

**MDE 23/082/2000**  
**Saudi Arabia:**  
**Open for Business**

Saudi Arabia proclaims it is ready to do business with the world.

Are you ready and able to do business with Saudi Arabia in a responsible manner?

If your answer is yes, please read on...

Saudi Arabia has been telling international investors that it is serious about opening its economy and doing business with the world. In order to convince the international community, its ministers have been touring the world, highlighting the investment climate in their country. The Kingdom of Saudi Arabia has taken other steps as well, including:

- Applying to become a full member of the World Trade Organization in order to become part of the global trading community.
- Promising to stabilize oil prices in the world by playing the role as a swing producer within the Organization of Petroleum Exporting Countries (OPEC).
- Inviting joint venture partners and encouraging technology transfer through foreign investment.
- Welcoming expatriate managers to run their operations, in order to transfer skills to the local population.

If only becoming part of the international community was as simple as that.

Businesses and governments around the world have overlooked the appalling human rights record of Saudi Arabia in the past. One of the arguments being that business interests and requirements are unrelated to human rights. It is time for the international business community to open its eyes.

Saudi Arabia's record on human rights has a direct impact on business interests.

If your company is serious about doing business with Saudi Arabia in a responsible manner, consider the following:

\* Saudi Arabia systematically violates international human rights standards even after agreeing to be bound by them. For example, in September 1997 Saudi Arabia acceded to the Convention against Torture. Yet, torture is widespread in Saudi Arabia's criminal justice system. (1)

\* In Saudi Arabia, trials are held in secrecy. Detained prisoners are often not told which offences they are alleged to have committed, and their relatives, colleagues or managers are often left in the dark about the charges, the trial or its outcome. (2)

\* Criminal trials do not comply with international fair trial standards, and judicial proceedings generally-which include financial and other administrative cases which affect businesses-do not take place in a free and fair atmosphere. This affects not only Saudi Arabian nationals, but also foreign businesses which are active in Saudi Arabia.

In fact, Saudi Arabia does not meet some of the standards of governance identified by international institutions because of its failure to establish an independent judicial system. (3)

\* Prisoners are routinely denied access to lawyers. The Saudi criminal justice system does not allow consultation with a lawyer as a matter of a prisoner's right at any stage. This denies the prisoner's right to a fair trial. (4)

\* Detained employees can be, and often are, subjected to a wide variety of abuses, including: prolonged solitary confinement, torture, flogging, amputation (5) and the death penalty (6). These abuses are of direct concern to businesses operating in Saudi Arabia because their employees at all levels can be affected.

\* Migrant workers, recruited from other countries by businesses operating in Saudi Arabia, are particularly vulnerable, with their embassies unable to provide adequate support.

\* Saudi Arabia does not allow free association for employees, both for foreign and local businesses, although it has signed some core conventions of the International Labour Organization (7). In such an environment, companies have an important responsibility.

As Saudi Arabia does not respect many of the conventions of the ILO, companies can lead through example by taking further steps to protect the interests, health and safety, and human rights of their employees and their dependents in Saudi Arabia.

As Saudi Arabia seeks investment from international companies, companies can have a powerful influence on Saudi Arabian policies by playing an active role in defending the rights of the people they employ and their dependents in Saudi Arabia.

This is because the Universal Declaration of Human Rights (UDHR) calls upon every individual and every organ of the society, which includes companies and business operations in general, to protect and promote human rights.

At a conference in London this summer, senior Saudi Arabian officials said their country is now open for business and wants to play by international rules. These rules are commonly understood to comprise of low taxes, low tariff, easy repatriation of profits, and flexibility to operate in a transparent, rule-based environment.

The international business community has long held that business, commerce and investment can flourish only in an environment of freedom. To guarantee that freedom, business leaders have often demanded:

- \* Good governance
- \* The rule of law
- \* Equality before law (8)
- \* Due process of law
- \* "National" treatment; that is, treating foreign investors and local businesses as equals

- \* Equal treatment of employees, irrespective of nationality
- \* Free access to market-sensitive media, in order to make timely business decisions
- \* Free association (9), including fair and stable working conditions (10)
- \* Equal pay for equal work (11)
- \* Safe and stable environment for businesses to operate.
- \* The right to property (12)
- \* Greater transparency in the manner in which contracts are awarded, trials are conducted, and disputes adjudicated.

The conditions in Saudi Arabia do not satisfy many of these requirements because these rules and laws, which businesses like to take for granted, are the product of a climate that respects, protects and promotes human rights. Fair and transparent commercial law is a sub-set of a fair and transparent legal system, which can only function in a climate that is based on rule of law and respect for human rights.

These business principles cannot be applied in isolation. They cannot be tailor-made for business alone--in fact the bedrock for these rules is the UDHR and other international standards, including international human rights law.

Human rights standards, which support the protection of the individual from unfair treatment and abuse from states, are the basis of the rule of law. Businesses and individuals can contribute to respect for the rule of law by respecting and promoting human rights in all their activities.

While they are operating in Saudi Arabia, companies have both the responsibility and the unique opportunity to influence conditions in Saudi Arabia to protect their employees, and to win respect and prestige for their organization by promoting best practice. This responsibility includes, in particular, ensuring that the rights of their employees are respected. Companies doing business in Saudi Arabia have the right to insist on following international standards of human rights within the sphere of business practices.

The Universal Declaration on Human Rights calls on all members of society to join the task of promoting and protecting the rights and freedoms enshrined in it. Businesses share this responsibility for the protection and promotion of the human rights of their employees as set out in the Universal Declaration on Human Rights, which include freedom from discrimination, freedom from slavery, and freedom of association, including the rights to join trade unions and fair working conditions.

Here's how some companies have dealt with the dilemmas posed by doing business with Saudi Arabia:

1. A company can follow internationally-recognised principles of fairness, the rule of law, non-discrimination, and equality before law, on its own premises, and in the area where it operates.

\* In Saudi Arabia, foreign companies are expected to collect, and retain for safe-keeping, the passports of their employees. Believing this to be an affront to the trust and goodwill between employers and employees, one

expatriate manager at an international company refused to do so: "If I trust my employees with taking important business decisions and represent my company, I have to trust them with their own passports." The company did this, and it continues to operate successfully in Saudi Arabia.

TAKING AWAY EMPLOYEES' PASSPORTS WOULD HAVE RESTRICTED THEIR RIGHT TO FREE MOVEMENT, A RIGHT ENSHRINED UNDER THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, WHICH IS ADDRESSED TO EVERY NATION, EVERY ORGAN OF SOCIETY (WHICH INCLUDES BUSINESSES) AND EVERY INDIVIDUAL.

2. A company can insist on equal treatment for all, regardless of gender.

\* In Saudi Arabia, one international consulting company entrusted with a project to develop a new city, was perplexed to find that there was no provision for schools for girls in that particular area. When the consulting company asked the government authorities the reason, the authorities replied there was no need to have a school for girls in that particular area. The consultants objected successfully. Schools for girls were built.

EQUAL TREATMENT OF ALL, REGARDLESS OF GENDER, IS A RIGHT ENSHRINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, WHICH IS ADDRESSED TO EVERY NATION, EVERY ORGAN OF SOCIETY (WHICH INCLUDES BUSINESSES) AND EVERY INDIVIDUAL.

3. A company can brief its staff adequately, clearly, and coherently about the dangers an individual might face if he or she is accused of violating any of Saudi Arabia's criminal laws.

This is particularly important because arrests are frequently made arbitrarily on vague charges relating to use of alcohol, sexual conduct, religious belief, or breach of dress codes. Detainees are denied access to a lawyer, and foreign detainees are denied assistance from their consular officials. In many cases detainees are forced into making false confessions, often under threat of torture.

\* One international company, when posting its employees to Saudi Arabia, provides detailed briefing not only about local customs and traditions, about the regulations concerning the consumption of alcohol or for worshipping religions other than Islam, but has a detailed set of guidelines for its employees, with contact numbers of people to call, and requires its senior managers to insist on meeting employees who may have been detained.

EMPLOYERS ARE IN A POSITION OF INFLUENCE TO PROTECT THE INTERESTS OF EMPLOYEES IF THEY ARE ARBITRARILY ARRESTED. (13)

To discuss the human rights principles for business worldwide, and to review your operations in difficult environments, please call:

(Local AI address)

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## Amnesty International

Amnesty International is a worldwide campaigning movement that works to promote all the human rights enshrined in the Universal Declaration of Human Rights and other international standards. In particular, Amnesty International campaigns to free all prisoners of conscience; ensure fair and prompt trials for political prisoners; abolish the death penalty, torture and other cruel treatment of prisoners; end political killings and "disappearances"; and oppose human rights abuses by opposition groups.

Amnesty International neither supports nor opposes punitive measures such as economic or other sanctions, disinvestment or boycotts, but in specific instances may oppose military, security and police transfers which contribute to serious human rights abuses. Such transfers could include equipment, technology, training or personnel, as well as financial and logistical support for such transfers. Amnesty International is impartial and independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor support or oppose the views of the victims whose rights it seeks to protect.

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(1) Saudi Arabia acceded to the Convention against Torture and the Convention against Discrimination on Sept 23, 1997.

(2) This violates Article 9 of the UDHR: "No one shall be subjected to arbitrary arrest, detention or exile".

(3) See Governance Matters, by D. Kaufmann A. Kraay and P. Zoidono-Lobatón (Policy Research Working Papers, World Bank, 1999) which identifies six factors that are seen as necessary conditions of good governance leading to better development outcomes. These six are: voice and accountability, political instability and violence, government effectiveness, regulatory burden, rule of law, and graft.

(4) Article 10 of the UDHR says: "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." Principle 1 of the United Nations Basic Principles on the Role of Lawyers (1990) specifies that everyone detained and everyone facing a criminal charge has the right to assistance of legal counsel at all stages of criminal proceedings. The Human Rights Committee, the Inter-American Commission on Human Rights, and the European Court of Human Rights have recognised in their judgments that the right to a fair trial requires access to a lawyer during detention, interrogation and preliminary investigations."

(5) Article 5 of the UDHR says: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." In 1997, both the Special Rapporteur on Torture and the United Nations Commission on Human Rights stated that corporal punishment can constitute cruel, inhuman and degrading treatment and torture.

(6) Amnesty International opposes the death penalty under all circumstances. International legal standards, such as the Second Optional Protocol to the International Covenant on Civil and Political Rights and Protocol Six to the European Convention on Human Rights, encourage states who have not yet abolished the death penalty to do so.

(7) Saudi Arabia has adopted four of the seven core ILO Conventions: (29 and 105 which deal with forced labour and 100 and 111, which deal with non-discrimination). Saudi Arabia has also adopted a number of non-core conventions, such as 1, 14, 30, 45, 81, 89, 90, 106, 123. It has, however, not signed key conventions, including 87 (freedom of association and the protection of the right to organize) 98 (the right to organize and collective bargaining), and 135 (worker representation).

(8) The basis for such equality is the UDHR. Article 2 says: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty."

(9) Article 20 of the UDHR says: "Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association." Further, Article 23 says: "Everyone has the right to form and to join trade unions for the protection of his interests."

(10) Article 20 of the UDHR says: "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection."

Article 24 of the UDHR further says: "Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay." This right is often violated in the case of migrant workers.

(11) ILO Convention 100, which Saudi Arabia has signed, deals with Equal Remuneration for Men and Women Workers for Work of Equal Value.

(12) Article 17 of the UDHR states: "Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property."

(13) Article 10 of the UDHR says: "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."