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# **SOURCES OF SAUDI CONDUCT: How Saudi Family Law and Royal Polygyny Produce Political Instability**

Ryan Riegg

## **ABSTRACT**

Unlike other areas of law, where rules have either been borrowed from Western regimes or only apply to certain segments of society, Saudi family law touches every member of Saudi society, from ordinary citizens to royalty, and originates in an Islamic legal tradition that predates most modern legal systems by several hundred years. Nonetheless, most writers on Saudi Arabia (the Kingdom) have largely neglected the role of Saudi family law in influencing the Kingdom's royal family and policymaking, despite the dominance of family businesses, tribes, and family offices in the Saudi economy and state. This Article outlines how Saudi family law produces economic incentives that, without reform, make the maintenance of political stability in the Kingdom unlikely past three generations.

Accordingly, this Article can be understood as an alternative and supplement to the dominant political science theory for understanding Saudi policymaking, Rentier State Theory (RST). Specifically, this Article demonstrates how the incentives produced by Saudi family law can more accurately predict Saudi policymaking and disruptive political events than RST, including, but not limited to, the Kingdom's Ritz-Carlton purge and building of large-scale commercial real estate projects, which might otherwise appear irrational to outside observers. The Article begins with a discussion on the mathematics of polygamy in the Kingdom and ends with a discussion of how the incentives produced by Saudi's family law system produce far-ranging implications for both the Kingdom's neighbors and its current allies, including, but not limited to, the United States and Israel. The Article concludes with legal reforms that the current Saudi state may wish to undertake, should it wish to avoid a similar fate to the previous two Saudi states, both of which collapsed in under three generations (1744–1814; 1824–1891). Additionally, reforms suggested over fifty years ago by Saudi prince Talal bin Abdulaziz Al Saud are analyzed, as well as various legal customs found within Jordan, which Saudi policymakers may wish to borrow from and modify to provide the Kingdom increased political stability in the longer term.

## ABOUT THE AUTHOR

Ryan Riegg is a graduate of UCLA Law, who began his legal career working in a refugee camp in Lebanon, where he created a startup and, in turn, reversed a U.S. legal precedent on the importation of hookahs. The son of a U.S. Foreign Service officer, Ryan has lived in over a dozen countries, including Saudi Arabia, Jordan, and the countries of the former-Yugoslavia. Ryan has previously published articles on law and economics in the Middle East in prestigious law journals at Cornell and UCLA, as well as in mainstream media outlets, including *Vice*, *Newsweek*, *The Hill*, and *Vox*. In addition to currently working as an attorney in California, Ryan is a mentor with the Hult Prize and an Innovation Fellow with Columbia Business School. When not assisting companies around the world as an attorney, Ryan is a frequent public speaker, having given talks at Duke, Slush, and tech conferences around the world on issues related to the Middle East, technology, and trade. He would like to thank the editors of *JINEL*, Rob O'Brien, Lucy Best, and Gabriela Enache, for their help in editing this Article. This Article is dedicated to Dr. Khaled Abou El Fadl and the memory of Lynn Stout.

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“My children and my possessions are my enemies.”

—Abdelaziz Ibn Saud, founder of Saudi Arabia, shortly before his death in 1953.<sup>1</sup>

When I first began working with Saudi royalty, I was given the following advice: “In Saudi, we say there are three generations of family wealth: The Maker, The Caretaker, & The Undertaker.”

“Why only three generations?” I asked.

“Because you have to imagine generations of children who grow up never hearing the word ‘no.’ And where some royals have never set foot in their own country outside of palaces and airports.”

“But some Saudi royalty seem very down to earth. Really nice, even.”

“Some are. But that doesn’t change a basic mathematical fact.”

“What’s that?”

“Too many wives, lovers, and children.”

## I. POLYGYNY

Polygyny, a practice where one man has multiple wives, is legal in the Kingdom of Saudi Arabia (the Kingdom). Commoners may marry up to four wives. Meanwhile, Saudi princes historically may take as many wives as they wish, in addition to concubines and female slaves.<sup>2</sup> In purely numerical terms, the practice of polygyny reduces the number of single women relative to the number of single men. The impacts of practicing polygyny can be substantial, even when the rate of polygyny is relatively low. For example, imagine a society with 100 men and 100 women; i.e. 50 percent male/female, which is the approximate global average. Of these 200 people, only 18 men are polygynists: 5 men have four wives, 6 men have three, and 7 have two. Despite the small number of polygynists, there are now only 48 single women for the remaining 82 single men.

In short, even when a small minority of men engage in polygyny, they can potentially assert influence and control over more than half of all the reproductive-aged women in a country.<sup>3</sup> In the context of the Muslim world,

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1. Steffen Hertog, *Shaping the Saudi State: Human Agency’s Shifting Role in Rentier-State Formation*, 39 INT’L J. MIDDLE E. STUD. 539, 541 (2007), <http://dro.dur.ac.uk/4561>.

2. Simon Henderson, *Saudi Arabia’s Family Feud*, WASH. INST. FOR NEAR E. POL’Y (July 7, 2014), <https://www.washingtoninstitute.org/policy-analysis/view/saudi-arabias-family-feud>; Steve Coll, *The Once and Future Saudi Kings*, NEW YORKER (Jan. 23, 2015), <https://www.newyorker.com/news/news-desk/future-saudi-kings>.

3. At least 500,000 Saudi men were engaged in polygamy in 2018. As of 2018, the Saudi citizenry numbered 20 million, half of whom are men, and roughly 60–65 percent of whom are 18 years or older. Accordingly, the polygamy rate for Saudi males may equate to around 8 percent, which suggests that anywhere between 8 and 32 percent of married Saudi women may be involved in polygamous unions. *Over Half Million Saudi Men Engaged in Polygamy, Report Shows*, AL ARABIYA (Oct. 25, 2016), <https://english.alarabiya.net/en/variety/2016/10/25/Over-half-million-Saudi-men-engaged-in-polygamy-in-2016-report-shows>; Statista Research Department, *Population Number in Saudi Arabia in Middle of 2018*, by

particularly in Saudi Arabia, the shortage of available women caused by widespread polygyny often makes traditional marriage and reproduction unattainable for poorer men.<sup>4</sup> The fewer single women there are in a given Muslim community—whether from polygyny or other factors—the more men must usually pay those women in *Mahr*, or Islamic dower, to marry them.<sup>5</sup>

The cost of *Mahr* can often be tremendous throughout many parts of the Muslim world, particularly in Saudi Arabia.<sup>6</sup> In turn, single men in poorer areas—where women are often scarce—frequently protest against their inability to afford marriage and have children.<sup>7</sup> When King Abdullah of Saudi Arabia first responded to Arab Spring unrest, he proposed a housing fund intended to help poor and middle class men afford the cost of marriage.

While polygyny is one of many factors driving up *Mahr* rates, the result is nonetheless the same; the men with the most wives tend to be those with the most money to spend. As a result, rates of polygyny tend to be highest amongst Saudi Arabia's wealthiest classes, particularly its royal family. These high rates of polygyny among Saudi princes—in concurrence with higher population growth rates, relatively high levels of conspicuous consumption, and lower levels of labor force participation—consequently diminish the per capita wealth of the royal and aristocratic classes.<sup>8</sup> In short, as discussed below, the richest family in Saudi Arabia—its royal family—experiences a downward pressure on per capita wealth.

While this resultant wealth equalization may have some social benefits, continued population growth among Saudi Arabia's royalty produces political instability, as wealth and power disperses across an increasing number of

*Gender and Nationality*, STATISTA (Aug. 26, 2020), <https://www.statista.com/statistics/616737/saudi-arabia-population-by-gender-and-nationality>.

4. Habib Toumi, *Saudi Bride's Father asks for a SR2 Dowry*, GULF NEWS, (Sept. 26, 2012, 12:14), <https://gulfnews.com/world/gulf/saudi/saudi-brides-father-asks-for-a-sr2-dowry-1.1081127>.

5. Ryan Riegg, *Clitoridectomy and the Economics of Islamic Marriage & Divorce Law*, 8 UCLA J. ISLAMIC & NEAR E. L. 49 (2008) [hereinafter Riegg, *Clitoridectomy*]; Ryan Riegg, *Behavioral Economic Issues in American and Islamic Marriage & Divorce Law*, 37 INT'L J. LEGAL INFO. 89 (2009) [hereinafter Riegg, *Behavioral Economic Issues*].

6. Nazneen Akbari, *High Cost Of Omani Weddings Pose Challenge For Men*, REUTERS (June 14, 2011, 10:09 AM), <https://www.reuters.com/article/us-oman-weddings/high-cost-of-omani-weddings-pose-challenge-for-men-idUSTRE75D3VS20110614>.

7. Lauren Bohn, *Egypt's marriage crisis: Sons and daughters too broke to be married, waiting for adulthood*, NBC NEWS (Dec. 8, 2013, 3:47 AM), <https://www.nbcnews.com/news/other/egypts-marriage-crisis-sons-daughters-too-broke-be-married-waiting-f2D11711756>.

8. Nicola Smith, *1,500 People, Two Mercedes Benzes, 459 Tonnes of Luggage and a Golden Escalator: How the Saudi King Travels*, TELEGRAPH (Mar. 1, 2017, 6:38 PM), <https://www.telegraph.co.uk/news/2017/03/01/1500-people-two-mercedes-benz-459tonnes-luggage-golden-escalator>; Caroline Mortimer, *Saudi King Brings Two Golden Escalators and 100 Limousines for Four Day Trip to Japan*, INDEPENDENT (Mar. 13, 2017, 19:46), <https://www.independent.co.uk/news/world/asia/saudi-arabia-king-salman-demands-golden-escalators-limousine-japan-tokyo-shinzo-abe-oil-trade-a7628031.html>.

offspring.<sup>9</sup> It is a situation similar to that of Feudal Europe (or even the widely popular fantasy television series, *Game of Thrones*). Before the advent of the Western Wills & Trusts system, heirs to an estate would often feud over the inheritance left in the wake of the patriarch's death. This dynamic is only amplified in Saudi Arabia, where kings have dozens of wives and, sometimes, over 100 children. Thus, such family feuds are often far larger and more contentious.

The dual phenomenon of fraternal feuding and an excess of children entitled to inheritance occurs often in Saudi royal families.<sup>10</sup> Meanwhile, as discussed below, Saudi family law tends to encourage high reproductive rates among Saudi Arabia's royalty and aristocracy to the point that it is unlikely that wealth or political control can be fully maintained beyond three generations.<sup>11</sup>

## II. SAUDI FAMILY LAW

Under Saudi family law, inheritance for daughters is half of that for sons.<sup>12</sup> For wives inheriting from husbands, their portion could plunge to a sixteenth of their husband's estate. Since many Saudi women—princesses in particular—traditionally have difficulty obtaining “normal” jobs due to legal and cultural barriers, they often try to have as many children, ideally sons, as possible. From the wife's perspective, the more sons she has, the larger portion of the family estate her branch will inherit and control. In short, more sons often mean more economic security in a world where women have relatively few options for monetary gain.<sup>13</sup> Consequently, polygynous Saudi wives face strong incentives to maximize offspring.

The birth rate in Saudi Arabia is 2.32 children per woman, which is 48 percent higher than the fertility rate of Germany and 62 percent higher than the fertility rate of Japan.<sup>14</sup> Moreover, due to high *Mahr* rates inhibiting marriage among the poor, Saudi Arabia has traditionally had one of the lowest marriage rates in the world. This suggests that the average number of children per *married* woman could be several times the rate of most European states.<sup>15</sup>

9. FRONTLINE, *House of Saud: Family Tree*, PBS (Aug. 1, 2005), <https://www.pbs.org/wgbh/pages/frontline/shows/saud/tree>.

10. Brett Ryder, *Succession Failure*, ECONOMIST (Feb. 4, 2016), <https://www.economist.com/business/2016/02/04/succession-failure>; Hertog, *supra* note 1.

11. Ryder, *supra* note 10; Hertog, *supra* note 1.

12. The basis of the Saudi rule is Qur'an 4:11, which states: “Allah commands you regarding your children. For the male a share equivalent to that of two females.”

13. Ryan Riegg, *Saudi Arabia's Strict Religious Rules Cost Its Economy Tens of Billions Every Year*, VOX (Jan. 17, 2017, 3:10 PM), <https://www.vox.com/world/2017/1/17/14257816/saudi-arabia-economy-islam-religion>.

14. *Fertility Rate, Total (births Per Woman)—Saudi Arabia, Germany, Japan*, WORLD BANK (last visited Apr. 11, 2018), <https://data.worldbank.org/indicator/SP.DYN.TFRT.IN?locations=SA-DE-JP>.

15. For several years now, statistics out of Saudi Arabia's General Authority of Statistics (GASTAT) have indicated a relatively normal marriage rate in the Kingdom. Unfortunately, I believe GASTAT's figures to be highly inaccurate for the following reasons. First,

In contrast to the common assumption that lower income families produce more children, wealthier polygynous Saudi families tend to have more children than poorer families. In turn, Saudi aristocratic fertility rates cause economic and political power to disperse with each generation.<sup>16</sup> Put differently, Saudi Arabia's problem is the opposite of the Malthusian dilemma found in developing countries, where the poor have the most children.<sup>17</sup> As illustrated by the hypothetical at the beginning of this Article, even if only 20 percent of Saudi males are polygynous, they may easily lay claim to over half of all reproductive-aged women in the country. This dynamic makes it unlikely that poorer men will be able to have children at all, as they cannot afford the high *Mahrs*.

In terms of economic and political impact, polygyny, family law, and high *Mahrs* in Saudi Arabia may mean that the growth of Saudi Arabia's middle class is not the result of increasing productivity rates nor the development of an indigenous skilled labor force, as is often presented. Rather, it may be the result of the wealthier classes reproducing at a faster rate than poorer classes, thus dispersing wealth amongst the rich while, as will be discussed, increasing savings and transfers of intergenerational wealth among the poor.

If we understand Saudi males as roughly divided between two groups—older, wealthier men vs. younger, poorer men—polygamy and high *Mahrs* results predominantly in the following two behaviors: older men, who tend to be the wealthiest individuals in the society, will have more wives, more children, and higher rates of spending. In comparison, younger men, who tend to be the poorest individuals in the society, will have fewer wives, fewer children, and lower rates of spending. This phenomenon is further intensified given that women who marry above their socioeconomic class often waive the *Mahr*, thus ensuring that wealthier Saudi males may obtain multiple brides even faster than their poorer, younger counterparts.

If a younger, poorer Saudi male cannot afford to get married, have sex, or procreate, unless he has the equivalent of several years of his salary in *Mahr*, then he will likely try to save as much as he can, as quickly as he can.

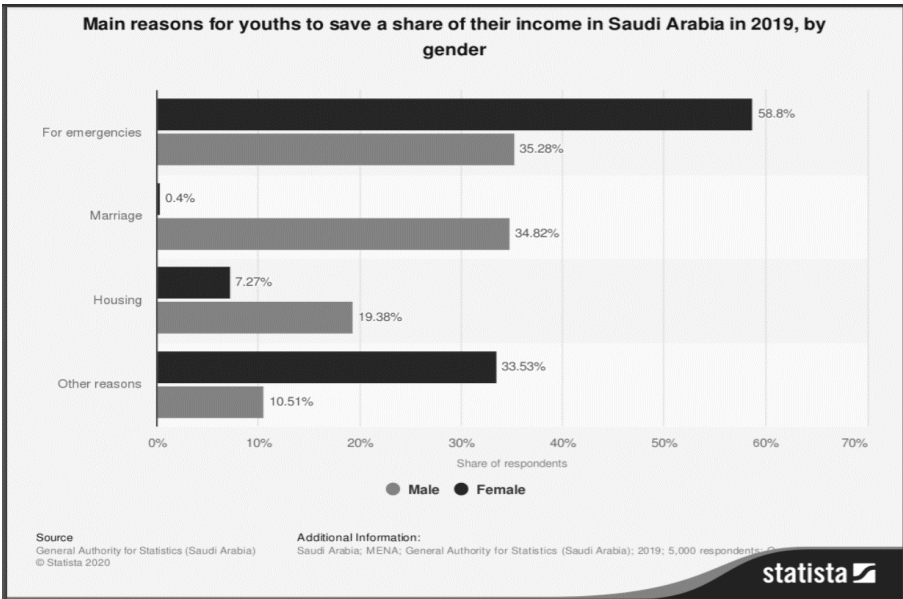
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GASTAT's numbers are in conflict with other ministries in the Kingdom. Second, as late as 2017, one third of Saudi females were unwed, according to both academics and popular press in the Kingdom, with the number of unwed women doubling from 1.5 million to 3 million between 2010 and 2014 alone. Third, for several decades, the Kingdom's Marriage Rate was reported as being the second worst in the world, until GASTAT presumably began altering how it reported marriage rates. See ECONOMIST INTELLIGENCE UNIT, POCKET WORLD IN FIGURES (2007); Saudi University Lecturer: *The Solution to the Problem of Single Women in Saudi Arabia is Polygamy*, MEMRI (Aug. 10, 2017), <https://www.memri.org/reports/saudi-woman-academic-calls-to-encourage-polygamy>; Mohammed Francis & Celmah Cecily Yim, *Do Men Still Practice Polygamy in Saudi Arabia, Today?*, INSIDE SAUDI, <https://insidesaudi.com/do-men-still-practice-polygamy-in-saudi-arabia-today>.

16. Ryder, *supra* note 10; Hertog, *supra* note 1.

17. See JARED DIAMOND, COLLAPSE: HOW SOCIETIES CHOOSE TO FAIL OR SUCCEED: REVISED EDITION 311–328 (2011).

Accordingly, as demonstrated by the chart below, younger, poorer males tend to consolidate their capital over time through increased savings in order to afford marriage, leading to higher intergenerational transfers of wealth. In comparison, older, wealthier men do not have to save to the same degree to get married. Thus, they will tend to accumulate a higher quantity of wives and children at a faster rate, which in turn lowers their savings rate, leading to lower intergenerational transfers of wealth. To illustrate this savings pressure among younger, poorer Saudis, the following chart based on a survey of 5000 families in Saudi Arabia is illustrative:



Saving for marriage is one of the most prescient concerns for younger males, even though they get married at a lower rate than their older counterparts, who practice polygyny at a far higher rate.<sup>18</sup>

Accordingly, the highest personal savings rate in the Kingdom is among Saudis between the ages of 25 and 34, which is both the age when poorer men need to save for marriage and also the age group where polygyny is lowest.<sup>19</sup> However, after 35 years of age, savings rates begin to fall precipitously, as polygyny rates begin to climb.<sup>20</sup> In short, savings and polygyny in Saudi Arabia have a significant negative correlation; men with more wives save less, men with no wives save more.<sup>21</sup>

18. AL ARABIYA, *supra* note 3; Francis & Yim, *supra* note 15; KPMG IN SAUDI ARABIA, ANALYSIS OF HOUSEHOLD SAVINGS IN SAUDI ARABIA (2020).

19. *Supra*, note 17; *Supra*, note 18.

20. *Supra*, note 17; *Supra*, note 18.

21. *Supra*, note 17; *Supra*, note 18.



As for women from poorer families, those that marry will tend to see an increase in their wealth through three factors: (1) the provision of a large, upfront *Mahr* payment, (2) divorce (regardless of the upfront *Mahr*, most marriage contracts in Saudi Arabia include clauses that grant large sums of money to wives in the event of divorce, even when the upfront *Mahr* is low), and/or, particularly when they marry older, wealthy men, (3) inheritance.

Women from wealthier families, like their poorer counterparts, may obtain some degree of wealth from marriage or divorce. However, the percentage change in regards to their wealth will be less dramatic than women from poorer families. Moreover, since women from wealthy families or tribes, including the royal family, are often prohibited from marrying poorer men at a discounted rate, their pool of potential husbands is smaller, thereby reducing their expected financial gain from marriage.

Simply put, while women from poorer families may either choose to marry men from poorer families for a sizable *Mahr* or wealthy men for no *Mahr*, wealthier women have far less flexibility in negotiating their marital contracts. Their *Mahr* is largely fixed, which increases the probability of spinsterhood. Due to the lack of high paying job opportunities for Saudi women, this circumstance often leads to wealthy Saudi women remaining dependent upon their tribes and immediate families for financial support almost in perpetuity. Quixotically then, widespread polygyny tends to result in both genders from the poorer class transferring more wealth to their children, while both genders from the wealthier classes will tend to transfer less.

Consequently, one of the effects of polygyny in the Muslim world is that it equalizes wealth; over time, segments of the upper and lower classes converge, superficially forming a middle class. Should Saudi Arabia's middle class have emerged from a growth in skilled labor, technology, improvements in education, etc.—similar to the development trajectories of China and the Asian Tigers—then the Kingdom's economy would have diversified.<sup>22</sup> Instead, for the last 50 years, over 90 percent of Saudi Arabia's export value has been based on oil, produced by the Arab American Oil Company (ARAMCO), a company originally created by the United States, where half of its current Board of Directors is composed of a combination of American, British, and Australian citizens, while the other half is composed of Saudis who were educated primarily in the United States.<sup>23</sup>

The second effect is that Saudi men, who must often save for years to afford *Mahr*, have an incentive to adopt strong mate-guarding behaviors to

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22. William Rugh, *Emergence of a New Middle Class in Saudi Arabia*, 27 MIDDLE E. J. 7–20 (Winter 1973).

23. *World Factbook: Saudi Arabia*, CENTRAL INTELLIGENCE AGENCY (last updated Aug. 19, 2020), <https://www.cia.gov/library/publications/the-world-factbook/geos/sa.html>; *Our corporate governance Board of directors*, SAUDI ARAMCO (n.d.), <https://www.saudiaramco.com/en/who-we-are/our-corporate-governance/leadership-team>.

keep the money paid to their wife within their family or tribe.<sup>24</sup> Examples of such mate-guarding tendencies include first cousin marriage (which represents 60 percent of all Saudi marriages), keeping women away from unrelated males, clitoridectomy, veiling, honor killings, and preventing wives from working or traveling without permission.<sup>25</sup> Many of these mate-guarding behaviors reduce the economic productivity of wives, particularly when many mate-guarding behaviors are reinforced by law.<sup>26</sup> Women face multiple legal and cultural barriers to employment in Saudi Arabia, most of which emanate from mate-guarding by Saudi men. For example, Saudi law has traditionally forbidden unrelated men and women from speaking to each other. Accordingly, employers have historically been required to construct special female-holding rooms before they may hire female workers.<sup>27</sup>

Meanwhile, Saudi women face higher transportation costs to work, as Saudi females only attained the legal right to drive vehicles in 2018. Moreover, as noted by multiple scholars, many portions of Saudi law are constructed to incentivize women to leave work in favor of marriage and childrearing, which creates an understandable fear among Saudi employers that, even if they took on the extra costs of hiring women, those women cannot be depended upon to retain their positions for the long term.<sup>28</sup>

Consequently, women—who comprise half of the potential Saudi workforce—are effectively kept at home and prevented from competing for higher-paying jobs in the Kingdom. The results are significant. The gender-pay gap in Saudi Arabia is 56 percent, with most of the jobs performed by women existing in the low-paying retail sectors. Only 5 percent of Saudi families consist of female breadwinners.<sup>29</sup> Despite PR-based claims of “tradition,” “culture,” and “religion,” in reality, most gender-laws in Saudi Arabia are aimed at upholding and supporting social practices of male mate-guarding. These laws are heavily driven by male fears of infidelity, a concern that is only exacerbated by economic fears.<sup>30</sup> Nearly all Saudi *fatwas*, or official religious rulings, against women driving in the Kingdom conflate women operating vehicles with

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24. Sarah Kershaw, *Saudi Arabia Awakes To the Perils Of Inbreeding*, N.Y. TIMES (May 1, 2003), <http://www.nytimes.com/2003/05/01/world/saudi-arabia-awakes-to-the-perils-of-inbreeding.htm>; Riegg, *Clitoridectomy*, *supra* note 5.

25. *Supra*, note 24.

26. Kershaw, *supra* note 24; Riegg, *Clitoridectomy*, *supra* note 5; Riegg, *supra* note 13; GLOBAL INSTITUTIONS, *WOMEN & GIRLS RISING: PROGRESS & RESISTANCE AROUND THE WORLD* (Ellen Chesler & Terry McGovern eds., 2015).

27. *Supra*, note 26.

28. *Supra*, note 26.

29. *Saudi women paid up to 56% less*, ARABIAN BUS. (Jan. 16, 2018, 10:17 AM), <https://www.arabianbusiness.com/politics-economics/387618-saudi-women-paid-up-to-56-less>; Sabria S. Jawhar, *More Jobs for Saudi Women*, ARAB NEWS (July 18, 2016, 3:00), <https://www.arabnews.com/node/955436/columns>; Riegg, *supra* note 13.

30. KHALED ABOU EL FADL, *THE GREAT THEFT: WRESTLING ISLAM FROM THE EXTREMISTS* (2005).

adultery. The same logic applies to *fatwas* on men and women speaking to each other and female clothing; women should not be fully seen by, nor interact with, men to safeguard against adultery.<sup>31</sup> Part of the reason that the fear of adultery looms so large in Saudi Arabia lies in its potential economic consequences; should a wife leave her husband for another man, the husband may not only lose his mate—he may lose all his *Mahr*-money, too.

The result of stopping Saudi women from working is that the classes where women are most present (i.e. heavily polygynous royal and upper classes) will bear the highest financial costs relative to income. To illustrate, imagine a Saudi man has 4 wives. Each wife has 2 children, one a boy and the other a girl. Of this family of 13, only the 5 males are likely to find relatively well-paying jobs due to Saudi's gendered employment regulations. Even if the husband was a relatively wealthy man to begin with, one might imagine how quickly his estate will be depleted from having to support such a large family. Meanwhile, each wife—eager to obtain as much of their husband's future estate for their branch of offspring—also has an economic incentive to have as many children as possible.

The economic effect of these two developments is that the financial resources of wealthy families collapse after three generations, whereas poor families have their wealth expanded over time. In other words, polygyny and family law in Saudi Arabia equalize wealth. In the next part, this Article examines how this equalization of wealth across socioeconomic classes, in turn, tends to reduce monarchical control in the longterm. However, before discussing precisely how Saudi family law tends to reduce monarchical control and produce political instability, some historical context on polygyny may be useful.

### III. WEALTH EQUALIZING EFFECTS FROM POLYGYNY AND ISLAMIC FAMILY LAW

In many ways, the wealth-equalizing effects of polygyny and Islamic family law noted above may not be accidental. A famous hadith, or saying, of the Prophet Muhammad is that “marriage is half of the religion.”<sup>32</sup> All societies struggle with the fact that returns on capital exceed other forms of investment.<sup>33</sup> In an unfettered market—particularly one based on financial services or foreign trade—the wealthy gradually get wealthier at a greater rate than other classes, regardless of their personal work or contributions to society.<sup>34</sup>

The rest of the world primarily deals with this issue through progressive taxation and public services; the more someone earns, the more the government

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31. KHALED ABOU EL FADL, *SPEAKING IN GOD'S NAME: ISLAMIC LAW, AUTHORITY & WOMEN* 233 (2001).

32. Hadith reported in IMAM AL-TABARANI, *AL-MU'JAM AL-AWSAT* (2012).

33. THOMAS PIKETTY, *CAPITAL IN THE TWENTY-FIRST CENTURY* (Arthur Goldhammer trans. 2014).

34. *Id.*

takes from them to give to the poorer members of society. However, this form of wealth redistribution is inherently inefficient. At best, governments must take a fee for their work in redistributing wealth from the wealthy to the poor. At worst, government agencies can be captured by wealthy special interests and lobbies who redirect tax dollars to their own benefit.

Historically, the Muslim world has often been apprehensive about taxation in support of centralized authorities outside of Quranically-ordained *Zakat*. Many classical jurists railed against various forms of taxation at different periods. Thus, throughout Islamic history, wealth equalization has been largely undertaken through the desires of wealthy men to have more than one wife and the desires of their wives to protect their future financial security by having as many children as possible.

In order to understand why many Muslims may be reluctant to change their system of family law or polygyny, a historical comparison may be useful. Throughout its history, the Catholic Church has zealously advanced rules against both royal polygyny (despite its being the most common marital form in the Bible) and priests reproducing. Rulers who attempted to have multiple wives (i.e. increased reproductive opportunities) through polygyny, annulment, or divorce had their cities sieged, were tortured, had their bodies hung in cages or, like Henry the VIII, were excommunicated; while Priests with families were fined, imprisoned, or executed.<sup>35</sup>

In stark comparison to the antireproductive policies among the European Elite classes, the Church has taken a completely opposite stance in regards to their laity and commoners; birth-control is strictly prohibited, essentially ensuring that poorer classes will almost always have more children than they can afford. In other words, the Church—concerned about preserving its own power—adopted rules that ensured the continued concentration of wealth in the religious and political elite in perpetuity, whereas the poor would remain economically subordinated. Such rules continue to be held onto by Western states to this day.

Unlike the Church and the West, the Muslim world has few prohibitions on marriage between men and women. Historically, the right to contract in Islamic law, particularly over marriage, is not to be infringed. Muslim women may choose to be co-wives and include conditions in their marital contracts, from the amount of times sex will be had, to how much they will get from a divorce, which would be banned in the West.<sup>36</sup>

Many Muslims may not wish to surrender all the aspects of their society and religion to Western control. And, there may be good reasons for many

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35. JAMES A. BRUNDAGE, *LAW, SEX, AND CHRISTIAN SOCIETY IN MEDIEVAL EUROPE* (1990); See also GEORGE HUNTSTON WILLIAMS, *THE RADICAL REFORMATION* (1962); WILLIAM JOHN DE BAKKER, MICHAEL DRIEDGER, & JAMES STAYER, *BERNHARD ROTHMANN AND THE REFORMATION IN MÜNSTER, 1530–1535* (2009).

36. Riegg, *Clitoridectomy*, *supra* note 5; Riegg, *Behavioral Economic Issues*, *supra* note 5.

Muslims to keep their traditions, particularly in family law, from a neoclassical, economic perspective that values efficiency.

#### IV. FAMILY CONFLICT AMONG THE AL SAUDS

The current Kingdom of Saudi Arabia was founded in 1932 by Abdulaziz Ibn Saud (Abdulaziz). It is the third incarnation of a Saudi state, the previous two having collapsed largely due to war and internal family feuds.<sup>37</sup>

Abdulaziz had between 22 and 32 wives, not including various slaves, concubines, and servants with whom he also fathered numerous children.<sup>38</sup> The official wives of Abdulaziz bore him at least 45 sons. Hussa Al Sudairi provided him with the most sons (known as the Sudairi Clan), including the country's current king, Salman Bin Abdulaziz Al Saud.<sup>39</sup>

In turn, Abdulaziz's children each had as many wives and children as possible.<sup>40</sup> For instance, King Saud, who took power immediately after the death of his father, had over 100 children. Former Crown-Prince Sultan, a member of the Sudairi Clan, had 10 to 14 wives, with whom he had at least 32 children, in addition to the many children he had with his slaves and servants. Among these children was Prince Bandar, the former Saudi Ambassador to the United States.<sup>41</sup>

The result of the Al Sauds having so many wives and children is that, over the last 85 years, the number of Saudi royals has grown exponentially such that no one, not even the Al Sauds themselves, know how many princes there are. However, current estimates are that the number of Saudi royalty stands between 16,000 and 30,000.<sup>42</sup> Most of Saudi royalty—with the exception of a handful of princes, like Waleed Bin Talal, who was imprisoned in the country's last Ritz-Carlton purge—produce no real revenue for the Kingdom.<sup>43</sup> Thus, the Al Sauds represent the Kingdom's largest, most expensive welfare-dependent class.<sup>44</sup>

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37. KAREN ELLIOTT HOUSE, ON SAUDI ARABIA: ITS PEOPLE, PAST, RELIGION, FAULT LINES—AND FUTURE (2012).

38. FRONTLINE, *supra* note 9.

39. *Id.*

40. *Id.*

41. Trevor Mostyn, *Crown Prince Sultan Bin Abdul-aziz Obituary*, GUARDIAN (Oct. 23, 2011), 1:06 PM), <https://www.theguardian.com/world/2011/oct/23/crown-prince-sultan-bin-abdul-aziz>; *Crown Prince Sultan Ibn Abdul-aziz Al Saud*, TELEGRAPH (Oct. 23, 2011, 5:59 PM), <http://www.telegraph.co.uk/news/obituaries/politics-obituaries/8844666/Crown-Prince-Sultan-Ibn-Abdul-Aziz-al-Saud.html>.

42. Nabih Bulos & Laura King, *In Gilded Saudi Royal Circles, Corruption Has Long Been a Way Of Life*, L.A. TIMES (Nov. 8, 2017, 3:05 PM), <http://www.latimes.com/world/middleeast/la-fg-saudi-corruption-20171108-story.html>.

43. *Saudi Royal Wealth: Where Do They Get All That Money?*, WIKILEAKS (Nov. 30, 1996), [https://wikileaks.org/plusd/cables/96RIYADH4784\\_a.html](https://wikileaks.org/plusd/cables/96RIYADH4784_a.html); *Crown Prince Sultan Backs the King in Family Dispute*, WIKILEAKS (Feb. 12, 2007), [https://wikileaks.org/plusd/cables/07RIYADH296\\_a.html](https://wikileaks.org/plusd/cables/07RIYADH296_a.html).

44. Nicholas Kulish & David D. Kirkpatrick, *In Saudi Arabia, Where Family and*

The consequence of having so many royals living off of the state has meant that, over time, the King must “purge” or eliminate part of the royal family to avoid overly-depleting the Kingdom’s coffers. Indeed, refilling the Kingdom’s coffers was precisely one of the goals that King Salman sought to accomplish by imprisoning 56 of his relatives in the Ritz-Carlton in 2017, until those relatives paid \$100 billion.<sup>45</sup> Nonetheless, purging tens of thousands of princes is no easy task. Additionally, since all Saudi royalty grow up with numerous, often colorful stories of interfamily murder and intrigue, each member of the family—primarily through first-cousin marriage and joint business ventures—attempts to create alliances in the family to protect their interests.<sup>46</sup>

However, these alliances often fail because divorce is fairly common in Saudi Arabia, as it is in most countries, including among its royal family.<sup>47</sup> Moreover, due to a weak court system (laws are vague, decisions are rarely recorded, and disputes can last for years) stealing and siphoning of business funds are common throughout the Kingdom. Accordingly, many interfamily joint business ventures often collapse from distrust, embezzlement, and other breaches—particularly among the Al Sauds.<sup>48</sup> As noted in a U.S. State Department cable, the Al Sauds are famous for failing to repay loans and breaching contracts. In fact, most Saudi banks refuse to open accounts or provide loans to Saudi royalty, and most of the Kingdom’s merchant class avoids doing business with princes.<sup>49</sup>

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*State Are One, Arrests May Be Selective*, N.Y. TIMES (Nov. 7, 2017), <https://www.nytimes.com/2017/11/07/world/middleeast/saudi-arabia-royal-family-corruption.html>.

45. Robin Wright, *The Saudi Royal Purge—with Trump’s Consent*, NEW YORKER, (Nov. 6, 2017), <https://www.newyorker.com/news/news-desk/the-saudi-royal-purge-with-trumps-consent>; Samia Nakhoul, Angus McDowall, & Stephen Kalin, *A House Divided: How Saudi Crown Prince Purged Royal Family Rivals*, REUTERS (Nov. 10, 2017, 9:11 AM), <https://www.reuters.com/article/us-saudi-arrests-crownprince-insight/a-house-divided-how-saudi-crown-prince-purged-royal-family-rivals-idUSKBN1DA23M>; Martin Chulov, *Saudi Arabia Claims Anti-corruption Purge Recouped \$100bn*, GUARDIAN (JAN. 30, 2018, 10:00), <https://www.theguardian.com/world/2018/jan/30/anti-corruption-purge-nets-more-than-100bn-saudi-arabia-claims>.

46. David Tormsen, *10 Sordid Stories Of The Saudi Royal Family*, LISTVERSE (June 23, 2015), <https://listverse.com/2015/06/23/10-sordid-stories-of-the-saudi-royal-family/>; Hertog, *supra* note 1.

47. Hugh Miles, *Saudi Arabia: Eight Of King Salman’s 11 Surviving Brothers Want To Oust Him*, INDEPENDENT (Oct. 23, 2015, 20:39), <http://www.independent.co.uk/news/world/middle-east/saudi-arabia-power-struggle-between-king-salman-and-mohammed-bin-salman-could-bring-down-the-a6706801.html>; *30 percent of Saudi Marriages Fail*, ARAB NEWS (Oct. 2015, 3:00), <http://www.arabnews.com/saudi-arabia/news/821596>.

48. Douwe Miedema, Shurna Robbins, & Sarah White, *Special Report: In \$22 Billion Saudi Family Feud, Who Knew What?* REUTERS (June 10, 2011, 7:39 AM), <https://www.reuters.com/article/us-saudi-feud/special-report-in-22-billion-saudi-family-feud-who-knew-what-idUSTRE7592RE20110610>.

49. During my time working around Saudi royalty, one of the most common problems was a categorical refusal by highly-skilled Arabs to work with Saudi princes, regardless of the salary. See also, *Saudi Royal Wealth: Where Do They Get All That Money?*, *supra* note 43.

Consequently, many Saudi royals eventually take as much of their wealth outside of the country by hiding it in secret bank accounts, European real estate, and family offices run by “foreign” (i.e. Western) money managers who will not reveal their siphoning of funds from the Saudi treasury.<sup>50</sup> The Panama Papers revealed that King Salman’s family stashed large sums of money in “tax havens”; the rationale behind such a move was obviously not to avoid taxes, given that there is no Saudi income tax.<sup>51</sup> Rather, the only ostensible reason that Salman’s family put money in Panama was because they were establishing a secret fund to hide money from the rest of the family, should Salman lose his power within the Kingdom.<sup>52</sup>

In terms of the Al Saud’s family dynamics, the combination of frequent divorces, breakdowns in joint business ventures, and a long history of royals hiding and stealing assets from one another has generated strong rivalries between the different branches of the family.<sup>53</sup>

The Saudi system of government both mirrors and reinforces these inter-family rivalries. Each portion of the Saudi government with access to significant power or money has historically been put under the control of competing branches of the family, with each family branch frequently utilizing their political power to enrich themselves.<sup>54</sup> For instance, according to State Department estimates, the Sultan branch of the family (named for Sultan Bin Abdulaziz Al Saud, head of the Ministry of Defense for nearly 50 years) alone has made billions of dollars via arms sales kickbacks and phony *waqfs*, or Islamic charities, alongside illicit land-grabs from commoners.<sup>55</sup>

To understand just how deeply interfamily rivalries and corruption are intertwined into the Saudi system of government, the recent case of Saudi’s

50. Abdi Latif Dahir, *How the Saudi Purge Will Affect Detained Billionaires’ Assets in Africa*, QUARTZ (Nov. 23, 2017), <https://qz.com/1137157/saudi-arabia-purge-effect-on-mohammad-al-amoudi-and-al-waleed-bin-talals-businesses-in-ethiopia-kenya-and-egypt/>; Peter Bill, *The \$300 Billion Arabs Are Coming*, EVENING STANDARD (May 29, 2008, 10:21 AM), <https://www.standard.co.uk/news/the-300-billion-arabs-are-coming-6890813.html>; Saeed Azhar & Joshua Franklin, *Saudi Arabia Faces Battle To Repatriate Assets After Corruption Crackdown*, REUTERS (Nov. 9, 2017, 6:05 AM), <https://www.reuters.com/article/us-saudi-arrests-assets/saudi-arabia-faces-battle-to-repatriate-assets-after-corruption-crackdown-idUSKBN1D91LT>.

51. *King of Saudi Arabia: Salman bin Abdulaziz bin Abdulrahman Al Saud*, ICIJ OFFSHORE LEAKS DATABASE (n.d.), <https://offshoreleaks.icij.org/stories/salman-bin-abdulaziz-bin-abdulrahman-al-saud>.

52. Azhar & Franklin, *supra* note 50.

53. Miles, *supra* note 47; Anne Penketh, *Succession At House Of Saud: The Men Who Would Be King*, INDEPENDENT (June 17, 2008, 12:00 AM) <https://www.independent.co.uk/news/world/middle-east/succession-at-house-of-saud-the-men-who-would-be-king-848505.html>; Hertog, *supra* note 1.

54. See Henderson, *supra* note 2; Simon Henderson, *After King Abdullah*, WASH. INST. FOR NEAR E. POL’Y (Aug. 2009), [https://www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus96\\_Henderson.pdf](https://www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus96_Henderson.pdf).

55. *Supra*, note 54.

“spy master,” Saad al Jabri, is illustrative. According to the Saudi government, Jabri is currently wanted for misusing \$11 billion worth of government funds, including overpayments to IBM and Oracle, with \$1 billion being embezzled directly by employees under Jabri’s supervision.<sup>56</sup> Jabri, however, has argued that since Saudi Arabia is governed by an, almost inherently, corrupt patronage system, his actions were completely appropriate given that he was operating under the authority of Prince Mohammad Bin Nayef, who had been his patron and the head of Saudi intelligence, at the time.<sup>57</sup>

Meanwhile, Jabri has also countered Saudi government accusations by arguing that he is being persecuted by King Salman and his son, Crown Prince Mohammed bin Salman (MBS), because of his knowledge of the various ill-deeds of their branch of the family and refusal to remain silent. Accordingly, Jabri has asserted in court documents that, among other actions, King Salman and MBS sent a hit squad to Canada to kill him in late 2018, and are currently holding his children hostage in the Kingdom.<sup>58</sup>

## V. THE ROLE OF CORRUPTION IN ROYAL CONFLICTS

As detailed by UK court documents, during the largest arms deal in British-Saudi history (Yamamah), Prince Bandar, the son of former Crown Prince Sultan and a key figure in the Sudairi Clan, utilized his position within the Ministry of Defense to enrich himself with approximately \$1 billion dollars.<sup>59</sup> And, a few years after allegedly embezzling the funds, he famously went on PBS to declare:

If you tell me that building this whole country, and spending \$350 billion out of \$400 billion, that we misused or got corrupted with \$50 billion, I’ll tell you, “Yes.” But I’ll take that any time . . . But, more important, more important—who are you to tell me this? . . . What I’m trying to tell you is, so what? We did not invent corruption . . . This happened since Adam and Eve . . . I mean, this is human nature.<sup>60</sup>

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56. Bradley Hope, Justin Scheck, & Warren P. Strobel, *Saudi Arabia Wants Its Fugitive Spymaster Back*, WALL STREET J. (JULY 17, 2020, 12:47 PM), <https://www.wsj.com/articles/a-spy-master-ran-off-after-saudis-say-billions-went-missing-they-want-him-back-11595004443>; Stephen Kalin & Summer Said, *Former Saudi Spymaster Sues Crown Prince, Alleging Murder Attempt*, WALL STREET J. (Aug. 6, 2020, 7:11 PM), <https://www.wsj.com/articles/former-saudi-spy-master-sues-crown-prince-alleging-murder-attempt-11596755512>; David Ignatius, Opinion, *This Former Intelligence Was a Hero. He’s Now the Target of a Brutal Campaign by MBS*, WASH. POST (May 28, 2020, 6:19 PM) <https://www.washingtonpost.com/opinions/2020/05/28/this-former-intelligence-official-was-hero-hes-now-target-brutal-campaign-by-mbs>.

57. *Supra*, note 56.

58. *Supra*, note 56.

59. David Leigh & Rob Evans, *The al-Yamamah Deal*, GUARDIAN: BAE FILES (June 7, 2007, 16:35), <https://www.theguardian.com/world/2007/jun/07/bae15>.

60. Interview by Lowell Bergman with Prince Bandar bin Sultan, Ambassador of the Kingdom of Saudi Arabia to the U.S., Saudi Arabia (Sept. 2001) <https://www.pbs.org/wgbh/pages/frontline/shows/terrorism/interviews/bandar.html>.



The design of Saudi Arabia's government, which places different ministries under the control of different members of the family in order to "pay off" those family members—a system which would likely be considered corrupt throughout the rest of the world—is not unusual in the Middle East or in countries with weak court systems.

When the rule of law is weak, as it is among most Middle Eastern countries, commercial investments—which rely on the enforcement of contracts—become risky.<sup>61</sup> The only dependable forms of income, particularly in Saudi Arabia, come from the public sector and real estate, with the most lucrative revenue streams based on connections to or control of government ministries.<sup>62</sup> However, these other political systems pale in comparison to the degree to which the Saudi system is designed to encourage corruption and exacerbate existing interfamily rivalries.<sup>63</sup>

## VI. RENTIER STATE THEORY—AL SAUD FAMILY DYNAMICS

The current, dominant theory for explaining and predicting Saudi policy-making is known as "Rentier State Theory" (RST). Under RST, because Saudi Arabia sits on top of such a large amount of accessible oil deposits, the primary function of the Kingdom's government has evolved to maximize and distribute wealth from the sale of oil, rather than innovate or create new industries that can be used to increase tax revenue.<sup>64</sup> Or, put differently, if there is no reliable tax income to a government from its people, or if potential tax revenues are dwarfed by oil revenue, then the government has lower incentives to help its people develop new businesses, while its people have fewer incentives to demand political representation or seek civil rights.

In short, under RST, oil is the reason that the Kingdom's rulers have traditionally acted so slowly when it comes to reform—despite being repeatedly warned by U.S. diplomats for many years about the importance of youth employment, controlled public-spending, and economic diversification—and why it is only in the aftermath of an economic crisis that the Saudi government traditionally ever engages in any type of serious reform.<sup>65</sup> Accordingly, even though it is the topic of a separate article, "Royal-Rentier legislation, which

61. *Rule of Law—Country Rankings*, GLOBAL ECONOMY (last visited April 11, 2018), [http://www.theglobaleconomy.com/rankings/wb\\_ruleoflaw](http://www.theglobaleconomy.com/rankings/wb_ruleoflaw).

62. David B. Ottaway, *Saudi Arabia in the Shadow of the Arab Revolt*, WOODROW WILSON INT'L CTR. FOR SCHOLARS (Summer 2011).

63. Bulos & King, *supra* note 42; *Saudi Royal Wealth: Where Do They Get All That Money?*, *supra* note 43; Miles, *supra* note 47.

64. Hazem Beblawi, *The Rentier State in the Arab World*, 9 ARAB STUD. Q. 383 (Fall 1987); Hertog, *supra* note 1; Bi Puranen & Olof Widenfalk, *The Rentier State: Does Rentierism Hinder Democracy?*, in VALUES AND PERCEPTIONS OF THE ISLAMIC AND MIDDLE EASTERN PUBLICS 160 (Mansoor Moaddel ed., 2007).

65. Ryan Riegg, *Why Saudi May Be Preparing for a Real War*, HILL, (Dec. 23, 2016, 3:15 PM), <http://thehill.com/blogs/congress-blog/foreign-policy/311671-why-the-al-sauds-may-be-preparing-for-a-real-war>.

increases red-tape and ambiguity on foreign businesses so that they are forced to appoint “Royal Board members,” is prevalent throughout the Kingdom as it allows the Al Sauds to exert control over foreign business.<sup>66</sup> A classic example of Royal-Rentier legislation is the “Saudi Negative List,” which is a list of vaguely-defined business activities that foreigners are prohibited from investing or working in, and which leads to many foreign businesses taking on Royal Board members as a means of protecting themselves.

On one hand, this type of Royal-Rentier legislation benefits the Al Sauds by providing them a stream of revenue from the private sector. On the other hand, having royal family members sit on the boards of competing companies means that family disputes often spill into Saudi boardrooms and vice versa, thereby increasing rivalries within the royal family.

However, Royal-Rentier legislation in the field of commercial law is not the only benefit that Saudi royals receive. Criminal immunity from smuggling charges is another royal benefit. As has been noted by numerous articles and books on the Kingdom, smuggling has become a major source of income for many princes, who can fly their private jets through numerous countries without being searched.<sup>67</sup>

In turn, even though the smuggling trade can be highly lucrative, control over the trade often creates intense rivalries, as it does in other countries, thereby exacerbating family conflicts. While MBS has claimed to be cleaning up Saudi’s corruption problem by arresting princes from rival sections of the family without any form of due process, little has been done to eliminate the underlying causes of corruption in the Kingdom. Royal-Rentier legislation still exists, and Saudi princes still presumably engage in smuggling.

Moreover, the members of the royal family most involved with corruption in the Kingdom have not been touched by MBS in his anticorruption campaign.<sup>68</sup> Thus, MBS’s anticorruption campaign can be better understood not as a drive for a less corrupt government, but primarily as a purge to

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66. Omer Saeed Habtoor & Norsiah Ahmad, *The Influence of Royal Board of Directors and Other Board Characteristics on Corporate Risk Disclosure Practices*, 14 CORPORATE OWNERSHIP & CONTROL 326 (2017); GAN INTEGRITY, *Saudi Arabia Corruption Report*, RISK & COMPLIANCE PORTAL, (last updated July 2018) <https://www.ganintegrity.com/portal/country-profiles/saudi-arabia>; Sissi Cao, *McKinsey Hires Saudi Princes— Could it be Innocent Nepotism?* OBSERVER (Nov. 10, 2017, 3:15 PM), <http://observer.com/2017/11/mckinsey-hires-saudi-princelings-could-it-be-innocent-nepotism>.

67. Siobhán O’Grady, *Saudi Arabia’s Royal Drug Problem*, FOREIGN POLICY (Oct. 26, 2015, 2:44 PM), <http://foreignpolicy.com/2015/10/26/saudi-arabias-royal-drug-problem>; Charles J. Hanley, *King-size Dilemma For Saudi Royal Family*, L.A. TIMES (May 25, 1997, 12:00 AM), <https://www.latimes.com/archives/la-xpm-1997-05-25-mn-62343-story.html>.

68. Kulish & Kirkpatrick, *supra* note 44; Zack Beauchamp, *The Purge in Saudi Arabia, Explained*, VOX, (Nov. 6, 2017, 4:50 PM), <https://www.vox.com/world/2017/11/6/16613088/saudi-arabia-princes-arrested-mohammed-bin-salman>.

consolidate power underneath him, due to the rivalries and incentives produced by Saudi family law.<sup>69</sup>

## VII. A ROYAL DILEMMA

The goal of this Article is not to attack the royal family of Saudi Arabia. There are many intelligent, talented members of the royal family who work hard to help their people. However, many royals are hopelessly trapped inside a system of incentives that has been in existence far longer than the current Saudi state, which makes balancing and maintaining their quality of life, national economic progress, and political stability difficult to achieve past three generations.

Put differently, imagine you are a Saudi princess. It's difficult to get a job for numerous reasons, from public image concerns, to the legitimate fears of employers about repercussions they may face from firing a member of the royal family. Moreover, it's not easy for most Saudi princesses to take a husband outside the royal family, or the limited number of aristocratic families in the Kingdom, because, among many issues, no one from the common classes will be able to afford their *Mahr*.

Meanwhile, the inheritance rights of women are highly limited relative to the inheritance rights of men. When it comes to inheriting from their parents, Saudi princesses only take half of what their brothers receive, and when it comes to inheriting from their husbands—they will take even less than that.

Princes inherit more, but face similar problems; they can't get normal jobs, and obtaining loans to create new businesses, or forming agreements with the country's business class is exceptionally difficult due to the lack of the rule of law in the country. How does a bank foreclose on a prince who is beyond the reach of the country's courts? How does a former business partner sue the royal family for breach of contract? Consequently, the policy adopted by many within the Kingdom is to avoid, at almost any cost, doing business with the royal family.

Meanwhile, economic demands on princes can also be surprisingly high. While *Mahr* may be excused in many cases when a prince marries a woman from a poorer family, as discussed above, the desire to create allegiances between different branches of the royal family often leads to situations in which a prince must marry one of his cousins and pay a high *Mahr* to that princess to secure relations between the different family branches.

Additionally, while Saudi princesses may be imprisoned by their fathers and may be forbidden from leaving their palaces—Saudi princes can and do get killed by other princes. While all authoritarian rulers, especially in the Middle East, have to worry about popular uprisings and military coups, Saudi

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69. Opinion, *Saudi Arabia's Purge Is All About Consolidating Power*, FINANCIAL TIMES (Nov. 6, 2017), <https://www.ft.com/content/25190da6-c2f3-11e7-a1d2-6786f39ef675>; Nakhoul, McDowall & Kalin, *supra* note 45.

princes and kings must also contend with the fact that members of their own family may like to see them imprisoned or worse.

Meanwhile, for both princes and princesses alike, the nature of life is one of diminishing wealth, where the money that they once had access to as children decreases each year. Each generation, the average royal-standard of living goes down as the quantity of Al Sauds continues to grow. Or, put differently, while a given Saudi prince may be born, say, 7th in line to the throne, over time, that prince will almost inevitably drop in ranking, with their privileges and access to family treasury decreasing as they go from 7th, to 11th, to 24th in line and so on. Having one's standard of living drop, continuously, over time is not an easy fact of life for most people to handle. People tend to be happier when they feel their life improve over time, regardless of how much wealth they were born with. The Al Sauds' situation, on the other hand, is the exact opposite; over time, wealth and status decrease until, eventually, one section of the family purges another—or the entire state, yet again, falls apart.

Thus, the terror that many royals may feel from the economic pressures facing them, lack of options outside of semicriminal enterprises (e.g. smuggling, embezzlement, phony charities, seizing land from commoners, etc.), and constant reduction in their standard of living each year understandably leads some royals to take drastic actions, which outsiders may condemn.

Examples from the current regime of King Salman and his son, MBS, include imprisoning activists for the female right to drive, the killing of *Washington Post* columnist Jamal Khashoggi, sieging and bombarding a Saudi town with tanks and helicopters, mass bombing, execution, and starvation campaigns in Yemen, targeting a highly-decorated former FBI agent, threatening Canada with a 9/11-style attack, imprisoning and disappearing rival members of the royal family, investing extraordinary amounts of money into the country's electronic surveillance and defense sector, crucifying the children of dissidents, and, allegedly, sending assassins to Canada to kill ex-Saudi spymaster, Saad al Jabri.<sup>70</sup>

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70. Declan Walsh, *The Tragedy of Saudi Arabia's War*, N.Y. TIMES (Oct. 26, 2018), <https://www.nytimes.com/interactive/2018/10/26/world/middleeast/saudi-arabia-war-yemen.htm>; *Inside the Saudi Town That's Been Under Siege for Three Months by Its Own Government*, INDEPENDENT (Aug. 4, 2017, 17:53), <https://www.independent.co.uk/news/world/middle-east/saudi-arabia-siege-town-own-citizens-government-kingdom-military-government-awamiyah-qatif-a7877676.html>; Alex Lockie, *Saudi Arabia Appeared to Threaten Canada With a 9/11-Style Attack in a Feud Over Human Rights*, BUS. INSIDER (Aug. 6, 2018, 10:21 AM), <https://www.businessinsider.com/saudi-arabia-appeared-to-threaten-canada-with-a-911-style-attack-2018-8>; Dexter Filkins, *Is the Saudi Government Plotting Against Another U.S.-based Critic?*, NEW YORKER (July 16, 2020), <https://www.newyorker.com/news/news-desk/is-the-saudi-government-plotting-against-another-us-based-critic>; Guy Davies, *They were convicted of minor crimes as teens and now face beheading and 'crucifixion' in Saudi Arabia*, ABC NEWS (July 15, 2019, 1:02 AM), <https://abcnews.go.com/International/convicted-minor-crimes-teens-now-face-beheading-crucifixion/story?id=64191283>; *Saudi crown prince accused of sending hit squad to Canada*, BBC NEWS (Aug. 6, 2020), <https://>

The actions taken by the current Saudi regime to people unfamiliar with the dynamics of the royal family may seem like overkill at best or, at worst, sociopathic. However, when the inherent fragility of the Saudi regime is taken into account, such behaviors become not only understandable, but predictable.

Many decry MBS for allegedly killing Jamal Khashoggi, a journalist who was critical of him. But from MBS's standpoint, such measures may be necessary for him to retain power when he has so many relatives barking at the door, many of whom may wish for him to end up like other ex-leaders in the region, from Gadaffi to Saddam, who were executed after being deposed.

Similarly, the choice of some princesses to have as many children as possible is highly rational, because having many children is part of how they protect themselves and their loved ones. Such is the story of Hussa Al Sudairi, who had the most number of sons of all of Abdulaziz's co-wives, and whose branch now controls the Saudi throne and much of its foreign policy.

Meanwhile, the reactionary nature of Saudi policy also makes more sense when one considers that most Saudi royals must spend most of their time invested in family dynamics, over affairs of state, in order to maintain power and access to the family treasury. In short, it isn't just oil which creates the features of a rentier state in Saudi Arabia—family law also plays a major role for at least two reasons.

#### A. *Pervasiveness*

Family law touches every member of Saudi society. Particularly for the Al Sauds—many of whom consume far more revenue than they generate and must rely on the royal treasury for their livelihoods—family considerations significantly impact almost every major life decision. And since Saudi Arabia is an absolute dynastic monarchy, family problems frequently become state problems, as was the case in the Ritz-Carlton purge of 2017, which even the most experienced RST advocates were unable to predict.

#### B. *Resistance to Change*

Many of the Al Sauds are highly invested in the family system of the Kingdom because it is, historically, how most of their relatives have obtained financial security. To illustrate just how invested most of the Al Sauds are in

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[www.bbc.com/news/world-middle-east-53677869](http://www.bbc.com/news/world-middle-east-53677869); Aaron Holmes, *Saudi Arabia allegedly recruited Twitter employees to spy on users. That's just one of many ways Saudi agents use tech tools to spy on critics*, BUS. INSIDER (Nov. 7, 2019, 9:29 AM), <https://www.businessinsider.com/saudi-arabia-big-tech-spy-on-dissidents-twitter-2019-11>; *Saudi Arabia: Prince in Incommunicado Detention*, HUMAN RIGHTS WATCH (May 9, 2020, 12:00 AM), <https://www.hrw.org/news/2020/05/09/saudi-arabia-prince-incommunicado-detention#>; Joseph Hincks, *'She's Starting to Lose Hope.' Two Years on, Sister of Jailed Saudi Women's Rights Activist Pleads for Justice*, TIME (May 15, 2020, 4:05 PM), <https://time.com/5837473/loujain-al-hathloul-torture-saudi-arabia>; Ayman M. Mohyeldin, *No One Is Safe: How Saudi Arabia Makes Dissidents Disappear*, VANITY FAIR (July 29, 2019), <https://www.vanityfair.com/news/2019/07/how-saudi-arabia-makes-dissidents-disappear>.

the Kingdom's family system, it is useful to consider that nearly all Al Sauds engage in the practice of first cousin marriage, despite being aware of the perils of inbreeding.<sup>71</sup> However, many take the risk, because their desire to maximize their economic security, by securing family alliances via marriage, outweighs any potential loss to their children from being born with a genetic disorder. Moreover, as discussed in Part I, there are many rational reasons that Saudi Arabia, and most Muslim countries, may not wish to adopt a monogamous, Western, family-law regime. Thus, even if the King decided to abandon Saudi family law for a Western-style Wills & Trust system, it is not clear if he would be able to do so without backlash.

In other words, family considerations exert a huge influence on every corner of Saudi society, including on Saudi policymakers. In turn, the slowness of Saudi policymaking, which is often characterized by RST as being reactive, as opposed to proactive, can be understood as a partial result of the fact that many royals do not have time to balance governance work with maintaining the family relations that provide them financial security.

As many other books and articles on the Kingdom have noted, power in Saudi Arabia is not based on merit.<sup>72</sup> It is based heavily on family loyalty and connections, what is known in Arabic as "*wasta*."<sup>73</sup> In short, because most Saudi royals are forced to spend so much of their time currying favor with an ever-expanding number of family members, many have little time for matters of State. Thus, it is only when policy matters reach near-emergency, that the royals-in-charge enact real change. Simply put, when you have over 10 wives and 32 children in order to help secure the power of your branch of the family over the royal treasury, it is pretty hard to find time for anything else.

However, family law is not the only factor that is pervasive and resistant to change in the Kingdom. There are many other largescale factors within the Saudi environment that are also resistant to change, which exert similar levels of influence over Saudi policy.

Just as George Kennan wrote in his 1947 article, "Sources of Soviet Conduct," that Russian policies could be predicted based on unique, largescale, and immutable environmental factors, like its long borders and susceptibility to invasion,<sup>74</sup> Saudi conduct can also be predicted based on its own unique, large-scale, immutable environmental factors. As noted by RST, oil dependency is

71. Howard Schneider, *Saudi Inter marriages Have Genetic Costs*, WASH. POST (Jan. 16, 2000), <http://www.washingtonpost.com/wp-srv/WPcap/2000-01/16/080r-011600-idx.html>.

72. Majid Aldraehim et al., *Cultural impact on e-service use in Saudi Arabia: The role of nepotism*, 5 INT'L J. FOR INFONOMICS 655 (2012); *Saudi Arabia Corruption Report*, GAN (last updated July 2018), <https://www.business-anti-corruption.com/country-profiles/saudi-arabia>; Cao, *supra* note 66; Kulish & Kirkpatrick, *supra* note 44.

73. To use a contemporary example, as discussed above, when King Salman removed his son's rival, former Crown Prince Mohammad Bin Naif, from the Ministry of Interior. King Salman appointed a 33-year old as his replacement. *Saudi Arabia Names New Interior Minister*, ARAB NEWS (Sept. 23, 2017), <https://www.arabnews.com/node/1118321/saudi-arabia>.

74. George F. Kennan, *The Sources of Soviet Conduct*, FOREIGN AFF. (July, 1947).

one such factor. However, family law, energy consumption, royal instability, population growth, and weak courts may be equally important in predicting how Saudi Arabia's rulers will behave over the next several decades, as well whether the Kingdom itself will continue to exist past three generations.

Given that a large portion of Saudi political instability originates in family law, one may conclude that the solution would be for the country to adopt a Western family law system. However, this would be the wrong conclusion.

As stated in the Part on *Wealth Equalization and Polygyny* above, the hadith of the Prophet Muhammad which states that "marriage is half of the religion," is believed to have legal and divine force. Thus, it is unlikely that Muslims of any country would consider a wholesale abandonment of Islamic family law to be acceptable. Moreover, family law is the only area of Islamic law to have partially survived colonialism. During colonialism, Islamic law and jurisprudence were seen as a threat to European rule and, accordingly, replaced by highly-bureaucratic systems, based heavily on European Civil and Napoleonic Codes, which emphasized centralized-government control.<sup>75</sup> The only section of law in which Muslims and Islamic jurists were allowed to retain authority was family law. Consequently, it would likely be offensive to many Muslims for it to even be suggested that the one area of the Islamic law they managed to hold on to through colonialism must be replaced, just so that their princely class may hold on to power for a little longer.

Finally, as discussed in more detail above there are many economically rational reasons for why many Muslim countries may not wish to eliminate their family law system. If anything, Western countries, like the U.S., may wish to take a closer look at the economics of Islamic family law for lessons on what may happen should, for example, recent steps towards the decriminalization of polyamory/polygamy in Utah and Massachusetts begin to spread further.<sup>76</sup>

For instance, while the rest of the world struggles with how to cope with growing gaps in wealth without engaging in costly, complicated policies like progressive taxation, etc., it may be useful to consider how Islamic family law may produce wealth equalization over time without relying on large, expensive government bureaucracies to redistribute wealth.

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75. Part of the reason that Royal-Rentier legislation, like the Saudi Negative List, is able to exist, is because across the Middle East companies are required to apply for licenses for each business activity. Hernando de Soto, *The free market secret of the Arab revolutions*, FIN. TIMES (Nov. 8, 2011), <https://www.ft.com/content/653fab0e-0a00-11e1-85ca-00144feabd0>; Hernando De Soto, *This Land Is Your Land*, WORLD POL'Y (June 7, 2010), <http://world-policy.org/2010/06/07/this-land-is-your-land>.

76. Jennifer Dobner, *Decriminalization of polygamy in Utah clears key hurdle in state legislature*, REUTERS (Feb. 26, 2020, 7:46 PM), <https://www.reuters.com/article/us-utah-polygamy/decriminalization-of-polygamy-in-utah-clears-key-hurdle-in-state-legislature-idUSKCN20L0DI>; Audrey McNamara, *Massachusetts city officially recognizes polyamorous relationships*, CBS NEWS (July 3, 2020, 12:06 PM), <https://www.cbsnews.com/news/somerville-massachusetts-recognizes-polyamorous-relationships>.

Nonetheless, while it may be impractical for Saudi Arabia to eliminate its family law system, that does not mean that the country and royal family is doomed to destroy itself after three generations, despite the fact that the last two Saudi states ended in less than three generations due to conflicts among the Al Sauds. Rather, the answer to the country's problems may lay in reforms first proposed 60 years ago by one of Abdelaziz's sons, Talal, to begin a gradual transition into a constitutional monarchy, beginning with the rule of law.

### VIII. TALAL'S REFORMS VS. ROYAL RESISTANCE TO THE RULE OF LAW

At the core of Talal's proposed reforms is the idea that, if the Al Sauds were to survive and avoid violent overthrow, they needed to transition from being a ruling family into a commercial one. Before that transition could occur, however, there needed to be civil courts and unambiguous laws that would treat the Al Sauds and the country's commoners equally. These courts would record decisions, eliminate Royal-Rentier legislation, and make land grabs by princes a thing of the past. In short, Talal wanted to remove Saudi Arabia's slow, inefficient, legal system that served only the royal family, in favor of a system which could rival the legal system of the United States.<sup>77</sup>

Additionally, Talal believed that the Al Sauds, and Saudi Arabia's conservative religious establishment, needed to transition out of government entirely, and women needed to have full political rights. Accordingly, Talal built one of the first schools for girls in the Kingdom, and pushed his children to pursue business and private sector opportunities, which they did on a grand scale, with his son, Waleed, eventually becoming one of the world's wealthiest businessmen.<sup>78</sup>

In exchange for his views, which the majority of the royal family did not share, Talal was put into exile for over four years during the 1960s, and had significant portions of his assets seized.<sup>79</sup> The resistance to the rule of law from the other members of the royal family largely emanates from the fact that many princes and princesses are understandably concerned by how they may be treated by the courts, should it be revealed how they or their close family members have obtained their wealth. Accordingly, the rule of law still does not exist in the Kingdom, regardless of exhortations from its rulers that it does.

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77. *Saudi 'Red Prince' still demanding reform at age 82*, FRANCE 24 (Jan. 10, 2013, 12:50 AM), <https://web.archive.org/web/20130113051130/http://www.france24.com/en/20130110-saudi-red-prince-still-demanding-reform-age-82>; Naazir Mahmood, *The Red' Prince' of Saudi Arabia*, NEWS (Dec. 30, 2018), <https://www.thenews.com.pk/tns/detail/566965-red-prince-saudi-arabia>; *Reformist Saudi Prince Talal bin Abdul Aziz dies*, FRANCE 24 (Dec. 22, 2018, 4:51 PM), <https://www.france24.com/en/20181222-reformist-saudi-prince-talal-bin-abdul-aziz-dies>; Alwaleed bin Talal bin Abdulaziz al-Saud, *A Saudi Prince's Plea for Reform*, N.Y. TIMES (Feb. 24, 2011), <https://www.nytimes.com/2011/02/25/opinion/25alsaud.html>; *Prince Talal bin Abdulaziz obituary*, SUNDAY TIMES (Jan. 7, 2019, 12:01 AM), <https://www.thetimes.co.uk/article/prince-talal-bin-abdulaziz-obituary-8kzwgbqddq>.

78. *Supra*, note 76.

79. *Supra*, note 76.



Nonetheless, Talal's views that the country must implement a rule of law and reform its court system are probably even more valid today than they were in the 1960s.

As discussed previously, so long as the royal family engages in overt disdain for the rule of law, the country's merchant class will not wish to do business with them. And the longer the division between the country's merchant class and its ruling class exists, the likelier it is that disruptive events will occur, just as similar divisions between a country's merchant class and its rulers have produced revolts from the Magna Carta to the Boston Tea Party.

Additionally, as previously discussed, so long as 1) the public sector (i.e., control of ministries) continues to be a source of income for the royal family, and 2) royals continue to have lots of children as a means of obtaining political control and access to the royal treasury, the less likely it is that the princes in charge will develop the private sector, because they effectively lack the time or background to do so. In turn, the Kingdom's economy will remain undiversified and dependent on oil exports. (Currently, 90 percent of Saudi Arabia's export value comes from oil.)<sup>80</sup>

However, the lack of the rule of law and the dynamics of the Saudi family law system not only impedes the development of a diversified economy, but also produces inefficiently high levels of investment in real estate by the royal family, which, at best, crowds out investments in higher growth industries and, at worst, could bankrupt the Kingdom in the longer term.

## IX. WHY THE AL SAUDS KEEP INVESTING IN SKYSCRAPERS AND GHOST TOWNS

When courts are unreliable or slow, or when enforcing ongoing or complex contracts is difficult, people generally do not invest in startups, innovation, or economic diversification. Instead, people invest in land. Because even if, say, a construction contract goes bad, there is still the underlying real estate or, in the case of a house, a place to live.

As attractive as investing in land is for commoners, it is even more attractive for many royals. Land is one of the few areas where the Al Sauds frequently do business with ordinary Saudis, because most land sales involve one-off contracts, as opposed to maintaining an ongoing relationship. Moreover, land grabs, where princes seize property from commoners to sell to developers, have traditionally been a source of substantial revenue for different portions of the royal family. Meanwhile, skimming off real estate development deals is far easier than other forms of embezzlement because construction budgets are easy to obscure and falsify since construction materials often go missing or are thrown away.

Additionally, many Al Sauds pay foreign money managers to handle their finances in order to keep their wealth hidden from relatives. However,

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80. *World Factbook: Saudi Arabia*, *supra* note 23.

the structure of most money-manager contracts tend to incentivize investment in real estate for a few reasons, the biggest of which is that land tends to provide the greatest level of income to the money manager for the least amount of effort or risk. More specifically, under the terms of many of these contracts, money managers take a percentage per year based on the value and appreciation of acquired property. However, rarely, if ever, do these money managers conduct any ongoing work in managing the property.

Rather, many money managers tend to have repeat-player deals with various firms (management companies, etc.) from which the money manager may take additional kickbacks, since it is unlikely that their royal clients will have any knowledge of what the typical costs are to, for instance, manage a multimillion dollar apartment building. Moreover, even when a royal may have some idea of what rates should be, most Al Sauds are more concerned by the prospect of having their wealth discovered by their relatives than a money manager stealing from them, for the reasons previously discussed in this Article. The case of Saad Al Jabri, who has been accused of misusing as much as \$11 billion, including \$1 billion in overpayments to companies like IBM and Oracle, is illustrative of this fairly common type of embezzlement by individuals that the Al Sauds pay to manage their finances.<sup>81</sup>

In comparison, investing in startups, technology, etc. often requires that the money manager be in constant contact with the employees, scientists, etc. involved in their principal's investment. Additionally, when it comes to investments in tech companies or startups, there are fewer opportunities for kickbacks, since setting up such deals could invite lawsuits from the company's investors and officers, who would presumably prefer to see any spare capital redirected into growing the company, rather than into the money manager's pockets.

As a result, to many of these money managers, even those that do not engage in kickbacks, investing in real estate is far more attractive than investing in startups that could diversify the Kingdom's economy. Especially since, by buying real estate, such money managers are often able to avoid accusations of being overly risky in their investments, because it's "land" vs. an unknown startup working on an untested technology.

Further, thanks to rules that allow certain types of real estate to be held by shell companies, investing in property is also a mechanism for many money managers to hide their royal principal's wealth from other members of the family and to potentially launder income.<sup>82</sup>

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81. Hope, Scheck, & Strobel, *supra* note 56; Kalin & Said, *supra* note 56; Ignatius, *supra* note 56.

82. Ryan Cooper, *How foreign investors launder their money in New York real estate*, WEEK (Nov. 13, 2017), <https://theweek.com/articles/736313/how-foreign-investors-launder-money-new-york-real-estate>; Louise Story & Stephanie Saul, *Stream of Foreign Wealth Flows to Elite New York Real Estate*, N.Y. TIMES (Feb. 7, 2015), <https://www.nytimes.com/2015/02/08/nyregion/stream-of-foreign-wealth-flows-to-time-warner-condos.html>; Jeff Andrews, *Why*

Consequently, land is the default investment for many Al Sauds. Land is what they are used to. Land, whether through legitimate or semilegitimate means, is how many Al Sauds have made considerable amounts of money for themselves, regardless of how those land deals have turned out for the country. Accordingly, royal land investments abound in the Kingdom, even when they make little, if any, macroeconomic sense.

The entire Kingdom, like much of the Gulf, is awash in empty skyscrapers and ghost towns, despite popular, international cities in the region with more diversified economies, like Dubai, having faced bankruptcy multiple times over the last 10 years due to an overabundance of real estate development projects.<sup>83</sup>

Take, for example, the King Abdullah Economic City (KAEC), a McKinsey project in Saudi Arabia, which was originally meant to be completed before 2020, with a price tag of \$27 billion.<sup>84</sup> KAEC was touted as the cure to Saudi Arabia's diversification worries, a DC-size metropolis that would produce 1.3 million new jobs, add \$150 billion to the country's Gross Domestic Product, and spur the creation of the Saudi tourism industry.<sup>85</sup> Ten years and \$100 billion later, the city has almost no residents, while construction is projected to remain unfinished until 2035.<sup>86</sup>

Nonetheless, despite the massive failure of KAEC to attract residents or achieve any of its goals, the current Saudi regime is now building another city, Neom, which, just like KAEC, was also designed and promoted by McKinsey. However, unlike the roughly \$100 billion that the country lost on KAEC, the current Saudi regime is investing \$500 billion into Neom—more than all of

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*financial criminals use real estate to launder money*, CURBED (Aug. 10, 2018, 3:28 PM), <https://www.curbed.com/2018/8/10/17674584/money-laundering-real-estate-paul-manafort-trial>.

83. Suzanne Goldenberg, *Masdar's zero-carbon dream could become world's first green ghost town*, GUARDIAN (Feb. 16, 2016, 8:47 AM), <https://www.theguardian.com/environment/2016/feb/16/masdars-zero-carbon-dream-could-become-worlds-first-green-ghost-town>; Natasha Turak, *Dubai, hit by lockdown and oil price crash, could be headed for another debt crisis*, CNBC (Apr. 24, 2020, 1:28 AM), <https://www.cnbc.com/2020/04/24/coronavirus-lockdown-dubai-could-be-headed-for-another-debt-crisis.html>.

84. David Leveille, *Saudi Arabia plans a \$100 billion mega-city to help end its oil dependence*, PRI (Mar. 20, 2015, 6:30 PM), <https://www.pri.org/stories/2015-03-20/saudi-arabia-plans-100-billion-mega-city-help-end-its-oil-dependence>; Alaco Ambrose Carey, *Mohammed bin Salman billed himself as the young strongman who could transform Saudi Arabia. Two years later, he has little to show for it.*, BUS. INSIDER (Oct. 15, 2019, 8:05), <https://www.businessinsider.com/saudi-arabia-crown-prince-mohammed-meteorite-rise-now-weak-2019-10>; Nicolas Pelham, Opinion, *The Crown Prince and the New Saudi Economy*, N.Y. TIMES (Jan. 24, 2018), <https://www.nytimes.com/2018/01/24/opinion/crown-prince-saudi-economy.html>.

85. *Supra*, note 83.

86. *Supra*, note 83.

Saudi Arabia's foreign reserves combined.<sup>87</sup> Should the city fail, which many believe that it will, the Kingdom may very well go bankrupt.<sup>88</sup>

## X. THE IMPLICATIONS OF SAUDI POLITICAL INSTABILITY

The implications of Saudi political instability due to the country's family law system extend far beyond the borders of Arabia. The current alliance between the Israeli rightwing, led by Prime Minister Benjamin Netanyahu, and the Al Sauds is largely premised on the idea that the Al Sauds will be able to control their population, which has been fed anti-Israeli propaganda for decades, including school textbooks imploring Muslims not to trust or work with Jews.<sup>89</sup>

Netanyahu and his political camp are undoubtedly aware of the animosity that the general Saudi populace holds towards Israel, but have acquiesced to the largescale acquisition of as much as \$400 billion worth of arms by the Kingdom from the United States in order to, among other aims, extend a credible threat towards Iran.<sup>90</sup>

The Israeli calculation that the Al Sauds will be able to maintain control over their population and, in particular, the Kingdom's military, is presumably based on three premises. The first is the historical experience of Israel with the governments of Jordan, Egypt, and Turkey, which have been able to maintain peace treaties and trade with Israel for over twenty-five years, despite heavily anti-Israeli, popular sentiment in their countries. Accordingly, Netanyahu and the Israeli Right may believe that the Al Sauds, like the governments of other

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87. Stephen Kalin, *Saudi Arabia's foreign reserves fall sharply*, MARKETWATCH (May 31, 2020, 8:06 PM), <https://www.marketwatch.com/story/saudi-arabias-foreign-reserves-fall-sharply-2020-05-31>; James Vincent, *Robot cage fights and flying taxis: leaked documents reveal Saudi Arabia's plans for its next megacity*, VERGE (July 26, 2019, 7:04 AM), <https://www.theverge.com/2019/7/26/8931389/saudi-arabia-mega-city-neom-plans-futuristic-dystopian-ai-robot-fake-moon>.

88. Jerrod A. Laber, *Saudi Arabia's mega-city project is doomed to failure*, CAPX (July 20, 2018), <https://capx.co/saudi-arabias-mega-city-project-is-doomed-to-failure>.

89. F. Brinley Bruton, *Saudi school textbooks teach violence, anti-Semitism, ADL report says*, NBC NEWS (Nov. 20, 2018, 5:00 AM), <https://www.nbcnews.com/news/world/saudi-school-textbooks-violence-anti-semitism-adl-report-says-n938316>; David Weinberg, *Saudi Textbooks Still Foment Hate: The Kingdom's Education Material Are Rise with Anti-Semitism and Calls to hurt Shiites, Gays, Women and More*, ADL (Dec. 4, 2018), <https://www.adl.org/news/op-ed/saudi-textbooks-still-foment-hate-the-kingdoms-education-materials-are-rise-with-anti>; ANDREW COULSON, CATO INST., EDUCATION AND INDOCTRINATION IN THE MUSLIM WORLD: IS THERE A PROBLEM? WHAT CAN WE DO ABOUT IT? (2004), <https://www.cato.org/publications/policy-analysis/education-indoctrination-muslim-world-is-there-problem-what-can-we-do-about-it>.

90. This threat comes in two forms. First, Israel is interested in a Saudi military that threatens Iran with effective U.S. weapons. Second, Israeli access to Saudi airspace offers Tel Aviv a more direct path to Iran in the event of airstrikes. Zainab Fattah, *Guide to \$400 Billion in Saudi-U.S. Deals: Black Hawks to Oil*, BLOOMBERG NEWS (May 22, 2017, 5:56 AM), <https://www.bloomberg.com/news/articles/2017-05-22/guide-to-400-billion-in-saudi-u-s-deals-black-hawks-to-oil>.

Muslim countries, will be able to, effectively, disregard popular sentiment. The second is that the Israeli security establishment believes that the electronic measures that Saudi Arabia has instituted will allow them to maintain power by more precisely targeting Saudi dissidents for arrest or execution.<sup>91</sup> The third is that due to the historically long relationship and influence of the Saudi lobby in Washington D.C., the United States will assist the Al Sauds in maintaining power even in the event of widespread popular opposition and demonstration, as it has supported other unpopular regimes to prevent the growth of anti-American ideologies from communism to Islamic extremism.<sup>92</sup>

Put differently, the likely assumption among the Israeli Right is that if popular sentiment shifts against the Al Sauds, the government can be relied on to squash any rebellion a) through the use of electronic measures leading to the arrest, dismemberment, or crucifixion of dissidents or, b) by sending in the tanks, as the Kingdom did in Bahrain and Qatif.<sup>93</sup> Should both of those approaches fail, the United States can be relied on to maintain order in the Kingdom. However, all of these assumptions by the Israeli Right are fundamentally flawed.

Turkey, Egypt, and Jordan are very different from Saudi Arabia. Jordan's population is small and its interests, particularly in the fields of energy and tourism, are intertwined with those of Israel.<sup>94</sup> Additionally, as discussed in greater detail in the conclusion, the design of the Jordanian system has led to a far more effective governance structure and well-liked royal family than Saudi Arabia's system. When the COVID-19 (Covid) crisis emerged, despite being a hub for international tourism, Jordan's total infection numbers barely scratched 1000 people, with 11 deaths, due to swift actions by the country's

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91. Chaim Levinson, *Report: Israel Authorized NSO's Sale of Spyware to Saudi Arabia*, HAARETZ (Dec. 8, 2018), <https://www.haaretz.com/israel-news/report-israel-authorized-nso-sale-of-spyware-to-saudi-arabia-1.6725044>.

92. John M Owen IV & Michael Poznansky, *When does America drop Dictators?*, 20 EUR. J. INT'L RELS. 1072 (2014).

93. *Inside the Saudi town that's been under siege for three months by its own government*, INDEPENDENT (Aug. 4, 2017, 5:53), <https://www.independent.co.uk/news/world/middle-east/saudi-arabia-siege-town-own-citizens-government-kingdom-military-government-reform-awamiyah-qatif-a7877676.html>; Leela Jacinto, *Saudi troops in Bahrain quash hopes for reform*, FRANCE 24 (Mar. 16, 2011, 2:32 PM), <https://www.france24.com/en/20110316-saudi-troops-bahrain-pummel-hopes-reform-sectarian-peace-shiites-sunni>.

94. *Militants sabotage Egypt-Jordan gas pipeline in Sinai*, TIMES OF ISRAEL (Oct. 15, 2014, 9:17 AM), <https://www.timesofisrael.com/militants-sabotage-egypt-jordan-gas-pipeline-in-sinai>; Ronen Yitzhak, *From cooperation to normalization? Jordan-Israel relations since 1967*, 44 BRITISH J. OF MIDDLE E. STUDIES 559 (2017), <https://www.tandfonline.com/doi/abs/10.1080/13530194.2017.1360012?journalCode=cbjm20>.

government.<sup>95</sup> Saudi Arabia, on the other hand as of October 2020, has 342,202 people infected with Covid and 5185 deaths so far.<sup>96</sup>

Accordingly, even though Jordan's population is 50 percent or more Palestinian, most people in the country are willing to acquiesce to the King's decision to maintain relations with their Jewish neighbor.<sup>97</sup> Meanwhile, Turkey has a long secular tradition beginning with Atatürk in the 1920s, bolstered by an influential military class with business interests benefiting from Israeli trade relations.<sup>98</sup>

Similarly, for most of the last seventy years, Egypt has also been ruled by secular generals, who control many of the country's largest industries that profit from positive relations with Israel.<sup>99</sup> Consequently, in both Egypt and

95. Jane Arraf, *Jordan's Prime Minister Says His Country Contained COVID-19 By 'Helping The Weakest'*, NPR (July 23, 2020, 4:22 PM), <https://www.npr.org/2020/07/23/894687319/jordans-prime-minister-says-his-country-contained-covid-19-by-helping-the-weakest>.

96. *Saudi Arabia Overview*, CORONATRACKER (n.d.), <https://www.coronatracker.com/country/saudi-arabia>.

97. Dave Gavlak, *As Saudi COVID Cases Surge, Hajj Restrictions Implemented*, VOA NEWS (July 7, 2020, 9:24 AM), <https://www.voanews.com/middle-east/saudi-covid-cases-surge-hajj-restrictions-implemented>; Uri Savir, *A Palestinian-Jordanian confederation*, JERUSALEM POST (Jan. 10, 2013, 10:04 PM), <https://www.jpost.com/opinion/columnists/a-palestinian-jordanian-confederation>.

98. *The 'Missed Opportunity' in Israel-Turkish Trade Relations*, WHARTON SCHOOL (Sept. 9, 2014), <https://knowledge.wharton.upenn.edu/article/missed-opportunity-israeli-turkish-trade-relations>; ISMET AKCA, TESEV, *MILITARY-ECONOMIC STRUCTURE IN TURKEY: PRESENT SITUATION, PROBLEMS, AND SOLUTIONS* (2010), <https://www.files.ethz.ch/isn/120118/gsr-2-eng.pdf>; Steven A. Cook, *Closing the Channels of the Military's Economic Influence in Turkey*, MEI (Apr. 20, 2014), <https://www.mei.edu/publications/closing-channels-militarys-economic-influence-turkey>; ZEINAB ABUL MAGD, ISMET AKCA, & SHANA MARSHALL, *CARNEGIE MIDDLE E. CTR., TWO PATHS TO DOMINANCE: MILITARY BUSINESSES IN TURKEY AND EGYPT* (2020), <https://carnegie-mec.org/2020/06/03/two-paths-to-dominance-military-businesses-in-turkey-and-egypt-pub-81869>.

99. Geoffrey Aronson, *In the Middle East, Egypt-Israel ties stand out*, ARAB WEEKLY (Dec. 10, 2019), <https://thearabweekly.com/middle-east-egypt-israel-ties-stand-out>; *United States, Egypt and Israel to Launch Historic Trade Partnership USTR Zoellick to Participate in Signing in Cairo*, OFF. U.S. TRADE REP. (Dec. 10, 2004), <https://ustr.gov/about-us/policy-offices/press-office/press-releases/archives/2004/december/united-states-egypt-and-israel-launch-hi>; David Shamah, *Tensions aside, israel and Egypt do booming business*, TIMES ISR. (Jan. 12, 2015, 7:40 PM), <https://www.timesofisrael.com/tensions-aside-israel-and-egypt-do-booming-business>; Maged Mandour, *Egypt's Evolving Alliance with Israel*, *CARNEGIE ENDOWMENT FOR INT'L PEACE* (Mar. 20, 2018), <https://carnegieendowment.org/sada/75840>; Yezid Sayigh, *Egypt's Military Now Controls Much of Its Economy. Is This Wise?*, *CARNEGIE MIDDLE E. CTR.* (Nov. 25, 2019), <https://carnegie-mec.org/2019/11/25/egypt-s-military-now-controls-much-of-its-economy-is-this-wise-pub-80281>; Mahmoud Khalid, *Egypt's Expanding Military Economy*, *CARNEGIE ENDOWMENT FOR INT'L PEACE* (Mar 26, 2020), <https://carnegieendowment.org/sada/81376>; *From war room to boardroom. Military firms flourish in Sisi's Egypt*, REUTERS (May 16, 2018, 11:00 AM), <https://www.reuters.com/investigates/special-report/egypt-economy-military>; Adam Lewis Ari Rabinovitch, *UPDATE 2-Israel starts exporting natural gas to Egypt under landmark deal*, REUTERS (Jan. 15, 2020, 1:18 AM), <https://www.reuters.com/article/israel-egypt-natgas/update-2-israel-starts-exporting-natural-gas-to>

Turkey, it is highly unlikely that members of the military could, or would, pose a threat to Israel, regardless of how many arms either country acquires.

While some Saudi kings and princes have enjoyed widespread support among ordinary Saudis, for the most part, the Al Sauds do not enjoy the same level of popular support that, for instance, Jordan's royal family does. As discussed throughout this Article, the country's merchant class generally does not trust the Al Sauds due to the absence of the rule of law and a long history of seizing land from commoners and failing to pay back loans.<sup>100</sup>

Similarly, the country's Shiite population, which occupies the regions where much of the Kingdom's oil wealth resides, also does not trust the Al Sauds because they have faced severe repression from the Saudi government since the earliest days of the Saudi state.<sup>101</sup> Finally, the country's nontribal population, which has historically faced widespread discrimination within the Saudi government due to a perceived need among the Al Sauds to curry favor with the largest tribes across the Kingdom, also does not trust the country's royal family.<sup>102</sup>

Meanwhile, because different divisions of the government are historically managed and exploited by different, competing branches of the royal family, there is no guarantee that any one branch of the Al Sauds will ever be able to obtain loyalty and support from all of the country's institutions—without the use of heavyhanded, fear-based tactics (i.e. murder, imprisonment, etc.). There is little reason that, for instance, the soldiers of the Saudi National Guard, which was under the leadership of the Abdullah Bin Abdulaziz portion of the Saudi royal family for 45 years, would ever be willing to fight and die for the King Salman portion of the family. Especially when the relatives of Abdullah have increasingly been disappeared and targeted by King Salman and his son.<sup>103</sup> Similarly, there is little reason that the former intelligence apparatus

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egypt-under-landmark-deal-idUSL8N29K1R8.

100. *Saudi Royal Wealth: Where Do They Get All That Money?*, *supra* note 43.

101. HUMAN RIGHTS WATCH, "THEY ARE NOT OUR BROTHERS": HATE SPEECH BY SAUDI OFFICIALS (2017), <https://www.hrw.org/report/2017/09/26/they-are-not-our-brothers/hate-speech-saudi-officials>.

102. SEBASTIAN MAISEL, THE ARAB GULF STATES INST. IN WASHINGTON, THE RESURGENT TRIBAL AGENDA IN SAUDI ARABIA (2015), [https://agsiw.org/wp-content/uploads/2015/07/Maisel\\_Resurgent-Tribal-Agenda.pdf](https://agsiw.org/wp-content/uploads/2015/07/Maisel_Resurgent-Tribal-Agenda.pdf); U.S. DEP. OF STATE, SAUDI ARABIA 2017 HUMAN RIGHTS REPORT (2019), <https://www.state.gov/wp-content/uploads/2019/03/SAUDI-ARABIA-2018.pdf>.

103. *Senior Saudi royal detained and held incommunicado*: HRW, AL JAZEERA (May 9, 2020), <https://www.aljazeera.com/news/2020/05/senior-saudi-royal-held-incommunicado-detention-hrw-200509093113475.html>; David D. Kirkpatrick & Ben Hubbard, *Saudi Prince Detains Senior Members of Royal Family*, N.Y. TIMES (Mar. 6, 2020), <https://www.nytimes.com/2020/03/06/world/middleeast/saudi-royal-arrest.html>; *Dead, detained or disappeared: A who's who of Mohammed bin Salman's victims*, MIDDLE EAST EYE (MAR. 12, 2020, 4:37 PM), <https://www.middleeasteye.net/news/dead-detained-or-disappeared-whos-who-mohammed-bin-salmans-victims>; *Saudi Arabia: Prince in Incommunicado Detention*, HRW (May 9, 2020, 12:00 AM), <https://www.hrw.org/news/2020/05/09/>

of the Saudi state, which was controlled by the now-deposed (and, perhaps) imprisoned former-Crown Prince, Mohammad Bin Naif, will remain loyal to the King.<sup>104</sup>

Accordingly, the historical record of the Al Sauds being able to control their security apparatus, or the type of religious radicalism that threatens the Kingdom's western allies, especially Israel, has been far from reliable for most of the Kingdom's history. All of the 9/11 hijackers were either from Saudi Arabia or had been financed and trained by sources within the Kingdom.<sup>105</sup> The Kingdom has one of the largest military budgets on the planet on a per-capita basis, and yet cannot defeat rebels in Yemen who were originally armed with modified Toyotas, cheap drones, and homemade rockets due to, among other issues, a reluctance of Saudi soldiers to fight and die for a King who could be replaced in a few years or comes from a rival section of the family to the patrons of those soldiers.<sup>106</sup>

Moreover, the Saudi military has shown itself incapable of adequately screening or restraining its own soldiers. On December 6th, 2019, a Saudi pilot, who had been sent to the United States as part of a military training program, went on a shooting rampage in a U.S. military base.<sup>107</sup> Shortly thereafter, over

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saudi-arabia-prince-incommunicado-detention.

104. Michael Stephens, *Saudi royal arrests: Why top princes have been silenced*, BBC News (Mar. 9, 2020), <https://www.bbc.com/news/world-middle-east-51800964>; Martin Chulov, *Arrested Saudi royals allegedly aimed to block crown prince's accession*, GUARDIAN (Mar. 10, 2020, 1:00 AM), <https://www.theguardian.com/world/2020/mar/10/arrested-saudi-royals-allegedly-aimed-to-block-crown-princes-accession>; Hope, Scheck, & Strobel, *supra* note 56.

105. Josh Lederman, *Families of 9/11 victims seek more info on Saudi official mistakenly outed by the FBI*, NBC News (May 13, 2020, 2:25 PM), <https://www.nbcnews.com/politics/national-security/families-9-11-victims-seek-more-info-saudi-official-mistakenly-n1206416>; *Response of Counsel to 9/11 Victims and Family Survivors Regarding Saudi Effort to White-wash Its Terror History*, POLITICO (n.d.), <https://www.politico.com/f/?id=00000154-cefd-d467-ab5f-ceff521b0001>; Tim Golden & Sebastian Rotella, *The Justice Department Accidentally Released the Name of Saudi Official Suspected of Helping the 9/11 Hijackers*, PROPUBLICA (MAY 13, 7:32 PM), <https://www.propublica.org/article/the-justice-department-accidentally-released-the-name-of-saudi-official-suspected-of-helping-the-9-11-hijackers>.

106. Mohammed Hatem, *Yemen Houthi Rebels Present New 'Locally Made' Missiles Drones*, BLOOMBERG NEWS (July 7, 2019, 2:18 AM), <https://www.bloomberg.com/news/articles/2019-07-07/yemen-houthi-rebels-present-new-locally-made-missiles-drones>; Joseph Trevithick, *Houthi Rebels Tounce Saudi Force Amid Concerns Over The Kingdom's Military Competence*, DRIVE (Sept. 30, 2019), <https://www.thedrive.com/the-war-zone/30089/houthi-rebels-tounce-saudi-force-amid-concerns-over-the-kingdoms-military-competence>; Lisa Barrington & Aziz El Yaakoubi, *Yemen Houthi drones, missiles defy years of Saudi air strikes*, REUTERS (Sept. 17, 2019, 12:25 PM), <https://www.reuters.com/article/us-saudi-aramco-houthi/yemen-houthi-drones-missiles-defy-years-of-saudi-air-strikes-idUSKBN1W22F4>; Stanly Johny, *Saudis have lost the Yemen war*, HINDU (Sept. 9, 2019, 12:15 AM), <https://www.thehindu.com/opinion/op-ed/saudis-have-lost-the-yemen-war/article29368727.ece>.

107. Bobby Allyn, *DOG Says 21 Saudi Cadets Being Expelled From U.S. Over Extremist, Child Porn Content*, NPR (Jan. 13, 2020, 3:13 PM) <https://www.npr.org/2020/01/13/795952989/doj-says-21-saudi-trainees-being-expelled-from-u-s-over-jihadist-child-porn>; Eric Tucker &



20 additional Saudi soldiers in the same training program were expelled from the United States for reasons ranging from ties to Islamic radicalism to possession of child porn.<sup>108</sup> Meanwhile, this year, former-Saudi spymaster, Saad Al Jabri, who managed almost all of the Kingdom's clandestine operations under his patron and former-head of Saudi Arabia's Ministry of Intelligence, Mohammad Bin Naif, has refused to comply with King Salman's demand that he return to the Kingdom and answer for the \$11 billion that he allegedly misused.<sup>109</sup>

Accordingly, the only potential bright-spot for the Israeli right's belief that the Al Sauds will be able to retain control over their people amidst worsening economic conditions is that electronic measures for stifling dissent in Saudi Arabia have shown some promise.<sup>110</sup>

Unlike the traditional techniques used by dictators in other portions of the Middle East such as widespread curfews, bombing towns, etc., which tend to damage a country's underlying economy and increase the likelihood of popular revolt, the electronic measures currently being deployed by the Saudi state are more subtle and precise.<sup>111</sup> Instead of having to shoot into a crowd of 200 bystanders in the hopes of potentially hitting a rebel leader, today's electronic methods allow the Saudi state to identify the country's most prolific and

Michael Balsamo, *US sends home 21 Saudi cadets as probe finds Florida base shooting was terrorism*, TIMES OF ISR. (Jan. 13, 2020, 12:56 AM), <https://www.timesofisrael.com/us-sends-home-21-saudi-cadets-as-probe-finds-florida-base-shooting-was-terrorism>.

108. Allyn, *supra* note 107; Tucker & Balsamo, *supra* note 107.

109. Hope, Scheck, & Strobel, *supra* note 56; Kalin & Said, *supra* note 56; Ignatius, *supra* note 56.

110. Kareem Fahim, *Saudi Arabi's financial crisis, due to coronavirus and oil price*, WASH. POST (May 13, 2020), [https://www.washingtonpost.com/world/middle\\_east/worst-financial-crisis-in-decades-deals-blow-to-saudi-princes-ambitions-for-the-kingdom/2020/05/13/83d-cc848-938c-11ea-87a3-22d324235636\\_story.html](https://www.washingtonpost.com/world/middle_east/worst-financial-crisis-in-decades-deals-blow-to-saudi-princes-ambitions-for-the-kingdom/2020/05/13/83d-cc848-938c-11ea-87a3-22d324235636_story.html); Bruce Riedel, *As a global economic crisis wreaks havoc on Saudi Arabia the kingdom should reduce military spending*, BROOKINGS INST. (May 27, 2020), <https://www.brookings.edu/blog/order-from-chaos/2020/05/27/as-a-global-economic-crisis-wreaks-havoc-on-saudi-arabia-the-kingdom-should-reduce-military-spending>.

111. Doug Bernard, *Saudi App Appears to Target Residents With Surveillance*, VOA NEWS (June 27, 2014, 3:14 PM), <https://www.voanews.com/silicon-valley-technology/saudi-app-appears-target-residents-surveillance>; David Ignatius, *How a chilling Saudi cyberwar ensnared Jamal Khashoggi*, WASH. POST (Dec. 7, 2018), [https://www.washingtonpost.com/opinions/global-opinions/how-a-chilling-saudi-cyberwar-ensnared-jamal-khashoggi/2018/12/07/f5f048fe-f975-11e8-8c9a-860ce2a8148f\\_story.html](https://www.washingtonpost.com/opinions/global-opinions/how-a-chilling-saudi-cyberwar-ensnared-jamal-khashoggi/2018/12/07/f5f048fe-f975-11e8-8c9a-860ce2a8148f_story.html); Oliver Marguleas, *Freedom under Watch: Under the Veil of Saudi Cyberspace*, UNIV. OF WASH. (Apr. 26, 2017), <https://jsis.washington.edu/news/freedom-watch-veil-saudi-cyberspace>; Miriam Berger, *Saudi Arabia's crackdown on dissent keeps going. Here are the latest arrests*, WASH. POST (Nov. 26, 2019), <https://www.washingtonpost.com/world/2019/11/26/saudi-arabias-crackdown-dissent-keeps-going-here-are-latest-arrests>; Mark Mazzett & Ben Hubbard, *Saudi crown prince ran brutal campaign to silence dissent more than a year before Khashoggi murder, US official say*, INDEPENDENT (Mar. 18, 2019, 11:21 AM), <https://www.independent.co.uk/news/world/asia/khashoggi-murder-saudi-arabia-bin-salman-mbs-us-a8827791.html>.

influential activists in advance, so they can quietly disappear, without inflaming further tensions within society.<sup>112</sup>

Unfortunately for the Al Sauds and the Israeli Right, the world's most sophisticated electronic measures for stifling dissent are largely produced in Western countries, whose populations remain apprehensive about exporting such technology to Saudi Arabia due to the Kingdom's history of abusing human and civil rights.

Despite the strength and wealth of the Saudi lobby in Washington D.C., the U.S. Congress has attempted, multiple times, to restrict arms and technology sales to the Kingdom—which has been stopped only by presidential veto.<sup>113</sup> In 2015, Sweden pulled out of a major arms deal with Saudi Arabia on human rights grounds, effectively ending a decade of defense ties.<sup>114</sup> Meanwhile, most European Union member states, Germany in particular, have increasingly implemented or debated arms embargoes on the Kingdom amidst allegations of widespread war crimes in Yemen.<sup>115</sup> When McKinsey was discovered to have authored a report on using social media to monitor dissent and, in turn, generated a list of the Saudi political dissidents—which was then used by the Saudi government to ostensibly target Washington Post columnist Jamal Khashoggi—McKinsey disavowed its report and expressed its shock and “horror” that its work had been used by the Kingdom to stifle such dissent.<sup>116</sup>

Presumably, even if the European Union and United States stopped selling arms and electronic measures for suppressing dissent to the Kingdom—the United Kingdom, Russia, China, and even Israel would gladly fill the supply gap. However, it is unclear how effective or reliable the electronic measures developed by those countries will be in the context of Saudi Arabia.

China and the U.K., which has spent enormous sums building one of the largest networks of CCTV cameras in the world, have focused much of their attention on developing facial recognition software as a means of ensuring social stability—which is far less effective in Saudi Arabia where a large part of

112. Bernard, *supra* note 111; Ignatius, *supra* note 111; Marguleas, *supra* note 111; Berger, *supra* note 111; Mazzett & Hubbard, *supra* note 111.

113. Merrit Kennedy, *Trump Vetoes Bills Intended To Block Arms Sales To Saudi Arabia*, NPR (July 25, 2019, 4:50 PM), <https://www.npr.org/2019/07/25/745200244/trump-vetoes-bills-intended-to-block-arms-sales-to-saudi-arabia>.

114. *Sweden cancels Saudi arms deal after human rights row*, DEUTSCHE WELLE (Oct. 3, 2015), <https://www.dw.com/en/sweden-cancels-saudi-arms-deal-after-human-rights-row/a-18306674>.

115. *Germany Extends Saudi Arms Embargo till December*, DEFENSEWORLD (Mar. 26, 2020, 8:58 AM), [https://www.defenseworld.net/news/26592/Germany\\_Extends\\_Saudi\\_Arms\\_Embargo\\_till\\_December#.XzA9nJ5Kg2w](https://www.defenseworld.net/news/26592/Germany_Extends_Saudi_Arms_Embargo_till_December#.XzA9nJ5Kg2w); Giovanna Maletta, *legal challenges to EU member states' arms exports to Saudi Arabia: Current status and potential implications*, SIPRI (June 28, 2019), <https://www.sipri.org/commentary/topical-backgrounder/2019/legal-challenges-eu-member-states-arms-exports-saudi-arabia-current-status-and-potential>.

116. *Saudi Arabia deployed Twitter army against critics*: NY Times, REUTERS (Oct. 20, 2018, 10:01 PM), <https://in.reuters.com/article/saudi-khashoggi-twitter/saudi-arabia-deployed-twitter-army-against-critics-ny-times-idINKCN1MV03Q>.

the population is fully veiled and vision-obscuring sandstorms are not uncommon.<sup>117</sup> Moreover, despite years of arms deals, the U.K. may also be facing legal pressure to desist from supporting the Al Saud regime.<sup>118</sup>

Meanwhile, the Saudi government may be reluctant to rest its future security on software from the Jewish state, when numerous Saudi textbooks implore Muslims not to do business with Jews.<sup>119</sup> Similarly, the Saudi government may also be reluctant to trust Russia, a rival energy exporter, especially when doing so may further imperil the Kingdom's increasingly rocky relations with the United States.

Finally, while the Al Sauds depended on the United States for political security in the past, it is unclear whether that will be the case in the future. Before fracking, the United States was the world's largest oil importer.<sup>120</sup> Accordingly, it was in U.S. interests to maintain relations with the Kingdom, especially during the Cold War, when Saudi oil production helped restrain Russian growth.<sup>121</sup>

However, since the advent of fracking, the United States has quickly begun to change from a net importer to a net exporter of energy.<sup>122</sup> However, for fracking in the United States to be financially viable, oil prices must stay above \$50 per barrel—which has not been the case for most of the last several years.<sup>123</sup> This

117. Philip Chertoff, *Facial Recognition Has Its Eye on the U.K.*, LAWFARE (Feb. 7, 2020, 8:00 AM), <https://www.lawfareblog.com/facial-recognition-has-its-eye-uk>; Yuan Yang & Madhumita Murgia, *How China cornered the facial recognition surveillance market*, FIN. TIMES (Dec. 9, 2019, 6:00 AM), <https://www.latimes.com/business/story/2019-12-09/china-facial-recognition-surveillance>.

118. *UK arms sales to Saudi Arabia unlawful, court rules*, BBC NEWS (June 20, 2019), <https://www.bbc.com/news/uk-48704596>.

119. Bruton, *supra* note 89; Weinberg, *supra* note 89; COULSON, *supra* note 89.

120. Terry Yen, *The United States is expected to export more energy than it imports by 2020*, EIA (Jan. 29, 2019), <https://www.eia.gov/todayinenergy/detail.php?id=38152>.

121. Ryan Riegg, *What Is Saudi Arabia Going to Do With Its Arms Buildup?*, NEWSWEEK (Mar. 17, 2017, 12:40 AM), <https://www.newsweek.com/what-saudi-arabia-going-do-its-arms-buildup-569277>.

122. Yen, *supra* note 120.

123. Rebecca Beitsch, *Oil price drop threatens US fracking boom*, HILL (Mar. 27, 2020, 6:00 AM), <https://thehill.com/policy/energy-environment/489754-oil-price-drop-threatens-us-fracking-boom>; Christopher Helman, *Deathwatch Begins For The Subprime of Shale Oil Drilling*, FORBES, (Mar. 12, 2020, 1:30 AM), <https://www.forbes.com/sites/christopher-helman/2020/03/12/deathwatch-begins-for-the-subprime-of-shale-oil-drilling/#e2b0ace73ab2>; David Wethe & Kevin Crowley, *Shale's Bust Shows Basis of Boom: Debt, Debt and Debt*, WASH. POST (July 22, 2020), [https://www.washingtonpost.com/business/energy/shales-bust-shows-basis-of-boom-debt-debt-and-debt/2020/07/22/0e6ed98c-cc41-11ea-99b0-8426e26d203b\\_story.html](https://www.washingtonpost.com/business/energy/shales-bust-shows-basis-of-boom-debt-debt-and-debt/2020/07/22/0e6ed98c-cc41-11ea-99b0-8426e26d203b_story.html); *Could Fracking Debt Set off Big Financial Tremors?*, WHARTON SCHOOL (Sept. 21, 2018), <https://knowledge.wharton.upenn.edu/article/will-fracking-industry-debts-set-off-financial-tremors>; Ryan Dezember, *Energy Producers' New Year's Resolution: Pay the Tab for the Shale Drilling Bonanza*, WALL STREET J. (Jan. 1, 2020, 7:00 AM), <https://www.wsj.com/articles/energy-producers-new-years-resolution-pay-the-tab-for-the-shale-drilling-bonanza-11577880001>.

year, oil prices fell so low that they, for the first time in history, reached negative levels.<sup>124</sup>

Accordingly, U.S. fracking, which is located in some of the United States's economically-depressed regions, is on the verge of economic collapse. The U.S. fracking industry is currently sitting on \$200 billion worth of debt, which could result in the loss of hundreds of thousands of jobs, leading to a new depression in the Rust Belt, similar to when Pittsburgh lost half of its population between the 1970s and 1990s, when U.S. manufacturing and coal jobs began to disappear.<sup>125</sup>

Presumably, one of the few ways that the United States can now avoid a new depression in its Heartland and along its Rust Belt, is by threatening to cut off relations with Saudi Arabia, under allegations of human rights abuses and the targeting of U.S. residents by the Kingdom.

Threatening to cut off relations with the Kingdom would, in all likelihood, set off oil speculation and raise the price of oil, without having to resort to cutting supply. Specifically, investors would presume that a breakdown in the longstanding U.S.-Saudi partnership would greatly increase the likelihood that (a) Iran may engage in increasingly brazen attacks on the Kingdom's oil infrastructure—like the drone attack which halted 50 percent of Saudi Arabia's oil production for several days—and/or (b) energy supply routes across the Middle East may be disrupted.<sup>126</sup>

Accordingly, the greater and more credible the threat of terminating U.S.-Saudi relations become, the higher the price of oil is likely to climb to the benefit of the U.S. fracking industry. Moreover, should oil prices not increase to desired levels, the United States can ramp up its actions towards the Kingdom by imposing sanctions, demanding return of U.S.-manufactured arms, issuing White House statements condemning the Kingdom, expelling the Saudi ambassador, among other tactics.

Conversely, should oil prices go too high and upset U.S. manufacturers and consumers, the United States can scale back the degree to which it

124. Brian Sullivan, *Why oil prices went negative and why they can go negative again*, CNBC (Apr. 26, 2020, 5:44 PM), <https://www.cnbc.com/2020/04/26/why-oil-prices-went-negative-and-why-they-can-go-negative-again.html>.

125. Beitsch, *supra* note 123; Helman, *supra* note 123; Wethe & Crowley, *supra* note 123; *Could Fracking Debt Set off Big Financial Tremors?*, *supra* note 123; Dezember, *supra* note 123; *U.S. fracking boom added 725,000 jobs—study*, REUTERS (Nov. 6, 2015, 12:21 PM), <https://www.reuters.com/article/usa-fracking-employment-study-idUSL8N13159X20151106>; *How Many Jobs Has The Oil And Natural Gas Industry Created?*, API (n.d.), <https://www.api.org/oil-and-natural-gas/energy-primers/hydraulic-fracturing/how-many-jobs-has-the-oil-and-natural-gas-industry-created>.

126. Alexander Tuerk, *Houthi Drone Strikes Disrupt Almost Half Of Saudi Oil Exports*, NPR (Sept. 14, 2019, 4:31 PM), <https://www.npr.org/2019/09/14/760837355/houthi-drone-strikes-disrupt-almost-half-of-saudi-oil-exports>; *Saudi Arabia oil and gas production reduced by drone strikes*, BBC NEWS (Sept. 14, 2019), <https://www.bbc.com/news/world-middle-east-49703143>.

punishes the Kingdom for its perceived misdeeds and human rights abuses relatively easily.

Creating an easily adjustable lever through which the United States may be able to, even partially, control oil prices and potentially save hundreds of thousands of U.S. jobs in the midst of a global economic recession, may be highly tempting to many U.S. policymakers. Many U.S. policymakers may only be held back from doing so by the perceived influence and power of the Al Sauds on Capitol Hill and, potentially, around the world, after decades of the Kingdom spending more on lobbying in the United States than almost any other country.<sup>127</sup>

Consequently, should Al Sauds face being deposed—the United States may not come to their aid. Especially when nearly all the 2020 Democratic presidential candidates, including Joe Biden, have promised in various ways to turn Saudi Arabia into a “Pariah State.”<sup>128</sup>

Thus, convincing the United States not to pursue its own national interests relies on the ability of the Saudi lobby, and the Kingdom’s ambassador, to secure congressional patrons and public support in DC. However, that task has been made difficult, if not impossible for the new Saudi ambassador, Reema Bandar. Beyond the headline-grabbing behavior of the current Saudi regime, from killing a U.S.-based journalist, to targeting a former-FBI agent—Reema’s father, Bandar bin Sultan, the former ambassador, and his staff have been accused of complicity in the September 11th terrorist attacks. Meanwhile, the young ambassador, who is also the first woman in her post, must contend with the ongoing Justice Against Sponsors of Terrorism lawsuit, where

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127. Alana Abramson, *Saudi Lobbying in the U.S. Has Tripled Since Trump Took Office*, TIME (Oct. 18, 2018, 1:09 PM), <https://time.com/5426499/jamal-khashoggi-saudi-influence-lobbying>; Ben Freeman, *It’s time to silence the lobbying machine in Washington*, WASH. POST (Oct. 22, 2018, 12:34 PM), <https://www.washingtonpost.com/news/global-opinions/wp/2018/10/22/its-time-to-silence-the-saudi-lobbying-machine-in-washington/>; Masood Farivar, *Report Says Saudi-hired Lobbyists Give Millions to Influence US Congress*, VOA NEWS (Oct. 30, 2018, 4:30 PM), <https://www.voanews.com/usa/report-says-saudi-hired-lobbyists-give-millions-influence-us-congress>; Megan Keller, *Saudi lobbying in US tripled during Trump’s first year in office*, HILL (Oct. 18, 2018, 3:13 PM), <https://thehill.com/policy/international/412071-saudi-lobbying-in-the-us-has-tripled-since-trump-took-office>; Joe Snell, *Saudi Arabia turns to Democrat-tied lobbyists for Capitol Hill relationship advice*, AL-MONITOR (Feb. 10, 2020), <https://www.al-monitor.com/pulse/originals/2020/02/saudi-arabia-hire-democrats-congress-advice-relationships.html>.

128. *The Presidential Candidates on Saudi Arabia*, COUNCIL ON FOREIGN RELS. (July 30, 2019), <https://www.cfr.org/article/presidential-candidates-saudi-arabia>; Dominic Dudley, *Democratic Party Candidates Compete For Toughest Policy on Saudi Arms Sales*, FORBES (Feb. 3, 2020, 11:29 AM), <https://www.forbes.com/sites/dominicdudley/2020/02/03/democratic-candidates-saudi-arms/#43986717d048>; Rebecca Kheel, *Democrats pledge sharp turn in US ties with Saudi Arabia*, HILL (Nov. 24, 2019, 9:30 PM), <https://thehill.com/policy/international/471710-democrats-pledge-sharp-turn-in-us-ties-with-saudi-arabia>; Alex Emmons, Aida Chavez, & Akela Lacy, *Joe Biden, in departure from Obama Policy, says he would make Saudi Arabia a “pariah”*, INTERCEPT (Nov. 20, 2019, 9:52 PM), <https://theintercept.com/2019/11/21/democratic-debate-joe-biden-saudi-arabia>.

the Kingdom has been accused of committing and plotting multiple acts of terrorism against U.S. citizens.<sup>129</sup> This is not exactly the easiest of tasks: a female ambassador who has to control an administration of male bureaucrats from a country where women have only recently been given the right to drive, while also managing a failing U.S.-Saudi relationship, along with lawsuits and accusations that her own father assisted terrorists attacking the United States.

Accordingly, the belief among Netanyahu and his camp, that the Al Sauds will not be deposed, may be inaccurate unless significant changes are made to the rule of law within the country. Should the Saudi state collapse, there are fewer guarantees that the remnants of its military would not set their sights on Israel. Moreover, given the Saudi history of failure when it comes to restraining extremism, there is even less assurance that the Al Sauds could stop a rogue general or pilot, like the one that went on a shooting spree in a U.S. military base, deciding to attack the Jewish state with U.S.-designed and -manufactured weapons.

In short, while the American-Saudi partnership has been a bedrock of the global political landscape for 75 years, there is no guarantee that partnership will continue if the Al Sauds ability to maintain stability continues to fall for the reasons outlined in this Article and if Neom fails in a similar manner to KAEC.

## XI. TRANSITION FROM POWER—THE JORDANIAN MODEL

Talal was, no doubt, correct in his aims to convert the Al Sauds from a ruling family into a class of merchants by, among other steps, implementing the rule of law in the country. Accordingly, the question of *how* the rule of law may be implemented and the Al Sauds may transition out of power is, possibly, the most important question that the Kingdom and its neighbors are facing. Towards which, considering how Jordan has structured its government, may be of some use.

The ruling family of Jordan, the Hashemites, are originally from Saudi Arabia, but were expelled by Abdulaziz when he took over the country.<sup>130</sup>

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129. Abigail Tracy, *Explosive Declassified Report Details Saudi Ties to 9/11*, VANITY FAIR (JULY 15, 2016), <https://www.vanityfair.com/news/2016/07/declassified-report-saudi-ties-september-1>; Rachael Revesz, *Saudi Arabia government 'funded dry run' for 9/11, legal documents claim*, INDEPENDENT (Sept. 10, 2017, 11:05 AM), <https://www.independent.co.uk/news/world/americas/911-saudi-government-embassy-dry-run-hijacks-lawsuit-cockpit-security-a7938791.html>; James Rosen, *Families of 9/11 victims might soon get day in court against Saudi officials*, MIAMI HERALD (Feb. 23, 2017, 7:00 AM; Update Mar. 6, 2017, 3:26 PM), <https://www.miamiherald.com/news/nation-world/national/article134393744.html>.

130. *Middle East/North Africa/Persian Gulf region*, UNIV. CENT. ARK. (n.d.), <https://uca.edu/politicalscience/dadm-project/middle-eastnorth-africapersian-gulf-region/kingdom-of-nadj-hijaz-1916-1932>; *King Hussein*, PBS (n.d.), <https://www.pbs.org/lawrenceofarabia/players/hussein.html>.

Compared to Saudi Arabia, the country of Jordan is incredibly poor. It not only lacks oil, but is also one of the driest nations on earth.<sup>131</sup>

When the Hashemites arrived in Jordan, they did not speak the dialect of the people there. Additionally, shortly after taking power, the country was thrown into a crisis, due to the conflict between the Israelis and Palestinians, which peaked with militant Palestinian groups attempting to assassinate Jordan's then-ruler, King Hussein, on several occasions.<sup>132</sup>

In short, when they arrived in Jordan, and through much of their early history, the popularity of the Hashemites in Jordan was probably lower than that of the Al Sauds in Arabia right now. Nonetheless, the Hashemites have not just held onto power, they have grown in popularity and, as demonstrated by the recent pandemic, have done a far better job of governing their country on a dollar-for-dollar basis than the Al Sauds.<sup>133</sup> When the Covid crisis hit, despite being a hub for international tourism, Jordan's total infection numbers barely scratched 1000 people, with 11 deaths, due to swift actions by the country's government.<sup>134</sup> Saudi Arabia, on the other hand, has had 342,202 people infected and Covid with 5,185 deaths as of October 2020.<sup>135</sup> During the Arab Spring, while Jordan's neighbors, Syria and Egypt, had violent protests demanding regime change, protests in Jordan were largely peaceful and aimed at achieving specific socioeconomic reforms, rather than removing the Hashemites from power.<sup>136</sup> Despite being a relatively poor country devoid of significant natural resources, including water, Jordan has managed to absorb refugees from three surrounding countries, largely integrated its Palestinian population, while still maintaining lower crime rates than most of the United States. For example, Jordan's homicide rate is less than 2 per 100,000, while St. Louis's rate is 66 per 100,000, despite Jordanians being roughly 4 times poorer than the people of Missouri on a per capita basis.<sup>137</sup>

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131. *World Factbook: Jordan*, CENTRAL INTELLIGENCE AGENCY (last updated Aug. 12, 2020), <https://www.cia.gov/library/publications/the-world-factbook/geos/jo.html>.

132. Milton Viorst, *Jordan: A Moderate's Role*, ATL. MONTHLY (Mar. 1981), <https://www.theatlantic.com/past/docs/issues/81mar/hussein.htm>; Thomas W. Lippman, *Hussein: A Lifetime Balancing Act*, WASH. POST (Feb. 8, 1999), <https://www.washingtonpost.com/wp-srv/inat/longterm/hussein/hussein.htm>.

133. Viorst, *supra* note 132; Lippman, *supra* note 132.

134. Arraf, *supra* note 95.

135. *Saudi Arabia Overview*, *supra* note 96.

136. Ghaith al-Omari & Ben Fishman, *Jordan's Economic Protests: Repackaging Reform*, WASH. INST. (June 13, 2018), <https://www.washingtoninstitute.org/policy-analysis/view/jordan-economic-protests-repackaging-reform>.

137. *Jordan—Homicide rate*, INDEXMUNDI (Dec. 28, 2019), <https://www.indexmundi.com/facts/jordan/homicide-rate>; John Gramlich & Drew Desilver, *Despite recent violence, Chicago is far from the U.S. 'murder capital'*, PEW RES. CTR. (Nov. 13, 2018), <https://www.pewresearch.org/fact-tank/2018/11/13/despite-recent-violence-chicago-far-from-u-s-murder-capital>; *The most dangerous cities in America, ranked*, CBS NEWS (n.d.), <https://www.cbsnews.com/pictures/the-most-dangerous-cities-in-america/51>; *World Factbook: Jordan*, *supra* note 131; *Missouri 2018 Personal and Per Capita Income*, MISSOURI ECON. RES. AND INFORMATION

Jordan is not without problems or devoid of the risk of instability. The recent signing of an agreement between the rightwing government of Benjamin Netanyahu with the UAE and Bahrain is likely to inflame Jordan's large Palestinian population, renewing tensions between those who want to break the Israeli-Jordanian peace treaty and those who wish to maintain it. Meanwhile, the country's reliance on tourism, and the influx of over half-a-million of refugees from Syria, has made Jordan highly susceptible to economic instability from Covid. Nonetheless, given that Jordan has almost zero natural resources, including water, the fact that it has done so much better than its neighbors in terms of economic diversification, the rule of law, integration, education, and Covid infection rates tends to indicate a more efficient government on a per dollar basis than Saudi Arabia. Part of the mechanism behind Jordan's more efficient governance than its larger, richer neighbor of Saudi Arabia, lies in how it has designed its political and legal system—particularly in relation to its royalty. Unlike Saudi Arabia, where princes are put in control of every major ministry, leading to grift and embezzlement, Jordan does not put its princes in charge of most of its public institutions.

Meanwhile, also unlike Saudi Arabia, Jordan has a long history of elections and, starting in 2011, democratic reforms have led to an electoral system that is fairer and freer than most Arab states, with programs to increase female political participation and the creation of political parties, even some of those programs and reforms have been retracted in recent years.<sup>138</sup> Accordingly, unlike Saudi Arabia, much of Jordan's day-to-day policymaking involves nonroyal, elected officials. Additionally, when compared to most other Arab countries, Jordan's courts and lawyers are considered less corrupt and generally fair by their populations.<sup>139</sup>

Although Jordan is not a full constitutional monarchy or a democracy, unlike in Saudi Arabia, where the King and Crown Prince are expected to actively govern and legislate, Jordan's King usually does not get directly involved with writing legislation or running ministries.<sup>140</sup> Rather, the job of

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CTR. (n.d.), <https://meric.mo.gov/data/income-measures/personal-per-capita-income>; *GDP per capita, PPP (current international \$)—Jordan*, WORLD BANK (n.d.), <https://data.worldbank.org/indicator/NY.GDPPCAP.PP.CD?locations=JO>.

138. *Democracy, rights & governance*, USAID (last updated Aug. 26, 2020), <https://www.usaid.gov/jordan/democracy-human-rights-and-governance>; David Schenker, *Jordan's Elections: Incremental Reform amid Regional Turbulence*, WASH. INST. (Jan. 22, 2013), <https://www.washingtoninstitute.org/policy-analysis/view/elections-in-israel-and-jordan-implications-for-u.s.-policy>; *Increased success for women in Jordanian elections*, NAT'L DEM. INST. (Sept. 20, 2016), <https://www.ndi.org/our-stories/increased-success-women-jordanian-elections>; *Jordan accomplishes inclusive elections with expanded role for women*, NAT'L DEM. INST. (n.d.), <https://www.ndi.org/Women-in-Jordan-2016-Election>.

139. ILIA SHALHOUB & KEITH HENDERSON, *COMPARATIVE REPORT ON THE STATE OF THE JUDICIARY IN EGYPT, JORDAN, LEBANON AND MOROCCO* (2007), [https://www.ifes.org/sites/default/files/comparative\\_judiciary\\_report\\_final.pdf](https://www.ifes.org/sites/default/files/comparative_judiciary_report_final.pdf).

140. *Governance & Politics*, FANACK (Aug. 10, 2020), <https://fanack.com/jordan/>



the Jordanian monarch has increasingly evolved towards three primary roles: (1) as a type of pressure valve, whose job it is to dismiss the government when unrest gets too high, (2) to resolve disputes between different factions (tribes, political parties, etc.) within the country, and (3) to direct foreign and military policy, as well as represent the country abroad.<sup>141</sup>

Out of these three duties, the ability to dismiss the government is probably the most important, as it enables the King to act as a type of populist pressure valve. Should the people of Jordan become upset with their government, the King can come in and proverbially save the day. However, all of these roles can be understood as creating opportunities for similar “thank god, for the King” populist types of moments, where the King, for instance, gets feuding groups to cooperate, or brings fame, tourism, and acclaim to the Kingdom from abroad. Accordingly, the public image and culture of the Hashemites is very different from the Al Sauds.

Jordanian kings do not arrive in foreign countries with golden escalators and 700 luxury cars, like King Salman does; nor do they buy the world’s most expensive yachts, paintings, and villas, while their governments are forced to practice austerity, like MBS does.<sup>142</sup> Rather, compared to the Al Sauds, the public image of the Hashemites is one of humble selflessness. King Hussein turned his main royal palace into an orphanage.<sup>143</sup> His children work in jobs that would likely be unthinkable for many Saudi royals. One princess is a veterinarian and mixed-martial arts fighter, who previously attended Sandhurst and served in the military. Prince Ali was the primary challenger to Sepp Blatter, president of the FIFA, and ran on a populist, anticorruption platform.<sup>144</sup> Other members of the Hashemites are prominent scholars in the field of interfaith dialogue or on the types of polytheistic East Asian religions that would be banned in Saudi Arabia.

Saudi Arabia is not Jordan. However, it may be wise for the Al Sauds to consider a system similar to the Jordanian model, but with Saudi features. While not meant to be an exhaustive list, reforms the Al Sauds may wish to consider include the following:

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governance-and-politics-of-jordan.

141. Suleiman Al-Khalidi, *Proposed Jordan reforms to strengthen parliament*, REUTERS (Aug. 14, 2011, 8:35 AM), <https://www.reuters.com/article/us-jordan-king-constitution/proposed-jordan-reforms-to-strengthen-parliament-idUSTRE77D21420110814>.

142. *Supra* note 8.

143. *Orphans weep over death of ‘Dad’*, ASSOC. PRESS (Feb. 12, 1999, 12:00 AM), <https://www.deseret.com/1999/2/12/19428723/orphans-weep-over-death-of-dad>.

144. Adam Luck, *Prince Ali bin Hussein on corruption at Fifa, scandal in English football and what he really thinks of Sepp Blatter*, TELEGRAPH (Oct. 29, 2016), <https://www.telegraph.co.uk/sport/2016/10/29/prince-ali-bin-hussein-on-corruption-at-fifa-scandal-in-english>; Ian Johnston, *Fifa corruption scandal: Leadership contender Prince Ali says scandals have ‘decimated’ governing body*, INDEPENDENT (Sept. 26, 2015, 10:38 PM), <https://www.independent.co.uk/sport/football/news-and-comment/fifa-corruption-scandal-leadership-contender-prince-ali-says-scandals-have-decimated-governing-body-a6668421.html>.

- Implementing the rule of law, including equal treatment between royalty and commoners;
- Increasing the number of judges and reducing case times;
- Enabling and enforcing private arbitration;
- Making court decisions public;
- Adopting a precedent-based legal system;
- Reviewing and revising Saudi laws for clarity and/or opportunities for grift and bribery;
- Revamping legal training to focus on commercial law;
- Gradually shifting the role of the King from a ruler, to a type of populist pressure valve, whose job it is to dismiss ineffective governments and act as an informal peacemaker and representative of the Kingdom abroad;
- Pulling back on the conspicuous spending of Saudi royals abroad and domestically;
- Putting a cap on *Mahr* and gender-based regulations in order to spur female participation in the formal economy.

Of these reforms, the first, implementing the rule of law, is the most important for the reasons outlined throughout this Article, including the fact that the Al Sauds will never be able to fully evolve into a business class, unless they can be sued. Nonetheless, before implementing the rule of law, it may be wise for the Saudi government to, first, create a moratorium on legal actions against the Al Sauds. This would create a proverbial blank slate, where princes and princesses cannot be sued for actions in the past, even though they can be held liable for their actions in the future.

#### POSTSCRIPT

One of my female friends, who works for the Council on Foreign Relations, asked me after reading this Article why men in Saudi Arabia would choose to have more than one wife, when doing so would often lead to a reduction in their financial holdings in the future.

While this Article focuses on relatively straightforward, economic incentives that lead people to make choices that maximize their financial wellbeing, the desires of the human heart are not as simple. Humans are a varied species. Variance within genders in terms of preferences can be greater than between them. When it comes to motivations as multifactorial as attraction, romance, and love—what one person wants is almost never the same as what another does.

Accordingly, the reasons for why anyone would engage in polygamy are equally varied. Many of my western friends often tend to assume that all polygynists must be misogynists. Or that they are filled with machismo, flaunting their virility by the number of women they marry. While such men may exist, in my experience, they are a minority. Most polygamists I've met

are not proud. Most keep their marital arrangements hidden, out of a fear of social scorn. Or because they are scared of the legal ramifications in foreign countries like the United States, where they must disclaim polygamy as part of the immigration process and where a second wife cannot be granted a visa as a “wife,” but instead must take another title or, sometimes, pretend to be the nanny.

To understand why a man may wish to have more than one wife despite its costs, including the risks of social ostracism, legal complications in places like the United States, and, eventually, a likely reduction in intergenerational wealth transfers—a personal story, whose facts I’ve altered to protect the identities of the individuals involved, may be illustrative.

Many years ago, a Saudi friend told me his story of coming to France for university. He had grown up in Ha’il, during a time when men and women were forbidden from speaking. When he arrived in France, he decided that he wanted to make the most out of his time there by finally getting to know women. However, he was incredibly nervous, having almost zero experience of speaking to any woman other than his mother. So, he started going to discotheques every week, in the hopes of, like many college students, meeting someone special. However, since he had no idea of what attracts women, he did whatever the club owners told him to do, and began buying flaming bottles of champagne and expensive tables at the center of the club.

Every weekend, he kept this up. For a year. Women wouldn’t talk to him. The rare women who did talk to him turned out to be less than trustworthy or kind. Then, one night, after 52 weeks of disappointment, his mom sent him a message about a woman for him to marry. Pious. Good family. Good person. A month later, he was married to a woman he had never met.

My friend is a good man. He cares deeply about others. He does not hate women and is not a macho-stereotype. He also grew to love the woman he married. But he couldn’t be himself, completely, with her. There were things she would never understand about him and, similarly, things he would never understand about her. Divorce would have been expensive in every sense. His wife didn’t want a divorce. His kids didn’t want a divorce. His family didn’t want a divorce. And he didn’t want a divorce either. But he felt alone. So, he began to consider a second wife. Polygamy is often sensationalized. Portrayed by academics and media as a moral issue. In reality, polygamy is just alternative set of contractual relations, with its own set of externalities. Sometimes, those externalities can be positive. Other times, those externalities can be negative. Most of the time, it’s both.