

# Report on Saudi Arabia's Review under CEDAW

## 1. Introduction

Americans for Democracy & Human Rights in Bahrain (ADHRB) would like to take the opportunity with the Kingdom of Saudi Arabia's review under the Committee on the Elimination of Discrimination against Women's 69<sup>th</sup> session to submit information in response to the Committee's "List of issues and questions"<sup>1</sup> concerning Saudi Arabia.<sup>2</sup> We are concerned with the Government of Saudi Arabia's failure to advance women's rights, including through legislation, as well as its failure to adequately address and counter domestic gender-based violence, exploitation and prostitution, and abuse in domestic work. We are also concerned with the kingdom's inability to better enhance women's participation in both political life, and its ultimate refusal to end the system of guardianship system.

## 2. Legislative framework

The Government of Saudi Arabia has passed a number of laws that relate directly or indirectly to women's rights, including concerning anti-trafficking (in 2009), allowing women to vote (in September 2011), protections for domestic workers and criminalizing domestic violence (2013 and March 2017), granting some women personal identification cards (2015), ending unofficial guardianship requirements (April 2017), and allowing women to drive (September 2017).

However, the kingdom has refused to reform or abolish the system of male guardianship, which is the fundamental driver of gender inequality. Under the system, every woman is required to have a male guardian who is empowered to make a number of important decisions for her. As a result, despite the kingdom's legislative progress, women remain second-class citizens and dependent on men.

## 3. Freedom of Movement

In September 2017, King Salman bin Abdulziz signed a decree granting women the right to drive beginning on 24 June 2018. Once this decree comes into force, it will greatly expand women's freedom of movement and remove one of the most significant barriers to women's empowerment and gender equality.

The ban on driving shapes many aspects of women's public engagement. Without the ability to drive, women are dependent on male family members and ride-sharing services. This negatively affects women's ability to engage in politics, integrate into the kingdom's economy, and partake in public life. In this respect, the announced end to the ban in June 2018, will open up new avenues for women's engagement in the kingdom. However, on 9 October, only days after the king passed the decree, police penalized a woman filmed driving a car, saying that she was "flouting traffic regulations" and signaling that women must wait until the decree comes into effect.<sup>3</sup> As such, women still face restrictions on their freedom of movements.

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<sup>1</sup> CEDAW/C/SAU/Q/3-4

<sup>2</sup> ADHRB gives the Committee permission to post this submission on the CEDAW website for public information purposes.

<sup>3</sup> "Saudi woman is penalised for driving car before ban is lifted," *The Guardian*, 9 October 2017, <https://www.theguardian.com/world/2017/oct/09/saudi-arabia-woman-penalised-driving-car-before-ban-lifted>.

Even if the driving ban is lifted, women remain unable to travel internationally without approval by their guardian. For example, on 14 April 2017, DL, a young Saudi citizen residing in Kuwait, attempted to travel to Australia via the Philippines without her guardian's permission and was stopped in the Manila airport before being forcibly repatriated to Saudi Arabia.<sup>4</sup> She had attempted to travel to Australia to request political asylum to avoid a forced marriage. However, when she arrived in Manila, she was stopped and not allowed to board her next flight. She waited in the airport until her uncles arrived from Saudi Arabia and took her back to Riyadh against her will.

Women are also not allowed to leave their families without permission, in particular in cases of domestic violence. For example, in early April 2017, Saudi citizen MO fled her family's home in Qassim Province to live alone in Riyadh in order to escape domestic violence. However, her father filed a "disobedience" case against her because she left without permission. As a result, she was arrested and detained in a women's prison for over 100 days before being released into the custody of her family.<sup>5</sup>

#### **4. The Role of Civil Society in Promoting and Protecting Women's Rights**

On 30 November 2015, Saudi Arabia's Council of Ministers approved the Law on Associations. The Law "governs the establishment, operation, and supervision of associations and foundations," and sets out the criteria for forming civil society and non-governmental organizations. According to the law, any organization that wishes to register and operate legally in Saudi Arabia must apply to the Ministry of Labor and Social Development (MLSD) and receive a license. If the organization is a charitable organization, it must apply to the Ministry of Islamic Affairs, Endowments, Advocacy, and Guidance in addition to the MLSD.

Applying organizations face a number of restrictions, including a registration process that can take multiple years. Associations must have at least 10 founding members, all of whom must be Saudi nationals. The founders must also deposit 5 million Saudi riyals – approximately \$1.3 million – into the foundation's bank account in the first year of operation.<sup>6</sup> If an organization's application is approved and it receives a license to operate then, pursuant to the Law, the MLSD obtains a level of control over a registered organization's board members, funding, and intended public activities.<sup>7</sup>

According to Hala Aldosari, a Saudi women's activist, "five different structures can be observed in Saudi Arabia: charitable organizations licensed by the [MLSD], specialized/professional CSOs operating under other government entities, the business-affiliated charities, semi-governmental structures under the patronage of members of the royal family, and informal CSOs functioning without state permission."<sup>8</sup> According to the Civic Freedom Monitor, as of April 2016, there are 736 registered associations and 164

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<sup>4</sup> "Fleeing Woman Returned to Saudi Arabia Against Her Will," Human Rights Watch, 14 April 2017, <https://www.hrw.org/news/2017/04/14/fleeing-woman-returned-saudi-arabia-against-her-will>.

<sup>5</sup> Bethan McKernan, "Saudi Arabia: Women's rights activist freed after 104 days of detention without her male guardian," The Independent, 31 July 2017, <http://www.independent.co.uk/news/world/middle-east/saudi-arabia-women-right-activist-free-name-no-male-guardian-100-days-detention-maryam-al-otaibi-ar-a7869371.html>.

<sup>6</sup> "Civic Freedom Monitor: Saudi Arabia," International Center for Not-for-Profit Law (ICNPL), updated 18 October 2017, <http://www.icnl.org/research/monitor/saudi-arabia.html>.

<sup>7</sup> Hala Aldosari, "New Saudi Law Maintains State Control Over Civil Society Organizations," Arab Gulf States Institute in Washington, 27 December 2015, <http://www.agsiw.org/new-saudi-law-maintains-state-control-over-civil-society-organizations/>.

<sup>8</sup> *Ibid.*

registered foundations in Saudi Arabia.<sup>9</sup> However, there are no human rights or independent civil society organizations.

The Law grants the MLSD wide latitude to deny an organization an operating license if the Ministry deems the organization to engage in political activity, contradict public morals, breach national unity, violate Sharia, or operate for profit. Furthermore, the Law empowers the MLSD to unilaterally disband any organization that it deems to violate these same principles.<sup>10</sup> Even before the passage of the current law, the Saudi government regularly denied registration and operating licenses to independent human rights and civil society organizations, forcing them to operate illegally.

Because of these restrictions, there are no independent groups that can advocate for, support, promote, or protect women's rights in Saudi Arabia. A number of human rights organizations promoting fundamental freedoms have operated in the kingdom in the recent past, including the Saudi Civil and Political Rights Association (ACPRA), the Adala Center for Human Rights, and the Beladi Initiative. ACPRA and the Adala Center promoted human rights broadly, but they were unable to secure a license to operate and were shut down because of the nature of their work.<sup>11</sup> The Beladi Initiative promoted women's rights specifically. It aimed at increasing women's political participation in the election process via women's voter- and candidate-education workshops. However, in August 2015, just prior to the municipal elections, the government closed the Initiative.<sup>12</sup>

## 5. Gender-Based Violence

Acknowledgement of domestic, gender-based violence and abuse as a public health problem in Saudi Arabia is a fairly recent development. Since recognizing this, the government has promulgated a number of laws and programs meant to address gender-based violence. In 2005, the government established the National Family Safety Program to raise awareness for domestic violence and provide assistance to victims. The government passed the Law on Protection from Abuse – its first law criminalizing domestic violence – on 26 August 2013.<sup>13</sup>

Despite its passage, the law does not detail specific enforcement mechanisms that would ensure officials promptly investigate allegations of abuse or prosecute those who commit abuse. Nor does it adequately protect women who report abuse perpetrated by their guardians, meaning women may be at further risk of abuse due to the control the guardian exercises over her life.

The guardianship system itself imposes further constraints. Adam Coogle of Human Rights Watch highlights the core issue: "How can a woman escape an abusive husband if she's not allowed to drive

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<sup>9</sup> "Civic Freedom Monitor: Saudi Arabia," IC NPL.

<sup>10</sup> "Saudi Arabia: Counter-terror court sentences human rights activist in relentless onslaught against civil society," Amnesty International, 24 April 2016, <https://www.amnestyusa.org/press-releases/saudi-arabia-counter-terror-court-sentences-human-rights-activist-in-relentless-onslaught-against-civil-society/>.

<sup>11</sup> "Saudi Arabia: Rights Groups Blocked from Operating," Human Rights Watch, 29 August 2013, <https://www.hrw.org/news/2013/08/29/saudi-arabia-rights-groups-blocked-operating>.

<sup>12</sup> "It Is Our Right: Saudi women speak on the positives, pitfalls of municipal elections," Americans for Democracy & Human Rights in Bahrain (ADHRB), January 2016, [http://www.adhrb.org/wp-content/uploads/2016/01/It-is-Our-Right\\_Saudi-Women-Speak-on-the-Positives-Pitfalls-of-Municipal-Elections.pdf](http://www.adhrb.org/wp-content/uploads/2016/01/It-is-Our-Right_Saudi-Women-Speak-on-the-Positives-Pitfalls-of-Municipal-Elections.pdf).

<sup>13</sup> "Saudi Arabia: New Law to Criminalize Domestic Abuse," Human Rights Watch, 3 September 2013, <https://www.hrw.org/news/2013/09/03/saudi-arabia-new-law-criminalize-domestic-abuse>.

and can't travel without the permission of her male guardian?"<sup>14</sup> Human Rights Watch also reports that while the law defines abuse as "bodily, psychological, or sexual," it does not address "institutional systems that grant male family members and employers inordinate power over their female relatives, such as Saudi Arabia's guardianship system."<sup>15</sup> One example of this power imbalance is the need for a woman to receive the permission of her guardian before she can exit a shelter for abuse victims. Because a woman needs the consent of her guardian—who can be the abuser—a shelter's release of a victim to her family does not necessarily ensure her safety. In fact, this policy can directly put the woman at further risk of violence.

Compounding these issues is the lack of a national, systematic method in Saudi Arabia to accurately and fully document domestic violence and abuse. Domestic violence remains a "hidden problem associated with social stigma, fear from perpetrator, hope of change, self-blame and acceptance as a norm" in some circumstances.<sup>16</sup>

In this way, the Saudi government has largely failed to substantially and seriously address the issue of domestic violence and abuse of women. At the heart of the issue is the government's failure to address the root cause of some of the abuse, which lies in broader structures of gender-based discrimination in Saudi society. As such, four years after the passage of the law, not only does domestic violence remain a significant concern, but the government has yet to set up a national mechanism that can systematically track abuse. Until the government takes concrete steps to implement the Law on Protection from Abuse, domestic violence will remain a problem. More structurally, until the government abolishes the guardianship system, the power imbalance between a woman and her male family members has the potential to enable abuse and preclude prosecution for perpetrators.

## **6. Female Domestic Workers**

There are more than 9 million foreign nationals in Saudi Arabia, including 1.2 million domestic workers, almost all of whom are women. These female domestic workers are largely unprotected from abuse, as the kingdom's 2006 labor law and 2009 anti-trafficking law do not adequately protect female domestic workers, many of whom were forced into domestic work or prostitution.

Ostensibly, the labor law prohibits such abuses as passport revocation, wage withholding, physical abuse, and excessive work hours. However, these illegal practices are rampant throughout Saudi Arabia. Due to their lack of protection, many migrants and female domestic workers flee their work environments, placing themselves at risk of being trafficked. The kingdom's anti-trafficking law aims to thwart both human and sex trafficking in the country, and defines and prohibits all forms of human trafficking as well as prescribes punishments for breaking the law. However, the law is overly broad, making it more difficult to adequately identify instances of trafficking, and suffers from inadequate enforcement.

Because of its failure to protect workers, including female migrant workers, Saudi Arabia adopted legislation in 2013 meant to increase protections for domestic workers. The law allows migrant workers

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<sup>14</sup> Stephanie Ott, "Human rights campaigners welcome Saudi Arabia's law on domestic violence," CNN, 2 September 2013, <http://www.cnn.com/2013/09/02/world/meast/saudi-arabia-domestic-violence/>.

<sup>15</sup> "Saudi Arabia: New Law to Criminalize Domestic Abuse," Human Rights Watch.

<sup>16</sup> Ahmad Hamad Al Dosary, "Health Impact of Domestic Violence against Saudi Women: Cross Sectional Study," International Journal of Health Sciences, Qassim University, April 10 (2) 2016, 165-173, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4825889/>.

one day off each week and stipulates they accrue one month's annual leave every two years.<sup>17</sup> The government also amended its labor law in October 2015 in order to better protect workers. The law prohibits employers from retaining worker identity documents, and requires employers to remunerate employees on time and provide copies of employment contracts to workers.<sup>18</sup> However, these laws have fallen short of adequately protecting female domestic workers. The 2013 law allows employers to require domestic workers to work up to 15 hours a day, forbids domestic workers from refusing work without a "legitimate" reason, and forces workers to follow their employers' orders. The 2015 amendments to the labor law simply do not apply to migrant workers, including female domestic workers.<sup>19</sup>

Female domestic workers, in particular, suffer from the loopholes in these laws. Because they typically work within personal homes, isolated from society, they are at heightened risk of abuse, including withheld salaries, confiscated passports and cellphones, work hours in excess of 15-hours-per-day, physical abuse, and sexual abuse, including harassment and rape.

Some female domestic workers leave their jobs because of the abuse and poor working conditions they face. However, because many women have had their passports confiscated, they cannot leave the country and are sometimes lured into prostitution. Often, upon finding out they will have to sexually service clients, many women refuse to perform this job. Traffickers will employ numerous tactics to force these women into submission. They will often lock the victim alone in a small room without food or water for hours or days, verbally harass, and physically beat the woman until she breaks down, submits, and agrees to meet with clients.

Underlying these problems is the kingdom's repressive *kafala* system of labor sponsorship, which grants employers excessive power over their employees, in particular migrant and female domestic workers.

## 7. Participation in Political Life

In September 2011, then-King Abdullah granted women the right to vote and stand for office for the first time in the kingdom. However, while the government held municipal elections in 2011, it refused to allow women to vote during that cycle, citing "logistical difficulties." It was not until 2015 that women were in fact allowed to vote, in what was the country's third cycle of municipal elections. On 12 December 2015, over 100,000 women voted and 21 women won municipal council seats.

While granting women the right to vote is a step towards including women in the political process, municipal councils operate within a restricted sphere and national politics remains the realm of the royal family. In practice, the municipal councils have no influence on national politics and only exercise limited authority over local affairs. The circumscribed nature of the councils has led some Saudi women to "express ambivalence at the extent to which these elections will bolster their participation in public life."<sup>20</sup>

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<sup>17</sup> Kingdom of Saudi Arabia, *Res. No. 310 of 2013 on the Household Regulation on Service Workers and Similar Categories*, 15 July 2013.

<sup>18</sup> "Trafficking in Persons Report: Saudi Arabia," United States Department of State, 2016, <https://www.state.gov/documents/organization/258881.pdf>.

<sup>19</sup> Froilan T. Malit, Jr. and Safa Ghafoor, "Domestic Work Legislation in the Gulf Cooperation Council: A comparative policy review," International Association International Gulf Organization, No. 1 (June 2014).

<sup>20</sup> "It Is Our Right: Saudi women speak on the positives, pitfalls of municipal elections," ADHR Bahrain.

Despite the success of a number of women in the elections, female candidates faced significantly more obstacles than their male counterparts. While some of these issues stemmed from the guardianship system, and the ban on driving, others stemmed from the ministry in charge of the elections, the Ministry for Municipal and Rural Affairs (MOMRA). In early August 2015, the MOMRA ordered the Beladi Initiative to stop its voter- and candidate-education workshops. The MOMRA also banned women from campaigning directly to men. Instead, it encouraged women to appoint or hire a male spokesperson to speak to their male constituents. The ministry also provided with them with limited opportunities to speak indirectly to men via public address systems.<sup>21</sup>

The government also imposed barriers to women voting, granting citizens only a narrow three-week window in which to register as voters. Because of requirements related to the male guardianship system and restrictions on women's freedom of movement—including the ban on driving—many women were unable to travel to voter registration centers in time to register their votes. Even if women succeeded in registering to vote, the restrictions on movement negatively impacted their ability to travel to voting booths. Additionally, the bureaucracy was ill-equipped to assist and provide for women who did not have identifying documentation.

Other factors that contributed to the low numbers of women participating in the electoral process were dominant social norms about the role of women in Saudi society, particularly the perception of the “ideal Saudi woman” as belonging within the household, and the government's support—whether tacit or otherwise—for these norms. Partly as a result of these limiting factors, voter registration among women remained low. Ultimately, women comprised 22 percent of first-time registered voters and formed just six percent of the electorate.

While women faced significant impediments to their ability to participate in the electoral process in 2015, women were appointed to the advisory Shura Council for the first time in January 2013—two years before they were granted the right to vote. The Shura Council is a traditionally all male council that drafts laws, debates major issues, and provides advice to the king, though it does not possess legislative or oversight powers. In January 2013, then-King Abdullah appointed 30 women to join the 150-person council. He also decreed that women should, in the future, comprise up to 20 percent of the council's membership.

Despite this, legislation advancing women's rights has failed to materialize. In fact, the specialized committee on education and scientific research refused a recommendation to open a women's physical education college, rejecting the proposal by a vote of 76 to 73. The vote came one day after Saudi Arabia was elected to the UN Commission on the Status of Women.

This demonstrates that many of the reforms concerning Shura Council membership are largely cosmetic. As a body, the Council remains subservient to the royal family and largely ineffective at advancing reforms. While the number of women on the Council is a positive sign that demonstrates advances the kingdom has made, women remain in the minority and with limited power. Furthermore, within the current legal structure, the Council's influence is largely circumscribed and secondary to other areas of the government. Ultimately, until the Council's membership reflects the kingdom's population diversity as a whole and is empowered to enact laws, it remains largely ineffective.

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<sup>21</sup> *Ibid.*

## **8. Conclusion**

Saudi Arabia has made progress towards improving women's rights, passing laws against domestic violence, allowing women to sit on the Shura Council, and allowing women to drive, among others. While this progress gives the kingdom a veneer of success in empowering women, it cannot mask the structural nature of gender inequality, which is rooted in the system of male guardianship. Because of this, women will remain unequal as long as the system is in place.

## **9. Recommendations**

ADHRB calls on Saudi Arabia to

- Immediately pass legislation abolishing the male guardianship system;
- Halt the persecution of independent civil society and reinstate the Beladi Initiative, and other human rights organizations;
- Establish and empower an independent and impartial commission to assess the government's approach towards domestic gender violence and recommend policy solutions;
- Further empower the Shura Council, and appoint women to head influential committees in the Shura Council.