



## Criminalizing Dissent

### How Saudi Arabia's Counterterrorism Law is Used to Suppress Peaceful Opposition Movements

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#### SUMMARY

- Saudi Arabia's new counterterrorism laws are being used to suppress peaceful political activism in the country, yet have drawn little criticism from the United States.
- The Saudi government is struggling to deal with demographic changes in society and with changing political dynamics within the royal family.
- Targeting political dissent is counterproductive, and the Saudi government should instead confront domestic challenges head on with more political openness.
- Domestic opposition groups are diverse, ranging from moderate Islamists to constitutional reformists, and the vast majority reject the extremism of the Islamic State (IS).
- The U.S. should pressure Saudi Arabia to reform its counterterror law and should support Saudi civil society's efforts to expand political openness.

Without a doubt, Saudi Arabia faces an enormous challenge posed by its citizens' participation in a regional jihadist resurgence. Saudi fighters form the second largest group of foreign fighters in Syria—the latest phase of a trend seen since the 1980s in which young Saudis have tended to dominate jihadi struggles across the world. Saudi establishment clerics implicitly supported jihad in Syria, especially when the conflict turned more sectarian. Yet growing jihadi escalation, the Islamic State's self-proclaimed caliphate, and its defiance of post-WWI borders have caught panic among Saudi authorities. Riyadh fears the risk of IS reaching its borders through the Ramadi province and a revival of Al Qaeda in the Arab Peninsula (AQAP), deeply engaged in Yemen. Saudi armed forces revealed earlier in May that IS was operating and recruiting within the Kingdom.

The Saudi government's response to its citizens engaging in terrorism abroad and the threat of IS has included enacting expansive counterterrorism laws. However, these laws have been used to oppress peaceful and legitimate domestic opposition movements and to provide the government a legal blanket to suppress any form of dissent. In the context of U.S. cooperation with Saudi Arabia against the Islamic State, the U.S. has a responsibility to ensure that counterterrorism initiatives are not used as a pretext to target Saudi Arabia's peaceful domestic opposition movements. Moreover, closing off peaceful channels for dissent will only provide a more fertile environment for extremism to take root.

#### PEACEFUL ACTIVISTS TREATED AS TERRORISTS BY SAUDI LAW

In February 2014, a new counterterror law was enacted, defining terrorism so broadly that it offers authorities legal cover for the

suppression of all forms of political opposition. The new legal framework allows authorities to impose much harsher sentences for a far wider range of opposition activities. For example, the Law for the Crimes of Terrorism and its Financing defines terrorism as “any act that harms the reputation or standing of the state.” On February 3, the King issued a royal decree stating that any person who publicly endorses or sympathizes with a group that Saudi authorities “deem as extremist” would also be criminalized. The law stipulates that appeals would only be possible before Specialized Criminal Courts, which are essentially terrorism tribunals that are kept separate from the public judicial system. Furthermore, the Ministry of Interior published a list of designated terrorist organizations that included the Muslim Brotherhood and “all organizations that resemble it in thought or word.”

Since the issuance of the law, dozens of peaceful activists have been arrested and face trial. They are to be tried before the Specialized Criminal Courts—whose rules and procedures remain secret—and face long prison sentences if convicted. Walid Abu Al-Khayr, one of Saudi Arabia’s most outspoken human rights activists, vocally criticized the law on his Twitter account and became one of the first to be tried under the new legislation. Authorities considered his criticism an act of terror and sentenced him to 15 years in prison. His case is representative of the dozens of human rights activists who face a similar fate under the new law. Today, founding members of the country’s four independent and unlicensed human rights organizations have either been sentenced, imprisoned, or are facing trials.

### SAUDI ARABIA’S COUNTERTERROR LAW AND U.S. POLICY

The threat posed by renewed jihadism in the region has strengthened U.S.-Saudi relations after a period of unusual fragility. In the aftermath of the Arab uprisings, Saudi Arabia blamed the U.S. for abandoning its traditional allies and for its passivity towards the crisis in Syria. But Saudi Arabia has now become the major regional ally in the anti-IS coalition, participating in airstrikes on Syria and hosting training camps for “moderate”

Syrian rebels. It has also taken a series of strong measures against jihadi groups in the region, with the Saudi Grand Mufti declaring that IS and Al-Nusra Front to be terrorist groups and enemies of Islam. This approach contrasts with Saudi hesitancy in confronting jihadism in the aftermath of 9/11, likely pointing to both Saudi fears of a spill over of militant violence into its own territory and to desires to embrace this new relationship with the U.S. as an opportunity to crackdown on internal dissent more broadly in the Kingdom in the aftermath of the Arab revolts and heightened challenges facing the regime.

Saudi Arabia has been a U.S. strategic ally since 1945 and is rarely criticized for its frequent and severe violations of human rights. The dangers of its new counterterror law have been highlighted by international human rights organizations but were met with no initial public criticism from the U.S. government. After the sentencing of Walid Abu Al-Khayr, the U.S. Department of State spoke out publicly against the decision and urged the Saudi government to respect international human rights norms. Last month, President Obama issued a Presidential Memorandum calling on U.S. government agencies to collaborate with and strengthen civil society throughout the world, as well as to “challenge undue restrictions on civil society” and fundamental freedoms. As part of this commitment to push back on such restrictions, it is crucial that the U.S. government more actively oppose the Saudi government’s exploitation of counterterror legislation to curtail freedoms of expression, peaceful assembly, and association.

### THE CONTEXT: SHIFTING POWER IN SAUDI ARABIA

The ongoing crackdown on internal dissent in Saudi Arabia is directly related to systemic challenges faced by the Saudi royal family. A remarkable 64 percent of Saudi Arabia’s 19.4 million citizens are under the age of 30. The regime’s inability to integrate this generation effectively into the country’s development has led to a restless and dissatisfied generation of well-educated youth who feel trapped in an archaic system that is failing to meet their needs. More than 25 percent of these young people are unemployed: by 2015, three million job

opportunities need to be created in the private sector. Yet many of these young people lack the skills required by new jobs generated in the private sector, and others are unable to access employment because they do not have the right connections. Earlier this year, dozens of young Saudis broke the silence in a series of YouTube videos highlighting their personal experiences of poverty and marginalization, breaking anonymity by displaying their identity cards. This project is one of many examples demonstrating the enormous impact of the new information environment on the political activism of Saudi youth, with Saudis accounting for 40 percent of Twitter users in the Arab world.

The Saudi state is also facing challenges caused by the expansion of the royal family. The House of Saud is embroiled in a complex web of clientelist relations, with different princes controlling competing fiefdoms and clients. According to researcher Mansour Al-Marzoqi, the regime finds itself in a transitional phase that is allowing security forces to dominate power at a time when the old rules and customs that traditionally maintained the House of Saud are breaking down. The arrival of a third generation of princes, grandsons of Abdelaziz Al-Saud, to power has changed the long-standing balance of power between the Sudairi clan and the Abdallah clan. During this time of transition, the Saudi royals are so engrossed with internal power dynamics within the royal family that it is difficult for them to engage in a cogent program of structural reform.

### EMERGING ISLAMIST OPPOSITION

Discussions of the changing political and economic dynamics in Saudi Arabia have tended to focus on the radicalizing impact of these developments on Saudi society. While some of Saudi Arabia's disenfranchised youth have become radicalized, far more support moderate Islamist voices. But February's counterterrorism law has been used to target these young Saudis, whether they choose violent or nonviolent forms of political expression. Support from Saudi youth for peaceful demonstration has facilitated the emergence of moderate Islamist opposition movements in Saudi Arabia that are taking root but remain little understood.

### *Sahwa* Sheikhs

Saudi Arabia's Wahhabi establishment is in decline, and in its wake, new domestic opposition movements are gathering pace in their quest for domestic reform in Saudi Arabia. The authority of the Wahhabi Council of Senior Ulama has been discredited by their silence on terrorism, their sanctioning of controversial government policies, and their inability to react to the needs of a burgeoning generation of young Saudis. In their place, a younger generation of sheikhs has emerged who blend the Wahhabi creed with the political ideology of the Muslim Brotherhood. Known as the *Sahwa*, this movement has developed real organizational structures across Saudi Arabia and is arguably the largest Islamist movement in the Kingdom. Leading *Sahwa* sheikhs such as Salman Al-Awda, Ayid Al-Qarni, Muhammad Al-Arifi, Safar Al-Hawali and Nasir Al-Umar are highly popular, even outside the borders of the Kingdom.<sup>1</sup> Some of them have more than four million Twitter followers; Al-Arifi has nearly eight million.

Many *Sahwa* activists were incarcerated in the 1990s for their opposition to the stationing of U.S. troops on Saudi soil, but the regime made efforts to co-opt them in the early 2000s and were to some extent successful in diverting *Sahwa* attention away from politics toward religious activities. Since the Arab uprisings, however, some *Sahwa* sheikhs have become more vocal, and in doing so, have angered the Saudi monarchy. Popular clerics, including the more radical Al-Arifi, publicly expressed their support for the revolutions, while Al-Awda declared that democracy was the only legitimate form of government, leading to him being banned from television this year. *Sahwa* networks do not support IS and Al-Nusra Front and are ideologically removed from such groups, but they do tend to be supportive of non-global jihadi Salafi groups, such as the Islamic Front. The *Sahwa* sheikhs strongly rejected the declaration of a caliphate by IS. They also rejected the Saudi monarchy's conservative stance in the region, and Riyadh's overt support for the Egyptian coup in 2013 provoked fury on the part of *Sahwa* activists who sympathize with the Muslim Brotherhood.

1. Lacroix, S. *Awakening Islam*, Harvard University Press, 2011.

### Constitutional Reformists

This liberal Islamist movement is comprised of a diverse coalition of intellectuals who came together in the early 2000s and are essentially constitutional reformists. Their leaders, such as Abdullah Al-Hamid and Mohamed Al-Qahtani, have produced a considerable corpus of texts outlining their vision for change within the context of the monarchy. It is out of this coalition that one of Saudi Arabia's leading independent human rights NGOs, the Saudi Civil and Political Rights Association (ACPRA), was created in 2009. Calling for an Islamo-democratic reform of the Wahhabi doctrine, they have gained support from a broad range of activists, including from leaders within Saudi Arabia's minority Shi'ite community. The 9/11 attacks gave ground to these reformists and strengthened their calls for reform within the Kingdom. In this period, the movement gained the support of then Crown Prince Abdullah bin Abdelaziz al-Saud, who considered them important allies in his power struggle against competitors within the monarchy, notably the Sudairi clan and their loyalists among the Wahhabi religious establishment. However, this alliance was short-lived. The government resumed its crackdown when the constitutional reformists increased their demands for reform and ramped up their criticism of the draconian Ministry of Interior.

### THE ARAB UPRISINGS AND THE OPPOSITION'S CALLS FOR REFORM

While *Sahwa* sheikhs focused on revolutions abroad, more liberal Islamist voices spearheaded the debate on internal reform, focusing on human rights and the plight of the tens of thousands of political prisoners held since 2003. These activists call for civic participation and the respect of human rights, and they advocate for reform of the religious establishment so that it can be more responsive to the contemporary needs of the local population. Walid Abu Al-Khayr represents the intellectual inspiration for this more liberal trend and its emerging youth culture, which is expressed in discussion groups, such as those held in a Jeddah-based café (*Al-Jusoor*) and attended by journalist Hamza Kashgari, amongst others. Kashgari became the subject of controversy when he tweeted in

February 2012 an imaginary conversation with the Prophet, provoking the outrage of Islamists. An international manhunt led to his arrest in Malaysia and extradition to Saudi Arabia. He was incarcerated for 20 months without trial. The Kashgari case revealed the deep divisions between conservative religious and liberal circles in Saudi society, divisions often exploited by the regime as it seeks to stifle peaceful dissent.

The Arab uprisings strengthened the demands of the reformists. They organized a series of petitions demanding the separation of power between the offices of the King and the Prime Minister and calling for an elected parliament. The ACPRA documented abuses by Saudi security services in the aftermath of 9/11, including indefinite and arbitrary detention and the use of torture, and they called for the Minister of the Interior, Prince Nayef, to be prosecuted. The plight of the 10,000 to 30,000 political prisoners estimated to be held in Saudi Arabia became a major focal point for this movement, and gained widespread support, including from the conservative Islamist camp. This posed a serious challenge to the monarchy throughout 2012 and 2013, when protests occurred almost daily in Riyadh and Qasim. They were led by families of detainees in locations such as the Ministry of the Interior, with female demonstrators in Burayda even burning portraits of Prince Nayef. Although they were subject to censorship by the regime, petitions calling for the release of political prisoners were signed by more than 9,000 individuals from all major political groups.

The regime responded with a harsh crackdown on internal dissent. Activists were targeted by Saudi authorities on charges of inciting public dissent, inciting against the ruler and the supreme scholars, establishing unlicensed organizations, and violating the information technology crimes law. Reformist leaders Abdullah Al-Hamid and Mohamed Al-Qahtani were sentenced in March 2013 to ten years in prison, and the ACPRA was dissolved and its properties confiscated. Dozens of other human rights activists face similar charges under the new counterterrorism law. Faced with the prospect of long prison sentences for political expression, these moderate voices will be stifled and others could be driven to more

radical forms of political expression. By including this large group of young, reform-minded Saudis into the political process, the Saudi government could instead ensure its future stability and provide a counterweight to the terrorist groups that genuinely threaten it.

#### POLICY RECOMMENDATIONS

1. **The United States should oppose Saudi Arabia's new counterterrorism law and send high-level advisors to provide technical assistance on the drafting of effective counterterror laws that meet international standards.** The counterterror law clearly violates international standards and Saudi Arabia's own commitments as a member of the UN Human Rights Council. Criticism of the law, both privately and publicly, should be consistent, and the U.S. should send technical experts to assist in amending the law to make a clear distinction between violent acts and peaceful dissent. Such experts could be drawn from the U.S. Department of Justice, the U.S. State Department's Bureau of Counterterrorism, and/or the UN Counterterrorism Executive Directorate.
2. **U.S. officials should continue to monitor and observe trials of activists, particularly those prosecuted under the counterterror law, and publicly comment on the proceedings.** U.S. diplomats have reportedly been consistent in monitoring the trials of activists, for which they deserve credit. The U.S. must not only monitor the proceedings, but also issue public assessments as to whether the observed legal process meet international standards.
3. **The United States should support independent investigations into the treatment of political prisoners and support a review of the Saudi criminal codification strategy.** The United States should pressure the Saudi government to launch an independent investigation into allegations of ill treatment of the tens of thousands in custody and support their right to a fair and expeditious trial. U.S. officials should request to visit prisons during official visits to the country, to meet with political prisoners and assess general prison conditions. The United States should support calls by human rights organizations to review the entire criminal codification strategy in Saudi Arabia.
4. **The United States should consistently seek to create space for the work of Saudi civil society and peaceful activists to encourage a gradual political opening.** There is currently no legal path for NGOs to register in Saudi Arabia, and the U.S. should strongly press for a path for registration to be established. The U.S. should engage with Saudi officials to ensure a draft NGO law unveiled in 2008 meets international standards before finalization. President Obama recently laid out a plan to protect and partner with global civil society, where "federal departments and agencies will consult and partner more regularly with civil society groups," and "oppose efforts by foreign governments to restrict freedoms of peaceful assembly and association and expression." The administration must apply this policy to protect space for civil society to operate freely in Saudi Arabia; the cases of Walid Abu al-Khayr and the leadership of the ACPRA are key tests for the President's policy.



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