sponsor asked Ibrahim how he obtained the visa, then told him that the visa was a fake and he did not need any workers. He brought Ibrahim to a police station, explaining that he wanted him to file a complaint and that he would provide assistance. Instead, Ibrahim was locked in a cell so overcrowded with about 200 men of different nationalities that there was barely room to stand. The next morning, prison staff shaved his head, cuffed him at the wrists and ankles, and brought him to an officer who was sitting with the sponsor. The officer asked Ibrahim how he obtained the visa. The sponsor then left and Ibrahim never saw him again.

Thirty-five days later, he was called to explain his case to the secretary of a senior officer in a meeting that lasted only twenty minutes. Ibrahim was ordered deported and was held in a deportation center until he flew home on July 1, 2003. He was convinced that the sponsor and his agents would re-sell the visa to another unsuspecting Indian worker.⁷⁹ Observers knowledgeable about this system in Saudi Arabia emphasized to Human Rights Watch that it is impossible to estimate the number of times the same employment visa has been sold in schemes designed to dupe vulnerable migrant workers.

III. VULNERABILITY AND EXPLOITATION

"I knew many Bangladeshis who did not get their salaries for a long time and who were afraid to say anything to their employers. Many people sell all of their property to go to Saudi Arabia, have big hopes, and come back with no money."

-- Worker from Bangladesh who returned home from the kingdom in 2002.

Migrant workers in Saudi Arabia can be divided broadly into two categories: those who have legal protection under the provisions of the kingdom's 1969 labor law, and those who do not. The labor law specifically excludes from its protection men and women in domestic service in private households, and many agricultural workers.⁸⁰ These workers

⁷⁹ Human Rights Watch interview, Calicut, Kerala, India, December 4, 2003.

⁸⁰ Article 3(a) of the law states that its provisions "shall not apply" to "domestic servants and persons regarded as such." Article 3(b) excludes persons "working in pastures or agriculture," with the exception of those "working in agricultural establishments which process their own produce" or "permanently engaged in the operation or repair of mechanical equipment required for agriculture."

number in the millions, and at least one million are women domestic workers from countries in Asia and Africa.

For Saudi and foreign workers who are covered under the labor law, it guarantees minimum standards with respect to daily hours, overtime wages, days off, and vacation pay. The law specifies a six-day work week, with a maximum of eight working hours daily.⁸¹ Employees who work in excess of forty-eight hours a week must be compensated at the overtime rate of regular wages and an additional fifty percent.⁸² An annual vacation entitlement of fifteen days begins after one year of employment, and is raised to twenty-one days after ten years of uninterrupted service.⁸³ According to the law, vacation pay must be provided fully and in advance. The law also sets specific conditions under which an employer may unilaterally cancel a worker's contract without compensation.⁸⁴

The labor law protects workers from a variety of employer-related abuses, including contract violations, physical abuse, providing misleading information, and unfair treatment. It grants workers the right to leave an employer without advance notice -- and "without prejudice to his right to an award for his period of service and indemnity for any prejudice that he may have sustained" -- in the following cases:

1. If the employer has not fulfilled his obligations toward the workman.
2. If the employer calls upon the workman to perform a work which is essentially different from the nature of the work for which he has committed himself under the contract, or if the employer transfers the workman from his original place of work to another place, necessitating a change in his place of residence, which is apt to cause serious prejudice to the workman and has no valid reason dictated by the nature of the work.
3. If the employer or whoever is acting on his behalf has committed an assault or an immoral act against the workman or against a member of his family.
4. If there is a serious hazard which threatens the safety or health of the workman, provided that the employer has been aware of the existence of such hazard and has taken no steps to remove it.

⁸¹ The exception to this rule is the holy month of Ramadan. According to article 147 of the law: "a workman shall not be employed for more than eight actual working hours in any one day, or forty-eight hours a week, in all months of the year, with the exception of the month of Ramadan when actual working hours shall not exceed six hours a day or thirty-six hours a week, exclusive of the intervals reserved for prayer, rest, and meals. The number of working hours maybe raised to nine hours a day in respect of certain categories of workmen or in certain industries and operations where the workman does not work continuously, such as seasonal establishments, hotel, snack bars, restaurants, etc. The number of daily working hours may be reduced for certain categories of workmen, industries, and operations referred to in this Article, these to be determined by decision of the Minister of Labor." Articles 148-158 of the law include additional provisions for holidays, sick leave, and vacation pay.

⁸² Article 151.

⁸³ Article 153.

⁸⁴ Article 83.

5. If at the time of concluding the contract, the employer or his representative has misled the workman with respect to the terms of employment.

If the employer through his actions and particularly by his unfair treatment or by his breach of the terms of the contract, has caused the workman to appear as the party terminating the contract.⁸⁵

The testimonies in this chapter, and other chapters of the report, provide evidence of employers' noncompliance with provisions of the labor law, resulting in the sometimes gross exploitation of migrant workers who are entitled to its protection. Migrant men and women described to us how they have been forced to work well in excess of eight hours a day, with no overtime pay or day of rest. They also noted how employers reduced their monthly wages by acting unilaterally and illegally when they imposed salary deductions to pay expenses that under Saudi government regulations are their own financial responsibilities.

Employers have also denied official residency permits to their workers, or delayed providing these documents. This practice places migrants at risk of arrest and rules out medical treatment at hospitals because the workers are unable to document their legal status. Employers also have denied annual vacation leave, or provided it only belatedly or partially, under conditions that were wholly illegal. In cases of legal termination of employment contracts or dismissal, employers have used various methods to withhold the accumulated unpaid wages and benefits due to their employees. We have documented that these methods have included threats, intimidation, and outright deception.

Migrants who work in agriculture and domestic service are among the most vulnerable to labor exploitation because the only legal rights they enjoy are those specified in their contracts of employment. As noted above, these workers are excluded from the protections of the kingdom's labor law.

Official Documents: Consequences of Illegal Employer Practices

Passports are not acceptable forms of identification in Saudi Arabia for citizens or foreign residents.⁸⁶ The government-issued residency permit (*iqama*) is the identification document that all foreign workers in the kingdom are required to use instead of a passport, and it must be carried at all times. The importance of the *iqama* cannot be underestimated. Without the document, foreign workers have no freedom of movement,

⁸⁵ Article 84(1) to article 84(6).

⁸⁶ The interior minister reiterated in 2003 that the civil status card for citizens and the *iqama* for non-citizens were the only documents with validity for identification purposes. Raid Qusti, "Saudi Passports Not a Means of Identification," *Arab News*, December 22, 2003.

are subject to arrest at any time, and cannot be admitted to hospitals for medical treatment.

Residency permits are issued after workers arrive in the kingdom with valid employment entry visas obtained from Saudi embassies in their home countries. If a worker leaves a job, the *iqama* must be transferred to a new sponsor/employer, or the worker loses his or her legal status. Transfer of sponsorship requires the consent of the sponsor of first instance and the proposed new sponsor. In some cases, the original sponsor will demand a sum of money from the employee as the price of agreeing to the transfer.⁸⁷

In September 1997, Saudi Arabia's council of ministers ruled that government fees for residency permits and visas of foreign workers were the financial responsibility of private companies and individual employers.⁸⁸ In 2001, the kingdom's labor ministry confirmed these regulations, and indicated that foreign workers could seek refunds for fees illegally charged since the 1997 directive was issued. The ministry's legal affairs department advised workers "to file their complaints in any of the thirty-seven offices of the Labor Disputes Department in the Kingdom."⁸⁹ In 2002, the Saudi daily *Arab News* reported that none of the workers it contacted had received reimbursements for illegally charged fees, and employers continued to defy the law, including firms "that supply manpower to the prestigious Saudi Arabian Oil Company and many other government departments." The newspaper maintained that "almost all" of the kingdom's maintenance and cleaning companies illegally charged workers for the fees. "[I]t is the usual story," *Arab News* noted. "The Saudi authorities issue a clear directive, and almost nobody bothers to implement it."⁹⁰

Human Rights Watch's research confirmed that enforcement of this regulation remains a major problem. Saudi sponsors and employers continue to illegally charge workers for the cost of residency and work permits. For example, two days after Najeeb, an Indian barber, arrived legally in Jeddah, his sponsor informed him that he owed 2,000 riyals – about \$533 – for the cost of his *iqama*. This amount was more than Najeeb's promised

⁸⁷ It was reported in March 2004 that Saudi Arabia's labor minister, Dr. Ali al-Namlah, imposed strict new conditions under which foreign workers' sponsorship could be transferred, limiting such transfers to technically qualified workers in the private sector. According to one report, the minister "explained that the decision had been made in order to prevent misuse of the sponsorship law which allows sponsors to make money at the expense of unemployed Saudi citizens." See Saeed Haider, "Stoppage of Sponsorship Transfer Jolts Job Market," *Arab News*, March 2, 2004. As of this writing, there continued to be confusion about the implementation about new rules designed to replace foreign workers with unemployed Saudi citizens. One labor ministry official who spoke to the press on the condition of anonymity affirmed that businesses with ten or less workers could no longer obtain labor visas. Some small businessmen objected strenuously. "I can't afford a Saudi worker who will expect not less that 2,000 [riyals] whereas I pay an Indian or Bangladeshi not more than 700 [riyals]," the owner of an electrical workshop was quoted as saying. Saeed Haider, "Labor Visas Stopped Again in Dammam," *Arab News*, April 30, 2004.

⁸⁸ Council of Ministers Resolution No. 91, 1418 H.

⁸⁹ Philippines Department of Foreign Affairs, "Saudi Employers to Pay for Workers' Visa, Iqama Fees," Press Release No. 62-01, May 11, 2001, www.dfa.gov.ph/news/pr/pr2001/may/pr62.htm (retrieved February 2, 2004).

⁹⁰ Saeed Haider, "Expatriates continue to hope against hope," *Arab News*, April 13, 2002.

monthly salary of 1,500 riyals.⁹¹ Some workers – particularly women domestics who were locked into their places of employment and denied freedom of movement – reported to us that they never received an *iqama*, while others were forced to wait for the document for months. We also found cases in which sponsors charged workers for the cost of employment visas. This meant the migrants paid twice for their visas – the first time to recruiters in their home countries and the second time to Saudi employers.

Abdul Manaf, a forty-five-year-old Indian barber who supports his wife and three children, worked in the kingdom for two years and returned home in 2003, heavily in debt. He earned only about thirty dollars a week because his employer illegally subtracted fees from his salary.

Abdul Manaf told Human Rights Watch that he paid 70,000 rupees – about \$1,543, all of it borrowed – to a local agency to secure the visa and other documents he needed to travel legally to the kingdom to work as a barber. He had no written contract. When he arrived in Riyadh in September 2001, he learned that a condition of employment was the payment of 2,000 riyals to his Saudi sponsor, who also retained his passport. Abdul Manaf's job was not in the capital but in a barber shop in Dammam, on the kingdom's east coast. He told Human Rights Watch that his monthly salary was 700 riyals, about \$187. He added that for the first ten months of his employment, the owner of the shop (who was not his sponsor) subtracted 200 riyals from his salary as reimbursement for the cost of his employment visa.⁹²

According to Abdul Manaf, he worked seven days a week, from eight in the morning until eleven at night, with a daily four-hour lunch break from noon until four in the afternoon. He said that he was promised free accommodations, and that this consisted of a small room at the back of the shop that he shared with another worker. The employer summarily dismissed Abdul Manaf on September 13, 2003 because another barber had just returned from a pre-approved two-year leave. Abdul Manaf was paid his last month's salary and an extra 300 riyals, handed a one-way ticket to India, and informed that his passport would be returned to him at the airport. There was no opportunity for him to appeal to his legal sponsor for transfer of his *iqama* if he could find another job. The owner insisted that Abdul Manaf take advantage of the free ticket and leave the kingdom immediately.

“If I knew that the job was only for two years, I never would have borrowed the money to go there,” Abdul Manaf remarked. He had earned only 15,150 riyals, from which he had to pay 4,000 riyals in illegal “fees” to his sponsor and the shop owner. This reduced his total earnings to 11,150 riyals, or about thirty dollars a week over the term of his

⁹¹ Najeeb also paid a manpower agent in India 45,000 rupees (\$995) for his employment visa to Saudi Arabia. Human Rights Watch interview, Nagarikunnu, Kerala, India, November 28, 2003.

⁹² The total “deduction” equaled the 2,000 riyals that the barber shop owner paid to the Saudi sponsor, who also collected 2,000 riyals on the worker's arrival in the kingdom. This worker was thus illegally charged 4,000 riyals, or almost six months' salary, for the privilege of his legal status and job.

employment. Abdul Manaf's severance pay of 300 riyals, or eighty dollars, did little to assuage his belief that he was subjected to dishonest and unfair treatment. At the time of his interview, he still owed all of the 70,000 rupees he had borrowed to obtain his job in Saudi Arabia, and told us that he had no prospects for repaying this large sum any time soon.⁹³

Saudi employers obtain substantial financial benefit when they engage in illegal practices with respect to their foreign employees' official documents, as the example of a large bakery in Mecca demonstrates. Abdul Ghafour, a thirty-year-old Indian who was employed at the bakery from August 1997 until March 2003, told Human Rights Watch that the owner required all of the workers to pay him for their *iqama* and visa fees. For the workers, the two-year *iqama* fee of 1,500 riyals was greater than their average monthly salaries, Abdul Ghafour said. The owner, on the other hand, realized a savings of 75,000 riyals -- approximately \$20,000 -- over two years by shifting this cost of business to his fifty foreign employees. According to Abdul Ghafour, the bakery owner charged his workers 2,000 riyals, about \$533, for their employment visas, deducting a portion of the amount from their wages every month Abdul Ghafour told us that the bakery workers knew that the owner was engaged in illegal practices, but they never considered complaining to Saudi authorities because "we were afraid we would be sent back."⁹⁴

Fear of Arrest and Deportation

Sponsors and employers who ignore the kingdom's residency permit requirements place migrant workers at risk of arrest, deportation, and financial loss. Carlos, a forty-four-year-old heavy equipment driver from the Philippines, worked from January 1999 to September 2002 for a maintenance company that he said employed thousands of foreign workers as street sweepers and garbage collectors.⁹⁵ He told us that the company, located in Taef, did not promptly provide workers with residency permits and that he waited one year before receiving his. Carlos emphasized how risky it was to be on the streets without an *iqama*, and reported that some of his colleagues, mostly Bangladeshis and Pakistanis, were arrested and imprisoned for one or two months because they could not produce the documents when stopped by police. He noted that the company's workers were particularly conspicuous because they lived in isolated barracks and the nearest town was an hour away.⁹⁶

Another example is the case of Moshior, a forty-two-year-old villager from Bangladesh, who told us that he was happily employed for nine years as a maintenance worker at a hospital in Tayef. He said that he received his monthly salary of 400 riyals on time and

⁹³ Human Rights Watch interview, Nagarikunnu, Kerala, India, November 28, 2003.

⁹⁴ Human Rights Watch interview, Calicut, Kerala, India, December 5, 2003.

⁹⁵ He was paid 1,200 riyals per month to operate a state-of-the-art computerized International Harvester sanitation truck. Manual street sweepers and garbage collectors, mostly Bangladeshis and Pakistanis, were paid 350 riyals monthly, while Pakistani truck drivers earned 750 riyals.

⁹⁶ Human Rights Watch interview, Quezon City, Philippines, December 9, 2003.

his accommodations were good. His problems began when the hospital closed in 2002 and the sponsor advised him and the other workers to search for new jobs. Moshior managed to find employment with another sponsor two weeks later, working as a cleaner in the man's home, with free accommodation and food. The salary was lower, only 350 riyals a month, but Moshior took the job and started work immediately. He brought with him 6,000 riyals that the hospital gave him as end-of-service benefits and severance pay, and was planning to send the money to his family at the earliest opportunity.

On his third day at the new job, Moshior visited a market to purchase some clothing. Police stopped him and demanded his *iqama*. "One of the policemen told me that he knew the hospital was closed and my *iqama* was invalid," Moshior said. He was arrested, spent the night in a local police station, and was moved to a prison the next day. Moshior explained his situation and asked authorities to contact his new sponsor, hoping that this would resolve the matter. But the sponsor wanted no involvement in the case – "he totally refused me," was the way Moshior put it.

Without a legal sponsor to vouch for him, Moshior languished in a deportation jail for two months until two representatives from the Bangladeshi embassy visited, took his photograph, and verified his identity and home address. The next day, police accompanied Moshior to the airport and gave him a paper with his photograph that allowed him to exit the kingdom.

The sponsor in Tayef never returned the 6,000 riyals that Moshior brought to his house. This money – about \$1,600 -- represented accumulated benefits of nine years of work and was a devastating financial loss for Moshior, who supports his wife and four children, ages six to fifteen years old. "I tried to communicate with the sponsor, but he refused me that money," Moshior said. "Many people return from Saudi Arabia with bad experiences. Some of them go back again and some do not."⁹⁷

No Access to Medical Care

Migrant workers in need of medical treatment have been shut out of Saudi Arabia's health care system because employers did not provide them with residency permits. Forty-year-old Mohamed, who is from a rural village in Bangladesh and supports his wife and three children, told us that he became ill as a result of the living conditions that his employer forced him to endure. The employer denied Mohamed medical care and insisted that he continue to work. Because Mohamed did not have a residency permit, he was unable to seek and obtain medical treatment independently of his employer.

Mohamed told us that he arrived in the kingdom in April 2002 to work as a family driver in Riyadh.⁹⁸ He was housed in a room with no air-conditioning that was infested with

⁹⁷ Human Rights Watch interview, Ropusdi, Brahmanbaria, Bangladesh, May 9, 2003.

⁹⁸ This job, in domestic service, excluded Mohamed from the protections of Saudi Arabia's labor law.

insects. He said that it was impossible to sleep, and he suffered bites on both legs that eventually ulcerated. Mohamed said that he pleaded with his employer to bring him to a doctor or hospital for treatment, but the employer refused. "I cried, but he did not help me. I also tried to communicate with other Bangladeshis, but he never allowed time for me to see anyone else," he said. Mohamed finally decided that his treatment was intolerable and asked his employer to let him go home to Bangladesh. The employer, who held his passport, turned down the request.

It was only after Mohamed became too ill to work that the employer agreed to his repatriation, although he refused to pay him any wages. He had no recourse but to go to the airport, where his employer returned his passport and gave him a ticket. In addition to the uncompensated salary for two months and eighteen days of work, which totaled about \$400, Mohamed was unable to recover the 10,000 taka (\$1,897) that he paid to a manpower agency in Dhaka to secure his job and employment visa. "Some of my neighbors in the village tried to help me get back the money but nothing worked. The agency told me it was my bad luck," he said.⁹⁹

In another recent case, Abdel Karim, a forty-two-year-old Indian who is the father of five children, was brutally beaten at his Saudi employer's work site in June 2003. Police transported him to a hospital, where he slipped into a coma. After Abdel Karim's medical condition improved and he left the hospital, his Saudi sponsor assumed no responsibility for him. Abdel Karim could not obtain medical treatment in the kingdom independently because the sponsor did not provide him with a residency permit.

Abdel Karim told us that he arrived in Saudi Arabia on May 15, 2003, with a visa for employment as a maintenance worker at construction sites in al-Kharj. He was told that his monthly salary was 800 riyals (\$213). He pledged his small plot of land as collateral on a bank loan of 90,000 rupees (\$1,998), and paid this amount to the Indian travel agent who provided his visa.

Abdel Karim said that he realized he was in an exploitative situation from his first day on the job. He was assigned to masonry and concrete work on a five-story building. His coworkers were two other Indians who, like him, were from villages in Kerala state; their supervisor was an Indian from Tamil Nadu. According to Abdel Karim, the men worked twelve-hour shifts, with no days off. They never met the Saudi sponsor whose name was on their visas. They worked for Khalid, who was identified as the sponsor's brother.

Three weeks after Abdel Karim arrived, his two disgruntled Indian colleagues – who had been working at the construction site for three months -- told him that they planned to "escape" that night. "I wanted to go with them, but I had no money because I had not

⁹⁹ Human Rights Watch interview, Ghagradi, Nawabgonj, Bangladesh, April 24, 2003.

yet been paid,” Abdel Karim said. The next day, after the men were gone, Abdel Karim reported their absence to Khalid’s office.

A few days later, Abdel Karim went to sleep as usual at 11:00 p.m. on the ground floor of the construction site. He told us that he was awakened in the dark by two persons he vaguely saw approaching him. He said that they attacked him, beating him brutally on the head, back, and back of his neck with what he sensed were objects from the construction site. They said nothing and he lost consciousness quickly. Abdel Karim said that voices coming from the second floor of the building eventually roused him, and he realized that his forehead was bleeding. He managed to walk to a nearby house and ask for help. “They called the police, who came and took me. I remember the police lifting me into a vehicle. I woke up three days later, in a government hospital,” he reported.

Abdel Karim said that he learned from the hospital staff that the police had him admitted and that his “surrogate” sponsor Khalid came once while he was unconscious. Abdel Karim was in the hospital for twelve days but never saw Khalid again. On the day of his discharge, the hospital called the police because he did not have a residence card, his passport was with his employer, and his sponsor was nowhere to be found.

The police brought Abdel Karim to their headquarters, where he was released into the custody of a Saudi who identified himself as a friend of the sponsor. The man brought Abdel Karim to the apartment of a Bengali and instructed him to take Abdel Karim to the apartment of Hakim, an Indian from Kerala who worked for the sponsor.

Abdel Karim stayed with Hakim for one month, suffering severe head pain, growing weakness in his left eye, and problems of mobility with his left leg. He also needed to have his surgical stitches removed, but the government hospital refused to treat him because he did not have an *iqama*. He told Human Rights Watch that private hospitals turned him away because he had no document to prove his legal status in the kingdom.

Abdel Karim said that he was surprised that the police showed no interest in investigating the attack, other than asking him once if he knew who the perpetrators were. But he was most distressed because his sponsor clearly wanted no involvement with him whatsoever. “I kept asking Hakim to have the sponsor come and help me, but he never did,” Abdel Karim said. At one point, Hakim brought him to the police station, where an officer asked what he wanted: “I said I needed medical treatment in Saudi Arabia and he said that was not possible. So I told him I wanted to go home.”

On July 15, 2003, Hakim returned Abdel Karim’s passport, provided a ticket to India, and drove him to the airport in Riyadh. Abdel Karim was not paid for the twenty-one days that he worked. At the time of his interview with Human Rights Watch, he said he was losing strength in both of his arms and hands, his left leg was weak, and the sight in his left eye was failing rapidly. He was unable to work, and could not pay the 2,000

rupees he owed every month for the loan he obtained to purchase his visa to Saudi Arabia.¹⁰⁰

Long Working Hours without Overtime Pay

The kingdom's labor law includes specific standards for daily work and rest,¹⁰¹ and has clear provisions for overtime pay.¹⁰² In violation of the law, employers have forced migrant men and women to work well in excess of eight hours a day and forty-eight hours a week, without payment of overtime wages.

For example, none of the foreign workers at a large hotel in Dhahran received overtime pay that their contracts provided for, and many worked more than the stipulated hours, according to Romeo, a twenty-seven-year-old electrical engineer from the Philippines who worked at the hotel from February 2001 to February 2003. He also told us that the hotel workers were forced to pay the company 1,500 riyals for their two-year residency permits, an illegal practice under Saudi law. The hotel's fifteen Filipino workers submitted a written complaint to the government labor office about these practices, but decided against pursuing the case for fear of losing their jobs. "The manager of the hotel met with us and threatened to send us home," Romeo said.¹⁰³

Ibrahim, a forty-year-old migrant worker from India, told us that he worked for two years as a truck driver for a dairy company in Taef, logging long hours without overtime pay. His job was to transport the company's products from Taef to Tabuk, near the Jordanian border. He said that the drive, about 1,000 kilometers, took twenty-four hours. After the truck was unloaded, the company required him to return to Taef within twenty-four hours or his salary was reduced by 100 riyals (about \$27), ten percent of his fixed monthly earnings. "The milk had to arrive at eight in the morning, and I had to break the speed limits to make the schedule," he told Human Rights Watch. He said that he was frequently cited with speeding tickets and was responsible for paying these fines. The delivery timetable allowed virtually no time for sleep; he took short breaks from driving, using an alarm clock to take naps of thirty minutes to an hour during the long hauls but sometimes he fell asleep at the wheel. This was his routine six days per week. The company employed about fifty drivers -- Filipinos and Indonesians, in addition to Indians -- with ten of them assigned to the long-distance routes. Ibrahim said

¹⁰⁰ Human Rights Watch interview, Cheekode village, Ponnad, Kerala, India, December 3, 2003.

¹⁰¹ Article 148 of the labor law states: "Working hours shall be scheduled that no workman shall work more than five consecutive hours without an interval of rest, prayer and meals, which shall not be less than half an hour each time, or one and a half hours during the total working hours, and that the workman shall not remain in the place of work more than eleven hours in any one day. In the case of factories where work is performed in successive shifts day and night, the Minister [of Labor] shall by decision regulate the manner for granting workmen time intervals for rest, prayer and meals." Permissible exceptions to this general standard are outlined in article 150 of the law.

¹⁰² Article 151 of the labor law states: "The employer shall pay the workman for additional work hours an additional wage equivalent to the workman's normal wage plus fifty percent (50%). Where the work is performed on the weekly day of rest or on feast days or official holiday, the employer shall pay the workman additional wages for the regular or additional work hours."

¹⁰³ Human Rights Watch interview, Quezon City, Philippines, December 9, 2003. See Chapter V for information about the government's official process for dealing with labor grievances.

that most of the drivers left after one year because the working conditions were too onerous.

In 2002, after two years at the company, Ibrahim requested a second driver on his route. The company refused the request and fired him. He was also presented with a bill for 100,000 riyals that the company said represented losses incurred when Ibrahim's deliveries arrived late. The bill, Ibrahim said, was to protect the company in the event that he filed an official complaint with Saudi labor authorities. He pointed out that his contract specified a monthly salary of 1,500 riyals but he was paid only 1,000 riyals. The company returned Ibrahim's passport and provided him with a return ticket to India.¹⁰⁴

Skilled women workers from the Philippines -- who cut and sewed custom-tailored women's dresses and gowns at a specialty shop in Medina -- told Human Rights Watch that they were forced to work eleven and twelve hours a day. Maya, an experienced seamstress, started working at the shop in 1998. She said that the manpower agency in Manila that placed her provided a bogus two-year domestic worker contract, with a monthly salary of \$200, although she said it was understood that she would work as a seamstress at a slightly higher salary.¹⁰⁵ Maya told us that she was paid a monthly salary of 850 riyals, or about \$227.

She said that she worked eleven hours a day: from nine in the morning until one in the afternoon, and then from four in the afternoon until eleven at night. "We worked as hard as caribou," she remarked. She added that the women workers were paid if they were required to work on Fridays, the designated day off, and received some overtime if they worked longer than twelve hours daily. They were not charged for their modest accommodations on the top floor of the building in which the shop was located, but they were responsible for their own food and medical expenses.

Maya remained at the job for three and a half years, without a paid vacation, until the employer finally agreed to purchase a ticket for her to visit the Philippines. She returned to Saudi Arabia on April 19, 2002, again on a visa as a domestic helper with a two-year contract. When she arrived, she said that the managers of the shop forced her to sign a piece of paper specifying that she agreed to assume the full cost of her roundtrip airfare if she did not complete three years of employment. "The managers said that I must sign it, that the contract from the Philippines was not valid," she explained. Although her monthly salary was raised to 1,250 riyals, or \$333, overtime wages were no longer paid:

There was no overtime at all. We had to work every Friday from four in the afternoon until eleven at night, without extra pay. April to August was always the busiest time. If we did not finish a gown by the time the

¹⁰⁴ Human Rights Watch interview, Calicut, Kerala, India, December 4, 2003.

¹⁰⁵ The salaries of such contracts prepared in the Philippines are typically described in U.S. dollars.

shop closed, we had to take it to our rooms and finish it there, by hand, plus they deducted money from our salary.¹⁰⁶

Maya chafed under the exploitative conditions but pointed out that she had no options. “Where could I go to for help?” she asked Human Rights Watch. “We were locked in, I did not have an *iqama*, and the Philippines consulate was in Jeddah. I did not even have a telephone number for the consulate. All of us wanted to go home but we were afraid.”

Maya finally took unilateral action on August 27, 2003, when Reem, the Egyptian woman who managed the shop with her husband, found and confiscated one of her two cell phones. “I stopped working to protest. After three days, she demanded to know why I had a cell phone and where the SIM card was. For two months, I stayed in my room and refused to work.” Maya spent her time cooking for her coworkers and enduring verbal abuse from Reem, her son, and one of her daughters. The managers would not release Maya – and obtain the exit visa needed to leave the kingdom -- unless she paid them 3,200 riyals from her salary for her roundtrip airfare, pursuant to the contract that she was forced to sign. Seeing no other alternatives, and without income during her work stoppage, Maya relented, paid for the ticket, and flew home on October 5, 2003.¹⁰⁷

In a separate interview, Maya’s former colleague Maria, a fifty-seven-year-old divorced Filipina with three children, described her treatment as the shop’s master cutter from 1990 to 2000. Her starting salary of \$250 a month was gradually raised and by the time she left, she earned \$700 monthly, although she said that her wages were rarely paid in full and on time. “My contract was for eight hours but I worked twelve hours a day,” she also noted. “Sometimes I had to work through the night, until six or seven in the morning,” Maria said.¹⁰⁸

Unpaid Salaries

Throughout this report, we document the low salaries that skilled and unskilled migrant workers are paid in Saudi Arabia. In view of these prevailing wages, it is unconscionable that some employers withhold salaries and force workers to leave the kingdom without full reimbursement of their earned wages. The conditions of departure for some migrant workers – including official deportation -- afford them no opportunity to lodge complaints against their employers and seek remedy in Saudi Arabia for unpaid salaries and other benefits that they are owed.¹⁰⁹

¹⁰⁶ Under the former system, the women were paid an additional thirty riyals if they worked later than eleven o’clock at night to finish a dress.

¹⁰⁷ Human Rights Watch interview, Quezon City, Philippines, December 18, 2003.

¹⁰⁸ Human Rights Watch interview, Quezon City, Philippines, December 21, 2003.

¹⁰⁹ See Chapter VI for information about the deportation of migrant workers with labor grievances against their employers.

Women workers who live in forced confinement and almost total isolation are particularly vulnerable to this abuse. Edna, a thirty-year-old married woman from the Philippines who has two children, returned from Saudi Arabia in December 2003 after completing a two-year contract as a domestic worker with a Saudi family in Dammam. She told us that she was forced to leave the kingdom although her employers owed her \$1,308 -- a sum that included \$640 in unpaid wages.

“I did nothing except work for them,” Edna said, describing days that started at five in the morning and ended after midnight. After her household duties were completed, she was often ordered to provide lengthy massages to her female employer and one of the woman’s daughters. Edna said the massages became a nightly routine, “even if I was tired or sick.” She said that she was fed only once or twice a day, and sometimes was hungry because she did not have enough to eat. Edna never had a day off and never received a vacation or vacation pay. Her employers saved money because they never provided Edna with a residency permit; when we asked Edna about her *iqama*, she had no knowledge about this document or her right to it under Saudi law. (Information about Edna’s forced confinement during her two years in the kingdom is included in Chapter 3.)

Edna’s monthly salary was 600 riyals (\$160), but she told us that she was not paid for five months of work in 2003: January, March, August, September, and November.¹¹⁰ “Three times my madam asked me to sign her ledger that I was paid for these months, but I refused each time. Finally, I had no choice and had to sign it,” she told us. According to Edna, her employer also borrowed money from her, in small amounts over months that grew to a total of 2,508 riyals (\$668) by the end of two years of employment. (Edna showed us the piece of paper on which she had neatly recorded each amount that her employer borrowed.)

At the completion of her contract, Edna assumed that she would be paid all the money that was owed to her. Her employer’s husband drove her to the airport for the flight to Manila, and handed her only 600 riyals. Edna was astonished: “I told him that I had fulfilled my contract, and asked about the remaining four months of salary and the 2,508 riyals that his wife had borrowed from me.” He was not responsive, other than to inform Edna that they had deducted 1,300 riyals toward her return ticket, which is illegal.¹¹¹ Intimidated, and having no options at the airport, Edna explained that all she could do was leave.¹¹²

Even in cases where government labor office adjudicators have ruled in favor of a migrant worker’s unpaid salary claim, some employers use deception and threats at the

¹¹⁰ Pursuant to the “fly now, pay later” terms of some manpower agencies in the Philippines, Edna did not pay in advance for her employment visa to Saudi Arabia. Instead, the first two months of her wages were remitted to the agency and she began to receive her salary after her third month of employment.

¹¹¹ Saudi employers are responsible for the cost of a worker’s transportation to and from the kingdom.

¹¹² Human Rights Watch interview, Quezon City, Philippines, December 21, 2003.

airport to force workers to leave the kingdom without their earned wages. Emran, a twenty-four-year-old from Bangladesh, traveled to Saudi Arabia in 1996 when he was a teenager with a false date of birth on his passport that indicated his age as twenty-two. He worked in Dammam for a company that owned five butcher shops. In late 2001, the owners closed one of the shops, dismissed Emran, and told him to go back to Bangladesh. Emran said that at this point the company owed him six months of unpaid salary, some of it in arrears for several years. In January 2002, he filed a complaint at the local labor office, demanding his salary, end-of-service benefits, and “release” from the company so that he could stay in the kingdom and seek work with another employer.¹¹³

Emran told Human Rights Watch that the labor office ordered the company to pay him 4,000 riyals -- about \$1,067 -- and provide a return ticket to Bangladesh, but denied his request for permission to remain in the kingdom. Company representatives arranged a ticket for Emran and told him he would receive his money at the airport. On February 3, 2002, a company representative traveled with Emran to the airport and handed him over to another company employee. “He gave me my passport, ticket and only 930 riyals (\$248),” he told us. “When I asked for the rest of the money, he said that if I spoke another word he would hand me over to the police.” Terrified, Emran took the threat seriously and departed the kingdom without the wages due to him.¹¹⁴

Some migrant workers who are owed months of unpaid salaries are faced with the difficult decision of remaining in the kingdom and continuing to work without pay, or cutting their losses and leaving. Employers influence these decisions with the lure of a final exit visa and paid transportation to the workers’ home countries.

Abdul Jabbar, a thirty-seven-year-old Indian worker, faced this situation in 2003. He told Human Rights Watch that he arrived legally in the kingdom in 1999, after securing an employment visa as a driver from a travel agency in Calicut. He paid the agency 80,000 rupees (\$1,767) and was assured a monthly salary of 1,200 riyals (\$320), although he had no written contract. When Abdul Jabbar reached Ha’il and met his Saudi sponsor -- who owned four gift shops and employed seven other foreign workers from India, Egypt, and the Philippines -- he was informed that his monthly salary, as a salesman and delivery driver at one of the shops, was only 500 riyals (\$133). “I questioned this salary, but the sponsor said he knew nothing about promises made to me in India and refused to pay me anything more. I asked him to send me back to India but he already had my passport so I was forced to work for him,” Abdul Jabbar said.

¹¹³ “Release” comes in the form of a No Objection Certificate from the employer. It is a short document that certifies the name of the employee, his or her nationality, job title and dates of employment. One NOC that Human Rights Watch saw had this typical concluding language: “During his/her service, we found his/her performance to be satisfactory and we do not have any objection if s/he wished to return to Saudi Arabia to work with another employer. This certificate is issued upon completion of his/her job without any responsibility whatsoever on the part of the company.” If an employer terminates a worker’s contract, the worker does not need a NOC. But if the employer wishes the worker to renew the contract and the worker declines, the employer can deny a NOC and prevent the worker from obtaining new employment in the kingdom for a period of one year.

¹¹⁴ Human Rights Watch interview, Ghagradi, Nawabgonj, Bangladesh, April 24, 2003.

His typical working hours were from six in the morning until two o'clock the next morning, with occasional breaks from noon until four in the afternoon. Late-night work was part of the daily routine: "The shop closed at 11 p.m., and I spent the remaining three hours at my sponsor's house, assembling and packing gifts." After six months, Abdul Jabbar said his salary was increased to 600 riyals; it was raised again at the end of one year to 800 riyals and at the end of two years to 1,000 riyals. But he told us that these increases meant little in practical terms because the employer never paid any of the workers on time and owed the workers thousands of riyals. The workers also were not granted vacations or vacation pay. Abdul Jabbar said that he considered filing a complaint at the labor office but decided against it when he heard that his sponsor "had influence" there.

In 2002, desperate to go home, Abdul Jabbar arranged for a friend in India to send him a telegram that his wife was seriously ill but "the sponsor refused to let me go back to India," he said. He finally sought help from the sponsor's mother, with whom he had developed a good relationship. She convinced her son to grant Abdul Jabbar a six-month leave, enabling him to depart the kingdom legally.

He returned to India in October 2003, at the financial sacrifice of 8,300 riyals (about \$2,200) in accumulated unpaid salary. Back in his native village, Abdul Jabbar told Human Rights Watch that he was working as a driver, supporting his wife and two daughters, three and eight years old. He said that he still owed 13,000 rupees (\$287) on the loan that he obtained in 1999 to pay the fees for the employment visa to Saudi Arabia. The lender also held eight grams of gold that he deposited to secure the loan. "I would never go back, even if the visa was free," Abdul Jabbar said. "I suffered too much."¹¹⁵

Denial of Paid Vacation Leave

Denial of paid vacation leave is another employer abuse that affects workers in large companies and small businesses in the kingdom. As noted above, workers covered under the labor law are entitled to fifteen days of paid vacation per year beginning with their second year of employment.¹¹⁶ Carlos, the driver who worked on a three-year contract for a maintenance company in Taef, reported that the company denied his request for a vacation at the end of his three years of employment. He told us that he wanted to return home to the Philippines and the only way he could depart the kingdom legally was to resign from his job. "It took them two months to accept my resignation, so I actually worked for three years and six months without a paid leave," he said.¹¹⁷

¹¹⁵ Human Rights Watch interview, Calicut, Kerala, India, December 4, 2003.

¹¹⁶ Article 153.

¹¹⁷ Human Rights Watch interview, Quezon City, Philippines, December 9, 2003.

Maria, also from the Philippines, worked as a master cutter at a women's dress shop in Mecca from 1990 until 2000. She told us that she was not permitted to return home for paid vacation after she completed her first two years of employment, as specified in her contract. As she continued at the job, she was allowed unpaid vacation leave, although she said that her employer provided a roundtrip ticket. When Maria returned to the Philippines for a three-month leave in 1998, she said that her employer demanded \$600 when she came back to work. The employer told her that the money was to cover what was described as processing fees for re-entry to the kingdom. "I did not complain because I did not want trouble," Maria said.¹¹⁸

Summary Dismissals

Some employers have engaged the services of migrant workers for short periods of time and then dismissed them summarily when they were no longer needed, in breach of contractual obligations. Workers covered by the labor law are theoretically protected from such a practice,¹¹⁹ although in the absence of *de facto* protection some workers respond by searching for jobs in the underground economy, which in many cases leads to their arrest and deportation as persons without legal status in the kingdom. For migrants who paid large sums of money in their home countries to obtain legal employment in Saudi Arabia, the financial consequences of abrupt dismissals, unrelated to their own work performance, are considerable. Agricultural and domestic workers in Saudi Arabia, who have no legal protections under the labor law, are particularly vulnerable to summary dismissals.

For example, Bachu, a twenty-six-year-old farmer from Bangladesh, was let go by his sponsor after only seven months of work, which led eventually to Bachu's imprisonment and deportation. Bachu told Human Rights Watch that he obtained a legal visa to Saudi Arabia to work on a date palm farm in a village near Dammam, where some of his relatives lived.¹²⁰ His contract provided a monthly salary of 500 riyals (about \$133) with overtime pay of four riyals an hour for work beyond his regular twelve-hour shift, which he told us included a two-hour lunch break.

Bachu arrived in the kingdom in March 2002 and met his Saudi sponsor, who instructed him to cut and clear the farm's dead and damaged palms. He told Human Rights Watch that he worked diligently at his assigned task, logging twelve to fourteen hours each day. Although his contract provided free accommodations, food was a personal expense. The nearest market was five kilometers away, and Bachu told us that his sponsor became angry when he learned that Bachu traveled to the market to purchase food during working hours. When Bachu asked the sponsor for his overtime pay, he said that the sponsor pointed out the time that was lost when Bachu visited the market. The sponsor

¹¹⁸ Human Rights Watch interview, Quezon City, Philippines, December 21, 2003.

¹¹⁹ See Article 84 of the law, cited at the beginning of this chapter.

¹²⁰ He said that he paid 138,000 taka to a manpower company in Dhaka for the cost of the visa, passport, and medical examination. He financed this expense by selling all of his land, including his house, and borrowing 50,000 taka at high interest.

then threatened him, saying that if Bachu insisted on pressing for overtime, the sponsor would not only refuse such pay but also deduct money from his regular monthly salary for his trips to the market. Bachu said he never requested overtime again, although he continued to work the same long days.

Bachu told Human Rights Watch that he completed his assigned work after only seven months. He said that his sponsor informed him that he was out of a job:

He told me to go back to Bangladesh. It was very tragic news for me. I explained that I took a huge loan before coming to Saudi and if I went back home I would have to commit suicide. He did not listen to anything I said, and one day he took my *iqama* by force. I stayed at home without any work. I cried and requested that he give me back my *iqama* and give me a release.¹²¹ He did not want to give me anything. With the help of other Saudi people, I asked him again and again, and he [finally] gave me the *iqama* only.

Bachu said that he stayed in the village for a few days and then left without informing anyone. He visited his relatives in Dammam, who suggested that he look for another job there. According to Bachu, one day policemen approached him on the street and asked for his *iqama*. They asked him why he was in Dammam because his *iqama* indicated that his workplace was Zahuri. Bachu told us that he replied that he was visiting his relatives and was planning to return soon to the village.

His story continued:

They did not listen to me, put me in a police car and took me to al-Hasa jail. I was in the jail for seven days. During that time, the police communicated with my sponsor and he came to the police station. He told the police that he had no agricultural work and that was why he wanted to give me a ticket to go back to Bangladesh but I left the workplace without informing anyone.

The police brought Bachu to a court a week later. There, he said he was informed that unless he purchased his own return ticket to Bangladesh he would be sentenced to a year in prison. He was moved to another jail, where his cousin visited him. Bachu by this time was “very sick. I was unable to talk...There was no medicine or treatment inside the jail. I could not eat, only one bread in the morning just to survive, so I was also very weak. The situation in the jail was very bad – three hundred to four hundred people sleeping in a big room, a bad smell coming out of the toilet, no place to bathe.”

¹²¹ Migrant workers in such situations may ask sponsors for a “release,” or consent to look for another job and have their residency permit legally transferred to the new employer.

To address Bachu's predicament, his cousin gave 800 riyals to the prison authorities for a ticket to Bangladesh. Bachu spent seven days in the second jail, and then flew home. When he arrived in Dhaka he was unable to walk and required the assistance of airport personnel. The agency that placed him in the job helped send him back to his village.

Bachu's total earnings for seven months of hard work in Saudi Arabia amounted to a little over \$900. He had sold his land and house, and also assumed a high-interest loan of \$875 to pay fees to the manpower recruiting company in Bangladesh that placed him in the job. The early termination of his contract left him with the considerable financial burden of repaying the loan.¹²² Workers covered under the labor law – agricultural laborers are not – are entitled to advance notice, a termination award or an indemnity payment from employers if a contract is cancelled.¹²³

Legal Obligations of the Government of Saudi Arabia

Saudi Arabia has been a member of the International Labor Organization (ILO) since 1976, and the government has consistently maintained in official communications with the ILO that the Holy Qur'an – the kingdom's constitution -- provides adequate protections for migrant workers.¹²⁴ The government has ratified fifteen ILO conventions,¹²⁵ but only five of the eight conventions that the ILO deems "fundamental" to the enjoyment of basic labor rights and essential for the protection of other rights.¹²⁶ These conventions provide for freedom of association,¹²⁷ the abolition of forced labor in all its forms,¹²⁸ equality,¹²⁹ and the elimination of child labor.¹³⁰ Saudi Arabia is not a party to the minimum age convention and the two conventions that guarantee freedom of association and protection of the right of workers to organize.¹³¹

¹²² Human Rights Watch interview, Balur Char, Shreepur, Munshigonj, Bangladesh, May 16, 2003.

¹²³ Article 83. The article enumerates exceptions to this rule for various violations on the part of workers, such as physical assault, excessive absences without reason, etc.

¹²⁴ In 1994, for example, the Saudi government supplied the following information to the ILO: "The Sharia is the Constitution of the Kingdom whose principles prescribe the establishment of justice and of equality between all persons without discrimination on the grounds of gender, nationality or religion...The Sharia – the Constitution of the Kingdom – is considered to be the supreme law as it is of a divine source and its written principles are expressed in the verses of the Koran and the hadiths (sayings of the Prophet), which proves that the modalities of application of the principle of equality in the private sector are entirely in conformity with the provisions of this Convention [ILO Convention No. 100, Equal Remuneration]." ILCCR, Examination of individual case concerning Convention No. 100, 1994.

¹²⁵ See Appendix A for a list of these conventions.

¹²⁶ The ILO describes these conventions "fundamental to the rights of human beings at work, irrespective of levels of development of individual member states. These rights are a precondition for all the others in that they provide for the necessary implements to strive freely for the improvement of individuals and collective conditions of work."

¹²⁷ Freedom of Association and Protection of the Right to Organize Convention (C.87) and the Right to Organize and Collective Bargaining Convention (C.98).

¹²⁸ Forced Labor Convention (C.29) and the Abolition of Forced Labor Convention (C.105).

¹²⁹ Discrimination (Employment and Occupation) Convention (C.111), and Equal Remuneration Convention (C.100).

¹³⁰ Minimum Age Convention (C.138), and Worst Forms of Child Labor Convention (C.182).

¹³¹ Saudi Arabia is a party to C.29 and C. 107 (forced labor), C. 100 and C.111 (on discrimination), and C. 182 on child labor.

In December 2000, Saudi Arabia signed the U.N. Convention against Transnational Organized Crime, the international treaty that entered into force in September 2003.¹³² Saudi Arabia also signed in December 2002, but has not ratified, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention against Transnational Crime.¹³³

The Legal Obligation to Suppress Forced or Compulsory Labor

This report provides ample evidence that migrant workers – men and women – continue to work under conditions that amount to forced labor. Saudi authorities have legal obligations to address this long-standing problem, particularly on behalf of migrant workers in the lowest-paid jobs who are barred from protection under the labor law, such as domestic servants and agricultural workers. The increasing use of private labor subcontracting companies to supply low-wage foreign workers to public institutions and private enterprises in the kingdom is another area of concern, and the government should design additional measures to ensure that these companies are not engaging in practices of forced labor.

Saudi Arabia is a party to ILO Convention (No. 29) concerning Forced Labor, adopted in 1930, which defines forced or compulsory labor as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”¹³⁴ The convention provides that the competent authority “*shall not impose or permit* the imposition of forced or compulsory labor for the benefit of private individuals, companies or associations.¹³⁵ The convention obligates state parties to “completely suppress” such forced or compulsory labor that benefits the private individuals and other entities.¹³⁶

The Committee on the Application of Conventions and Recommendations (CEACR) of the ILO reported that it has observed for over a decade that the Saudi government is not in compliance with article 25 of the Forced Labor Convention, which stipulates that the use of forced labor must be punished as a criminal offense.¹³⁷ The committee noted the government’s position on this matter:

¹³² As of March 24, 2004, 147 states were signatories to the treaty, and sixty-five countries were state parties to it.

¹³³ This treaty came into force on December 25, 2003. As of March 24, 2004, 117 states signed this treaty, and fifty were parties to it.

¹³⁴ Article 2(1). Exceptions to this definition – such as compulsory military service, ordinary civic obligations, etc. -- are enumerated in articles 2(a) to 2(e).

¹³⁵ Article 4(1). Emphasis added by Human Rights Watch.

¹³⁶ Article 4(2).

¹³⁷ Article 25 states: “The illegal exaction of forced or compulsory labor shall be punishable as a penal offense, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.”

The Government has consistently maintained that forced or compulsory labor would be regarded as a constraint or oppression under the Shari'a and that, if a case was brought to a tribunal, the judge in applying the Shari'a may subject the offender to penalties in the way of fines, jail or other sanctions at the discretion of the judge. In its reports, the Government maintains that this is sufficient to comply with the Convention as the secular law is thereby in conformity with the Convention.¹³⁸

The committee did not accept the government's argument and stressed the need for a specific law:

Article 25 requires that a member State have a specific law which both describes the exaction of forced labor which is forbidden and also prescribes a penalty for its exaction. The broad and non-specific application of the Shari'a, coupled with a possible judicial sanction at the broad and unlimited discretion of the judge, does not fulfill the requirements and the purpose of the article. The purpose of Article 25 is to act overtly as a preventative measure and also as a punitive measure which is known and can be implemented.¹³⁹

It added that it was concerned that there be a specific statute banning forced labor in all circumstances in part because Saudi Arabia's labor law excluded agricultural and domestic workers, most of them migrants, which "exposes them to exploitation in their working conditions."¹⁴⁰

The ILO recommends that governments enact legislation that would facilitate supervision of authorities responsible for protecting workers from the abuse of forced labor.¹⁴¹ It states that police officers, magistrates, and civil servants who encounter cases of forced labour should receive training. It also advocates the creation of "an independent mechanism through which individuals or non-governmental organizations can lodge complaints against any police, state authorities or magistrates who refuse to investigate complaints relating to forced labour or who cooperate with employers that use forced labour."

¹³⁸ Committee on the Application of Conventions and Recommendations, International Labor Organization, Individual Observation concerning Convention No. 29, Forced Labor, 1930 Saudi Arabia (ratification: 1978), published 2001.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ International Labor Organization, "Supervision of the activities of authorities responsible for the application of legislation on forced labour," in *Labor Legislation Guidelines*, <http://www.ilo.org/public/english/dialogue/ifpdial/llg/index.htm>

IV. WOMEN WORKERS: FORCED CONFINEMENT, LABOR EXPLOITATION, AND SEXUAL ABUSE

"We were always kept in our rooms...they locked the doors from the outside."

*-- Indian Muslim woman employed as a hospital cleaner in Jeddah,
1998 - 2000.*

"I was not allowed to leave the house."

*-- Filipina Christian woman who worked for a Saudi family in Jeddah for four
months in 2003.*

There are at least one million women from Indonesia, the Philippines, and Sri Lanka working legally in some of the lowest-paying jobs in Saudi Arabia. The overwhelming majority of them are domestic workers in private households. Others are employed as hairdressers, beauticians, seamstresses, and maintenance staff in gender-segregated public and private facilities. Smaller numbers of women from Africa and other Asian countries are also employed in these and other low-status jobs.¹⁴² Women and men in private domestic service in Saudi Arabia are not entitled to protections under the kingdom's labor law.¹⁴³

The testimonial evidence in this chapter demonstrates that women migrants share many of the same complaints as their male counterparts about exploitative labor conditions such as work days that stretch to twelve hours or longer, unpaid salaries, denied benefits, and threats and intimidation from employers. Women migrants told us that employers demanded their passports when they arrived in the kingdom, and in most cases did not provide them with an official residency permit, the only document valid in Saudi Arabia for identification purposes. The evidence also demonstrates that many exploited women workers in Saudi Arabia suffer one gender-specific abuse: forced confinement. They are literally locked in to their workplaces and residences for the full term of their employment, with little or no ability to interact with the outside world.¹⁴⁴ Women subjected to forced confinement – which private employers unilaterally impose and government authorities tolerate – are particularly vulnerable to abuse because of their extreme isolation.

¹⁴² There is also an undetermined number of women migrants in Saudi Arabia without legal status, some of them because visas or residency permits have expired and others because they are victims of trafficking networks that operate inside and outside the kingdom.

¹⁴³ See Chapter III for additional information.

¹⁴⁴ The extent to which women migrants are able to exercise freedom of movement depends largely on the attitudes and practices of their individual employers. For example, Gloria, a domestic worker from the Philippines who worked in a Riyadh household from June 2001 until September 2003, told us that her employers, both of them Saudi physicians, permitted her to leave the house freely and use the services of the family driver. Human Rights Watch interview, Quezon City, Philippines, December 9, 2003.

Most of the women whom we interviewed for this report, however, described conditions of extreme confinement.

In cases that Human Rights Watch documented, these women had no effective means to complain to their embassies or Saudi authorities about contract violations, gross mistreatment, and – in some cases – sexual abuse and rape, unless they manage to escape. The denial of the right to freedom of movement, combined with oppressive working conditions, leaves many of these migrant women in situations that arguably constitute servitude or forced labor under international law.¹⁴⁵

Labor Exploitation and Forced Confinement: Voices of the Victims

Many low-paid women migrants in Saudi Arabia endure abysmal working conditions. Work days of at least twelve hours are typical for many of them. Overtime is at best a privilege that employers bestow, not a legal right. Other frequently mentioned complaints include being obliged to perform tasks not remotely relevant to a job description (such as massage), inadequate food, denial of vacation benefits, and prohibition of telephone contact or any other form of direct communication with family members in their home countries.

Some of the women whom we interviewed also noted that their living conditions afforded little in the way of personal privacy and security. In some cases, women did not have private, locked sleeping quarters. In other cases, women who were locked in at their places of employment around the clock and had no way to exit safely in emergency situations, such as fire, if their employers were not on site.

Pia, a beautician from the Philippines, who was a victim of sexual abuse and labor exploitation in a succession of jobs in Saudi Arabia, emphasized to us how locked and unlocked doors and exterior gates often determined the fate of women workers. For women facing intolerable working conditions or sexual violence at the hands of male employers, locked work places forced them to attempt escape from upper-story windows or balconies, at the risk of serious injury or death. In other cases, a carelessly unlocked gate presented the only opportunity to flee safely from a hellish employment situation. Describing sleeping quarters, Pia pointed out the variety of conditions that increased feelings of personal insecurity for women workers: doors that locked only from the outside, doors without locks, doors with locks but no keys, and rooms without windows.¹⁴⁶

Saudi citizens are certainly aware of the mistreatment of women migrant workers, through personal experience or reports that regularly appear in the kingdom's newspapers. One resident of the Eastern Province summarized her own concerns in an article published in a Saudi daily in 2003:

¹⁴⁵ See below in this chapter for legal analysis that supports this conclusion.

¹⁴⁶ Human Rights Watch interview, Quezon City, Philippines, December 18, 2003. Her full name is on file at Human Rights Watch.

There are presently nearly seven million expatriates in the Kingdom and a third of them are women — imprisoned in houses and women’s workshops. Many are abused, verbally or physically, and some are also sexually molested. They are not allowed to plead their cases, and some never leave the house where they work for two whole years or more, depending on the contract. They are not allowed to speak their own language or to talk on the telephone. They work night and day in the house without weekend breaks, annual or sick leave. When they set off on their journey home, many are not paid their wages in full.¹⁴⁷

The testimonies that follow, which Human Rights Watch obtained from women migrants workers in 2003, describe labor exploitation, forced confinement, and other abuses.

Jeddah: 1998-2000

Rajila, an unmarried Muslim woman from Kerala state in southwestern India, told Human Rights Watch how she and hundreds of other Asian women maintenance workers were subjected to exploitative labor conditions and, when they were not on the job, forced confinement. Rajila accepted a job in Saudi Arabia when she was thirty years old, with a plan to support her widowed mother and five unmarried younger sisters. She left her village without a written contract, on the verbal promise from a local travel agent that she would earn a monthly salary of 600 riyals, about \$160, as a cleaner. She paid the agent 35,000 rupees -- about \$770 -- for her legal employment visa and other costs, a sum that she borrowed. Rajila said that nine other Indian women joined her on the flight to Saudi Arabia. All of them were recruited to work for the same manpower company in Jeddah that supplied laborers to local hospitals.

Rajila said that a company representative met the women at the airport in Jeddah and took them to a building that was to be their home – or “prison,” as she described it – for the next three years. About 300 women were housed in dormitory-style rooms in this building. Most of them were from Sri Lanka and the Philippines, and about thirty-five were Indians, she said.

According to Rajila, the women worked twelve-hour shifts at various hospitals, six days a week, with one day off. They were not fed during working hours, and did not have a meal break or coffee breaks. Food brought from their dormitory had to be consumed quickly, when any respite in the schedule permitted. For Rajila, who worked in the emergency room of a maternity hospital, “there was no time for rest.”

Rajila’s promised salary of 600 riyals never materialized. She told us that the women were paid 300 riyals a month, in cash, but “it was the exception” even to receive this amount. She said that the pay was reduced to 150 or 200 riyals in some months -- with

¹⁴⁷ Wajeha Al-Huwaider, “Looking at Expatriate Women with Suspicion Is Not Doing Us Any Good,” *Arab News*, June 20, 2003.

the company explaining that deductions were taken for the cost of their official residency permits -- although the women were never informed of the total fee that was being charged. Rajila worked for the company for three and a half years and told us that she never was permitted a paid or unpaid vacation.

The free housing provided to the workers was excruciatingly confining. Rajila described fourteen women sharing a small room lined with bunk beds, with one toilet in an adjacent room but no sink or shower. The air conditioning worked only occasionally; there were no telephones. When the women returned from work, they were locked in their rooms, with nothing to do except talk to one another, cook, or sleep. There were no kitchen facilities; cooking equipment and food were stashed under the lowest bunks. Once a week the women were escorted to the local market to purchase groceries and other necessities.

There was no place inside the walled compound where the women were permitted to sit or walk outdoors. "We were always kept in our rooms...they locked the door from the outside," Rajila explained. She said that if someone became ill while inside the room, such as one woman who suffered a severe asthma attack, "we had to bang on the door until a watchman came, who wrote down her number and reported it to the office." The harsh conditions took an inevitable toll. Women "cried out of depression and sadness," Rajila said, but were forced to camouflage their feelings from company representatives because they would not be sent to work if they appeared emotionally overwrought.

The forced confinement of Rajila and her forty Muslim coworkers left them unable to attend mosques for religious worship. She told us that they were never permitted to leave the building to attend Friday prayers at local mosques. "I was very sad and upset about this," she said simply. Rajila added that in her three and a half years in Saudi Arabia she entered a mosque only twice, when company representatives took the Muslim women workers on day trips to Mecca on two occasions.

Rajila left Saudi Arabia on October 10, 2000, taking with her no accumulated salary from three and a half years of uninterrupted work. As pointed out above, her promised salary was cut by half at the outset, and some months she and the other women were not paid even their lower salaries in full. This accumulated back pay was never paid. According to Rajila, on her departure the company only paid her last month's salary and a return ticket to India.¹⁴⁸

Dammam: 2001-2003

Women migrants more recently returned from Saudi Arabia, who were employed in private homes or small workshops, described similar forced confinement and exploitative working conditions. Edna, a thirty-year-old married woman with two

¹⁴⁸ Human Rights Watch interview, Nagarikunnu, Kerala, India, November 28, 2003.

children, returned to the Philippines on December 5, 2003, after working for two years in the Dammam home of a Saudi woman and her three daughters. Edna was not permitted to leave the house, with the exception of once or twice a month when she accompanied her employer to the home of the woman's mother, where she was required to do housework for several hours with the Indonesian woman employed there. At other times when family members went out, Edna was left alone in the house with the doors and gates locked. She was never provided with an official residence permit (*iqama*), which would have enabled her to move freely without the fear of arrest, assuming she had opportunities to leave the house.

During her two-year tenure, Edna told Human Rights Watch that she was completely cut off from her family in the Philippines. She did not know the address of the house where she worked and was told that letters must be sent to the Dammam post office box of her employer's sister. The employer also instructed Edna that under no circumstances could she provide the phone number at the house to anyone in the Philippines – “not even for an emergency.” Edna said that she was afraid to defy these orders so for two years her husband and two daughters had no way to contact her directly.¹⁴⁹

Medina: 1998-2003

In Medina, the women employees at an exclusive dress shop were strictly confined. Maya, who sewed custom-tailored dresses and gowns with a team of three other skilled Filipinas, worked there from 1998 until 2001, and returned again in April 2002.

The shop was located on the first floor of a residential building. The Egyptian couple who managed the business for the Saudi owners lived on the second floor with their four children and two Filipina housemaids; the dressmakers had sleeping quarters on the third floor. Maya told Human Rights Watch that she and her colleagues saw virtually nothing of the outside during their tenure. They spent all of their time either working in the shop or confined to their sleeping quarters. Approximately once a month the manager's son drove Maya and her colleagues to the supermarket, always in the company of his mother or sister. The women were not permitted to use the telephone or to have their own telephones. In August 2003, the manager of the shop found one of Maya's two cell phones and confiscated it in a fury of anger. Maya said that she hid the other phone, which she purchased surreptitiously in the supermarket, inside her CD player.

There was no way for the women to leave the premises freely. “The shop was always locked. There were two gates outside – one for the customers and the other for the house. – and these were always locked too,” Maya said. In addition, the women were never provided with official residency permits. They were specifically prohibited from speaking to the Filipina housemaids, and were instructed to exchange only the briefest of pleasantries with women clients and the Saudi sponsor and his wife. Maya, who studied

¹⁴⁹ Human Rights Watch interview, Quezon City, Philippines, December 21, 2003.

accounting in college for two years, found such restrictions frustrating and insulting but felt powerless to challenge the rules for fear of dismissal.¹⁵⁰

These women also worked twelve-hour days and suffered various forms of labor exploitation (see Chapter III for additional information on this case).

Jeddah: 2002

Anita, a twenty-seven-year-old domestic worker from the Philippines, was forced to work fifteen hours a day in a large home in Jeddah. She told us that a manpower agency in Manila promised her a job as a cleaner at a monthly salary of \$300, and she signed a two-year contract to that effect. When Anita arrived in the kingdom, she said that the counterpart agency there presented her with another contract – with a salary of 750 riyals, or \$200 – that she was forced to sign as a condition for receiving her *iqama* (residency permit).

According to Anita her female employer was a member of the Saudi royal family. She said that the princess lived with her husband and three younger siblings in a spacious three-story home with two kitchens, two salons, and large bedrooms. Anita was employed there from June 2002 until October 2002, when the princess terminated her contract abruptly.

Anita joined a staff of nine other Filipinas. The women had sleeping quarters on the third floor; three women shared a fully furnished room that included a bathroom. Anita worked every day from ten in the morning until about one hour after midnight, and was primarily responsible for cleaning and washing. The staff was fed only twice a day, at one o'clock in the afternoon and at nine in the evening; Anita said that she eventually adapted to not having breakfast. The women workers were not permitted to leave the house.

When the princess became pregnant, “she started to pick on me about my work,” Anita told us. The princess also changed Anita’s duties and assigned her to care for two of the children, nine and twelve years old. She was required to hand-wash all of the children’s clothes and was forbidden to use the washing machine. Anita said that she carried out her new assignments for one month, and during that time she said the princess criticized her whenever the children misbehaved. “I would just cry and cry, I was so frustrated,” Anita commented. With tension rising, Anita said that the princess summarily dismissed her with these words: “I don’t like you any more and I’m sending you back to the Philippines.”

Anita was returned to the recruitment agency in Jeddah that placed her in the job. As a condition for receiving an exit visa and a ticket to the Philippines, the agency required

¹⁵⁰ Human Rights Watch interview, Quezon City, Philippines, December 18, 2003.

Anita to write and sign a letter stating that she was returning voluntarily and held the agency harmless. She had no recourse to complain about the conditions of her employment or the circumstances of her termination.¹⁵¹

Legal Obligations of the Government of Saudi Arabia

The widely tolerated practice of forced and long-term confinement of women workers – including but not limited to domestic workers in private homes – is a grave violation of fundamental human rights. No one should be forced to work under conditions where it is forbidden to leave places of employment and residence for months and years at a time. Such arbitrary denial of freedom of movement is abusive in its own right, and also dramatically increases the vulnerability of the victims to economic exploitation, forced labor, intimidation, and sexual violence and harassment. In some cases, forced confinement has resulted in the death or serious injury of women who attempted to escape abusive employment situations, as noted below.¹⁵² In other cases, migrant women suffered major financial losses because they were unable to extricate themselves from their employers and seek legal remedy in the kingdom for unpaid salaries and other benefits. In such cases, employers in positions of complete control determined unilaterally when and how to return women to their home countries, bypassing channels of official complaint.

Around-the-clock confinement places women workers in conditions of servitude, a violation of one of the most basic protections in international human rights law.¹⁵³ Forced confinement by definition also deprives the victims of the basic rights to liberty and security of person, and freedom of movement.¹⁵⁴ Isolating any person from contact with the broader society affects other rights as well, including the rights to privacy and freedom of association, and the right to participate in cultural life.¹⁵⁵

Additionally, the United Nations working group of experts on the rights of migrant workers has recognized that the employment conditions of domestic workers may be “comparable to slavery”:

The isolation of domestic workers, most of them women, who are as a rule excluded from national labour laws, is conducive to serious violations of human rights. The conditions of domestic workers often can be comparable to slavery: unduly long working hours, poor remuneration, no access to social security, inadequate food and

¹⁵¹ Human Rights Watch interview, Naguilan, La Union, Philippines, December 13, 2003.

¹⁵² See “Escape Attempts and Consequences,” below in this chapter.

¹⁵³ Article 4 of the Universal Declaration of Human Rights states: “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”

¹⁵⁴ Article 3 of the Universal Declaration of Human Rights states: “Everyone has the right to life, liberty and security of person.” Article 13(1) of the declaration provides: “Everyone has the right to freedom of movement and residence within the borders of each State.”

¹⁵⁵ See articles 12, 20, and 27(1) of the Universal Declaration of Human Rights.

isolation because they are afraid of the authorities and often do not speak the local language.¹⁵⁶

The experts recommended that “punitive measures should be taken against employers...and those who profit from the use of forced labour and slavery-like practices.”

The United Nations Sub-Commission on the Promotion and Protection of Human Rights included “exploitation of migrant workers” as one of the contemporary forms of slavery, noting that women migrant workers “are particularly vulnerable to slavery-like exploitation and forced labour.” The subcommission found that “certain mechanisms of exploitation and forms of abuse affect migrant workers in particular and require special remedial action,” including employers’ confiscation of passports and other documents of migrant workers. It also cited the United Nations High Commissioner for Human Rights who stated in a 2000 report that one “vital form of preventive action” for all migrant workers was to “ensure that they are not left alone or isolated”.¹⁵⁷ In 2001, the United Nations Working Group on Contemporary Forms of Slavery recommended that “[m]easures should be taken to prohibit and prevent confiscation of passports by making it a criminal offense.”¹⁵⁸

The forced confinement of women workers violates provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Saudi Arabia has ratified. This treaty requires state parties to “accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.”¹⁵⁹ The government’s tolerance of the forced confinement of women workers perpetuates discrimination against women, which it is legally committed to eliminate. CEDAW obligates the government to legally protect the rights of women on an equal basis with men, and to “ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination”.¹⁶⁰ The treaty also requires states parties to “take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise,”¹⁶¹ and “to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.”¹⁶²

¹⁵⁶ Commission on Human Rights, Report of the working group of intergovernmental experts on the human rights of migrants, E/CN.4/1999/80, March 9, 1999.

¹⁵⁷ Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, “Contemporary Forms of Slavery,” Addendum, Form of Slavery, E/CN.4/Sub.2/2000/3/Add. 1, May 26, 2000.

¹⁵⁸ Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, “Contemporary Forms of Slavery,” report of the Working Group on Contemporary Forms of Slavery on its twenty-sixth session, E/CN.4/Sub.2/2001/30, July 16, 2001.

¹⁵⁹ Article 15(4).

¹⁶⁰ Article 2c.

¹⁶¹ Article 2(e).

¹⁶² Article 2(f).

One of the Saudi government's reservations to CEDAW states: "In case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention." Human Rights Watch is aware of no norm of Islamic law that legitimates forced confinement and round-the-clock lockdown of women by their employers. Under the requirements of article 2(f) of CEDAW, the government should promulgate a specific law making it a criminal offense for any employer to hold women employees in forced confinement.

The forced confinement of women workers, who are predominantly from countries in Africa and Asia, may also violate Saudi Arabia's obligations as a state party to the Convention on the Elimination of All Forms of Racial Discrimination. This international treaty requires the government to prohibit and eliminate racial discrimination that prevents the enjoyment of the "right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution,"¹⁶³ and the "right to freedom of movement and residence within the border of the State."¹⁶⁴ This particular form of racial discrimination is directed specifically at women because of their gender. The Committee on the Elimination of All Forms of Racial Discrimination has noted the importance of recognizing this type of discrimination, and has commented that women "may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life."¹⁶⁵ These factors come strongly into play in Saudi Arabia.

Some countries of origin have developed standard employment contracts for workers in domestic service in Saudi Arabia, in an attempt to secure for them some basic labor rights. For example, a standardized Arabic-English contract for Filipino household workers was widely used in 2001 and 2002, but the testimony from women included in this report indicate that its provisions were routinely violated. This standard contract provided the following legal guarantees:

- "Suitable and comfortable housing facilities and adequate meals."
- "One rest day every week to be spent either inside the employer's house or outside in the company of a member of the family in accordance with the customs and traditions of the kingdom of Saudi Arabia."
- "Paid leave of thirty days" each year, with "a roundtrip economy class air ticket" paid by the employer.
- Payment of the residency and work permit (*iqama*) fee by the employer.

¹⁶³ Article 5(b).

¹⁶⁴ Article 5(d)(i).

¹⁶⁵ General Comment No. 25, Adopted March 20, 2000, A/55/18, Annex V.

- No unilateral cancellation of the contract by either party without “legal, just and valid cause or causes.”
- “The worker may terminate this contract on the following grounds: physical harm by the employer or any member of his family, deliberate nonpayment of salary, illegal employment or violations of the terms of his contract. Repatriation expenses shall be borne by the employer.”
- “The employer shall provide the worker with free passage from Manila to the site of employment and upon termination of contract, from the site of employment back to Manila.”
- “Either party may bring to the attention of the proper Saudi government authority or the Philippine embassy any dispute arising from this contract for purpose of conciliation/amicable settlement.”¹⁶⁶

The Saudi government has legal obligations to ensure that women domestic workers do not face abusive and exploitative labor conditions. The best course is revise the labor law to include domestic workers under its protections. In the absence of this initiative, special legislation or administrative regulations should be implemented that define, protect, and enforce the rights of women domestic workers. The International Labor Organization (ILO) has promulgated guidelines for legislation to protect vulnerable workers, including recommendations for domestic worker laws to prevent working conditions from deteriorating into forced labor under international law. As a member of the ILO, Saudi Arabia should take immediate steps to formulate regulations that are in harmony with the ILO recommendations to protect domestic workers. The ILO has advised that such laws and regulations should:

- ensure respect of freedom of association for domestic workers;
- prohibit and take measures to eliminate child domestic work;
- limit the hours of domestic workers by specifying:
 - a forty hour work week, with adequate remuneration for overtime work;
 - the specification of the maximum hours of work permitted per day;
 - a fixed uninterrupted rest period of eight hours per day;
 - a limitation on the hours spent "on call" and adequate remuneration for those hours;
- ensure that minimum wage laws and regulations apply to domestic workers and that domestic workers are included within the minimum wage fixing system, having due regard to the general level of wages in the country, the cost of living, social security benefits, the relative living standards of other social groups and economic factors;

¹⁶⁶ “Standard Employment Contract for Filipino Household Workers in Saudi Arabia,” signed by employee [name withheld by Human Rights Watch] and her Saudi employer [name also withheld], noted and verified on March 26, 2002 with signatures and officials stamps of Philippine consular officials in Saudi Arabia. A copy of this contract is on file at Human Rights Watch.

- provide for proper procedures for termination of employment, including:
 - ensuring that employers do not terminate the employment of domestic workers without a valid reason relating to the capacity or conduct of the worker or based on the operational requirements of the employer;
 - providing that a domestic worker whose employment is to be terminated is entitled to a reasonable period of notice or compensation in lieu thereof, unless he/she is guilty of misconduct of such a nature that it would be unreasonable to require the employer to continue his/her employment during the notice period; and
- ensure that domestic workers are entitled to a wide range of employment benefits such as maternity leave and annual holidays.¹⁶⁷

Sexual Abuse and Rape

Forced confinement of low-paid women migrant workers leaves them particularly vulnerable to sexual abuse, rape, and the possibility of contracting HIV/AIDS from male perpetrators. Women who have been victimized sexually must cope first with their own psychological trauma and possible physical injuries.¹⁶⁸ In addition, they must confront the kingdom's prevailing social and religious conservatism, their isolation from the outside world, and the fact that under Saudi law it is illegal to have sexual relations outside of marriage.¹⁶⁹ Other realities are unsympathetic Saudi law enforcement officers, and outright gender discrimination in the legal system. These factors make it impossible for victims to report sexual violence to authorities or extremely reluctant to do so.

In separate interviews, four domestic workers from the Philippines who were victims of forced confinement and sexual abuse provided Human Rights Watch with testimony about their experiences. The women ranged in age from twenty-six to thirty-five years old. Three of the victims were married and had two or more children. In all four cases, the perpetrators – three of whom were alleged rapists -- were not held legally accountable for their actions and did not face criminal investigation and prosecution.

¹⁶⁷ International Labor Organization, *Labor Legislation Guidelines*, <http://www.ilo.org/public/english/dialogue/ifpdial/llg/index.htm>

¹⁶⁸ Migrant girls have also faced sexual harassment in Saudi Arabia. In 2003, the Indonesian migrant rights organization Yayasan Panca Karsa, based in the province of West Nusa Tenggara, provided assistance to a fifteen-year-old domestic worker who returned from Saudi Arabia in poor psychological condition following abuse at the hands of her employer. According to the *Jakarta Post*, the girl, whose name was withheld, "told relatives that her Saudi employer repeatedly attempted to rape her, beat her head against a wall when she refused and was locked in a room and fed just one meal a day for a month." The girl reportedly escaped her employer once but was forcibly returned. After she was repatriated in May 2003, her condition reportedly worsened and she was admitted to a mental hospital in Lombok. Luh Rutu Trisna Wahyuni, "Indonesian migrant worker brutalized in Saudi Arabia," *Jakarta Post*, May 14, 2003.

¹⁶⁹ "A child's first right is to be born in a legitimate marriage. This is his pre-natal right guaranteed in Islam by forbidding and outlawing sexual relationships outside marriage." Excerpt from the written statement of Dr. Mohammed A. Rasheed, Minister of Education and Head of the Delegation of the Kingdom of Saudi Arabia, on the occasion of the Special Session of the General Assembly on Children, New York, May 10, 2002.

Fatima's Story

Fatima, a twenty-six-year-old Muslim woman from Mindanao province in the Philippines, told us that she had a fifth-grade education and was married at fourteen years old in a union that her family arranged. When she traveled to Saudi Arabia in February 2003 on a two-year contract as a domestic worker, she left behind her husband and four children, aged two to nine years old.¹⁷⁰

A manpower agency in Manila placed Fatima with a Saudi family in Dammam at a monthly salary of \$280. She said that her responsibilities in the house were “all around,” the English phrase that some Filipinas use to describe a wide variety of domestic chores. Fatima’s work day began at 5:30 in the morning and continued until 6:30 p.m., when she was allowed a thirty-minute break. She then worked for another two hours, until nine in the evening. She told us that she was fed one meal a day, typically rice and chicken, and any additional food was her own financial responsibility.

Fatima was not allowed to leave the house. Her male employer demanded her passport when he met her at the airport, and she was never provided with an *iqama*, the official residence permit that would have allowed her the freedom to move freely without the fear of arrest.

Fatima told Human Rights Watch that her employers said it was *haram* (forbidden) for her to talk to the family’s Indian driver. She relied on the driver to obtain food and other items while respecting the instructions that prohibited any personal contact with him. Her solution was this: “I wrote a list and threw it out the window on a stone with the money. The driver figured out that he had to bring it to Filipino shopkeepers who could read my writing.” The system worked. The driver tossed the purchases on the roof of the house and Fatima retrieved them.

In addition to her long days of work, Fatima endured the shock and humiliation of three serious incidents of sexual harassment and one beating from her male employer. She told Human Rights Watch that twice he exposed himself to her and offered to pay her if she masturbated him. “I refused. I told him that I want money in the right way. I told him I am not a prostitute, but a married woman and a Muslim,” she said. After these rejections, “he held a knife to my neck and threatened to kill me if I told the madame [his wife].” Fatima provided details about the last and most traumatic incident, on a day etched in her memory: June 8, 2003:

I was mopping the floor in the salon. He came in and asked for water. When I gave it to him, he dropped it on the floor and told me to clean it up. Then he took off his *thobe* and said to me, “Take this.” It was his

¹⁷⁰ The two youngest children stayed with Fatima’s husband. Her oldest son was sent to live with her step-mother, and the second oldest with her grandmother.

penis. He told me, “It’s good, I want to marry you, I love you, I want to support your children.”

I said no. I said I’m a Muslim and it is *haram*. I left and ran upstairs. He came after me, saying it was not *haram*. He closed all the doors and punched and beat me. He said: “Don’t push me to do something bad.”

He locked the door to her bedroom before he left the house. Fatima sought shelter in her bathroom and locked the door. “I was praying, and crying, and stayed there all night,” she said.

He left the house at six the next morning and Fatima had an opportunity to escape about ninety minutes later: “The Indians were making repairs on the house and left the gate open. I ran out, not even wearing my shoes.” She flagged down a passing taxi, and the driver let her borrow his cell phone. She called Noel, a Filipino worker whom she met in the hospital where she had her mandatory medical exam soon after arriving in the kingdom; Noel gave her his card and phone number in case she ever needed help. He arranged to meet Fatima and bring her to the wife of his own Saudi employer. “She was half Saudi and half Australian. She welcomed me and was very nice -- she gave me shoes, a dress, an abaya, and 500 riyals,” Fatima recounted. Noel also telephoned the Philippines consulate, and a labor attaché agreed to meet Fatima.

During her interview at the consulate later that day, “they told me that my employer was a rich man, and do not fight him.” The diplomats sent Fatima to the local police, who were not concerned about her recent assault but with sending her back to the Philippines. According to Fatima, the police telephoned her employer, who told them that she was a prostitute, an allegation she said they disregarded because they believed the account of her escape. She said that it was the police who instructed the employer to purchase her return ticket to Manila and that he delivered the ticket in four hours. Fatima sheltered for one day and two nights at the consulate in Khobar. Two days later, the police returned Fatima’s passport and she was taken to the airport, in the company of her employer and a diplomat from the consulate. “I told them I was too afraid to go to the airport alone with him, and wanted someone from the police or the embassy,” she said.

Back in the Philippines, Fatima’s husband was not sympathetic to her situation. She telephoned him from the airport in Manila and explained everything that had happened to her. He did not provide the “moral support” that Fatima had anticipated: “He told me that it was stupid of me to return home, and that he hated me.” At the time of her interview with Human Rights Watch, she was still in Manila, pressing a compensation claim against the manpower agency that recruited her. She said that she was unable to speak to her two youngest children because her husband denied her any form of communication with them. Fatima was clearly uncertain about her future but firm in her

conviction that she did the right thing. “Until now, I cannot forget what happened to me. But I have pride and I was fighting for my dignity as a Filipina,” she told us.¹⁷¹

Melda’s Story

Another married Filipina, thirty-three-year-old Melda, was raped twice by her Saudi employer in 2003. Although she was in Dammam, the same city as Fatima, after the first time that she was raped the police returned her to her employer’s house and did nothing to protect her from her assailant.

Melda told us that she left two sons, ages nine and ten, in the care of her mother, and arrived in Saudi Arabia on May 1, 2003, for what she expected would be a two-year stint as a domestic worker with a Saudi family. Her monthly salary was \$200. The first inauspicious sign was the lack of private sleeping quarters. Melda said that she was instructed to sleep on the living room floor and was provided no mattress, only a blanket and a pillow. She was not permitted to use bathrooms inside the house but was assigned a dirty exterior facility with a toilet that either overflowed or operated with a trickle. It had no shower or bucket for bathing – only a faucet on the wall.

Melda said that her work day began at five in the morning, when she had to wake up the couple’s three children and get them ready for school. Her female employer, Asma, was a teacher who left the house at six in the morning. Melda did not know the profession of Asma’s husband Rashid but said that he wore a green uniform when he left for work.

On the morning of June 2, 2003, Melda was cleaning the hallway on the second floor when Rashid walked out of his bedroom, naked. “I was frightened. He grabbed me and pushed me down on the floor. I was shouting and crying. He told me that he would kill me if I said anything to his wife,” she said. She could not describe the details but told Human Rights Watch that she tried to fight Rashid as he raped her. “He finished,” she said, shaking, “and then went into his room, closed the door, and ignored me. I washed myself, stopped working, and waited for my madame to come home.”

Melda was upset and frightened, and watched the locked front gate of the house constantly, waiting for an opportunity to flee. Early one morning, Melda noticed that the gate was unlocked and quickly left. When she was some distance from the house, she asked an Arab driver to take her to the Philippines embassy. Instead, he called the police. When the police arrived, Melda tried to explain her situation to them. Her English was limited, but she said one of the policemen spoke some Tagalog so she was able to communicate with him, using both languages. “I was crying, telling him it was not good, that my employer raped me, that I did not want to go back, that I wanted to go to the embassy,” she said. Melda had a photocopy of her passport with her, which she showed to the officers.

¹⁷¹ Human Rights Watch interview, Quezon City, Philippines, December 16, 2003.

Despite Melda's obvious distress, the police ignored or did not understand her complaints and drove her back to the house. One of the officers rang the doorbell and Rashid appeared. "They forced me out of the car. I was cursing and screaming, saying I hated him, that he was an animal, bad," she said. She watched as the policemen and Rashid spoke outside the house, unable to hear anything that was said.

When Rashid's wife returned home and asked Melda why she had not completed certain tasks, Rashid offered an explanation in Arabic. "I did not dare say anything," Melda told Human Rights Watch. "All I wanted was to go home." She surmised later that Rashid told his wife that she had escaped, and for that reason they decided to send her back to the Philippines.

On June 11, 2003, Rashid raped Melda for the second time. She said that she was cleaning the guest room on the first floor and Rashid entered, locked the door, and pushed her to the floor. "He pulled down his pants to his ankles. He grabbed me so strongly that it hurt and I was crying. I was fighting him until I felt no more energy," she said. He raped her and remained in the room with her several hours, until it was almost time for his wife to return home from work, Melda said. She suffered this abuse in silence, with no confidence that the police or anyone else could help her.

On June 25, 2003, Rashid abruptly informed Melda that he was returning her to the Philippines later that day. She told Human Rights Watch that the family driver took her to the airport, with Rashid and his six-year-old son in the car. She had worked for almost two months but did not receive any salary since it was owed as a placement fee to the manpower agency in Manila that deployed her to Saudi Arabia.¹⁷²

Rosalia's Story

Rosalia, the mother of two children, arrived in Jeddah from the Philippines in May 2003, when she was thirty-five years old. She expected to work as a beautician, her profession for seventeen years, at a monthly salary of 1,200 riyals, about \$320. Her employer was a Saudi woman who lived in a five-story building, with a dress shop on the first floor, a beauty salon on the second floor, and living quarters on the floors above. In addition to Rosalia, the woman employed an Indonesian maid, a Filipino driver, two Filipina seamstresses, and another Filipino beautician.

Rosalia said that for the first two months she was paid only 1,000 riyals, and the next month her salary was reduced to 800 riyals. "I complained to her about this and she said business was slow," Rosalia told us. The employer also forced Rosalia to do cleaning and laundry in the house, and iron clothes and sew buttons on dresses in the shop. Sometimes at night she was commanded to massage her employer or one of the

¹⁷² Human Rights Watch interview, Quezon City, Philippines, December 10, 2003.

women's two daughters, in sessions that lasted two hours. Rosalia told us that if she was hungry when she was summoned for a late-night massage, and begged for permission for time to eat, she was always told: "No! Now!" Rosalia also said that she was never paid overtime and never had a day off.

"I was not allowed to leave the house," Rosalia said, which perhaps explained why the employer never gave her an *iqama*. Every night when her work was completed, she was locked in a room on the third floor that had no windows and no air-conditioning or fan. The door was locked at two in the morning and unlocked at 8:00 a.m.

Because the employer did not permit Rosalia to go out, she had to rely on the Filipino driver to make purchases for her at the market. She bought a small gas stove that she used in her room to make coffee and boil eggs and noodles. "Madame did not like the smell of Filipino food and forbid me to cook it," she said. Rosalia then described how the driver sexually abused her when he came to her room to deliver supplies. She said that he raped her once, forced her to masturbate him, and manhandled her numerous times. It was difficult for Rosalia to recount these assaults and she was unable to report them at the time: "I could not talk. All I could do was cry," she commented. "I always prayed and I cried every night."

Rosalia told us that she begged her employer to buy her a ticket and send her home. She said that she also managed to telephone her mother in the Philippines, who eventually found Migrante International, the migrant rights organization, which sent faxes about Rosalia's treatment to the employer and the manpower agency in the Philippines. This outside pressure apparently had an impact, and the employer finally agreed to release Rosalia, but told her that she broke her contract and demanded 2,700 riyals – about \$720 -- toward airfare and fees owed to the recruiting agency. She did not pay Rosalia's salary for her last month of work, which was deducted from the amount the employer said was due and threatened to send Rosalia to jail if she did not pay the balance of the money. Rosalia complied and returned to the Philippines on September 25, 2003.¹⁷³

Pia's Story

Pia, a beautician from the Philippines, endured months of silent suffering in 1994, when she was thirty-one years old, before she managed to extricate herself from her Saudi employer who raped her repeatedly over a five-month period. Pia told us that her employer Karim (not his real name) was an engineer who spoke English and worked in the oil industry.

Karim met Pia when she arrived at the airport and confiscated her passport. She was never given a residency permit (*iqama*.) Pia worked and lived in the house that Karim shared with his wife and children in Safwa, a city in the Eastern Province. A small beauty salon was on the first floor of the house, along with a bedroom that Pia shared with the

¹⁷³ Human Rights Watch interview, Quezon City, Philippines, December 16, 2003.

family's Indonesian maid. The bedroom door did not have a lock, Pia said, and the maid "was always upstairs working from morning to night."

Pia told us that about ten days after she arrived, Karim barged in to the empty beauty salon at noon, when no one was on the first floor, ordered her to spread a towel on the floor and lie down, and raped her. "I was terrified. I could not speak or shout," Pia recalled. Two days later, at four in the morning, Karim entered Pia's bedroom after the Indonesian housemaid went to the second floor to begin her work and raped her again. "This went on for five months," Pia said. "I never went out of the house for five months. I never thought of escaping because I did not know Safwa." She said that she was paralyzed with fright because she was afraid that Karim would harm her if she resisted him.

Pia explained that she repeatedly begged Karim to send her back to the Philippines. "He told me that he could not let me go because he spent a lot of money to get me, and that I had to pay him back," she said. Pia finally decided to approach his wife, who was a teacher, without disclosing the entire truth: "I told her that I wanted to go home because of her husband, because he had a personal interest in me." Pia told us that Karim was furious when he found out what she said to his wife: "He called me a liar and said I would regret it because I'll be in jail and never see the light again." Two days later, he forced Pia to write a letter to his wife:

He said if I did not write it, he would call the police and I would go to jail. He grabbed my hand, dictated a note of apology, and made me sign it. He pushed me and grabbed my neck. He said: "Do you want me to lose my wife? Break up my family?"

Pia said that Karim insisted that she pay him 5,000 riyals – about \$1,333—to cover her living expenses during her five months in his employ and the return airfare to the Philippines. When she managed to secure this sum, and gave it to Karim, he quickly arranged her departure and drove her to the airport.¹⁷⁴ Pia said she was never paid a salary because the beauty salon was not busy; the only money she brought home was accumulated tips from occasional customers

Legal Obligations of the Government of Saudi Arabia

The government of Saudi Arabia is obligated, as a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to combat gender-based violence and sexual harassment in the workplace. In 1992, the CEDAW Committee adopted a general recommendation addressing states' obligations under the treaty and spelling out the steps necessary for an effective remedy to the problem of violence against women.¹⁷⁵ It stated that gender-based violence is "a form of

¹⁷⁴ Pia told us that the Yemeni father of her only child, a son, gave her the money.

¹⁷⁵ General Recommendation No. 19.

discrimination which seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men." The committee noted that states are obliged under CEDAW to take steps to provide the following:

- (i) Effective legal measures, including penal sanctions, civil remedies, and compensatory provisions to protect women against all kinds of violence, including violence and abuse in the family, sexual assault and sexual harassment in the workplace.
- (ii) Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women;
- (iii) Protective measures, including refuges, counseling, rehabilitation, and support services for women who are the victims of violence or who are at risk of violence.

In its Declaration on the Elimination of Violence Against Women, adopted in December 1993, the United Nations reaffirmed states' obligations to act decisively to protect women from violence. The declaration denounces violence against women, including violence in the home, as "a violation of the rights and fundamental freedoms of women." It provides that "states should condemn violence against women . . . [and] exercise due diligence to prevent, investigate, and in accordance with national legislation, punish acts of violence against women." The declaration explicitly states that the obligation of governments applies regardless of "whether those acts [of violence] are perpetuated by the State or by private persons."

Pregnancy

When migrant women workers become pregnant as a result of rape, their problems are only compounded. In Saudi Arabia, legal abortions are not permitted in cases of rape and incest.¹⁷⁶ If migrant women become pregnant for any reason in Saudi Arabia, they are confronted with the fact that abortions can only be performed legally for specifically defined and documented medical conditions. It is far from clear how pregnant migrant women of limited financial means – who are unmarried or without husbands in the kingdom -- can negotiate the bureaucratic process of seeking official approval for abortions without fear of being arrested and losing their jobs.¹⁷⁷

The kingdom's official Islamic religious authorities – the Committee of Senior *Ulema* (Islamic law scholars) -- promulgated a directive that permits abortions "within very

¹⁷⁶ Department of Economic and Social Affairs, *Abortion Policies: A Global Review*, U.N. Population Division, www.un.org/esa/population/publications/abortion/profiles.htm (retrieved March 5, 2004).

¹⁷⁷ See Chapter VI for information about migrant women imprisoned in Riyadh for "illegal pregnancies."

narrow limitations.”¹⁷⁸ Pregnancies may be terminated within the first forty days “to accomplish a legal benefit or to prevent an expected harm,” although the *ulema* provided a list of “unacceptable reasons.”¹⁷⁹ After forty days and up to four months (called the embryo stage), a pregnancy may be aborted if “an approved medical committee [at any hospital with a maternity wing] decides that continuation of pregnancy endangers the mother’s safety and could possibly lead to her death.”¹⁸⁰

For women who are over four months pregnant, the *ulema* ruled that “abortion is not allowed unless and until a panel of approved specialists diagnose that continuation of pregnancy will cause the mother’s death and all means to eliminate the danger are exhausted to no avail.” The ministry of health requires that if termination of a woman’s pregnancy is approved under the conditions outlined above, her husband or male guardian must give written signed consent on a special government form.¹⁸¹ There should be a mechanism within the health care system to ensure that women migrant workers facing potentially life-threatening pregnancies are afforded the right to seek hospital approval for termination of their pregnancies. If the required conditions are met, according to the evaluation of medical experts, a woman’s own written consent to the procedure should be all that is required, particularly if she is living and working in the kingdom alone.

In addition to restrictions on abortion, discriminatory policies, medical costs, and intimidation can drive pregnant migrant women away from health facilities, exposing them to a range of health risks. The ministry of health issued a directive in 2003 that prohibited hospitals from admitting pregnant women who were not accompanied by men willing to acknowledge paternity. If the women were in need of emergency care, the new rules required that they be held in “specially designated rooms” to prevent their escape. Even before this directive was issued, pregnant migrant women living in the kingdom without husbands avoided hospitals for fear of arrest. A Canadian migrant rights activist in Riyadh told us about the case of a Filipina domestic worker who escaped her employer in her seventh month of pregnancy and took shelter in a safe house. When the woman went into labor, the option of bringing her to a hospital was out of the question, and the activist tried to locate a nurse to coach the delivery over the telephone. Fortunately in this case, the baby was delivered quickly and safely without medical complications.¹⁸²

¹⁷⁸ Committee of Senior Ulema, Resolution No. 140, dated 20.6.1407H. The *ulema* directive is reflected in article 24 of Ministry of Health Resolution No. 218/17/L, “Rules of implementation for Regulations of the practice of medicine and dentistry,” June 26, 1989, <http://annualreview.law.harvard.edu/population/abortion/SAUDIARABIA.abo.htm> (retrieved March 5, 2004).

¹⁷⁹ These include “fear of hardship in child upbringing or inability to secure cost of living, education or future [sic] or if the parents decide that they have enough children.”

¹⁸⁰ The ministry of health resolution states that the medical committee is formed by the director of the hospital, and composed of at least three members, one of whom must be a specialist in the illness “that prompted recommendation to terminate the pregnancy. This committee shall prepare a report showing the type of confirmed hazard that threatens the mother’s health in case of continued pregnancy and this report shall be signed by all committee members and approved by the hospital director.”

¹⁸¹ Article 24(2)(L), Ministry of Health Resolution No. 218/17/L.

¹⁸² Human Rights Watch interview, Riyadh, Saudi Arabia, January 24, 2003.

The ministry's directive specifies that pregnant women must be accompanied by the biological father, who "must supply a photocopy of his Saudi identification card, which is to be placed in the woman's medical file, and also sign a document accepting responsibility for the mother and child," *Arab News* reported. The directive was reportedly designed to address the problem of unmarried women who abandon newborn babies at hospitals. It also stipulates that pregnant women who arrive alone and require emergency medical care – presumably including delivery of the baby – must "be held at the hospital in specially designated rooms to prevent [their] escape," the newspaper stated. "If no one comes to claim responsibility for the woman, she is to be transferred to one of the Kingdom's social service providers after the local police have been notified," it added.¹⁸³

Legal Obligations of the Government of Saudi Arabia

The health ministry's directive has the potential to deter pregnant women, including pregnant migrant women without husbands in the kingdom or biological fathers willing to accept responsibility, from seeking prenatal medical care for fear of loss of liberty or arrest. The consequences are potentially serious for women who are effectively forced to forego maternity care. The lack of medical oversight for pregnant women can directly affect the health of the fetus, and the viability and health of the child after it is born.

The health ministry's directive violates article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Saudi Arabia has ratified. Article 12 requires states parties to "take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health-care services, including those related to family planning."¹⁸⁴ It also provides that states parties "shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."¹⁸⁵ The United Nations Committee on the Elimination of All Forms of Discrimination against Women has provided authoritative comments about the meaning of article 12.¹⁸⁶ The committee stated:

States parties should not restrict women's access to health services or to the clinics that provide those services on the ground that women do not have the authorization of husbands, partners, parents or health authorities, because they are unmarried or because they are women. Other barriers to women's access to appropriate health care include laws

¹⁸³ Essam al-Ghalib, "Must Must Accompany Pregnant Women in Clinics," *Arab News*, September 30, 2003.

¹⁸⁴ Article 12(1).

¹⁸⁵ Article 12(2).

¹⁸⁶ General Recommendation No. 24, Twentieth session, 1999.

that criminalize medical procedures needed [only] by women and punish women who undergo those procedures.¹⁸⁷

The health ministry's directive is precisely the sort of barrier that CEDAW obligates states to eliminate. The committee has commented that these barriers "include requirements or conditions that prejudice women's access, such as high fees for health-care services, the requirement for preliminary authorization by spouse, parent or hospital authorities, distance from health facilities and the absence of convenient and affordable public transport."¹⁸⁸ A policy that puts women at potential risk of unsafe pregnancies effectively denies women the right to safe motherhood.

The committee has also emphasized that states parties should "reduce maternal mortality rates through safe motherhood services and prenatal assistance,"¹⁸⁹ and "[r]equire all health services to be consistent with the human rights of women, including the rights to autonomy, privacy, confidentiality, informed consent and choice."¹⁹⁰ The prospect of pregnant women locked in specially designed rooms of hospitals to prevent escape violates the right to autonomy and choice that the committee envisions.

If Saudi law enforcement authorities are continuing to arrest and imprison migrant women for "illegal pregnancies," this practice should end immediately, as it represents blatant gender discrimination. As a state party to CEDAW, the government is obligated to "prevent discrimination against women on the ground of marriage or maternity,"¹⁹¹ and ensure that "appropriate services" are available for pregnant women.¹⁹²

Escape Attempts and Consequences

Women migrants in Saudi Arabia continue to suffer death and serious injury in attempts to escape from the locked rooms and buildings in which their employers confine them. In cases of women who have died in escape attempts, the underlying reasons for their flight are often not known because, prior to their escape attempts, they had been held in complete isolation and denied contact with family members in their home countries and compatriots in Saudi Arabia. Reports in the Saudi media about migrant women who died in "suicidal" leaps from buildings may not always be accurate because the women may have been trying to escape, not end their lives.

In Jeddah, the kingdom's second-largest city, an official at King Fahd General Hospital reported in 2002 that two or three foreign women domestic workers were being admitted on a weekly basis with serious fractures that they sustained in escape or suicide

¹⁸⁷ Ibid, paragraph 14.

¹⁸⁸ Ibid, paragraph 21.

¹⁸⁹ Ibid, paragraph 31c.

¹⁹⁰ Ibid, paragraph 31e.

¹⁹¹ Article 11(2).

¹⁹² Article 12(2).

attempts from upper stories of their places of employment. Director of social services Talal Al-Nashiri reported that some 80 percent of the women in the care of the hospital's orthopedic unit were Indonesians, with Sri Lankans the next largest group. "The jumps from apartment windows or balconies might lead to death or multiple fractures, especially of the spinal cord, legs and skull. In most cases the clothes they improvise as ropes to slide down from the upper story windows snap and thus ends up in a fatal fall," Nashiri was summarized as saying.¹⁹³ In October 2003, a migrant worker was killed in Mecca "while she was trying to escape from her sponsor's locked fourth floor apartment," *al-Madinah* newspaper reported. She reportedly tied up bed sheets but "the knots were not strong enough to hold the woman and the baggage she was carrying on her back and she fell several stories onto the sidewalk and died instantly."¹⁹⁴

Safe Houses for Migrant Women

Thousands of women migrants manage to escape their employers safely. The Indonesian embassy in Riyadh reported that 3,610 Indonesian domestic workers fled their employers in 2002 and sheltered at an embassy safe house before they were repatriated. Tumpal Martua Hutahut, head of consular affairs at the embassy, reported that unpaid salaries prompted 60 percent of the cases, and sexual abuse 5 percent.¹⁹⁵

Sri Lankan women migrants by the hundreds have also fled poor working conditions and abusive employers. A BBC correspondent in Colombo reported one case of a domestic worker who was brutalized by her woman employer. "After three months, I asked Madam for my salary and she started to beat me with iron bars and wooden sticks," BBC quoted Kusuma (not her real name) as saying. "Sometimes she would take a hot iron and burn me or heat up a knife and put it on my body." Then, abruptly one day, the employer threatened to take Kusuma to the police station and told her that she would be arrested. This was apparently an effort at intimidation: the employer instead brought Kusuma to the airport and sent her back to Sri Lanka.¹⁹⁶

A Canadian expatriate who worked in Riyadh as a volunteer with abused migrant women told us in 2003 that the Sri Lankan embassy safe house in downtown Riyadh was sometimes packed with victims who ran away from their employers: "Once there were ten women, another time about seventy. All of them lived in one room that served as a dormitory at night."¹⁹⁷ The Sri Lankan ambassador in Riyadh, Ibrahim Sahib Ansar, reported in January 2004 that the embassy was receiving about 150 women domestic workers each month who fled their employers.¹⁹⁸ In 2004, the embassy's safe house in

¹⁹³ "Maid in Saudi Arabia: Handle with Care?" *Arab News*, December 18, 2002, citing an article in *al-Watan* newspaper.

¹⁹⁴ P.K. Abdul Ghafour, "Maid Killed in Bid to Escape," *Arab News*, October 3, 2003, citing *al-Madinah* newspaper.

¹⁹⁵ M. Ghazanfar Ali Khan, "Indonesian NGOs Seek Ban on Maid Export," *Arab News*, November 1, 2003.

¹⁹⁶ Frances Harrison, "Work is torture for Sri Lanka maids," *BBC News*, November 24, 2003.

¹⁹⁷ Human Rights Watch interview, Riyadh, Saudi Arabia, January 24, 2003.

¹⁹⁸ Mohammed Rasooldeen, "Sri Lanka to Sign Deal to Protect Interests of Housemaids, Employers," *Arab News*, January 22, 2004.

Riyadh was reportedly sheltering about 100 women, and a similar facility in Jeddah housed eighty women.¹⁹⁹ According to the ambassador, “Non-payment of salary seems to be a major complaint among the runaway maids. If this is taken care of then 50 to 60 percent of runaway cases will come down.”²⁰⁰

Government-Administered “Camps” for Abused Migrant Women

The U.S. State Department reported in 2003 that the Saudi government was operating “three shelters, called Welfare Camps, in the largest cities for abused or trafficked female foreign workers.”²⁰¹ It stated that the police “bring runaway domestics to the shelters,” and that the women “stay there, receiving food and medical care, while law enforcement investigates their cases.” According to the State Department, foreign embassies “have access to their citizens,” and the shelters “have resulted in foreign embassies no longer needing to harbor domestics on their compounds.”²⁰²

Human Rights Watch did not interview women who had spent time in the shelters, but we spoke to others who had, and what we have learned suggests the need for an independent and thorough investigation of conditions in the shelters. The Canadian activist cited above told Human Rights Watch about a migrant worker from Ghana who described being held in prison-like conditions with sixty other women in a small room that had no air conditioning and only a tiny window. This facility – which had Saudi women guards -- reportedly lacked proper health services and no social workers. Migrants rights activists were not permitted to visit.²⁰³ She also told us about the existence of a “huge” government-run camp near Riyadh that held migrant women who fled their employers or otherwise lost their jobs.

V. LABOR GRIEVANCES: THE GOVERNMENT’S PROCESS FOR COMPLAINTS AND REMEDY

“When we filed the case, we hoped that we would get real justice. But after just one week we heard from the Bangladeshi lawyer that the company owner was the daughter of the Saudi king, and our file was closed.”

--Bangladeshi worker who returned home from Saudi Arabia in 2002.

Workers in Saudi Arabia do not have the right to strike or organize trade unions, and collective bargaining is prohibited.²⁰⁴ The kingdom’s labor law bans the organizing or

¹⁹⁹ K.S. Ramkumar, “Harassment of Maids Persists,” *Arab News*, March 10, 2004.

²⁰⁰ *Ibid.*

²⁰¹ The U.S. State Department did not specify the Saudi cities where these camps have been established.

²⁰² Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, *Trafficking in Persons Report*, June 11, 2003.

²⁰³ Human Rights Watch interview, Riyadh, Saudi Arabia, January 24, 2003.

²⁰⁴ For additional information, see International Confederation of Free Trade Unions, “Saudi Arabia: Annual Survey of Violations of Trade Union Rights (2003).”

encouraging of work stoppages. It states that these actions are punishable offenses, with prison terms of one to three years, or fines or both.²⁰⁵ The law prohibits “gathering on public roads and in public squares, or by occupying the place of work” for the purpose of encouraging strikes.²⁰⁶ It also stipulates that workers and employers may not stop work to protest a government decision, and prescribes harsh punishment for violators, including imprisonment of two to six years, fines, or both.²⁰⁷

The overwhelming majority of workers in the kingdom’s private sector are non-Saudis. Denying them the right to advocate or organize strikes and other work stoppages to protest poor labor conditions deprives them of a peaceful means of raising their concerns and, as commentators have noted, of bargaining power important in seeking improved working conditions from employers.²⁰⁸

In 2002, Saudi Arabia’s ministry of labor and social affairs promulgated new regulations that authorized the establishment of “workers’ committees” in private businesses with one hundred or more employees. International Labor Organization (ILO) director-general Juan Somavia called this development “a milestone in the labor history of Saudi Arabia,” and said it was “gratifying for the ILO to be cooperating with a country which is making real efforts to promote social and labor rights.”²⁰⁹ The ILO did not publicize the fact that the committees will lack real independence. Employees at each company may form only one committee, with three to nine members. The minister of labor and social affairs must approve committee members; the minister and companies’ management have the right to send representatives to committee meetings; and the minutes of all meetings must be provided to management.²¹⁰

In addition to these shortcomings, the system is discriminatory on its face. Foreign workers may not serve on the committees; membership is restricted to Saudi nationals who are at least twenty-five years old and have worked at their companies for over two years.²¹¹ Non-discrimination is a fundamental principle in the protection of human rights. Article 2(c) of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), which Saudi Arabia has ratified, requires each state party to

²⁰⁵ Article 190.

²⁰⁶ Article 189(3) and Article 190.

²⁰⁷ Article 191 states: “Where an employee, head of an enterprise, employee or workman stops work with the object of exerting pressure on public authorities or of protesting against a decision or measure adopted by such authorities instead of having recourse to legitimate means, each such offender shall be punished with imprisonment for a term of two to six years or a fine of 4,000 riyals to 10,000 riyals, or both.”

²⁰⁸ “Wage-bargaining, or the sharing of the firm’s surplus, in general, does not apply to the private non-oil sector in the GCC economies. Firms have access to an elastic supply of expatriate workers at internationally competitive wages [i.e., low wages] and labor unions are absent. As a consequence, workers have negligible bargaining power.” Ugo Fasano and Rishi Goyal, “Emerging Strains in GCC Labor Markets,” International Monetary Fund (IMF) Working Paper, WP/04/71, April 2004.

²⁰⁹ International Labor Organization, “Boost for workers’ rights in Saudi Arabia,” Press Release, April 18, 2002, ILO/02/17.

²¹⁰ International Committee of Free Trade Unions, “Saudi Arabia: Annual Survey of Violations of Trade Union Rights (2003).”

²¹¹ *Ibid.*

“take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.” The United Nations Committee on the Elimination of All Forms of Racial Discrimination, which oversees implementation of the CERD, has authoritatively commented that actions in violation of the treaty are those that have “an unjustifiable disparate impact upon a group distinguished by race, colour, descent, or national or ethnic origin.”²¹² Excluding foreign workers from participation in these labor committees is an unjustifiable form of racial discrimination that the government of Saudi Arabia should rectify immediately.

Two years after these regulations were issued, it remained unclear how many workers’ committees have been created at private companies in the kingdom. Even more troubling have been the suggestions from some Saudi officials that formation of the committees may be viewed as employer-driven initiatives. In February 2004, deputy minister of labor and social affairs Ahmad al-Mansour was summarized as saying that his ministry “will not force companies to form workers’ committees,” implying that the initiative should rest with management.²¹³ Dr. Abdullah S. Dahlan, identified as a Saudi member of the ILO board, said that the government was actually “encouraging” private sector firms to form the committees.²¹⁴ “We invite banks, industrial and commercial firms, among others, to come and make the hard decision – if it is a hard decision for them – to establish their own workers’ committees,” he added.²¹⁵

The Saudi government’s impetus for urging the formation of workers’ committees appears related to its goal of having the kingdom’s first national labor committee to represent workers’ bodies at international organizations, including those of the ILO.²¹⁶ Given the millions of foreign workers in Saudi Arabia, it is an act of blatant discrimination that they are not permitted representation at such important labor events.

²¹² “Definition of Discrimination,” General Comment No. 14, paragraph 2, adopted March 17, 1993, A/48/18, p.114; HRI/GEN/1Rev.3, p.108.

²¹³ Rodolfo C. Estimo, Jr., “National Labor Committee to Represent Kingdom at ILO,” *Arab News*, February 29, 2004.

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*

²¹⁶ For example, the ILO’s annual International Labor Conference, held in Geneva in June 2004, is designed to accommodate a diversity of voices. On its web site, the ILO described the annual conference this way: “Each member State is represented by a delegation consisting of two government delegates, an employer delegate, a worker delegate, and their respective advisers. (Employer and Worker delegates are nominated in agreement with the most representative national organizations of employers and workers.) Every delegate has the same rights, and all can express themselves freely and vote as they wish. So it happens that worker and employer delegates sometimes vote against their government’s representatives or against each other. This diversity of viewpoints, however, does not prevent decisions being adopted by very large majorities, or in some cases even unanimously. Many of the government representatives are cabinet ministers responsible for labour affairs in their own countries. Heads of State and prime ministers also take the floor at the Conference. International organizations, both governmental and others, attend as observers.”

Available Remedies

The government of Saudi Arabia reported to the United Nations Committee on the Elimination of Racial Discrimination (CERD) in 2001 that the kingdom “guarantees the right of every person living in its territory to seek protection and remedies through the available mechanisms.”²¹⁷ For migrant workers with labor grievances such as unpaid salaries, excessive working hours without overtime pay, illegally charged fees, and unlawful termination of contracts, it is far from clear how meaningful the government’s guarantee is in practice.

In theory, all workers in Saudi Arabia who are covered under the labor law have the right to leave their jobs before the expiration of their contracts for the following reasons:

- “If the employer has not fulfilled his obligation/s towards the worker”;
- “If the employer calls upon the worker to perform a task which is essentially different from the nature of his work for which he has committed himself under the contract, or if the employer transfers the worker from his original place of work to another place, necessitating a change in his place of residence, which is apt to cause serious prejudice to the worker and has no valid reason dictated by the nature of work”;
- “If the employer or whoever is acting on his behalf has committed an assault or an immoral act against the worker or a member of his family”;
- “If there is a serious hazard which threatens the safety or health of the worker, provided that the employer has been aware of the existence of such hazard and did not undertake any step to remove it”;
- “If at the time of concluding the contract, the employer or his representative misled the worker with respect to the terms of employment”;
- “If the employer through his actions and particularly by his unfair treatment or by his breach of the terms of the contract, has caused the worker to appear as the party terminating the contract.”²¹⁸

Workers are also provided with the right to challenge an employer’s arbitrary termination of their contracts by requesting a stay of the decision at a government labor office. Article 75 of the labor law provides that a worker “discharged for no valid reason may apply for a stay of execution of such discharge.” This article also states that “the onus of proof that the discharge was for a valid reason shall lie with the employer.” It adds that “discharge shall be regarded as having no valid reason if it is established that it followed the worker’s demand for legitimate rights due to him by the employer and no other valid reason for termination is established. In such case, the employer shall be ordered to reinstate the worker, pay his wages from the date of his discharge to the date of his reinstatement, and to consider his services as continuous.”

²¹⁷ Para. 36, CERD report, August 28, 2001.

²¹⁸ Article 84, paragraphs 1-6.

Many migrant workers in the kingdom are uninformed about these rights or, if they are informed, are afraid to exercise them. It is often financial reality that leaves aggrieved workers reluctant to seek recourse from Saudi government entities. Heavily in debt, and desperate for their wages, these workers calculate that leaving their employers for legitimate contract violations and pursuing complaints is simply too costly a prospect.

Official Labor Grievance Bodies

Saudi Arabia's 1969 labor law created special bodies to adjudicate disputes between workers and employers: Primary Commissions for the Settlement of Labor Disputes and an appeals body, the Supreme Commission for the Settlement of Labor Disputes. Migrant workers in the kingdom typically describe these mechanisms as "labor courts." Pursuant to the labor law, primary commissions have been established in offices of the ministry of labor and social affairs throughout the kingdom.²¹⁹ These commissions are "composed of three members experienced in legal matters. The chairman shall be a holder of a degree in Sharia'ah, and at least one of the other two members shall be a holder of a degree in Shari'ah or in Law."²²⁰

The primary commissions are empowered under the law to issue final decisions in cases involving not more than 3,000 riyals, or about \$800, and to rule on requests from workers to stay decisions to terminate their employment.²²¹ These commissions, as tribunals of first instance, also hear cases of disputes of more than 3,000 riyals, disputes related to employment-related injuries, and cases of illegal termination. Such cases may be appealed to the Supreme Commission.²²²

The law stipulates that the chairman and members of the Supreme Commission "shall be impartial and experienced in legal matters."²²³ It also states that "[e]ach of these Commissions shall have exclusive right to examine all disputes relating to labor contracts, and may summon any person for interrogation or assign one of its members to conduct such interrogation. It also may require the presentation of documents or evidence and adopt any other measure it may deem fit. The Commission shall also have the right of access to any premises occupied by the establishment, for the purpose of conducting the required investigation in accordance with the provisions of this Law."²²⁴

²¹⁹ Article 173.

²²⁰ Ibid.

²²¹ Within fifteen days of a worker's termination, he or she must submit a complaint to a government labor office. If the labor office cannot settle the case amicably, it is submitted to a primary commission. If a worker obtains a stay, "the employer will have to pay the worker with a sum equivalent to his pay from the date of his discharge." Migrants Advisory Information System (MAIS), "Country Profile, Saudi Arabia," Commission on Overseas Filipinos Department of Foreign Affairs, Republic of the Philippines,

²²² Article 176 of the labor law states that "the Supreme Commission shall have exclusive jurisdiction to render final and definitive decisions in all disputes referred to it on appeal and shall likewise be competent to impose upon the violators of the provisions of this Law the penalties prescribed herein."

²²³ Article 175.

²²⁴ Article 179.

The Supreme Commission is a five-member body, with “three representing the Ministry of Labor and Social Affairs, one representing the Minister of Commerce and Industry, and one representing the Ministry of Petroleum and Mineral Resources.”²²⁵

The first step in the grievance process is filing a complaint and supporting evidence in the disputes department of government labor offices, which are located in cities throughout the kingdom.²²⁶ These departments conduct preliminary investigations and attempt to arbitrate a “compromise” between the parties, which may involve compensation.²²⁷ If the case cannot be resolved at this level, it is referred for judgment to a primary commission, or one of the parties may insist on bringing the matter before such a commission.²²⁸

The proceedings of the grievance bodies are conducted in Arabic and the onus is on migrant workers and their consular officials to arrange for translation and interpreting. For Filipino migrants, interpreters and case officers in the Philippines Overseas Labor Office (POLO) at the Philippines embassy in Riyadh are reportedly available to “assist the worker in the preparation of the complaint but the latter must submit the complaint personally or through his authorized representative.” POLO also advises migrants that its interpreters “are not allowed to appear during the hearing before the Saudi Labor Office.”²²⁹

When a complaint moves to a primary commission, a date is scheduled for a hearing and it is the worker’s responsibility to deliver personally the subpoena of summons to the employer. Judgments in favor of workers that employers simply ignore must be brought for enforcement to the civil rights (*huquq al-madani*) sections of local police departments or the provincial governor’s office. A migrant rights activist from Bangladesh told Human Rights Watch in 2003 that enforcement of judgments was “poor.” He said that workers who had not been paid their salaries, and had labor court judgments in their favor, were confronted with the problem of employers who simply did not respond to the judgments.²³⁰ The Indian ambassador in Riyadh told us that of the Indian workers who filed cases in the labor courts, “99 percent were settled in their favor.” But, he emphasized, enforcement was “still a problem,” particularly with cases involving Saudi employers who enjoyed influence with authorities. He also noted that Indian workers

²²⁵ Article 175.

²²⁶ There were reportedly thirty-seven labor offices countrywide as of 2001, according to the Saudi labor ministry.

²²⁷ Human Rights Watch interview with then-Minister of Labor and Social Affairs Dr. Ali al-Namlah, Riyadh, Saudi Arabia, January 25, 2003.

²²⁸ *Ibid.*

²²⁹ The Philippine Overseas Labor Office (POLO) describes itself as “the operating arm and overseas representative of the Department of Labor and Employment. It is attached as the Labor Section of the Philippine Embassy or Consulate.”

²³⁰ Human Rights Watch interview, Riyadh, Saudi Arabia, January 23, 2003.

who arrived in the kingdom heavily indebted to manpower agents who sold them employment visas were unlikely to lodge official complaints.²³¹

The U.S. State Department reported in 2004 that “[m]ore foreign workers than the past are going to labor courts, which regularly rule in favor of the workers.” But it also said that the grievance process was “long and difficult,” and that it was “difficult to enforce judgments.” It noted that labor courts, “while generally fair, may take months to reach a final appellate ruling, during which time the employer may prevent the foreign laborer from leaving the country. An employer also may delay a case until a worker’s funds are exhausted, and the worker is forced to return to his home country.”²³²

Complaints of Migrant Workers

A comprehensive assessment of the effectiveness of the kingdom’s labor commissions is beyond the scope of this report. However, critics of the commissions have complained about protracted proceedings, the non-appearances of Saudi employers, unfair rulings, and the inability or reluctance of Saudi authorities to enforce judgments against employers. The overwhelming majority of aggrieved migrant workers that Human Rights Watch interviewed for this report either had no knowledge of these bodies or no opportunity to access them.

Both skilled and unskilled migrant workers complained about the grievance process. One of them was R. Prakash, an Indian electrical engineer who was employed at a large telecommunications subcontracting company that did business with the Saudi government. He reported in 2003 that for several months his company illegally deducted the cost of residency permits and visas from monthly paychecks of the workers, leaving their salaries reduced by about half. The workers, he stated, found it impossible to pursue their complaint: “A group of us had approached the local labor court to complain, but the company employed delaying tactics against us for nearly two years, and we concluded that it was only a waste of our money and precious time, and thus we withdrew the case.” The engineer maintained that the company simply “swindled” its foreign employees. “I really pity everyone who is suffering from such deception,” he commented.²³³

Among the women sheltered in the Sri Lankan consulate in Jeddah in 2002 was Musahina, who claimed that for eighteen years her wages had not been paid regularly by the family in Medina that had employed her since she was thirteen years old. The grievance procedure did not work for Musahina because, she alleged, her employer tricked her into thumb-printing a document that was accepted as proof of payment of paid wages:

²³¹ Human Rights Watch interview with Talmiz Ahmad, Riyadh, Saudi Arabia, January 25, 2003.

²³² U.S. Department of State, Bureau of Democracy, Human Rights and Labor, “Saudi Arabia,” *Country Reports on Human Rights Practices -- 2003*, February 25, 2004.

²³³ Tariq A.Al-Maeena, “Labor and the Law,” *Arab News*, February 8, 2003.

All I've received during those 18 years is SR7,000. Recently, the sponsor paid me SR 2,500 and took my thumb print on a bit of paper that had Arabic writing on it. Afterward, I was told that the thumb print meant that I had acknowledged receipt of everything that was due me. The Labor Court, after a few hearings, asked me whether the thumb print was mine. When I confirmed that it was, the court said that I don't have an argument.²³⁴

2002: Labor Exploitation Unaddressed

The grievance process produced unsatisfactory results in 2002 for thirty-three exploited Bangladeshi workers who had not been paid for months and were never provided with residency permits. They were forced to accept alternative jobs at monthly salaries of 400 riyals -- about \$107 -- or return home. According to one of the workers, Shahadat Hossain, twenty-three years old, the men were all recruited to work for the government's water supply department in Tabuk, cleaning and repairing water pipes. The monthly salary was 1,200 riyals with free accommodations. "It was a very good job," Shahadat told Human Rights Watch. The exorbitant cost of his visa and other required documents was 290,000 taka -- or \$4,945 -- a sum that his family raised by borrowing from relatives and arranging an interest-bearing loan from a neighbor. Shahadat believed that he had been hired to work directly for the government, but it appeared that the workers were actually employed by a labor subcontracting company.

Shahadat told us that he flew to Saudi Arabia in July 2001 with seven other Bangladeshis who were all promised the same work in Tabuk. Saudi intermediaries met them at Riyadh airport, took them into the city and put them on a public bus to Tabuk, an eighteen-hour journey. Following instructions of the Saudis, the men went to an office, surrendered their passports, and started work the next day. Shahadat said that he worked between ten and twelve hours daily, repairing underground water pipes. Sometimes, he said, he was summoned for emergency work at midnight or worked on jobs nonstop for eighteen to twenty hours. The men were not paid their first two months of salary and borrowed money from other Bangladeshis to purchase food.

Two and a half months after Shahadat arrived, the company decided to reduce its workforce of seventy-five Bangladeshi workers to thirty-five. Shahadat was one of the workers summarily dismissed. The company told the workers that they could be placed in similar jobs in Tabuk but at a lower monthly salary of 1,000 riyals. Thirty-three workers, including Shahadat, decided to accept this offer, and only then were they paid their back wages. In their new assignment, the men were forced to work at least fourteen to sixteen hours a day; they were never paid and did not receive residency permits. After four months, the company informed them that they were being relocated to a "construction farm," with monthly salaries of only 400 riyals. The men demanded

²³⁴ K.S. Ramkumar, "Escaping from their clutches," *Arab News*, April 4, 2002.

the four months of wages owed to them, but the company refused, explaining that the fee for transferring workers to a new employer was 2,000 riyals. (Since the workers were transferred twice – first to the jobs in Tabuk and then, after four months, to the promised construction farm jobs -- the total purported “fees” owed were 4,000 riyals per worker, the amount of their unpaid wages. Shahadat told Human Rights Watch that none of the workers were willing to accept this proposal.

Because they refused the second “transfer,” the men lost the free accommodations provided at the previous job. “We started to stay sometimes with other Bangladeshis and sometimes beside the road,” Shahadat remarked. “I slept many nights beside the road and spent many days without food. It was a very painful life. I could not explain that life.”

On the suggestion of a Bangladeshi who worked in the kingdom for a longer time, the men filed a case in a labor office in Tabuk, arguing breach of their original contract with the first employer. While the men waited for a ruling, they slept on the street in Tabuk and ate only once a day. After fifteen days, according to Shahadat, “the court declared that we had to work at the 400-riyal salary or leave the country.” The men were also told that if they wanted to return home, they had to contact the original employer to arrange their departure.

“We were all sick and everyone was crying after this declaration. Some men were talking about committing suicide. But we thought there was nothing to do since the court made its declaration and we had to go back,” Shahadat said. The thirty-three men returned to the office of their first employer, and the company transported them by bus from Tabuk to Riyadh, providing passports and tickets only after they entered the airport.²³⁵

2002: Case Closed

Another group of exploited Bangladeshi workers brought their case to a labor office in 2002, only to have it closed because the owner of their company was an influential Saudi citizen. Tofazal Hossain, one of the workers, provided the background and an account of what transpired. He decided to go to Saudi Arabia when a local manpower agent in Bangladesh told him about a visa that was available for a family driver.²³⁶ On October 31, 2001, the day of Tofazal’s departure for the kingdom, the manpower agent gave him the Arabic-language employment contract. “He translated it for me, and I understood that my job was a family driver and the monthly salary was 800 riyals [about \$213]. The duty hours were from eight in the morning until eight at night, and extra duty would count as overtime. Food and housing were free. I was happy with the contract,” Tofazal told us. At the airport in Dhaka that night, there were thirty-three other Bangladeshis who were promised work in Saudi Arabia through the same manpower company. The

²³⁵ Human Rights Watch interview, Moura, Dohar, Bangladesh, May 16, 2003.

²³⁶ The cost of the visa was 125,000 taka, about \$2,184.

manpower agent at the airport told the men that they would be taken together to an office in Riyadh and from there sent to their workplaces.

When the men reached Riyadh, they waited five hours at the airport until representatives of a company arrived to assist them. The representatives took their passports, tickets, and contracts, and brought them to the company office, where they were informed that their job was to work cleaning roads. "I was very surprised," Tofazal said. He continued:

I told the managing director that I came as a driver, and he replied that the company never asked for drivers, they just needed road cleaners. Then he told us that our monthly salary was only 250 riyals [about \$67]. I was like a statue, and when I wanted to say something about the salary the managing director just stopped me and told me to start working and not to say anything.

All the workers were shocked. "Some of us were crying as most of us took loans with high interest from other people, and it was not possible to pay back the money with such a small salary," Tofazal told us. He added that the work day began at two in the morning and continued until four o'clock the next afternoon. "We started to do the work, but it was impossible to continue," he said. During the three and a half months that Tofazal worked for the company in Riyadh, he attempted to organize the other 300 Bangladeshi workers, and met with the managing director to discuss the low salary and long daily hours. "The director did not pay any attention to me, rather he was very angry," he reported. The next day, Tofazal was transferred to a location fifty kilometers from Riyadh, and over the next two months the other Bangladeshis were moved there as well.

At the new location, where about 4,000 Bangladeshis were employed, Tofazal said that everyone was paid lower salaries than specified in their contracts. In addition, all the company supervisors were Sri Lankan and, according to Tofazal, they "could not tolerate" Bangladeshis and "physically attacked" them on numerous occasions. Tofazal and a group of other Bangladeshi workers sought a meeting with one of the company's directors to discuss the low salaries. "He would not hear anything from us, rather he behaved with us like we were street dogs. One of the Sri Lankan supervisors was angry and attacked one of us. He was seriously injured and we took him to a hospital," he recounted. In retaliation, angry Bangladeshi workers attacked and injured a Sri Lankan supervisor, Tofazal said.

After this, the company identified thirty Bangladeshi workers, including Tofazal, and told them they were being returned to Bangladesh, without giving the workers any reason or opportunity to comment. "I was ready to go back," Tofazal said, "but most of the men were not. The company told us we had to leave within a week." The thirty men talked about their situation with a Bangladeshi lawyer, who suggested they file a case at

the labor office. The men could not follow the case themselves because “all the documents were written in Arabic and all the discussion was in Arabic and we got information from the Bangladeshi lawyer,” Tofazal said. “When we filed the case, we hoped that we would get real justice, but after just one week we heard from the Bangladeshi lawyer that the company owner was the daughter of the Saudi king, and our file was closed,” he said. “No one could help us, and the Bangladeshi lawyer suggested that we go back home.”

In September 2002, the men were brought in a group to the airport, company representatives gave them their passports and tickets once they were inside the immigration area, and they were returned on the same flight to Dhaka. At the time of his interview with Human Rights Watch, Tofazal, twenty-eight years old and recently married, was living in his village and was unemployed. He is the youngest of ten children and had seven years of schooling; his father died when he was six years old, and his widowed mother lives with him and his wife. He sold his land and small shop in the village to finance the cost of his visa to Saudi Arabia.²³⁷

VI. DEPORTATION OF MIGRANT WORKERS

“There was no way to complain. They took us from the deportation center directly to the airport.”

--Filipino restaurant worker, deported from Saudi Arabia in May 2003.

Migrant workers are among the hundreds of thousands of foreigners officially deported from Saudi Arabia each year. An interior ministry official reported in 2002 that over 700,000 illegal residents were deported annually, most of them Muslim pilgrims to the holy cities of Mecca and Medina who overstayed their visas.²³⁸ The government’s recent tightening of regulations for *haj* and *umrah* pilgrims from abroad appears to have shifted the statistics. “There are more workers without sponsors than overstaying pilgrims,” Major General Abdul Aziz Sajeeni, director general of the interior ministry’s passports department, said at a press conference in February 2004. Most of the illegal workers were those who had not renewed their residency permits, he added. He also indicated that authorities would continue to crack down on unlicensed businesses in the kingdom, stating that “most of these businesses are run by expatriates.”²³⁹

In addition to migrant workers in violation of immigration laws, the kingdom is deporting growing numbers of foreigners who are living with HIV/AIDS.²⁴⁰ The Saudi

²³⁷ Human Rights Watch interview, Bancharampur, Bangladesh, January 16, 2004.

²³⁸ “Kingdom deports 700,000 illegals annually: Official,” *Arab News*, May 21, 2002.

²³⁹ P.K. Abdul Ghafour, “Campaign Against Overstayers to Be Stepped Up,” *Arab News*, February 25, 2004.

²⁴⁰ Prospective migrant workers who are HIV positive are not permitted to enter Saudi Arabia, and if they test positive while in the kingdom they are deported, apparently irrespective of whether they are able to work or not.

ministry of health requires mandatory testing of all migrant workers for HIV.²⁴¹ Saudi embassies in the migrants' countries of origin do not issue employment visas without proof of a complete medical examination that includes an HIV test. When migrants arrive in Saudi Arabia, they are required to have another medical examination and an HIV test in order to receive a two-year residency permit (*iqama*). According to a health ministry report released in 2004, "There are clear guidelines about the treatment of foreigners. First they will be treated in the kingdom until they are in stable condition and then they will be deported to their home countries."²⁴² Toward the end of 2003, the director of the kingdom's HIV/AIDS prevention program, Nasser al-Hazeem, reported 6,787 cases (1,509 of them Saudi citizens), and noted that the foreigners were deported.²⁴³ Human Rights Watch is not aware of additional public information about the nationalities, gender, place of residence in the kingdom, and medical status of the 5,278 foreigners whose cases were reported.²⁴⁴

Deportees with Outstanding Labor Grievances

The official deportation process has failed to safeguard the rights of migrant workers who have labor-related grievances against their employers, most notably unpaid wages. Migrants who fled abusive employers and thus lost their legal status have been arrested and summarily deported without the opportunity to press claims through the government's labor grievance process.²⁴⁵

Another problem is that "runaways" sometimes have been arrested on fabricated charges that employers lodge with the police. "Employers take preventive action to protect themselves against runaways," said a Filipino administrator who worked in the kingdom for twenty years and was well informed about the plight of runaway workers. He explained that after a worker has fled, the employer may turn in the worker's passport to the police and file a signed complaint accusing the worker of theft, or possession of alcohol or pornographic materials. "Employers with runaways are eager to report them to the police so they can get another visa processed," he told us.²⁴⁶

In other cases, employers have initiated allegedly false complaints while workers were still under their legal sponsorship, leading to their arrest, trial, and deportation after serving prison sentences.

²⁴¹ Sami A. Hamdi, M.D., and M. Abdulbari Ibrahim, M.D., "Sexually Transmitted Diseases in Domestic Expatriate Workers in Jeddah, Saudi Arabia," *Annals of Saudi Medicine*, vol. 17, no. 1, 1997, 29-31.

²⁴² M. Ghazanfar Ali Khan, "3 Specialized Units to Be Set Up to Combat AIDS," *Arab News*, January 26, 2004, citing health ministry adviser Dr. Tarek Medani.

²⁴³ Agence France-Presse, "Saudi Arabia has 6,787 HIV/AIDS cases, up five-times from 16 months ago," December 1, 2003, citing *al-Riyadh* newspaper.

²⁴⁴ Gender information is particularly important, given reported statistics about the incidence of HIV in returned women migrants. The United Nations Development Program has reported, for example, that fifty percent of reported HIV cases in Sri Lanka were women domestic workers returned from the Middle East.

²⁴⁵ See Chapter V for additional information.

²⁴⁶ Human Rights Watch interview, Quezon City, Philippines, December 18, 2003.

Murali, a forty-two-year-old mosaic and marble craftsman from India, described to us how he was arrested, unfairly tried, and sentenced to a prison term because his sponsor sought to avoid paying a significant amount of wages that were due to him. Murali returned from Saudi Arabia in 2003, after spending thirteen months in prison. He told us that he worked for individual clients in the city of Qassim, but that the contracts for each job were written in his sponsor's name and the clients paid the sponsor directly. According to Murali, he worked as a skilled craftsman on various projects for two years and three months, but was not paid his wages for one year and four months. He calculated that his sponsor owed him about 240,000 rupees, or \$5,300. After repeatedly pressing the sponsor to pay his earned wages, Murali was arrested. His sponsor reported to the police that he found Murali's telephone number in the possession of the sponsor's Indonesian maid. (See Chapter VII for information about Murali's arrest, detention, and trial.)

Murali told us that during his imprisonment he wrote repeatedly to prison authorities – “every other week” – in an attempt to pursue his claim against the sponsor. Toward the end of his prison term, the sponsor, a retired policeman, was summoned to the jail. He denied owing any money to Murali and, according to Murali, told him: “Go back to India.” Murali then asked the sponsor to provide him with a return ticket but he refused. Murali was not informed at the prison of any legal options, so he contacted his brother-in-law who worked in Dammam, who purchased the return ticket for him. Four days after the ticket arrived at the prison, “I was brought to the airport in chains by the police,” Murali said.²⁴⁷ The arbitrary and unfair “hearing” of Murali's complaint in the prison was no substitute for bringing his case before a labor office for adjudication. But his lack of knowledge about the official grievance process, and the circumstances of his departure from Saudi Arabia, left Murali with no opportunity to seek recourse.

Two restaurant workers from the Philippines who fled an abusive employment situation were unable to recoup earned wages because they were summarily deported. Raymond, twenty-two years old, told us the story. When he arrived in the Eastern Province of Saudi Arabia on a legal employment visa in September 2002, he was forced to sign an Arabic-language contract that he could not read. Raymond said that this new contract did not reflect the monthly salary of \$300 that he was promised in the Philippines. Instead, it specified a monthly wage of \$267, or 1,000 riyals. Additional illegal deductions of the employer lowered the salary even more.

The restaurant, located in Hofuf, was not open when Raymond arrived, and he told us that he helped the owner equip it. When the business was launched, the staff included Raymond, another Filipino, two Bangladeshis, and two Syrians. Raymond said that the four Asian employees were forced to work extraordinarily long days of sixteen to eighteen hours. He told us that he was so exhausted from lack of sleep that he “felt mentally retarded.” According to Raymond, his employer also illegally deducted 100 riyals per month from the workers' salaries to cover the cost of their residency and work

²⁴⁷ Human Rights Watch interview, Nagarikunnu, Kerala, India, November 28, 2003.

permits, and in some months did not pay wages in full or skipped the payments completely.²⁴⁸

After six months, Raymond and his Filipino coworker decided to leave the job. They traveled to Riyadh and visited the Philippines embassy for advice. Raymond said that an official was not helpful: “He told us to go back to the employer.” The two young men slept on the streets until another Filipino took them in. According to Raymond, the embassy finally arranged a meeting with the employer to negotiate a settlement. Raymond and his colleague were not present at the meeting, but two diplomats told them that the employer agreed to return their passports with an exit visa and provide a return ticket to the Philippines. “They left, and after five minutes the police came,” Raymond said. “They handcuffed our hands and feet and pointed rifles at our backs. The sponsor was smiling like a devil,” he added. The two Filipinos were held for one week in the jail in Hofuf and then were moved to Dammam. They were deported on May 12, 2003, escorted to the airport by police. Raymond and his coworker left the kingdom with three months of salary unpaid. “There was no way to complain – they took us from the deportation center directly to the airport,” he told us.²⁴⁹

Migrant workers who find themselves in such situations must be provided with an opportunity to bring formal complaints against their employers and demand the wages and other benefits that are their due. As long as migrants out of legal status continue to be detained in the kingdom pending deportation, the ministry of labor should have offices in deportation jails to take complaints from aggrieved workers, according to a fair and transparent process that is described fully to workers, both orally and in written material in their native languages. Legal aid lawyers should be provided to such workers free of charge, so that they can bring their cases to labor grievance bodies.

Migrants imprisoned in the criminal justice system -- based on complaints of abusive employers that may be false -- also should have the opportunity to press claims of unpaid wages and other abuses through a transparent and fair grievance process. Allegations against employers of fraud, and possibly criminal fraud, should be immediately processed and thoroughly investigated if there is *prima facie* evidence of the merit of such claims.

Current Conditions in Deportation Jails

For exploited migrant workers who pay or borrow significant sums of money to enter Saudi Arabia on valid employment visas and wish only to earn money to send to their families back home, confinement in deportation jails and other lock-ups represents a final insult and injustice. Migrants recently imprisoned in deportation jails described severe overcrowding, inadequate sanitary facilities, other poor conditions, and corporal punishment.

²⁴⁸ According to Raymond, the Bangladeshis were paid 600 riyals a month and the Filipinos 800 riyals.

²⁴⁹ Human Rights Watch interview, Quezon City, Philippines, December 8, 2003.

Riyadh

In May and June 2003, a deportation facility in Riyadh was packed with men, according to an Indian worker who was held there for forty-five days. He told us that his cell had a maximum capacity of about forty to sixty people, “but on any day there were ninety to one hundred – sometimes as many as 150, but never less than ninety.” He said that the prisoners had blankets but no mattresses. They shared five toilets, and there was a row of pipes for drinking water outside the toilets. The cell did not have windows but the air-conditioning functioned properly. A small opening with wire mesh covered the door to the cell. During the six weeks that this Indian deportee was held there, he said inmates were never allowed outside to enjoy natural light, fresh air, or exercise.

The prisoners were fed three times a day, he said. The food was “rotten...we could hardly eat it,” but despite the poor quality there were “regular fights” among prisoners for the food because the quantity was insufficient. Uniforms or other clean clothes were not provided; the men were dressed in the clothing they wore at the time of arrest, unless visiting friends supplied clean items. Visiting hours were from 4 p.m. to 6 p.m. on Thursdays and Fridays, “but sometimes the visits were cancelled with no reasons given,” he added.

He told us that inmates were subjected to gratuitous violence, particularly during the counts that took place three times a day. When the prisoners were removed from their cells for the counts, prison personnel in khaki uniforms randomly “beat up and kicked them.” The times of the counts varied, and sometimes the first count was at three in the morning. “If someone was slow to arrive, he was kicked or beaten with fists. One morning I did not get to the queue fast enough and I was kicked in the chest,” adding that this was the only time he was physically assaulted. After a fight erupted between four Bangladeshi and three Lebanese prisoners, “they were all beaten,” and then the guards subjected them to additional physical abuse. “They tied their hands behind their backs, told them to bend down, and beat them on their backs. They cuffed their ankles and made them stay for one hour in this bent position. Then they brought them to the cell and kept them shackled at the legs for one day.” Although smoking was prohibited, cigarettes were widely available. If the guards smelled cigarette smoke and investigated, Arab prisoners pointed out Indians and other foreigners and the innocent non-smokers were beaten.

He reported that medical care was another concern: “Even if someone was crying with severe pain, medical aid never came immediately. This really bothered me. You needed to shout a lot. Sometimes it took one or two hours for someone to come, and then it was not doctors but police who handcuffed the person’s hands and feet.” He remembered that one time the prisoners banged on their cell doors for two hours to

obtain medical assistance for a Bangladeshi and an Egyptian who had collapsed, almost unconscious.²⁵⁰

Jeddah

Conditions in the Buraiman deportation jail in Jeddah were “very bad, like a dirty marketplace,” said an Indian worker who was an inmate there for eight days in May 2003. He told Human Rights Watch that he was held in a large cell with about 400 other men. Of eight toilets, only one was operable. The room was air conditioned but there were no beds or blankets and everyone slept on the floor. The interior skylight, covered with wire mesh, provided no natural light. The prisoners were fed three times a day, “but only the strongest ones got breakfast” because food for this meal was undersupplied. He added that the cell had no drinking water, which was purchased from the Indian and Bangladeshi maintenance staff.²⁵¹ Another Indian, who spent one week in the same facility in late 2002, had similar complaints about the facility. He said he was held in a large hall with hundreds of other men. There were no beds and no air conditioning, only fans, he recalled. The food was “okay,” but he described sanitary conditions as “horrible,” with only six toilets for the inmates to share. There were three faucets with running water but they operated only during prayer times.²⁵²

A Bangladeshi worker, imprisoned in Buraiman for one week in January 2003, said he was held in a cell with about 400 other men, at least 100 of them from Bangladesh. “We slept in a big room without pillows or blankets. There was a bad smell in the room and I vomited several times. There was no water to take a bath so I did not have a shower for seven days,” he added. He described the food as “not bad,” and pointed out that three daily meals in the jail was an improvement over the one meal he had been accustomed to eating.²⁵³

Dammam

A Filipino worker who was imprisoned in Dammam for one week in May 2003 before his deportation said he was “locked in one big room with about 1,500 other prisoners” of Saudi and other nationalities. There were no windows – “it was like a concrete box.” The room was tremendously overcrowded, without beds or blankets, and the inmates were forced to sleep either standing or sitting. “We had no changes of clothes, and some poor Egyptians had been there for six months” he commented. There were only two functioning toilets and the men waited three hours or more to use them. He said he understood that the prisoners were either awaiting deportation or sentences from the

²⁵⁰ Human Rights Watch interview, Calicut, Kerala, India, December 4, 2003.

²⁵¹ Human Rights Watch interview, Calicut, Kerala, India, December 5, 2003.

²⁵² Human Rights Watch interview, Monjeri, Kerala, India, December 1, 2003.

²⁵³ Human Rights Watch interview, Bancharampur, Brahmanbaria, Bangladesh, May 9, 2003.

courts. “Sometimes the guards came in and slapped, punched and sometimes kicked prisoners” at random because they were shouting for food and water, he said.²⁵⁴

Legal Responsibility for Conditions in Deportation Jails

Under international law, the treatment of migrant workers detained in Saudi Arabia pending deportation should be guided by the Standard Minimum Rules for the Treatment of Prisoners.²⁵⁵ These rules outline basic standards of treatment – with respect to accommodations, personal hygiene, clothing and bedding, food, exercise and sport, and medical services – that Saudi government authorities have violated with impunity, according to testimony that Human Rights Watch obtained from migrants recently imprisoned in major cities across the kingdom. The testimony suggests that authorities responsible for poor conditions in deportation facilities – and the physical abuse of detainees – should take immediate action to bring these facilities into compliance with minimal international standards.

VII. MIGRANT WORKERS IN THE CRIMINAL JUSTICE SYSTEM: RIGHTS DENIED

“They inflicted a lot of torture on me. They forced me to sign papers – I could not read what was written on them. I was kept in a place underground for eight months.”

-Indian agricultural worker, writing to his mother from prison in Saudi Arabia.

The criminal justice system in Saudi Arabia does not meet basic international human rights standards of due process and fairness. This reality has wreaked havoc on the lives of migrant workers and their families. Interior ministry interrogators have tortured criminal suspects with impunity while they were held in incommunicado detention, forcing them to sign coerced confessions written in Arabic, a language that none of them could read. These confessions are often the only evidence presented at criminal trials in *shari’a* courts, and judges typically do not appear interested in hearing about the circumstances under which the confessions were obtained. There is no legal aid system in Saudi Arabia to provide advice or representation to defendants who cannot afford to hire lawyers. These are not exceptional, one-off abuses. The material in this chapter demonstrates that the pattern is consistent and long-standing.

The Saudi government maintains that the kingdom’s justice system ensures fairness and safeguards the rights of defendants. The criminal procedure code that came into effect in

²⁵⁴ Human Rights Watch interview, Quezon City, Philippines, December 8, 2003.

²⁵⁵ These guidelines were adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the [U.N.] Economic and Social Council by its resolutions 663C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

2002 explicitly recognized the right of criminal suspects to legal counsel.²⁵⁶ Despite this, the government continues to emphasize that there is a limited role for defense lawyers in Saudi Arabia because, it says, *shari'a* court judges also serve as “lawyers” for the defendants:

According to Saudi tradition there are no juries, nor are there likely to be in the future. Lawyers are not an integral part of the system. One can bring a lawyer but that is optional. We don't consider the presence of lawyers a prerequisite for the delivery of justice....

In Saudi Arabia the judge acts, in effect, as the defendant's lawyer. He challenges every piece of evidence presented by the prosecution. Unlike judges in the West who simply act as umpires leaving the prosecution team and the defence team to influence the jury, our judges consider themselves personally accountable to God for every judgment they make. If a judge condemns a man who is innocent to death, the judge faces eternal divine punishment and he knows that. Among God-fearing men this is a mighty safeguard.²⁵⁷

This chapter documents cases of migrant workers who were subjected to arbitrary arrest and torture, and sentenced to prison terms following unfair trials that they did not fully comprehend and where no evidence was presented that they could challenge. In the absence of regular and unimpeded access of independent human rights monitors to the men and women migrants in Saudi Arabia's prisons, it is impossible to reach an assessment of the prevalence of these and other abuses.

Another lurking danger for all migrant workers is the perceived and actual power of Saudi employers – or other Saudi citizens -- to orchestrate their arrest on false charges. Workers may find themselves imprisoned as a consequence of insubordination or an attempt to flee, or as a preemptive measure to ensure that complaints about mistreatment do not reach Saudi authorities. “If an employer finds out that one of his workers is planning to file a case in the labor court, he may have him arrested on trumped-up charges,” said a Filipino migrant rights activist who was employed for many years in Saudi Arabia and closely observed the practices there. The mere suggestion of arrest is sometimes enough to silence exploited and intimidated workers, he added.²⁵⁸

²⁵⁶ Article 4 of the criminal procedure code states: “Any accused person shall have the right to seek the assistance of a lawyer or a representative to defend him during the investigation and trial stages.”

²⁵⁷ “Saudi Arabia – Questions of Human Rights,” publication posted on the Web site of the Embassy of Saudi Arabia, London, <http://www.saudiembassy.org.uk/index2.htm>, retrieved February 7, 2004.

²⁵⁸ Human Rights Watch interview, Quezon City, Philippines, December 8, 2003.

The Lack of Transparency

Human Rights Watch is deeply concerned that Saudi authorities provide minimal information when foreigners are arrested as criminal suspects. Consular officials are denied prompt access to their nationals, and the Saudi government reveals little about the legal proceedings, including evidence presented to substantiate criminal charges. Some foreign governments have publicly expressed frustration about these practices.

In 2003, the Foreign and Commonwealth Office (FCO) of the United Kingdom described to the House of Commons its experiences with the Saudi government following a car bombing in Riyadh in November 2000 that killed a British citizen. In the wake of this bombing and subsequent violent attacks that targeted foreign residents of the kingdom, Saudi authorities rounded up a number of Westerners as alleged suspects, most of them British citizens.²⁵⁹ The FCO stated that it “immediately sought consular access to the men,” using a variety of means including “official level contacts with the Saudi authorities both in person and through formal diplomatic notes, and through high level political contacts both in Saudi Arabia and in the United Kingdom.” But access to the detainees “was only secured after repeated representations,” the FCO reported. After access was granted, the ability of British diplomats to communicate freely with the detainees was also compromised. The FCO stated that access “was restricted in terms of the length of the visits and of the range of topics which could be discussed. We complained about these restrictions to the Saudi authorities in Saudi Arabia and the United Kingdom, in official level and political contacts, in person and via formal diplomatic notes.” According to the FCO, the British government was kept largely in the dark about the operation of the kingdom’s justice system in this case:

We raised with the Saudi authorities on many occasions a variety of specific concerns about the men's case and repeatedly asked the Saudi authorities to explain the reasons for the men's detention. We sought clear information about the judicial process and its outcome; and raised with the Saudi authorities our concerns about its lack of transparency.²⁶⁰

An Indian diplomat also spoke publicly in 2003 about the frustrating lack of information when Indian citizens have been arrested on criminal charges in Saudi Arabia. V.V. Narayanan, second secretary at the Indian embassy in Riyadh, said in a television interview that diplomats were unable to “directly approach the police or the courts to obtain details” about Indians in detention. He explained that queries about arrested persons had to be routed through the Saudi foreign ministry, and this “takes time.” When the information was finally supplied, he said, it contained “only the name of the arrestee, his passport number if available, the charge and the prison.” Saudi government

²⁵⁹ Human Rights Watch followed this case closely. For additional information, see Human Rights Watch, “The Criminal Justice System in the Kingdom of Saudi Arabia: Recommendations for Basic Human Rights Protections,” May 2003, <http://hrw.org/press/2003/05/saudimemo0503.htm>

²⁶⁰ Foreign and Commonwealth Office Memorandum transmitted in Letter to the Clerk of the Committee from the Parliamentary Relations and Devolution Department, Foreign and Commonwealth Office, 13 October 2003. See Appendix B for the full text of this memorandum.

officials provided Indian diplomats with no other details about the cases of arrested Indian nationals, he said.²⁶¹

The family of Udaykumaran Kizhakke Cholakkil, a twenty-six-year-old Indian migrant worker who was arrested in Saudi Arabia in February 1999, directly experienced the consequences of this lack of transparency. The Indian embassy in Riyadh inquired about Udaykumaran's case on behalf of his family and received a reply from the Saudi foreign affairs ministry, dated May 8, 2000.²⁶² The ministry's letter stated that Udaykumaran was "accused in a drug case." The only additional information in the letter was this: "The Ministry would like to inform the esteemed Embassy that it has received the reply of the authorities concerned stating that the case is still under consideration."²⁶³ Two weeks after the date of this letter, Udaykumaran was executed. His father told us that he learned about the execution quickly – and unofficially -- from letters that inmates in Malaz prison in Riyadh mailed to him in India. The prisoners wrote that Udaykumaran was executed on May 30, 2000.²⁶⁴ It was not until December 4, 2000, that the Indian embassy in Riyadh was able to formally notify the family about the execution. The embassy's letter cited a *note verbale* that the Saudi foreign affairs ministry sent to the embassy on November 11, 2000. The ministry stated that the date of execution was May 20, 2000.²⁶⁵

The Obligations of the Government of Saudi Arabia under International Law

Saudi Arabia is a party to the Vienna Convention on Consular Relations, the international treaty that codifies the rights of consular officials and foreign nationals in member states.²⁶⁶ Saudi interior ministry authorities have consistently violated article 36 of this convention, which establishes the right of consular officers to prompt notification about the arrest of their nationals.²⁶⁷ The treaty also guarantees consular officials the right of access to and free communication with imprisoned foreign nationals.²⁶⁸

²⁶¹ "Pravasa Lokam," *Kairali Channel*, July 3, 2003.

²⁶² Human Rights Watch interview, Ottaplam, Palakkad, Kerala, India, November 30, 2003.

²⁶³ Ministry of Foreign Affairs, Kingdom of Saudi Arabia, 4/2/1421AH (corr. To 8/5/2000), No. 94/74/94/13863. A copy of the letter is on file at Human Rights Watch.

²⁶⁴ One letter, dated May 30, 2000, was written in Tamil from Section 13 of the prison; the other, dated June 6, 2000, was written in Malayalam.

²⁶⁵ Formal Notification from Embassy of India, Riyadh, December 4, 2000, No. RIY/CW/436/640/2000 to Chandran Kizhakke Cholakkil (the father of Udaykumaran).

²⁶⁶ Saudi Arabia acceded to the Vienna convention in 1988.

²⁶⁷ Article 36(1)(b) of the Vienna convention states: "[I]f he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph."

²⁶⁸ Article 36(1)(c) of the Vienna convention states: "[C]onsular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall

The Saudi government's consistent flaunting of these treaty obligations is a serious breach of its responsibilities under international law. Steps should be taken immediately to ensure that the relevant government ministries, including the interior ministry, adhere to the provisions of the Vienna Convention.

The importance of adherence to the Vienna Convention was recognized in a landmark decision in 2004 of the International Court of Justice (ICJ). The ICJ ruled, in *Mexico v. United States of America*, that the United States had not complied with its international obligations under article 36 of the Vienna Convention when it did not notify Mexican consular officials "without delay" of the detention of Mexican nationals sentenced to death in U.S. courts. The court also found that the U.S. government deprived Mexican authorities "of the right, in a timely fashion, to communicate with and have access to those nationals and to visit them in detention."²⁶⁹ The ICJ ruling stated that "[t]he rights guaranteed under the Vienna Convention are treaty rights which the United States has undertaken to comply with in relation to the individual concerned, irrespective of the due process rights under United States constitutional law."

The court also emphasized the broader significance of the case:

To avoid any ambiguity, it should be made clear that, while what the Court has stated concerns the Mexican nationals whose cases have been brought before it by Mexico, the Court has been addressing the issues of principle raised in the course of the present proceedings from the viewpoint of the general application of the Vienna Convention....In other words, the fact that in this case the Court's ruling has concerned only Mexican nationals cannot be taken to imply that the conclusions reached by it in the present judgment do not apply to other foreign nationals finding themselves in similar situations in the United States.

Particularly in light of this decision of the International Court of Justice, Saudi government authorities should review the interior ministry's arrest and detention procedures as an urgent matter. The interior ministry should be specifically instructed to ensure that all of its security and law enforcement officials, and subordinate personnel, are informed of the legal requirements of the Vienna Convention. The government should also publicly announce that the rights of foreign nationals in Saudi custody will be strictly enforced pursuant to the provisions of the Vienna Convention.

refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action."

²⁶⁹ International Court of Justice, *Case Concerning Avena and Other Mexican Nationals (Mexico v. United States of America)*, 31 March 2004, General List No. 128.

Imprisoned Women Migrants

Reported cases of women migrant workers arrested in Saudi Arabia typically involve criminal offenses linked to actual or suspected private behavior. Consensual sexual relations between unmarried couples are prohibited under the Saudi judiciary's interpretation of *shari'a*, and migrant women living in the kingdom without husbands who become pregnant, whether through consensual sex or rape, have faced arrest and imprisonment for these reasons. In January 2003, Human Rights Watch representatives encountered several young Indonesian women with their newborn babies in Malaz women's prison in Riyadh. These Indonesians, Saudi women staff at the prison told us, were imprisoned for "illegal pregnancies."²⁷⁰ In other cases, we found women who were arrested on complaints of their employers, including allegedly false accusations.

The Indonesian embassy in Riyadh documented in 2001 the cases of ninety-two migrant women who were imprisoned in the kingdom. Almost half of them -- 48 percent -- were arrested for being in the company of men who were not their husbands. Another 16 percent were in custody because they were raped, pregnant, or gave birth. The remaining women were arrested for fleeing their places of employment (11 percent); theft (10 percent); "assaulting their employers, through witchcraft, putting urine/feces in their drinking water, intimidation, using a knife" (5 percent); "reporting their employers for physical and sexual abuse" (4 percent), and prostitution (2 percent).²⁷¹

Human Rights Watch had the opportunity to speak with some imprisoned women migrants during a short visit in 2003 to Malaz women's prison, which the Saudi foreign ministry arranged. The circumstances of the visit permitted only brief private conversations in a classroom where a group of foreign women were studying. Their comments to us made clear that they did not know their rights under Saudi law and, in some cases, had no knowledge of the specific criminal charges against them or the status of their cases. Some complained about having no access to lawyers or legal assistance. One woman from the Philippines told Human Rights Watch that there were "hundreds" of migrant women in the prison facing these difficulties.

A few of the women were able to summarize quickly their stories, and others -- all from the Philippines -- managed to send letters to Human Rights Watch, which reached us months later. All of these letters were mailed from the Philippines, indicating that the women were unable to mail letters freely from the prison, an issue that some of them complained about.

Mercedes, a migrant worker from the Philippines, told us that she had worked in the kingdom for twenty years, including a job in a Western embassy. She said that she was

²⁷⁰ It was not possible during this brief prison visit to interview the Indonesian women privately and obtain additional information about their cases.

²⁷¹ The embassy study is cited in "Indonesian Migrant Workers: Systematic Abuse at Home and Abroad," Indonesian Country Report to the UN Special Rapporteur on the Human Rights of Migrants, Kuala Lumpur, June 2, 2002.

imprisoned in Malaz for the past five years, having been convicted on drug charges and sentenced to ten years. According to Mercedes, she had no legal assistance and no evidence was ever presented at her trial that she could challenge. Insisting on her innocence, she pleaded with us for help, saying: “We cannot fight for our rights here.”²⁷²

Two women migrant workers informed us that they were imprisoned on charges of sorcery or witchcraft. Rama, a domestic worker from Indonesia, said that her employer had accused her of sorcery, which she described as a “false accusation.” She did not have a lawyer and did not understand much about her case, other than that she was sentenced to ten months in prison but at the time of the interview had already served eleven months.²⁷³ Lolita, a twenty-eight-year-old mother of three from the Philippines, said that she was on her first assignment as a domestic worker in Riyadh when she was arrested. She said that she was imprisoned because her employer accused her of being a “witch” and practicing magic. The “evidence,” she said, was a small piece of paper with Arabic writing that was in her possession. Lolita wrote that she was innocent, but had “no right to fight for justice.”²⁷⁴

Three women said that their cases began when the religious police took them into custody. Howla, a Muslim from the Philippines, wrote to us that she was employed in the kingdom as a domestic worker for a little over one year when she was arrested on January 27, 2003. She stated that the religious police brought her to the prison on suspicion of some type of undefined involvement with her employer’s driver. According to Howla, her employer complained to the religious police after observing her on a video camera while she opened the gate of his home, looked at the driver, and then closed the gate. “The driver was outside and we did not talk,” she wrote, but “that is why I am here in jail.” Howla added this: “I have no rights, no power, no justice. I want to leave this country as soon as possible.”²⁷⁵

Adelina, also from the Philippines, wrote that the religious police arrested her on April 20, 2002, and she remained in Malaz prison on charges of forgery because her residency permit was not authentic. She pointed out that these permits are written in Arabic, which she cannot read, and that it is Saudi employers who are responsible for providing workers with these official identification documents. “How would I know that it was a fake? It’s so unfair that I should be the one in prison,” she argued. Adelina said that she was suffering from high blood pressure from the stress of her predicament. She added that she was a single parent and had no contact with her children in the Philippines since her arrest because “sending and receiving letters are strictly prohibited here.” She also wrote that in addition to prison terms, women have been sentenced to a minimum of 200 and a maximum of 2,000 lashes.²⁷⁶

²⁷² Human Rights Watch interview, Malaz women’s prison, Riyadh, Saudi Arabia, January 28, 2003.

²⁷³ Human Rights Watch interview, Malaz women’s prison, Riyadh, January 28, 2003.

²⁷⁴ Letter to Human Rights Watch, undated, received April 8, 2003.

²⁷⁵ Letter to Human Rights Watch, February 3, 2003.

²⁷⁶ Letter to Human Rights Watch, January 30, 2003.

A thirty-two-year-old Yemeni woman, the mother of six children, told us that she had been in the prison for two months. She said that the religious police in Riyadh arrested her and five Saudi women companions, and held them in custody for one day. Her Saudi friends were released, but she was transferred to Malaz prison. She did not understand the legal basis on which she was being held.²⁷⁷

When we met briefly in the women's prison with Ami, a skilled Filipina worker with four children in college, she told us that she did not have a lawyer and that there was no one to help her. In a follow-up letter, she provided some information about her case. She worked for fourteen years in the kingdom as the master cutter in a dress shop. She said that she was arrested on February 19, 2002, following a dispute with her Saudi employer, whom she claimed owes her 126,000 riyals – about \$33,600 – in wages that went unpaid for seven years.²⁷⁸ According to Ami, the employer also allowed her residency permit to expire. She repeated her complaint that she has had no legal assistance since her arrest and emphasized her need for a lawyer. She did not explain the reasons or circumstances of her trial, but wrote that her two requests to have her case reviewed by a higher court were refused.²⁷⁹

Our research indicated that imprisoned male migrant workers are permitted to send letters to their families directly from prisons, but women are not. If this continues to be the prevailing practice of the interior ministry's prison administration, it represents gross gender discrimination and should be rectified as an urgent matter. The Standard Minimum Rules for the Treatment of Prisoners, adopted by the United Nations Economic and Social Council, state that prisoners “shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.”²⁸⁰ A basic principle of the rules is that they “shall be applied impartially,” with “no discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”²⁸¹ Women prisoners in Saudi Arabia must be afforded the same rights and privileges that are provided to their male counterparts.

Torture, Coerced Confessions, and Unfair Trials: Clear Patterns

Testimonial evidence that Human Rights Watch has collected indicates a pattern of human rights abuses in the criminal justice system of Saudi Arabia. These accounts demonstrate the continuity and consistency of the allegations of torture and coerced

²⁷⁷ Human Rights Watch interviews, Riyadh, Saudi Arabia, January 28, 2003.

²⁷⁸ In December 2003, Human Rights Watch interviewed another Filipina who had worked as a master cutter in Saudi Arabia for ten years. Her starting salary was \$250 a month and was gradually raised to \$700 a month, or \$8,400 annually.

²⁷⁹ Letter to Human Rights Watch, February 1, 2003.

²⁸⁰ Rule 37. The Economic and Social Council approved the Standard Minimum Rules with its resolutions in July 1957 and May 1977.

²⁸¹ Rule 6(1).

confessions by victims – unknown to one another, and interviewed separately – from countries as diverse as India, the Philippines, and the United Kingdom. Saudi Arabia’s criminal procedure code, which came into force in 2002, provides specific rights to legal assistance and some transparency with respect to court judgments.²⁸² Cases in this report that occurred after the code was implemented indicate that implementation measures designed to afford greater guarantees for a fair trial were not operative.

Joselito Alejo: Five years in prison before a court appearance

The story of Joselito Alejo from the Philippines illustrates the range of abuses in the kingdom’s justice system, including prolonged detention before trial, threats and torture during interrogation, and coercion of a confession. Joselito was arrested in 1997 in connection with the murder of a Saudi policeman that he told Human Rights Watch he knew nothing about. He described how he was tortured during interrogation and forced to sign a confession, and was not brought before a court for the first time until 2002, five years later. The Philippines foreign affairs department reported in 2000 that the Saudi government had not yet responded to its request for the immediate filing of charges against Joselito and two other Filipinos held as suspects, Ramiro Esmero and Romeo Cordova.²⁸³ Joselito was finally released from prison in 2003, but had to remain in the kingdom for additional legal proceedings and did not return home until later that year.

Joselito told us that at the time of his arrest, he was in his fifth year of employment as a tractor trailer driver for a company in Tabuk. He recounted that on July 29, 1997, he drove from Tabuk to Jeddah and unloaded his cargo there. He then traveled to Riyadh, where he slept for the night at the house of a Filipino friend. At about six in the morning, there was a knock at the door. Three policemen had arrived, and asked for a “Joselito” without giving a family name. Joselito’s friend pointed him out. “They woke me up and slapped me on the face three times. Then they made me face the wall, and cuffed my hands and ankles. They did not ask any questions,” Joselito said. “Inside the car, Major Jabbar slapped my face and kept asking me who killed Otaibi,” he continued. Joselito said he did not know who Otaibi was. (Fahad al-Otaibi, a Saudi law enforcement officer, was found murdered in Riyadh.)

Joselito was detained at a police station in Riyadh “for almost two months in solitary confinement with three weeks of torture,” he said. For the first three days and two nights, he was not allowed to sleep and had no water or food. He said that he was held in a small cell, about three by two meters, with no window. A bright light bulb on the ceiling made it impossible to sleep. He said that he was in chains around the clock. There were no bed or blankets, and no toilet or other provision in the cell for sanitation. “In the morning, you were allowed two minutes to go to the [bath]room, and they

²⁸² For an analysis of the strengths and weaknesses of the criminal procedure code, see Human Rights Watch, “The Criminal Justice System in the Kingdom of Saudi Arabia: Recommendations for Basic Human Rights Protections,” May 2003.

²⁸³ Melissa Q. Manalang, “OFWs in Saudi await trial,” *Business World* (Philippines), September 4, 2000.

always punched you before letting you outside,” he said. Sometimes, he added, urine was thrown into the cell.

Three to four times a day, he was moved from his solitary cell to an interrogation room: “So many people were asking me questions, slapping me all the time, threatening me. They said, ‘You won’t be brought to court; we’ll kill you right here.’ It was a nightmare for me.” Joselito said that he wanted to present his driver’s trip log as proof of his whereabouts, but “they tore it up.” His interrogators wrote a statement in Arabic and Joselito, exhausted, signed it in triplicate.

From the police station, he was moved to an underground facility at the governor’s office in Riyadh, where he was held in solitary confinement for six weeks, and then to Malaz prison, also in Riyadh, for another four months in solitary. When Joselito was released from solitary, he kept busy by working in the prison. He had no news about his case: “Embassy officials visited only three times in four years and said they knew nothing.” After almost five years, it was the newly appointed director of Malaz prison, Colonel Muhana, who helped Joselito with his case, which apparently had been forgotten. The director found the case file in the police station where Joselito was first detained and interrogated.

Joselito told Human Rights Watch that he appeared in court for the first time on June 11, 2002, before a three-judge panel. The judges asked if he knew Fahad al-Oteibi, the murder victim, if he killed him, or if he witnessed the killing. According to Joselito, the prosecutor “admitted that there was no case and told the judge to release me.” He was returned to the court six days later, and there was another hearing on July 2, 2002. Joselito did not have a lawyer. The two representatives of the Philippines embassy were not allowed to attend the first hearing, and they did not come to the court for the subsequent hearings. At the final session, the judge announced that the case was “finished,” and asked all three defendants to sign a log book in which the court’s decision was written in Arabic. Joselito was unable to read the handwritten text. In August 2002, the Department of Foreign Affairs in Manila announced that the three defendants “were acquitted during a recent hearing of the case” because “the representative of the victim failed to appear in court.” The press statement gave no indication of why the three men were held for so long without trial.²⁸⁴

Joselito was released from prison into the custody of the Philippines embassy on January 19, 2003, almost five and a half years after his arrest. He could not leave the kingdom until Saudi authorities issued him an exit visa.²⁸⁵ “I waited nine months for that visa,” Joselito said bitterly. On June 10, 2003, the embassy informed Joselito that his presence was required the next day for a “final hearing” at the office of the governor of Riyadh. “I knew that interrogations took place there and I refused to go. I told the vice consul that

²⁸⁴ Department of Foreign Affairs, Manila, “Three OFWs in Saudi Arabia Acquitted of Murder Charges,” Press Release No. 129-02, August 2, 2002.

²⁸⁵ All foreign residents of Saudi Arabia require an exit visa to depart the kingdom.

I had no confidence in the embassy staff, that there was no court in the governor's office, and asked if the embassy had assurances that I would not be arrested again," he told us. On June 16, Joselito was led to believe that embassy representatives were accompanying him to a government office to obtain his exit visa, but he was instead taken to a court without any warning. "This is not immigration, this is a court!" Joselito said he told the consular officials. "This is Saudi procedure," one of the diplomats replied. They waited outside the courtroom for an hour, and Joselito told us that the diplomats assured him that his appearance was only a formality.

When the case was called, Joselito saw the old files and asked the judge to explain what was happening. "Your file is here. We are studying the case," the judge replied. Joselito tried to explain that a higher court heard the case and issued a judgment in 2002, but the Filipino interpreter interrupted. "He told me to shut up, and speak only if the judge asked questions." The judge then gave the date of the next session, which embassy personnel were not permitted to attend, although the interpreter was present. The judge asked the same questions that the other judges posed to Joselito in 2002: "Did you know Otaibi? Did you kill Otaibi? Did you see the killing?"

Joselito told us that he was instructed to return on July 2, 2003, for the court's decision. He said that the judge referred to the Arabic confession that he signed in 1997, and sentenced him to 350 lashes for "not telling the truth." Noting that Joselito had already served almost six years in prison, the judge did not impose a prison term. Joselito described what happened next:

The interpreter asked me if I accepted the judgment. I told the judge that I had to do what the police wanted or they would have continued to beat me and torture me. I told him that they threatened to kill me. I told him they tortured me five or six hours a day and I did not know when it would stop. I told him about the first three days and nights, when I felt there was air inside my brain, as if I was floating.

The judge showed no interest in Joselito's allegations of mistreatment and torture which led to his coerced confession. The judge apparently accepted that Joselito was telling the truth before his court but sought to punish him for signing a false statement in 1997.²⁸⁶

William Sampson and James Cottle: Confessions Extracted under Torture

More recently, William Sampson, who was arrested in Saudi Arabia in December 2000 following a series of bombings in which Westerners were killed and injured, disclosed publicly how his "confession" was coerced. William, a British-Canadian dual national, and five other British suspects – all of whom worked in the kingdom -- were shown on Saudi television on two occasions in 2001 "confessing" to the bombings. They were subsequently secretly tried and sentenced to terms ranging from twelve years to the

²⁸⁶ Human Rights Watch interview, Quezon City, Philippines, December 15, 2003 and December 20, 2003.

death penalty. William Sampson and another suspect, Alexander Mitchell, were sentenced to death; the men sentenced to long prison terms were Peter Brandon, James Cottle, James Lee, and Les Walker.²⁸⁷

William was released with the other defendants on August 8, 2003 in a royal clemency. He wrote about his interrogation and torture in a series of articles published in September 2003 in the *National Post*, a leading Canadian daily newspaper. “From time to time,” he wrote, his interrogators threatened him “with the use of electric shocks. I was told they would continue to apply this pressure until ‘We have put you in the right way,’ and ‘we get your mind right.’”

He continued:

There was a desk and chairs in the room. From time to time they would sit me down, the Greaser [the name he gave to one of his interrogators] beside me, aggressively caressing and fondling me, a means of sexual intimidation he was to use often.

My mind was blank, except for fear.²⁸⁸

He described one of the “worst beatings” that he said his two interrogators meted out to him:

It lasted at least eight hours. I was repeatedly kicked between the legs. I was hog-tied with handcuffs and shackles and whipped across the soles of my feet with a bamboo cane. At one point, the Midget [the name Sampson gave to one of his interrogators] kicked me in my kidneys while I was lying on my side. He rolled me onto my back stamping repeatedly and with extreme violence on my pelvis and lower back. I felt the bones of my lower spine shift. Throughout this, both my interrogators laughed.

They accused me of adultery with the wives of my friends and of homosexuality. The contradictions in the accusations provided a fleeting moment of humour amid the horror.

²⁸⁷ Human Rights Watch followed this case closely. For additional information and analysis, see Human Rights Watch, “The Criminal Justice System in the Kingdom of Saudi Arabia: Recommendations for Basic Human Rights Protections,” Background Briefing, May 28, 2003, <http://hrw.org/press/2003/05/saudimemo0503.htm>

²⁸⁸ William Sampson with Francine Dube, “My eleven days of Saudi torture,” *National Post*, September 8, 2003.

They told me that my confession was incorrect. They asked questions about my friend Les Walker and others and demanded that I implicate them in the bombings.

I was beaten for five days and deprived of sleep for twenty [days].²⁸⁹

William stated that the pain that his interrogators inflicted was so intense that, by the sixth day:

I begged to confess. I was hanging upside down, being beaten with a stick. I was broken. The pain was too much. I pleaded to confess. I pleaded for permission to tell them whatever it was they wanted.

I was temporarily released from my agony. My torturers became conciliatory and friendly, though their façade was as transparent as glass.”²⁹⁰

His false confession followed:

My torturers...forced me to falsely confess to being responsible for two car bombings in the capital of Riyadh in November 2000, six weeks earlier. They had further forced me to confess to the ludicrous story that I had been acting on the orders of the British government, to embarrass the Saudi regime.²⁹¹

James Cottle, a fifty-two-year-old British citizen, was arrested in Bahrain in June 2001 as one of the suspects in the same case as William Sampson. Bahraini authorities transferred him to Saudi custody, where he said he was held in Riyadh for the first ten weeks in a small solitary cell. In an interview with a British daily newspaper in 2004, James described eight weeks of intimidating and harsh interrogation:

They just kept shouting “confess.” They told me I would be executed and said if I confessed they would try to stop it. I was chained to my cell door for six days with my hands tied together.

He added:

²⁸⁹ William Sampson with Francine Dube, “I was having a heart attack,” *National Post*, September 9, 2003.

²⁹⁰ William Sampson with Francine Dube, “My eleven days of Saudi torture,” *National Post*, September 8, 2003.

²⁹¹ *Ibid.*

I would do anything . . . I confessed to it and then said I did not do it I don't know how many times. I would have done anything not to get executed but then at one point I did think "just get it over and done with."

James reportedly was "regularly made to stand with his arms in the air and forced to lie on the floor and lift his arms and legs for hours at a time," and was "hit with a pickaxe handle" if he did not comply.²⁹² According to James Cottle's lawyer, independent forensic experts in London and Denmark documented medical evidence consistent with his allegations.²⁹³

In February 2004, Saudi foreign minister Prince Saud al-Faisal summarily dismissed the torture allegations of William Sampson, James Cottle, and the other foreign nationals released with them in August 2003. Commenting about the lawsuit that some of the men filed in the United Kingdom's High Court against their Saudi interrogators and the minister of interior, seeking compensation for their mistreatment, the foreign minister said: "This claim is not serious in my opinion and will not be accepted in the courts. Our hope was that they would not take these measures because in fact the kingdom took good care of them."²⁹⁴

This case has received extensive international publicity from earliest days of the men's detention. Non-Western workers in Saudi Arabia also have complained about torture during interrogation, coerced confessions, and unfair trials, but their voices are rarely heard and receive no international media attention. The stories of some of them are described below.

Selvamony Ponnuraj: "Third degree methods" and a death sentence

The only son in an impoverished family in Tamil Nadu, India -- Selvamony Ponnuraj -- was sentenced to death in Saudi Arabia in 2002 for a crime that he told his family he did not commit. We visited the family on their small plot of land in southwestern India that yields coconuts, mangos, and tamarind. Ponnuraj's elderly parents were too ill to be interviewed, and other family members provided details about his case.

They told us that in October 1992, when Ponnuraj was in his twenties and working locally as a mason, he sold his sister's gold and borrowed money from a cousin to pay an agent in Mumbai 37,000 rupees for an employment visa to Saudi Arabia. He was first employed as a mason in Tabuk, and then his sponsor transferred him to a salesman's job in a textile shop. Ponnuraj sent about 5,000 rupees to his family every two or three months, but never returned home on leave because his sponsor would not permit it,

²⁹² See Blaise Tapp, "Grandad's Saudi jail torture nightmare," *Manchester Evening News* (UK), March 17, 2004.

²⁹³ Statement, Press Conference in London, February 25, 2004.

²⁹⁴ Quentin Webb, "Expatriates Sue Saudi Arabia for Torture," Reuters, February 25, 2004.

relatives said. The family received news from Ponnuraj through letters that friends wrote on his behalf because he is illiterate.

In early 2003, the family became worried because Ponnuraj had not contacted them for ten months, which they told us was unusual. They managed to obtain the telephone number of his Indian roommate in Tabuk and learned from him that Ponnuraj was in prison. The roommate told the family that there had been a fire in the textile shop and all the employees were arrested, pending the return of the owner. When the family spoke to the roommate again, he provided a different account, based on what he said he learned from a telephone call with Ponnuraj in prison. Ponnuraj explained that he had caught a Saudi woman stealing in his shop, and she retaliated with the accusation that he raped her seven-year-old daughter.

Ponnuraj's family enlisted help from literate Indians, and in February 2003 sent written inquiries to various Indian government officials about the case. They received the first official notification from the Indian consulate in Jeddah in a letter dated June 22, 2003. It confirmed that Ponnuraj was arrested and charged with rape in 2002, confessed his guilt in court, and was sentenced to death. The consulate noted, however, that Ponnuraj claimed that police extracted his confession with "third degree methods" and "forced him to sign on the papers to be submitted to the court."

The full text of the consulate's letter follows:

An official of this Post visited the jail at Tabuk on 17 June 2003, to ascertain the welfare of your son who is lodged in the jail for the last one year and three months. [He] was charged by the local police as well as [Criminal Investigation Division] authorities for an offence of rape allegedly committed by him with a 7-year-old Saudi girl who visited the shop, where your son was working, first along with her parents and later on in the evening the same day alone, to buy a pant piece [sic] for her use. According to the prosecution case, she was enticed to an isolated go-down [storage area] of this huge shop where he allegedly raped her.

The girl complained to her parents who in turn reported the matter to the concerned police station at Tabuk. Pursuant to this, the matter was thoroughly investigated by the police as well as CID and a formal charge sheet was submitted against Mr. Ponnuraj Selvamony in the Shariah Court at Tabuk. He confessed in the court to have committed the offence. According to Mr. Selvaraj, police used third degree methods against him to extort his confessional statement and forced him to sign on the papers to be submitted to the court. But the prosecution says that they have collected all relevant evidence against the accused.

The Shariah Court found your son guilty of the offence of rape and ruled that he should be BEHEADED. An appeal against the judgment of the trial court has been filed before the appellate authority and latter's decision has yet to come. As the matter is *sub-judice*, we have very little role to play at this stage. However, this Consulate General is keeping an eye on the development of the case and would take an appropriate action depending upon the outcome of the final judgement.²⁹⁵

The family in India heard nothing more until Ponnuraj managed to speak to them in a brief call from a cell phone in prison. "He called three months ago, and was crying the entire time," his cousin told us. "He said that he was innocent, never committed a mistake, but the police forced him to sign blank pieces of paper." Ponnuraj also mentioned that he never received a visit from the Saudi sponsor who employed him for ten years.²⁹⁶

Salfan Sajeer: "They inflicted a lot of torture on me."

The only son of Sulfath Beevi, a forty-five-year-old Indian whose husband left her two decades ago, has been imprisoned in Saudi Arabia since 1997. Sulfath is convinced that her son, Salfan Sajeer, was wrongly convicted as an accessory to murder. Her belief is based on what Sajeer wrote to her from prison, including allegations of prolonged solitary confinement and torture. She has no information about the details of Sajeer's trial and the evidence used to convict him.

Sajeer traveled to the kingdom as an agricultural laborer in October 1995 when he was seventeen years old. His passport was falsified to indicate his age as twenty-two. His mother paid 49,000 rupees to a travel agency for the visa and other costs from money she had saved over eight years as a domestic worker in Dubai. "His Saudi sponsor was good. At first Sajeer had a problem with the heat, so after a brief period the sponsor shifted him from the farm to his shop, and then back to the farm again," his mother said. Sajeer earned 500 riyals a month, and sent money to his mother on a regular basis.

After ten months in the kingdom, Sajeer gave an Indian returning to Kerala two saris and 2,000 rupees in cash to give to his mother. The man delivered the gifts and then informed Sulfath that he had learned, after returning to India, that her son had been arrested. "He told me that it was about something small, and not to worry, that he would be out in six months. I did not know this man and never saw him again," Sulfath told us.

²⁹⁵ From S. L.Sagar, Consul, Community Welfare and Head of Chancery, Consulate General of India, Jeddah, to Selvamony, the father of Ponnuraj. Reference: No. Jed/CW/235/14/2003, June 22, 2003. The capital letters appear in the original document.

²⁹⁶ Human Rights Watch interview, Udayamarthandam, Kanyakumari, Tamil Nadu, India, November 27, 2003.

She waited six months and heard nothing from Sajeer, who had written letters to her on a regular basis before his arrest. After about one year, an Indian who was imprisoned with Sajeer returned home and told Sulfath that her son had been sentenced to twelve years in prison. He said that Sajeer and nine other men – Pakistanis, Indians, and Arabs – were arrested when the fourteen-year-old nephew of Sajeer’s sponsor was killed. According to this released prisoner, Sajeer was “tortured brutally,” denied food and water, and not allowed to sleep for eleven days. His physical condition deteriorated and he was eventually fed intravenously, the former prisoner said.

In a letter dated July 20, 1998, Sajeer provided his mother with the most substantive information she has about the case. First, he swore that he knew nothing about the killing of the boy. Sajeer worked from five in the morning until late at night, with a break for lunch. “I never even saw his dead body. When I returned from work at eleven at night, I saw a lot of police. I greeted them and they asked my name. They demanded the full name on my passport. Then the other workers came and they made them stand to the side. The police also brought the two brothers of the dead boy and the son of my sponsor,” he wrote.

The men were brought to the police station and questioned. “Since I do not know much Arabic, I could not understand their questions,” Sajeer wrote. He added:

They inflicted a lot of torture on me. They forced me to sign papers -- I could not read what was written on them. I was kept in a place underground for eight months. I never saw the sun. It was a special jail meant for confessions. All of us were in solitary confinement, in separate cells. We could not see one another.²⁹⁷

Sajeer had little to say that was informative about his legal proceedings. “Nothing has happened,” he wrote, adding that he was brought to the court two times and asked if he knew who killed the boy. “That was five months ago,” he commented. Sajeer’s mother believes that he does not know how and when he was sentenced. A communication from the Indian embassy in Riyadh to the Saudi Ministry of Foreign Affairs indicates that Sajeer may have already been convicted and sentenced to a prison term of six years, without his knowledge, at the time he wrote his July 1998 letter. The embassy’s letter, dated December 18, 2002, requests Sajeer’s release on humanitarian grounds, stating that he was “detained...on charges of murder” and has “already completed his six years of imprisonment.”²⁹⁸

²⁹⁷ Human Rights Watch translation of original Malayalam handwritten text.

²⁹⁸ From Mr. Ravi Chandar, Attache (CW), Embassy of India, Riyadh, December 18, 2002, Reference No. RIY/CW/411/107/2002, to Ministry of Foreign Affairs, Riyadh.

According to released prisoners who contacted Sajeer's mother, three Pakistanis and two Bangladeshis were executed for the murder, Sajeer was sentenced to twelve years, and the Arab suspects were released.²⁹⁹

Saudi Arabia's interior ministry provides only scant public information about such cases. On June 16, 2000, it reported that three Pakistani nationals and two Bangladeshis were executed in Riyadh for "trying to lure" a boy and stabbing him to death when he resisted. According to the Reuters news agency, "two Indian men and another three Bangladeshis were found guilty of abetting the crime and were sentenced to varying prison terms and flogging." The report said that Saudi authorities "gave no further details."³⁰⁰ This may be the report about Sajeer's case, but the minimal information provided in such official statements makes confirmation difficult.

Abdul Nasir: "I was thoroughly tortured for the first two days."

In a case from 2002, Abdul Nasir, a twenty-three-year-old Indian tailor from the Areecode district of Kerala state, claimed that he was beaten for two days after his arrest in Jeddah and on the third day was forced to sign a confession in Arabic that he could not read. He traveled to Saudi Arabia on an *umrah* visa, with a plan was to locate fellow Keralites who he hoped would help him find a job. Two months after his arrival, five policemen raided the apartment where he was living with four Indian roommates. He said that his friends spoke to the police in Arabic, which he was unable to understand, but noticed a policeman holding a powdered substance that he could not identify. Abdul Nasir said that he was the only person arrested in the raid.

At the police station, he was questioned through an Indian interpreter who spoke his native Malayalam. He told the police that he had no knowledge or information about the powder or any other drugs. "I was thoroughly tortured for the first two days," Abdul Nasir asserted. He said on the first day in custody, four policemen beat him with their hands and with sticks. On the second day, two policemen did the same. The interpreter was in the room during these beatings, urging Abdul Nasir to make a confession. "They kept asking me where I got the drugs and who I was going to give them to. I kept repeating that I did not know anything," he said. On the third day, he was asked the same questions but was not beaten. Then he was presented with two pages of handwritten Arabic and was instructed to sign three times on each page. "I was so afraid that I did not dare to ask what the papers were or what was written on them," he remarked.

After fifteen days, Abdul Nasir was transferred to Buraiman prison in Jeddah, where he waited three months for his first court appearance. He was brought before one judge, who spent a few minutes on the case: "He asked me if I knew Arabic and I said I knew a

²⁹⁹ Human Rights Watch interviews, Nagarikunnu village, Nedumangad, Thiruvananthapuram district, Kerala, India, November 11, 2003 and November 28, 2003.

³⁰⁰ *Reuters*, "Saudi Arabia executes six foreigners," June 16, 2000.

little. So the charge sheet was read to me. The judge wanted my reaction and I said *ma fi*. [literally, “I do not have anything,”] Then he signed it and stamped it with the court seal.”

This apparently was the full scope of the “trial,” and Abdul Nasir was returned to the prison. Three and a half months later, he was removed from his cell and told to wait in a room until his name was called. This is how he was informed that he had been sentenced to one year’s imprisonment for drug offenses. He had no idea of the evidence that was used to convict him and had no opportunity to challenge it. It never occurred to him, he admitted, to ask for a consular visit or legal assistance, although he said he never saw an Indian diplomat visiting any inmates in Buraiman prison.

He was released after eleven months and transferred to the adjacent deportation jail where he was held for one week until he was deported. Abdul Nasir has not repaid the loan of 36,000 rupees that financed his visa to Saudi Arabia. At the time of his interview, he was employed as a day worker near his village, retrieving and drying river sand.³⁰¹

Abdel Karim: Unfair trial in 2001

In 2001, an Indian Muslim migrant worker who was arrested on allegedly false charges was presumed guilty in court and never informed of the outcome of his trial. Abdel Karim (not his real name), a native of Kerala state, started working legally in Saudi Arabia in 1995, when he was twenty-one years old. He was employed for four and a half years in Jeddah and was also active in the Saudi Malayalee Association, a nongovernmental organization.³⁰² The group, which Abdel Karim said had the support of the Indian embassy, sponsored cultural programs for the Malayalee community and invited performers from Kerala for concerts of dance and song. He said that members of the religious police attended the major programs and “watched.”

In 2000, Abdel Karim and three other leaders of the association were arrested, along with about twenty other members, following the postponement of a program that had been announced featuring a well-known film actor from Kerala. Before the cancellation, Saudi authorities had asked if the association was charging admission. Abdel Karim said the group made clear that there was no entrance fee but admission passes were distributed to restrict the size of the audience. Four or five days after the program was postponed, Abdel Karim was arrested. “Policemen came to my apartment in the early morning. They were in plainclothes. They never said a single word and I started beating them ... I thought that they were thieves,” he told Human Rights Watch. He said a

³⁰¹ Human Rights Watch interview, Monjeri, Kerala, India, December 1, 2003.

³⁰² The organization published a magazine for the Malayalee community, *Pravasi* (The Migrant). Malayalees are from Kerala state on the Malabar coast of southwestern India. Muslim, Hindu and Christian communities in Kerala share common Malayalee cultural traditions and Malayalam as their language. Malayalam, most similar to Tamil, is part of the large family of Dravidian languages spoken in south India and northern Sri Lanka.

police vehicle was waiting downstairs and he was transported to Sharifiya police station, where he saw the others from the association.

Abdel Karim was questioned at the police station for four or five days: “The main questions were: Did I organize this program? And what happened to the money that was collected?” Abdel Karim explained repeatedly that there was no admission price for the event, and suggested that the police contact the Indian consulate to verify this. He said the police called him a “thief,” and accused him of using the alleged proceeds from the cancelled event to purchase the apartment that he had been living in for the past seven months. His sponsor was summoned but “he never came because he did not like me.”

From the police station, Abdel Karim – alone among his associates -- was transferred to Buraiman prison in Jeddah. He said that he did not learn the charges against him until he was brought handcuffed to a court and the judge told him: “You are a Muslim according to your *iqama*, but you organized a Hindu program.”³⁰³ The judge added, according to Abdel Karim, that “witnesses” who saw the program could testify that “five thousand people danced naked and drunk.” The second time Abdel Karim appeared before this judge, the judge repeated the same allegation and then asked for proof that Abdel Karim was a Muslim, remarking that “the *kafirs* [unbelievers] also have the same name.” The judge asked Abdel Karim if he knew the Holy Koran. “I told him that I did, and then I recited from memory and also read from the book,” he said. “Then the judge asked me to perform the first morning prayer in front of him and I refused. I told him that it was not the time for this prayer.”

A few weeks later, Abdel Karim was brought to the same building but appeared before a another judge who asked him similar questions about the “Hindu program.” According to Abdel Karim, “Whenever I answered, the judge called me a liar.” He was brought to court two more times, but never was presented with evidence to substantiate the charges. He was moved to Malaz prison in Riyadh. “I waited for the court judgment but it never came,” he said. After three weeks, he was transferred to the deportation jail. “They wanted me to pay for my return ticket, but I told them that I did not have the money,” he said. He managed to contact distant relatives who worked in Saudi Arabia, who brought the money for his ticket. The personal belongings in his apartment, including his computer, were not returned to him. Abdel Karim said that the police retrieved his passport from the sponsor and returned it to him at the airport. He was deported on February 19, 2001.³⁰⁴

Rajiv: Unfair trial in 2002

Migrant workers have also been arrested and charged with criminal offenses on the basis of allegedly false complaints by sponsors and employers to the police. While Human

³⁰³ Abdel Karim was fluent in Arabic by this time and did not need an interpreter.

³⁰⁴ Human Rights Watch interview, Calicut, Kerala, India, December 3, 2003, and December 4, 2003.

Rights Watch has no access to the kingdom for research and thus no way of weighing the truth or falsity of such complaints, we do know that migrants are denied internationally recognized due process rights that would enable them to more openly and fully challenge such allegedly false complaints.

Rajiv, a forty-two-year-old Indian who returned from Saudi Arabia in 2003, told Human Rights Watch that he was arrested while he was in the midst of an ongoing dispute with his sponsor about more than a year's worth of unpaid wages (see Chapter 5 for additional information about this aspect of his story). He said that police officers arrived at his apartment, asked for him by name, and transported him in a van to Shaqra jail in Sulfit, near Qassim. Rajiv told us that he learned he was arrested because his sponsor's Indonesian housemaid was pregnant and the sponsor informed the police that he found Rajiv's telephone number in her possession.

Rajiv was held for nine months in Shaqra jail and then was moved to al-Ha'ir prison in Riyadh in March 2003.³⁰⁵ He told us that Indian consular officials never visited him in Shaqra or al-Ha'ir. It was not until ten months after his arrest that Rajiv was brought before a court for the first time, his legs and wrists in shackles. He said that there were four officials whom he assumed were the judges, and a Pakistani served as interpreter because Rajiv had some fluency in Urdu. He told us that the short court session consisted of no more than some perfunctory questions. "I told the judges that I had no idea how this woman got my phone number," he said.

He was returned to the court one week later and asked the same questions again. "I said that I was totally innocent, and told them to take my blood samples and those of the maid and the child – I had nothing to hide," he said. Twelve days later, there was a third session before one judge, with the same questions repeated. The judge sentenced Rajiv to one year in prison for sexual intercourse with the Indonesian woman, whose name he learned was Nasuka. She was never brought to court to confront him, he was not shown her photograph, and no evidence was ever presented to him to substantiate the charge. Rajiv was returned to al-Ha'ir and after twenty-eight days was transferred back to Shaqra. He was released in July 2003, after serving thirteen months in prison. Rajiv was unable to press a legal claim for his unpaid wages.³⁰⁶

The Government's Obligations under Domestic and International Law

Saudi Arabia is obligated under its own laws and international human rights law to protect everyone on its territory from torture and ill treatment, and to afford fair trials to individuals arrested for criminal offenses. The kingdom's law of criminal procedure specifically prohibits torture and degrading treatment of persons under arrest and in

³⁰⁵ Murali told Human Rights Watch that he was held in Section 2 of al-Ha'ir, which had a mix of Saudi and foreign prisoners, many of them accused of drug offenses or rape. He said that he observed "rampant" drug use in the prison, and claimed that prison guards were corrupt and procured drugs and cell phones for inmates. He also noted that Saudi prisoners "employed" foreign inmates without money to clean and cook.

³⁰⁶ Human Rights Watch interview, Nagarikunnu, Trivandrum, Kerala, India, November 28, 2003.

detention.³⁰⁷ Saudi Arabia is also a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), but government authorities continue to violate its provisions with impunity.

Testimonies in this report indicate that torture and other cruel treatment continue to be used to obtain “confessions” from migrant workers arrested and detained on suspicion of committing criminal offenses under Saudi law. It appears that lower and appellate *shari’a* court judges continue to accept “confessions” as the sole evidence of the commission of a crime without probing how the “confessions” were obtained and if they were given voluntarily.³⁰⁸ As reprehensible as these practices are, an equal failing is the routine and repeated refusal of senior Saudi government officials to acknowledge their legal obligations under CAT to investigate allegations of torture, which makes them complicit in this grave human rights abuse.

In the case of William Sampson, described above, the Saudi government officials categorically denied his detailed torture allegations. The ambassador of Saudi Arabia in Ottawa, Canada, Dr. Mohammed R. al-Hussaini, maintained in a statement issued on September 10, 2003, that William Sampson was not tortured in interior ministry custody. “I deny that Mr. Sampson was subjected to torture,” he said.³⁰⁹ On September 22, 2003, Ambassador Hussaini delivered a *note verbale* from his government to John McNee, the Canadian foreign ministry’s assistant deputy minister for Africa and the Middle East. “The request [from the Canadian government] to conduct an open investigation into Mr. Sampson’s allegations of torture goes against all laws and regulations, both within the kingdom and internationally,” the note stated.³¹⁰

The government’s position is not in compliance with the kingdom’s obligations under international law. Saudi Arabia is a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the provisions of this international treaty are part of the kingdom’s domestic law. Article 12 of the convention requires government authorities to conduct prompt and independent investigations of torture complaints:

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground

³⁰⁷ Article 2 states in pertinent part: “An arrested person shall not be subjected to any bodily or moral harm. Similarly, he shall not be subjected to any torture or degrading treatment.” Article 35 contains a similar provision, noting that any person arrested or detained “shall not be subjected to any bodily or moral harm.” Article 102 of the code prohibits coercive interrogations, stating in pertinent part: “The interrogation shall be conducted in a manner that does not affect the will of the accused in making his statements. The accused shall not be asked to take an oath nor shall he be subjected to any coercive measures.”

³⁰⁸ Article 15 of the Convention against Torture states: “Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

³⁰⁹ Dr. Mohammed R. al-Hussaini, “Saudi Arabian Laws Prohibit Torture,” [National Post](#), September 11, 2003.

³¹⁰ Royal Embassy of Saudi Arabia, Ottawa. Press Release, “From: The Ambassador of the Kingdom of Saudi Arabia to Canada, Dr. Mohamed R. al-Hussaini,” Ref. 502/26, September 22, 2003.

to believe that an act of torture has been committed in any territory under its jurisdiction, with a view to preventing any cases of torture.

The torture convention also legally obligates Saudi Arabia to provide impartial mechanisms for alleged torture victims to submit complaints:

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.³¹¹

The torture convention also provides individuals with the right to redress and compensation for acts of torture.³¹²

It has proved difficult if not impossible for foreigners – particularly migrant workers of limited financial means and other resources – even to contemplate the exercise of this right. Human Rights Watch is deeply concerned that thousands of migrant workers serving time in Saudi prisons will be deported at the end of their sentences without any opportunity to complain about torture and seek a remedy. The Saudi government should state clearly and publicly how foreigners who claim to have suffered abuse under interrogation can effectively pursue a remedy. The government has an obligation to explain to migrant workers who allege that they were tortured that they also have the right under Saudi law to seek redress, as well as the right to fair and adequate compensation. Migrants should be afforded the practical opportunity to seek such redress before they are summarily deported from the kingdom.

The Saudi government is also legally obligated to provide the right to a fair trial to citizens and foreigners alike. The Universal Declaration of Human Rights affords to every person the right in full equality to a fair trial.³¹³ The testimonies in this report indicate that migrant workers in Saudi Arabia continue to be denied this right with impunity, including cases where defendants faced capital punishment and were executed.

Migrant workers facing criminal investigation and prosecution in Saudi Arabia should be afforded the opportunity of legal counsel. The kingdom's new criminal procedure code

³¹¹ Article 13.

³¹² Article 14(1) provides: "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation."

³¹³ Article 10 of the declaration states: "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

explicitly provides for this right. Article 4 states: “Any accused person shall have the right to seek the assistance of a lawyer or a representative (*wakil*, in Arabic) to defend him during the investigation and trial stages.” The right to legal assistance is affirmed again in article 64.³¹⁴

The government should clarify its policy with respect to migrant worker criminal suspects who cannot afford to hire lawyers or whose embassies do not provide them with legal assistance. International human rights standards affirm that legal assistance for a defendant is a basic requirement for preparing a defense and ensuring a fair trial.³¹⁵

VIII. THE DEATH PENALTY AND EXECUTIONS: MIGRANT WORKER VICTIMS

“Orlando Lorenzo was in prison for six and a half years. He always asked visiting diplomats from the [Philippines] embassy about his case, and they always told him that there was no news. Then he was executed – I was there on the day that they took him away.”

-- Filipino migrant worker, Human Rights Watch interview, December 2003.

The death penalty is in force in Saudi Arabia and executions continue to take place there on a regular basis. (The kingdom is thus termed a retentionist country with respect to capital punishment.³¹⁶) The number of reported judicial executions in Saudi Arabia declined significantly in the three-year period from 2000 to 2002, although the proportion of foreigners sentenced to death remained high.³¹⁷ The Saudi government does not provide public information about foreigners and Saudi citizens who have been sentenced to death and are awaiting execution in prisons throughout the kingdom. In October 2003, the Philippines Department of Foreign Affairs revealed that fourteen

³¹⁴ Article 64 states in pertinent part: “During the investigation, the accused shall have the right to seek the assistance of a representative or an attorney.”

³¹⁵ Principle 17(1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states: “A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.” Principle 17(2) states: “If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.”

³¹⁶ Countries that have abolished the death penalty for all crimes are described as abolitionist; those that retain the death penalty but have not carried out any executions in a period of ten years or more are described as abolitionist *de facto*.

³¹⁷ According to the annual reports of Amnesty International, there were at least 123 Saudi citizens and foreigners executed in Saudi Arabia in 2000, seventy-nine in 2001, and forty-eight in 2002. According to Amnesty’s statistics, foreigners represented a substantial proportion of the number of persons reported executed. In 2000, 57.7 percent of the total were foreigners; in both 2001 and 2002, foreigners comprised 41.6 percent of the total number of persons reported executed.

Filipinos in Riyadh and Jeddah were “facing capital punishment,” but did not supply additional information.³¹⁸

This chapter documents five cases of migrant workers who were beheaded in Saudi Arabia without the knowledge of their embassies or immediate relatives.

Migrant workers who were former prisoners told Human Rights Watch that foreigners condemned to death typically were unaware of their sentences and had no advance notice of their date of execution. “The executed do not know what is about to happen to them until the very last moment,” said an Indian who was held in Buraiman jail in Jeddah in 2000. “A large number of police come into the cell and ask for the person by name. Sometimes people are forcibly dragged out...I watched four Filipinos taken away like this.”³¹⁹

A Filipino who was imprisoned with Orlando Lorenzo, a plumber from the Philippines, recounted the circumstances surrounding his execution on October 25, 1999. It was clear, he said, that Orlando and the Philippines government did not know that he was sentenced to death and scheduled for execution:

Orlando was in prison for six and a half years. He always asked visiting diplomats from the embassy about his case and they always told him that there was no news. Then he was executed -- I was there on the day they took him away.

Two weeks after the beheading, embassy representatives came to the prison looking for Orlando, he added.³²⁰ It is unclear why Orlando was sentenced to death because his conviction was for “robbing and stabbing a Pakistani taxi driver,” not murder.³²¹ In September 1998, an internal two-page memorandum from the Philippines embassy in Riyadh to the foreign affairs officials in Manila stated that despite “numerous requests to the authorities on information on the status of the case” it received a response from the Saudi foreign affairs ministry only once. The ministry’s communication, dated November 12, 1995, reported that Orlando was imprisoned in Malaz jail in a “hold-up case, stabbed a limousine driver and get the driver’s money [sic].” The embassy also noted this: “Aware of the unique legal system in the Kingdom, hiring the services of a

³¹⁸ Department of Foreign Affairs, Manila, “Number of OFWs in Death Row Inaccurate; No Executions of Pinoys Held Since 2000,” Press Release No. 548-03; 02 October 2003.

³¹⁹ Human Rights Watch interview, Calicut, Kerala, India, December 2, 2003. The Saudi interior ministry announced that four Filipinos found guilty of murder and armed robbery were executed on November 17, 2000. “Saudi executes 4 Filipinos, one citizen for murders,” Reuters, November 17, 2000.

³²⁰ Human Rights Watch interview, Quezon City, Philippines, December 20, 2003.

³²¹ Bayani V. Mangibin, “Certification,” Office of the Undersecretary for Migrant Worker Affairs, October 28, 1999, Pasay City, Philippines.

legal counsel at this stage will not serve any purpose.” It added: “[T]he embassy feels that the imposition of the death penalty is possible.”³²²

Based on letters that some executed Indian nationals sent to their families from prison, which Human Rights Watch reviewed during visits with their families, it appeared obvious that these men, like Orlando Lozenzo, did not know that they had been sentenced to death. In most cases, the condemned men did not even know that their trials had been concluded. Family members explained to us how they typically received the first news of the executions unofficially, through phone calls from relatives or friends working in Saudi Arabia, or from anonymous letters that prisoners or other persons mailed to them. It was not until months later – and sometimes much longer -- that Indian authorities notified the families about the executions.

In 2003, the second secretary at the Indian embassy in Riyadh confirmed the prevailing secrecy:

No advance information is given to us before beheading of Indians. We generally get the information after the execution from local newspapers. Whenever we received advance information in rare instances, we moved swiftly to stop such executions. In one such case, even the president of India sent a mercy petition to the Saudi king, which was rejected and the execution was carried out. Since this is the law here in Saudi Arabia, foreign diplomatic missions are unable to do much.³²³

As the cases below indicate, the families of Indians executed in the kingdom for drug offenses had no information about the legal proceedings that led to the death sentences, including the place and dates of trials. They knew only the date of execution and, in some cases, the date of arrest.

Abdul Kalam Azad Abdul Kadir: “Please save my husband and bring him home.”

Nazeema, a twenty-seven-year-old Indian Muslim who is the mother of two children, still believes that her husband Abdul Kalam will be returning any day from Saudi Arabia. Her relatives did not tell her about the letter that Abdul Kalam’s father received from the Indian embassy, dated February 8, 2003. The letter informed him that Abdul Kalam was executed on June 18, 1999 for alleged heroin smuggling.

³²² “Case of Orlando Lorenzo,” Philippines Embassy, Riyadh to SFA (OLAMWA-CAD), Philippines Department of Foreign Affairs, September 13, 1998, Reference ZRY-547/98. A copy of this memorandum is on file at Human Rights Watch.

³²³ V.V. Narayanan, in television interview on “Pravasa Lokam,” Kairali television channel, Kerala, India, broadcast July 3, 2003.

Abdul Kalam Azad Abdul Kadir, a native of the Palakkad district in Kerala state, went to Saudi Arabia for the first time in the early 1990's and worked for three years as an agricultural laborer. His family told us that he sent them 2,000 to 3,000 rupees every few months. When he returned home, he got married. In 1997, when Abdul Kalam was thirty-five years old, he traveled to Mumbai with six other Indian workers and an "agent" from Tamil Nadu to secure another employment visa to the kingdom. Abdul Kalam expected to work on a farm in al-Hasa, in the Eastern province. The men deposited their passports with another agent in Mumbai and paid him 20,000 rupees each. The agent subsequently "vanished," the family said, and Abdul Kalam returned to Mumbai to collect his passport and money. He telephoned his wife from the capital in July 1997 and informed her that someone had arranged his travel to Saudi Arabia and he was leaving the following week.

After that telephone conversation, no one heard from Abdul Kalam again. Over two years later, the family received a letter, dated August 15, 1999, from an Indian in Saudi Arabia who wrote that his uncle was in jail for drug offenses. His uncle, whom he visited in prison, met Abdul Kalam there and said that Abdul Kalam was facing narcotics charges. "My uncle told me that one Indian from Calicut and another from Palakkad were executed but I do not know if this is correct," he wrote, and urged the family to contact the Indian embassy in Riyadh. The letter provided no additional information. It took almost three years for Indian authorities to respond to the family's registered letters of inquiry about the case and confirm that Abdul Kalam had been executed.³²⁴

P.T. Shamsudeen: "Your son asked me to tell you that he was executed today."

A short handwritten letter from an inmate in Section 17 of Buraiman prison in Jeddah is the way that P.T. Moheideen learned that his son Shamsudeen, thirty-seven years old and the father of three children, would not be coming home from Saudi Arabia. The letter, dated September 17, 1999, stated this: "Your son was arrested and jailed for drug trafficking. Today Shamsudeen was executed. He asked me to tell you. Friday is the day that letters go out from this prison."³²⁵

Shamsudeen's father explained that his son first went to Saudi Arabia as a worker in 1985 and stayed for four years. He came back to India to get married, then returned to the kingdom three more times. He left India for the last time in 1997 with a visa to work as a driver in Damman that he purchased from an "agent" in Calicut for 20,000 rupees. His father provided the money as a loan.

The family heard nothing from Shamsudeen until a year later, when he sent a letter from Buraiman prison, informing them that he had been arrested at the airport with a group

³²⁴ Human Rights Watch interviews, Palakkad, Kerala, India, November 30, 2003.

³²⁵ Human Rights Watch read this letter, handwritten in Malayalam, at the family's home.

of Indians and did not know why. Over the next year the family received two more letters. In these letters Shamsudeen continued to assert that he did not know why he was arrested, and said that his case had not yet been brought before a court. He added that the “first batch” of men arrested with him were taken to court and that he expected to be called soon.

The family learned later that the six Indians who traveled with Shamsudeen to Saudi Arabia were all recruited by the same agency. In such situations, the family was told, if one member of the group was arrested on drug charges, the others were also taken into custody.³²⁶

K.P. Ghafoor: “We are sorry to inform you that your son was executed...”

In July 2000, Indian citizen K.P. Ghafoor, from Kerala state, was executed in Saudi Arabia. Our research indicates that he was apparently unaware that he had been sentenced to death. The eldest of nine children, Ghafoor traveled to the kingdom for the first time in 1988, when he was twenty-three years old. According to his family, he worked as a cleaner in a post office in Mecca, for a monthly salary of 400 riyals, and was eventually promoted to clerk. He was fired from this government job when he returned to the kingdom late from his second leave in 1994, during which time he had married in India. He went back to Saudi Arabia again in 1997, on an *umrah* visa, but came home because he could not find work.

Ghafoor left his village again in 1998, hoping to obtain a visa to Saudi Arabia in Mumbai. He remained in the capital for two months before flying to Jeddah. The family did not hear from him until a month later, when they received a letter that he wrote from Buraiman prison. He explained that someone in Mumbai gave him “edibles” to deliver to an address in Jeddah, which he did. The recipient was arrested and led police to Ghafoor, who also was taken into custody. Ghafoor told his family that the package contained drugs.

Ghafoor wrote to his family monthly from prison. He commented in several letters that his court dates had been postponed, but never mentioned a trial. The last letter that the family received, dated July 3, 2000, contained one page of generalities, including a request that they write to him and a promise that he would include more information in his next letter. The family learned from a relative who worked in Jeddah that Ghafoor was executed several weeks later. Family members told Human Rights Watch that they were in shock and made no attempts to contact Indian authorities to confirm this news.

It was not until seven months later, February 11, 2001, that the Indian consulate in Jeddah mailed a brief letter to Ghafoor’s father, notifying him of the date of the

³²⁶ Shamsudeen traveled to Saudi Arabia on a false Indian passport, with the name Ashraf V. Kabeer, his father said. The passport number was T-419135 and its date of issue was December 13, 1994.

Human Rights Watch interview, Palghat, Kerala, India, November 29, 2003.

execution.³²⁷ The family said that they know nothing more about the case. Gafoor's father received a second letter, dated March 19, 2001, from the Indian Ministry of External Affairs Passport Office in Kozhikode. It simply noted that the office had received his son's passport from the Saudi government. Gafoor's remains were not sent back to his family. "We heard that bodies are never returned so we never asked about it," one relative said.³²⁸ Gafoor's only child, a son, is now seven years old.

Raghavan Asari Santhosh: "The Arab sponsor told me that no one could save my son."

A large framed photograph of his son Santhosh dominates the tiny sitting room in the home of Raghavan Asari, a sixty-year-old Indian carpenter, and his wife Seetha. Santhosh was executed in Saudi Arabia on August 25, 1995, one of many innocent victims of Mumbai-based narcotics smugglers, his family believes.

In 1993, Santhosh sought an employment visa to work as a carpenter in Saudi Arabia. According to his father, he deposited his passport with a local travel agency, but after waiting for a while with no results he took it back. On his way home, Santhosh met an Indian "agent" who said he had a visa for a carpenter job in Jeddah at a monthly salary of 1,500 riyals. The price for the visa was 45,000 rupees, which the family borrowed from four local lenders. They paid the money on the agent's verbal promise of the job.

According to his father, Santhosh left his rural village in southern Kerala on October 6, 1993 and flew to Mumbai, in the company of another Indian "agent" named Samsuddin. He waited in the capital for nine days. On the day of his scheduled flight to Saudi Arabia, Santhosh returned to his room and found his suitcase torn apart. He told his family that Samsuddin consoled him and offered to lend him another bag, a briefcase, on the condition that he return it to a person in Saudi Arabia who would ask for it. Santhosh was arrested at Jeddah airport when customs officials found drugs in the bottom of the briefcase.

The family did not learn of Santhosh's arrest until two months later when an anonymous letter arrived from the brother of an Indian nurse who met Santhosh when he was having blood tests after his arrest. Alarmed, Santhosh's father visited local politicians and wrote letters to Indian government ministers, who replied that the government was inquiring about the case. In December 1994, Santhosh's father traveled to Saudi Arabia on a visa that a friend secured for him, with a job as a carpenter. He presented a petition to the Indian embassy in Riyadh, which was faxed to the consulate in Jeddah and he met with his son's Arab sponsor. He never attempted to visit Santhosh in prison because, he

³²⁷ The text of the letter read: "Sir, We are sorry to inform you that the Ministry of Foreign Affairs of Saudi Arabia has informed this consulate general that your son, [the] late Mr. Gafoor Kizhakke Pallath, was executed on 22.04.1421 H. (24. 07. 2000) on charge [sic] of narcotics smuggling in Saudi Arabia. Please accept our condolences." The letter was signed by Rani Malick, Vice Consul (Passport). Its reference number is: Jed/C/436/2/2001.

³²⁸ Human Rights Watch interviews, Kulukkallur, Palghat, Kerala, India, November 29, 2003.

told us, Jeddah was such a long distance from Riyadh Santhosh sent letters to his family from Section 16 of Jeddah's Buraiman prison. "He wrote to us constantly. He was happy working as a carpenter in the jail and hoped to be back in Kerala soon," his father told us. "My impression was that my son was innocent, and an innocent man is never punished," he added. From what Santhosh communicated in the letters, he was brought to court two times, with a translator present. He never described what happened in the court and mentioned nothing about a verdict. The family believes that Santhosh did not know he had been sentenced to death. Until now, the family has no detailed information about his trial. Santhosh was twenty-four years old when he was executed.³²⁹

Women Migrant Workers on Death Row

The cases of two Asian women domestic workers, who were sentenced to death for allegedly killing their employers, raise troubling questions about the fairness of the Saudi justice system. The women, from the Philippines and Indonesia, did not speak Arabic, and had no access to lawyers or any other form of legal assistance during their criminal investigations and subsequent court proceedings. Consular officials were not present at their trials.

Sarah Jane Dematera: The Philippines

Sarah Jane Landicho Dematera, a citizen of the Philippines, arrived in Saudi Arabia on November 11, 1992, to begin employment as a domestic worker for a Saudi family living in the Eastern province. She was twenty years old. Four days later, the wife of Sarah's employer was bludgeoned to death in the family home. Sarah, who will be thirty-three years old on December 17, 2004, has spent almost one-third of her life in prison for a crime that she possibly did not commit.

According to the Kanlungan Center Foundation – the migrant rights nongovernmental organization (NGO) in the Philippines that has tirelessly campaigned on Sarah's behalf -- Sarah was a witness to the killing. She described the perpetrator as an Arab male, who ordered her to move and cover the body, clean the murder weapon, and wipe up the blood.

Sarah did not speak Arabic and had very limited fluency in English, so she was unable to explain anything to the victim's husband when he returned home. He called the police, who questioned Sarah three times and then told her that they believed she was the murderer. Sarah reportedly insisted on her innocence, but was held for one week in solitary confinement and subjected to continuous sleep deprivation.

At the end of this week-long ordeal, Sarah was brought to an office, given a blank notebook, and instructed to write down in English what senior officers - presumably interrogators from the interior ministry -- dictated to her. Terrified and weak, she

³²⁹ Human Rights Watch interview, Vavara Ambalam, Thiruvananthapuram, Kerala, India, November 26, 2003.

complied but stopped writing when the narrative reached her own admission to the murder. When she protested, she said that she was told she would be electric-shocked and brought to court if she did not "confess."

Sarah was returned to the police station where she was arrested and was forced to sign the notebook that contained her "confession." The police then took Sarah to the house of her employer and asked her to re-enact how her employer's wife had been killed, videotaping her as she told the story. She was returned again to the police station and then transported to the women's prison in Dammam, where she was held for one year in solitary confinement.

Sarah's trial took place on October 4, 1993 and October 11, 1993 in Islamic Court No. 39/4, according to the Saudi foreign affairs ministry. Sarah did not have a lawyer or an interpreter, and Kanlungan believes that Philippines consular officials did not have access to her during these proceedings. The videotaped reenactment of the murder was used during the trial, Sarah informed her mother during a visit in 1998.

Kanlungan has emphasized that Sarah "was not given a chance to explain clearly what she witnessed, and how she saw the man kill the Madame, because she could not speak Arabic and was neither fluent in English." It has also raised other concerns: "There was no interpreter or lawyer to assist her during the trial and she did not have enough skills to present the facts of her case. If the videotaped re-enactment of the crime was shown in court, it could have been misinterpreted as [acts] that Sarah herself committed. No one from among the police must have clarified that the taped video was just a re-enactment of how Sarah witnessed/saw the man kill the Madame. She did not do it herself, she only re-enacted how she saw the crime happen in front of her own two eyes."

The court issued its judgment on November 14, 1993, finding Sarah guilty and sentencing her to death. Kanlungan provided Human Rights Watch with a translated communication from the Saudi ministry of foreign affairs, which stated the following:

The case was decided by the Islamic Court No. 39/4 dated 3/6/1414 (corresponding to Nov. 14, 1993) ordering the execution of said accused as a punishment for the crime she committed. However, the execution of said punishment has been postponed until the minor children of the deceased reach the age of majority to enable them to join with other heirs in requesting for the execution of the accused.

The said decision has been confirmed by Royal Decree and sent to the proper higher authorities dated 15/2/1415 (corresponding to July 24, 1994).³³⁰

³³⁰ Copy of translation on file at Human Rights Watch.

Sarah did not have a family visit until February 1998, when a Kanlungan representative and Sarah's mother Josie traveled to Saudi Arabia to meet with her in Dammam women's prison. Mrs. Dematera visited again in November 2001. In February 2003, the Philippines Department of Foreign Affairs sent a written report describing its activities on Sarah's behalf. It noted that consular officials visited her in October 2002 and that she appeared physically healthy. It said the embassy pursued a royal pardon during Ramadan later that year, and was seeking assistance from Saudi lawyers and prominent citizens in the Eastern Province to intercede with members of the victim's family to accept monetary compensation in lieu of implementation of the death penalty.

According to Kanlungan, Sarah suffers from depression and requires tranquilizers in order to sleep. Severe backaches in 2002 prevented her from continuing work as a food aide in the prison, depriving her of the income she used to purchase food and phone cards.

A Kanlungan representative met with Sarah Jane's mother on May 23, 2003. Mrs. Dematera is worried because she has not heard from her daughter since late January 2003, presumably because the cellphone on which she made regular calls was stolen. According to Kanlungan, written communication with Sarah is difficult because letters cannot be sent directly to the prison but must be routed through the Philippines embassy, which delivers them during occasional visits. Women inmates are not permitted to send letters to their families directly from the prison.

Siti Zaenab: Indonesia

Another example is the case of Siti Zaenab, an Indonesian woman from Bangkalan, East Java, who is married with two children. She arrived in Saudi Arabia in March 1998 on a contract for employment as a domestic worker with a Saudi family in Medina. According to the Center for Indonesian Migrant Workers (CIMW), the Jakarta-based migrant rights organization that has worked vigorously on Siti's case, she wrote her last letter to her family in September 1999, mentioning for the second time that her employers were treating her cruelly. After receiving no additional correspondence from Siti for some time, the family became worried, and started to make inquiries about her. It was not until March 2000 that the Indonesian consulate in Jeddah informed the family by fax that Siti Zaenab had been arrested and charged with stabbing her female employer to death.

According to CIMW, the Indonesian foreign ministry said that Siti Zaenab was accompanied only by an Indonesian translator for her trial before a three-judge court in May 2000. The translator was a post-graduate student in Medina, and this reportedly was his first interpreting assignment. The court sentenced Siti Zaenab to death, although it remains unclear if this was her first trial or an appearance before a higher judicial tribunal.

The Saudi foreign ministry informed Indonesian consular officials on July 18, 2000 that their scheduled visit to Siti Zaenab the next day had been postponed, with no reasons provided. Possibly fearing yet another secret execution of an Indonesian citizen, three Indonesian consular officials remained in Medina from July 19-21, monitoring the site near a mosque where beheadings were said to be carried out on Thursdays and Fridays.³³¹

According to CIMW, Siti Zaenab's family received a letter from the Indonesian government, dated August 3, 2000, informing them that her execution had been postponed as a result of a personal conversation between King Fahd and Indonesia's then-president Abdurrahman Wahid.

Since this time, CIMW and the family have been unsuccessful in their repeated and copiously documented efforts to secure additional information about the case, and to secure visas to Saudi Arabia to visit Siti Zaenab in Medina prison and obtain first-hand information from her. For example, CIMW told Human Rights Watch that at a meeting with Mohamed Ibrahim al-Utaibi of the Saudi embassy in Jakarta on January 18, 2001, he said that the embassy could not grant a visa to the organization and Siti Zaenab's family because of "regulations," which he declined to identify. Mr. Utaibi added that the Jakarta embassy was not aware of Siti Zaenab's case and, in any event, could only grant a visa with the permission from the kingdom's foreign affairs ministry.

Saudi authorities have made little information publicly available about the trial, other than to state that Siti Zaenab confessed to the killing.

On March 29, 2001, the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Asma Jahangir, sent an urgent appeal to the government of Saudi Arabia about the case, noting that Siti Zaenab reportedly was tried without any legal assistance and that neither the former Indonesian ambassador nor his lawyer were allowed to visit her in detention. The Special Rapporteur received a reply from the Saudi government on November 20, 2001, the contents of which she summarized as follows:

[O]n 11 September 2000, [Siti Zaenab] was sentenced to death for murdering her employer after a trial during which she expressly confessed to the murder. It was brought to the Special Rapporteur's attention that the sentence had not been carried out, pending attainment of the age of majority by the murdered woman's eldest child so that it could be ascertained whether the heir wished to accept a stipulated financial compensation, pardon the offender or demand enforcement of

³³¹ In June 2000, Warni Samiran Audi, another Indonesian domestic worker, was executed in the kingdom for allegedly killing the wife of her Saudi employer. The Indonesian embassy in Riyadh was not officially notified of her execution, according to Din Syamsuddin, then-director general for labor in the Manpower Ministry. Indonesian embassy officials reportedly had followed Warni's case for three years, seeking her release or a reduced sentence. The secret execution drew criticism from Indonesian government officials and caused an uproar among Indonesian nongovernmental organizations.

the death penalty. The Government pointed out that the judicial authorities would endeavor to persuade the child to accept the financial compensation, in which case the State or charitable associations would help to provide the requisite sum. It was further reported that the judiciary is bound by any legal settlement reached, i.e. if the victim's heirs relinquish their right to retribution either before or after the judgment, the accused is reportedly not liable to the death penalty.³³²

The Government's Obligations under International Law

In 1984, the United Nations Economic and Social Council formulated safeguards to protect the rights of individuals facing the death penalty.³³³ The international community views these safeguards as the basic guarantees for ensuring that the rights of these defendants are respected. In 1985, the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders called upon all retentionist states to adopt and implement the safeguards. The closed nature of Saudi Arabia's criminal justice system makes it impossible to judge the extent to which the kingdom adheres to these minimum safeguards.

For example, in some of the death penalty cases described above, including the drug smuggling cases, the lack of information about trial proceedings leaves it an open question if the alleged crimes were intentional.³³⁴ The United Nations Secretary-General observed in a 1995 report that retentionist countries had a "wide range of capital crimes." He noted in particular "that the death penalty can be imposed for crimes when the intent to kill may not be proven or where the offence may not be life-threatening, which, may in turn, suggest a wide interpretation of both the letter and the spirit of the safeguard."³³⁵ The lack of transparency of Saudi Arabia's justice system, coupled with the pattern of coerced confessions, raises the most serious concerns about the quality of the evidence that is used to impose sentences of capital punishment.³³⁶ Given these major flaws in the kingdom's criminal justice system, it is a grave abuse of human rights that the Saudi government does not ensure that every person facing the death penalty is provided with skilled and effective legal assistance.³³⁷

³³² United Nations Economic and Social Council, Commission on Human Rights, 58th session, Agenda item 11(b), Civil and Political Rights, Including Questions of: Disappearances and Summary Executions, Report of the Special Rapporteur, Ms. Asma Jahangir, submitted pursuant to Commission resolution 2001/45, Addendum, May 8, 2002, E/CN.4/2002/74/add.2, Paragraph 537.

³³³ Economic and Social Council Resolution 1984/50, May 25, 1984.

³³⁴ Safeguard 1 states: "In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with legal or other extremely grave consequences."

³³⁵ Report of the Secretary-General, "Capital punishment and implementation of the safeguards guaranteeing the protection of the rights of those facing the death penalty," Paragraph 56, United Nations Economic and Social Council, E/1995/78, June 8, 1995.

³³⁶ Safeguard 4 states: "Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts."

³³⁷ Safeguard 5 states: "Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including *the right of*

The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions has emphasized the critical importance of ensuring fair trial standards and procedures in capital punishment cases, including the right to a lawyer:

All defendants facing the imposition of capital punishment must benefit from the services of competent defense counsel at every stage of the proceedings. Defendants must be presumed innocent until their guilt has been proved beyond a reasonable doubt, in strict application of the highest standards for the gathering and assessment of evidence. In addition, all mitigating factors must be taken into account. The proceedings must guarantee the right to review of both the factual and the legal aspects of the case by a higher tribunal, composed of judges other than those who dealt with the case at the first instance. The defendant's right to seek pardon, commutation of sentence or clemency must also be ensured.³³⁸

The Special Rapporteur characterized as “most disturbing” the lack of transparency with regard to capital punishment trials, and stressed the need for governments to release publicly all relevant information about death penalty cases:

Reports regarding the secrecy surrounding the trial and application of the death penalty in a number of States, are most disturbing....[I]n some countries there is considerable official reluctance to reveal statistical information on the death penalty. This secrecy reportedly affects family members, who are not informed in advance of the date of a relative's execution and have no right to the body after execution.

The Special Rapporteur also made a plea for the release of information to the public about death penalty cases:

[T]he Special Rapporteur refers to resolution 1989/64, in which the Economic and Social Council urged Member States to publish, for each category of offence for which the death penalty was authorized, and if possible on an annual basis, information on the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of

anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.” Emphasis added by Human Rights Watch.

³³⁸ Interim report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions,

death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency had been granted.³³⁹

The Special Rapporteur urged retentionist governments “to provide comprehensive information on cases in which the death penalty has been imposed to national and international human rights organizations so that they are able to ensure that all safeguards and guarantees applicable in imposing the death penalty have indeed been observed.” She has noted that “some countries do not even give access to simple data on the death penalty,” and “there is a lack of transparency in the circumstances surrounding the imposition of death penalty.”³⁴⁰ This chapter makes clear that Saudi Arabia is an egregious case in point.

These serious concerns prompted Human Rights Watch in 2003 to call for a moratorium on executions in Saudi Arabia until all death penalty cases could be independently reviewed.³⁴¹ What we said at that time continues to apply. We recommend that the Saudi government release statistics and other information about every prisoner on death row, and establish an independent commission of inquiry to examine each case individually. Members of the commission should include experienced defense lawyers, legal scholars, and medical and mental health professionals. Saudi women should be represented on the commission, particularly in view of the rapport that they could establish with women prisoners.

Human Rights Watch proposes that commission members conduct private in-depth interviews with each person condemned to death, with the goal of gathering information about conditions and treatment in pre-trial detention, and the conduct of their trials, with a particular focus on practices of the justice and interior ministries that violated the basic due process rights of Saudi citizens and foreigners who were sentenced to death. We recommend that the commission determine the following about pre-trial detention:

- the period of time that each defendant was held incommunicado;
- the government ministry with custodial authority of defendants during incommunicado detention;
- treatment of defendants during incommunicado detention;
- date of confessions and the circumstances under which they were obtained; date(s) when family members and other interested parties were informed of each person’s arrest, and the date on which these parties first had access to the

³³⁹ Issues of special concern to the Special Rapporteur, http://www.unhcr.ch/html/menu2/7/b/execut/exe_issu.htm

³⁴⁰ Interim report submitted by Asma Jahangir, Special Rapporteur of the Commission on Human Rights, United Nations General Assembly, A/57/138, Fifty-seventh session, Item 111 (b) of the preliminary list, Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms, July 2, 2002.

³⁴¹ See Human Rights Watch, “Stop Saudi Executions: Asian Women Migrant Workers on Death Row,” Press Release, July 2, 2003.

defendants date of notification of the charges against defendants and a description of these charges request that defendants made for legal assistance, if any; and

- date(s) of the provision of legal advice or assistance to defendants prior to trial.

Human Rights Watch further recommends that the commission's independent review of trial procedures focus at minimum on the following subjects:

- persons notified of each defendant's trial date, and the method of notification;
- persons present at the trials;
- witnesses who testified for the defense and the prosecution, if any;
- evidence upon which the court's judgment was based;
- the use of confessions as evidence, and the substantive content of these confessions;
- efforts of the judges to establish the voluntariness of the confessions;
- ability of defendant to present a defense to the court; and
- the written judgment of the court.

We urge that the findings and recommendations of the commission be transmitted to senior Saudi government officials for consideration, and also made public. We continue to believe that Saudi citizens and foreigners who have suffered human rights abuses in the criminal justice system should be released and provided with compensation, or tried again with the full guarantees provided under Saudi and international human rights law, including the right to legal assistance during every phase of the legal process.

Mortal Remains: Whereabouts Unknown

In all the cases of judicial execution in Saudi Arabia that Human Rights Watch examined, the families told us that they never received the bodies of their relatives. "We do not know what happened to his body and we never received a death certificate," Raghavan Asari Santosh, an Indian Hindu, said about his twenty-five-year-old son who was executed in 1995.³⁴² Chandran Kizhakke Cholakkil, another Indian Hindu whose twenty-six-year-old son Udayakumaran was executed on May 20, 2000, showed us the death certificate he received but said he wanted the mortal remains of his son in order to carry out the traditional religious burial rites.³⁴³ The wife of Orlando Lorenzo, a Filipino Christian who was executed in 1999, sought unsuccessfully to have his remains

³⁴² Human Rights Watch interview, Vavara Ambalam, Thiruvananthapuram, Kerala, India, November 26, 2003. See Chapter VII for information about this case.

³⁴³ Human Rights Watch interview, Ottaplam, Pakakkad, Kerala, India, November 30, 2003. Human Rights Watch reviewed the formal notification of the execution that the family received from the Embassy of India in Riyadh, dated December 4, 2000, No. RIY/CW/436/640/2000. The letter also stated that the Saudi foreign affairs ministry reported that Udayakumaran was arrested on November 13, 1999 for "smuggling heroin" into the kingdom.

repatriated.³⁴⁴ Whether the families of the executed men were Muslim, Hindu or Christian, the denial to them of closure according to their religious practices remains an additional aching personal loss.

The mortal remains of all executed foreigners, including non-Muslims, reportedly are buried at secret locations in the kingdom. This practice is one of the few exceptions to the general rule prohibiting the burial of non-Muslims in the kingdom. In an interview with the *Wall Street Journal*, Saudi Arabia's justice minister Abdullah Mohammed Al Shaikh acknowledged that Islamic law does not dictate this prohibition but his comments suggest that the practice is derived from the government's own restrictions on religious freedom: "The burial of Muslims and non-Muslims alike involves religious practices," the minister stated. "And if we allow the non-Muslims to be buried here, this will be followed by the practicing of their religion." He admitted that some foreigners, including executed persons, are buried at "unofficial" locations in the kingdom:

"There are so many non-Muslim foreigners here that we just can't fly out all of their bodies," says Mr. al-Shaikh....So, he says, many are interred at what he describes as "unofficial" burial sites around the country. That's the case, for example, with the dozens of foreigners beheaded for crimes such as murder, rape or sorcery every year, and with bodies that are too mangled to ship. Such sites are off-limits to visitors.³⁴⁵

The Indian government has also noted that executed foreigners are one of five "exceptional cases" in which mortal remains are buried in the kingdom "irrespective of the religion."³⁴⁶

Human Rights Watch strongly urges the Saudi government to disclose publicly its policies with respect to the disposition and location of the mortal remains of men and women who were executed in the kingdom pursuant to judicial decisions. Specifically, authorities should clarify the following: (1) the procedure by which the immediate family of victims are notified about the execution of their relatives; (2) the procedure through which family members can be informed of the specific location in the kingdom of the remains of a judicially executed relative; and (3) the government's policy with respect to repatriation of the remains of foreign citizens who have been executed in the kingdom pursuant to judicial decisions.

³⁴⁴ Human Rights Watch received this information from Kanlungan, the migrant rights organization in the Philippines. See Chapter VII for additional information.

³⁴⁵ Yaroslav Trofimov, "Saudi Arabia Welcomes Foreigners To Work in Nation -- but Not to Die," *Wall Street Journal*, April 9, 2002.

³⁴⁶ The other exceptions are: young children; non-Muslims for whom Saudi sponsors obtain permission for burial in the kingdom; cases in which families have not agreed to accept the remains; cases of remains too mutilated to be repatriated. Consulate General of India, Jeddah, "Death Cases of Indian Nationals," www.cgjeddah.com/deathbooklet.htm (retrieved February 2, 2004).

With respect to cases of judicial executions documented in this report, Human Rights Watch requests, on behalf of the families, that Saudi authorities disclose where the human remains are located in the kingdom and, as an urgent matter, indicate how the families can arrange to have the remains repatriated.

IX. RECOMMENDATIONS

To The Government of the Kingdom of Saudi Arabia

To His Royal Highness Crown Prince Abdullah bin Abdul Aziz Al Saud, First Deputy Prime Minister and Commander of the National Guard:

- Appoint an independent and impartial royal commission to conduct a national inquiry into the situation of migrant workers in the kingdom.
 - The commission’s mandate should include identifying underlying systemic problems that facilitate abuses and proposing remedies. The commission should focus on criminal justice system flaws that systematically deny basic due process and other rights, and it should closely investigate the role of networks of individuals in the private sector who benefit financially from the exploitation of migrant workers.
 - The commission’s members should include men and women, particularly women, who are professionally trained in the fields of law, medicine, psychology, social work, and journalism. The commission should be provided with sufficient resources so that it can employ professional staff to collect and analyze information from victims of abuse, including migrant workers in deportation jails and those who are detained or imprisoned in the criminal justice system.
 - The commission should hold public hearings as part of its inquiry. Migrant workers, and their families and advocates, should be invited to give testimony, as should regional and international nongovernmental organizations concerned with the rights of migrant workers.
 - The commission should be required to complete its work within a defined period of time, and make its findings and recommendations publicly available.
- Promulgate by royal decree an enforceable “bill of rights” for migrant workers and publicize it widely in the kingdom, using print and broadcast media and other means of public outreach. The decree should be issued simultaneously in Arabic and all the languages of the countries of origin of the migrant worker population. It should delineate, in a comprehensive and detailed manner, all the rights that are granted to migrant workers under the kingdom’s laws and

regulations. The bill of rights should serve as a practical educational tool for workers and employers alike, and clarify legal and other ambiguities that lead to abusive treatment.

- Comply with the requirements of the International Labor Organization's Convention (No. 29) concerning Forced Labor, and make the use of forced or compulsory labor a specifically defined criminal offense under domestic law.
- Impose substantial penalties on employers who withhold the passports and residency permits of migrant workers, and those who charge illegal fees for official immigration documents, and widely publicize the institution of these sanctions.
- Extend the protections of the kingdom's labor law to all migrant workers, irrespective of job category and gender.
- Take immediate steps to end the forced confinement of women migrant workers at places of employment and residence, and promulgate and widely publicize regulations to this effect. The regulations should impose substantial penalties on employers who continue the practice, and provide fair and equal compensation to the victims, commensurate with the length and severity of their confinement.
- Ensure that the upcoming government report concerning its compliance with the Convention on the Elimination of All Forms of Discrimination against Women includes comprehensive information about the situation of women migrant workers in the kingdom.
- Ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and urge the other members of the Gulf Cooperation Council to do the same.

To the Minister of Labor

- Define, in consultation with the ministry of justice, the specific conditions that constitute illegal forced or compulsory labor, and take all appropriate measures to ensure that employers and workers in the kingdom are aware of these prohibitions.
- Designate a task force to draft a "bill of rights" for migrant workers in the kingdom for submission to the Consultative Council and senior government officials. The task force should work in coordination with its counterparts in the ministry of interior and the ministry of justice.
- Afford migrant workers in deportation jails the opportunity to utilize existing legal mechanisms to file grievance complaints against their employers before departure from the kingdom, and make resources available to them so that they have access to grievance mechanisms.
- Conduct an independent review of the kingdom's labor grievance mechanisms and, in cooperation with other relevant ministries, make practical recommendations to address the problem of the lack of enforcement of decisions of labor dispute commissions.

To the Minister of Interior

- Bring interior ministry arrest and detention practices into conformity with the provisions of the Vienna Convention on Consular Relations.
- Inform migrant workers who are arrested as criminal suspects of their rights under the kingdom's laws, including the rights guaranteed in the new criminal procedure code. This information should be provided orally and in writing, in languages that migrants can understand.
- End as an urgent matter the arrest and imprisonment of migrant women who become pregnant voluntarily or because they were victims of sexual violence.
- Make public detailed information about migrant workers who have been sentenced to death in the kingdom and are awaiting execution.

To the Minister of Justice

- Formulate a legal strategy to meet the requirements of ILO Convention (No. 29) concerning Forced Labor by making the use of forced or compulsory labor a criminal offense under Saudi law, and train prosecutors and judges to thoroughly investigate complaints about this abuse.
- Provide legal guidance to the Interior Ministry to ensure that its arrest and detention practices with respect to foreign nationals are in strict conformity with the provisions of the Vienna Convention on Consular Relations.
- Take immediate steps to ensure judicial supervision of the investigation of migrant workers who are criminal suspects for the purpose of ending abusive interrogations, torture, and coerced confessions.
- Offer free legal assistance during investigation and trial to all migrant workers accused of criminal offenses.
- Ensure that no one detained on suspicion of committing a criminal offense will be hampered during investigation and trial because of a lack of fluency in Arabic. Provide professional interpreters for all suspects in such circumstances if their embassies and consular officials have not provided such services.
- Suspend the implementation of the death sentences of migrant workers and others in the kingdom until it can be determined independently that torture was not used and confessions were not coerced.
- Instruct all judges in the kingdom to consider carefully cases of migrant workers charged with criminal offenses that originated with sponsors or employers and may be related to labor disputes. Judges should refer these cases to labor grievance bodies for a decision before continuing with the legal proceedings.

To the Consultative Council of the Kingdom of Saudi Arabia

- Urge the government to appoint a royal commission of inquiry to examine the widespread abuses against migrant workers, and the public and private systems that enable such abuses to occur.
- Hold open hearings to identify major problems of migrant workers that can be addressed through specific legislative initiatives and reforms. Testimony should be requested from senior government officials – including the ministers of labor, interior, and justice – as well as migrant workers themselves and nongovernmental migrant rights organizations inside and outside the kingdom.
- Recommend that the Ministry of Labor draft, and the government promulgate, a “bill of rights” for migrant workers that sets forth in clear and unambiguous terms practices and treatment that are illegal under Saudi and international law. Further recommend that this bill of rights should be translated into the major languages of the kingdom’s migrant communities and disseminated as broadly as possible, using advertisements in print and broadcast media and in public spaces throughout the kingdom.
- Study the provisions of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and make recommendations to the government about its ratification.

To United Nations Treaty Monitoring Bodies

To the Committee on the Elimination of all Forms of Discrimination against Women (CEDAW)

- Urge the government of Saudi Arabia to submit its long-overdue report on its compliance with the Convention on the Elimination of All Forms of Discrimination against Women.
- Advise the government of Saudi Arabia that the report should include comprehensive information about the situation of women migrant workers in the kingdom, including the human rights violations and other problems identified in this report, and the steps that authorities have taken and will take to address them.

To the Committee on the Elimination of Racial Discrimination (CERD):

- Advise the government of Saudi Arabia to include in its next report to CERD detailed information and analysis about the composition of the migrant communities in the kingdom, including the gender dimensions.
- Encourage the government to describe the measures it has taken and plans to take to combat prejudices – in the workplace and beyond -- that lead to violations of the rights embodied in the Convention on the Elimination of All Forms of Racial Discrimination. Such measures should include but not be limited to those undertaken in the fields of education, culture, and cultural awareness, and information.

To the Committee against Torture (CAT):

- Urge the government of Saudi Arabia to examine in its next report to CAT how migrant workers have suffered violations of the rights guaranteed in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, particularly during interrogations to coerce confessions of criminal offenses.
- Request that the government's report also indicate clearly how it carries out its obligations under articles 13, 14, and 15 of the Convention, with respect to criminal suspects and defendants who are foreign nationals.
- Ensure that the special problems of migrant workers are addressed in the committee's concluding observations of government's next report.

To the Labor and Justice Ministers of Countries of Origin, including Bangladesh, India, Indonesia, the Philippines, and Sri Lanka

- Disseminate this report within their countries and discuss its recommendations.
- Raise formally with your counterparts in Saudi Arabia the importance of the kingdom launching an independent national inquiry concerning labor-related and other human rights abuses of migrant workers.
- Urge the government of Saudi Arabia to promulgate an enforceable "bill of rights" that will be applicable to all migrant workers in the kingdom, including women and men employed in domestic service and agriculture.
- Stress the importance of ending the forced confinement of women migrant workers, and urge Saudi authorities to make this practice a criminal offense under Saudi law.
- Urge that Saudi authorities, particularly the ministry of interior, fully uphold the kingdom's legal responsibilities under the Vienna Convention on Consular Relations.
- Urge Saudi authorities to afford to migrant workers all the rights set forth in the kingdom's new criminal procedure code.
- Request immediate and full disclosure of all relevant information about your country's citizens who have been sentenced to death in *shari'a* courts and are awaiting execution.
- With respect to these death penalty cases, request without delay the minutes of the court hearings of these defendants, pursuant to article 156 of the new criminal procedure code. Article 156 states: "Court hearings shall be attended by a clerk who records the minutes under the supervision of the Chairman of the hearing. This record shall indicate the name of the judge(s) of whom the court is composed, the name of the prosecutor, place and time of the hearing, names of the litigants present and their advocates, their statements and claims, a summary of their pleadings, the evidence – including testimony of witnesses, any action taken during the hearing, and wordings and bases of the judgment. Each

page of this record shall be signed by the Chairman, by the members of the court, and by the clerk of the court.”

- Strengthen the support mechanisms for migrant workers in Saudi Arabia.

APPENDIX A: INTERNATIONAL LABOR ORGANIZATION (ILO) CONVENTIONS IN FORCE IN SAUDI ARABIA

The fifteen ILO conventions in force in Saudi Arabia, and the dates of their ratification, are:

C. 1 Hours of Work (Industry) Convention, 1919 (No. 1)

June 15, 1978

C.14 Weekly Rest (Industry) Convention, 1921 (No.14)

June 15, 1978

C.29 Forced Labour Convention, 1930 (No.29)

June 15, 1978

C.30 Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)

June 15, 1978

C.45 Underground Work (Women) Convention, 1935 No. 45)

June 15, 1978

C.81 Labour Inspection Convention, 1947 (No. 81)

June 15, 1978

C. 89 Night Work (Women) Convention (Revised), 1948 (No. 89)

June 15, 1978

C. 90 Night Work of Young Persons (Industry) Convention (Revised), 1948

June 15, 1978

C. 100 Equal Remuneration Convention, 1951 (No. 100)

June 15, 1978

C. 105 Abolition of Forced Labour Convention, 1957 (No. 105)

June 15, 1978

C. 106 Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)

June 15, 1978

C. 111 Discrimination (Employment and Occupation) Convention, 1958
June 15, 1978

C. 123 Minimum Age (Underground Work) Convention, 1965 (No. 123) Minimum age
specified: 18 years
June 15, 1978

C. 174 Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
August 10, 2001

C. 182 Worst Forms of Child Labour Convention, 1999 (No. 182)
August 10, 2001

APPENDIX B

Correspondence between the Select Committee on Foreign Affairs of the House of Commons, United Kingdom Parliament, and the Foreign and Commonwealth Office

Letter to the Parliamentary Relations and Devolution Department, Foreign and Commonwealth Office, from the Clerk of the Committee, 23 September 2003

The Committee wishes to receive a memorandum on the services provided by the FCO to the six British nationals who recently returned from Saudi Arabia, following their arrest, conviction and subsequent pardon for serious offences, which they have denied committing. In particular, the Committee wants to know what support was given to these men while they were in custody, when they were allegedly subject to torture and when confessions were extracted from them under duress; and what representations were made to the Saudi authorities.

The Committee would hope to receive the memorandum not later than Wednesday 8 October.

Letter to the Clerk of the Committee from the Parliamentary Relations And Devolution Department, Foreign and Commonwealth Office, 13 October 2003

Thank you for your letter of 23 September, which requested a memorandum on the services provided by the Foreign and Commonwealth Office to the British nationals who recently returned from Saudi Arabia, and on the representations made to the Saudi authorities.

I enclose a memorandum. We understand that the Committee might in due course publish this. As the memorandum refers to the men's consular matters, we would like to provide them with a copy of the memorandum now. It is very likely that the men would seek to make the content of the memorandum public as soon as they have a copy. We would be grateful for your views on this.

SAUDI DETAINEES
SUMMARY

1. One of the Foreign and Commonwealth Office's core functions is to provide consular assistance and support to British nationals overseas, and information and advice to their families. In the case of the British men recently returned to the UK after being detained in Saudi Arabia, we provided consular assistance and support to them and their

families throughout their detention. In doing so, the Government made repeated and vigorous representations to the Saudi authorities at official levels and at the highest political levels in Saudi Arabia and in the United Kingdom. The men's welfare was our paramount concern throughout.

CONSULAR SERVICES

2. The Foreign and Commonwealth Office is guided by the Vienna Convention on Consular Relations of 1963, in providing consular services to British nationals overseas. This provides for a right for British consular officers to have access, and provide consular assistance, to British nationals in detention in their consular district, who wish it. The Vienna Convention on Consular Relations, to which Saudi Arabia and the UK are both parties, enables consular officers to check on the welfare of British nationals in detention and assist them to appoint a lawyer.

3. Following a bombing in November 2000, which killed a British national, a number of British men were detained in Saudi Arabia. Further bombings and detentions followed. On first learning of these detentions, we immediately sought consular access to the men. We pursued our right to consular access through official level contacts with the Saudi authorities both in person and through formal diplomatic notes, and through high level political contacts both in Saudi Arabia and in the United Kingdom. British Embassy consular officials visited the men as soon as they were allowed access.

4. Consular access was only secured after repeated representations. It was restricted in terms of the length of the visits and of the range of topics which could be discussed. We complained about these restrictions to the Saudi authorities in Saudi Arabia and the United Kingdom, in official level and political contacts, in person and via formal diplomatic notes. British Embassy consular officials visited the men regularly throughout their detention and acted as a channel of communication between the men and members of their families. Foreign and Commonwealth Office officials in London and Riyadh kept in close contact with their families and briefed them on consular visits.

5. We raised with the Saudi authorities on many occasions a variety of specific concerns about the men's case and repeatedly asked the Saudi authorities to explain the reasons for the men's detention. We sought clear information about the judicial process and its outcome; and raised with the Saudi authorities our concerns about its lack of transparency.

6. The Foreign and Commonwealth Office's remit is to provide consular services to British nationals overseas. However, on the men's return to the United Kingdom, the Foreign and Commonwealth Office offered further assistance on an exceptional basis.

REPRESENTATIONS TO THE SAUDI AUTHORITIES

7. Throughout this case, the British Government made representations to the Saudi authorities at all levels, official and political. The men's case was raised by many, including:

- the Prime Minister, repeatedly and at the highest levels in person and through messages;
- the Foreign Secretary, in detailed discussions with senior members of the Saudi government;
- Foreign and Commonwealth Office Ministers and senior officials—including Baroness Scotland, Baroness Amos, Brian Wilson, Mike O'Brien and Baroness Symons—with the Saudi Ambassador to London, and when they met senior Saudis in London or elsewhere;
- the Defence Secretary, HRH the Prince of Wales and Members of Parliament;
- HMA Riyadh, unrelentingly with senior members of the Saudi government; HM Consul in Riyadh and British Embassy officials, tirelessly with Saudi officials.

CONSULAR RESPONSIBILITIES

8. During this time, consular assistance and support was also provided to a significant number of other British nationals in Saudi Arabia, including some detained or questioned by the Saudi authorities.

9. Helping British nationals in distress overseas is one of the most important elements of this Government's foreign policy. Our work in providing assistance and support to the men detained in Saudi Arabia and their families reflects the significance the Government places on dealing with consular cases.

Foreign and Commonwealth Office

October 2003

<http://www.parliament.the-stationery-office.co.uk/pa/cm200203/cmselect/cmfa/859/859we22.htm>

ACKNOWLEDGMENTS

Virginia N. Sherry, associate director of the Middle East and North Africa division of Human Rights Watch, is the author of this report. It is based on her fieldwork in India and the Philippines in November and December 2003 as well as supplementary research.

The report also includes testimony of migrant workers from Bangladesh who recently worked in Saudi Arabia. Habibur Rahman, a consultant to Human Rights Watch, conducted these interviews in Bangladesh in 2003 and 2004. Nongovernmental organizations (NGOs) in India, Indonesia, and the Philippines were instrumental in helping Human Rights Watch move forward from our research proposal to a completed project. It was the responsiveness, forbearance, and continuing support of these NGOs that made this report possible.

Mukundan C. Menon, secretary-general of the nongovernmental Confederation of Human Rights Organizations of Kerala (CHRO), carried out advance work for this report in Kerala state in India in 2003 as a consultant to Human Rights Watch. He accompanied Ms. Sherry in Kerala in November and December 2003, and served as an indefatigable interpreter and logistician. Human Rights Watch acknowledges his efforts with deep appreciation and those of his CHRO colleagues throughout the state, who helped arrange meetings with returned migrant workers and families of Keralites who were executed or are still imprisoned in Saudi Arabia.

In the Philippines, nongovernmental migrant rights organizations worked closely with Human Rights Watch to facilitate field research there. We owe particular debts of gratitude to Kanlungan Center Foundation and Migrante International. Mary Lou L. Alcid and Maya Bans of Kanlungan, and Marrz Balaoro of Migrante International, deserve special mention for their support of the project prior to and during our visit to the Philippines. We also extend our thanks to Ellene Sana of the Center for Migrants Advocacy; May-An Villalba of UNLADKA; Noel Josue of Kaibigan; and Rev. Fr. Savino L. Bernardi, C.S., and Sr. Adelina Terrado, D.C., of the Episcopal Commission for the Pastoral Care of Migrants and Itinerant People of the Catholic Bishops' Conference of the Philippines. We also thank Gloria, who was employed in Hong Kong for twenty-three years as a domestic worker, and her husband Reuben, for opening their home in Naguilan to us for several days and providing generous hospitality and care.

In Indonesia, Carla June Natan and Marina Sinaga of the Center for Indonesian Migrant Workers, Jakarta, supported this project from its inception, and generously provided information and assistance in reply to our numerous requests. Wahyu Susilo of KOPBUMI and Pande K. Trimayuni also supported this project and were consistently encouraging and helpful.

Human Rights Watch is most indebted to the migrant workers and their families in Bangladesh, India, and the Philippines who opened their homes, gave generously of their time, and shared their stories with us. Their credible voices are the foundation of this report.

This report was edited by Widney Brown and Joe Saunders, deputy program directors at Human Rights Watch, and reviewed by Wilder Tayler, legal and policy director of Human Rights Watch. LaShawn Jefferson and Farida Deif, executive director and researcher, respectively, of the Women's Rights division of Human Rights Watch, reviewed Chapter IV and pertinent sections of Chapter VII and provided valuable comments. Leila Hull, associate in the Middle East and North Africa division, Andrea Holley, publications director for Human Rights Watch, and Fitzroy Hepkins, mail manager, made possible the production of this report.