

**69th SESSION – COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN**

JOINT SUBMISSION ON SAUDI ARABIA

FROM

ALQST

THE GULF CENTRE FOR HUMAN RIGHTS (GCHR)

FIDH (INTERNATIONAL FEDERATION FOR HUMAN RIGHTS LEAGUES)



January 2018

Introduction and methodology

The report is presented by the human rights organisation ALQST, the International Federation for Human Rights Leagues (FIDH) and its member organisation, the Gulf Centre for Human Rights (GCHR). It is based on the report “*Saudi Arabia – Condemned to silence, the situation of women human rights defenders*”¹ published in January 2018 by the Observatory for the Protection of Human Rights Defenders, a joint programme of FIDH and the World Organisation Against Torture (OMCT). The Observatory carried out a study based on in-depth documentary research conducted on Saudi news and institutional websites and more than a dozen long-distance interviews held from April to July 2017 with members of Saudi civil society - activists, researchers and journalists - living in different towns and cities in the country or abroad, to obtain information directly from the field.

1. Insufficient progress on women’s rights in Saudi Arabia

2016 and 2017 have seen numerous steps to improve the condition of women in Saudi Arabia. Unfortunately, most of them were minimal, if not cosmetic, while other lacked implementation.

1.1. The right to vote and to be eligible for election, and the right to drive, as a façade to show the international community (Articles 1, 2, 3, 5,7)

In September 2011, King Abdullah announced that women in Saudi Arabia would be given the right to vote and to stand for election within four years. Since then, the regime has seized the opportunity to communicate internationally on the **appointment of women to prominent posts**: about thirty women were appointed to the *Majlis al-Shura* in 2013, a woman was appointed Deputy Secretary of State for Education in 2009 and to head up the Stock Exchange in 2017. For the first time, women participated in elections during the municipal council elections in 2015, as both voters and candidates.

However, the candidacy of three identified women human rights defenders, L.A., T.A., and N.A., was not fully registered, thus disqualifying them from running in the elections, and showing an arbitrary implementation of the legislation. All are public advocates for women’s rights reforms.

In December 2015, L.A. stood as a candidate in the municipal elections of her city of Dammam. Her candidacy was not formally rejected, but her name did not appear on the ballot papers either. She has launched proceedings against the Saudi Council of State², but the case is still pending.³ N.A. suffered the same fate as L.A.. She filed a lawsuit against the Minister of the Interior, which is still unresolved.

1 *Saudi Arabia – Condemned to silence, the situation of women human rights defenders*, The Observatory, January 2018: <https://www.fidh.org/en/issues/human-rights-defenders/condemned-to-silence-the-situation-of-women-human-rights-defenders-in> - Further footnotes show the sources indicated in the report.

2 Diwan al-madhalim

3 L.A. explains this episode on the website of the Arab Gulf States Institute in Washington, *Setting the Agenda: Reflections of Saudi Women on the Campaign Trail*, February 8, 2016: <http://www.agsiw.org/setting-the-agenda-reflections-of-saudi-women-on-the-campaign-trail/?print>: “Well, the Government removed me from the final list of approved nominees without notice. I filed an objection the next day, and four days later I received a response, saying that the local council had no objection to my candidacy and that the council of appeals contacted the special authority to request documented proof that I wasn’t qualified. After three days, the appeals council decided to reinstate me because they didn’t have anything against me running. On December 10, my name was not yet on the website, but they told me verbally I would appear on the paper ballot. I trusted that because I had legal documents to back me up. I went to the voting centers on the election day. My name wasn’t on the list. The employee there said that when they called the local council, they were told that I had already been informed about their decision to not bring me back. I thought, “How can this be when I have legal documentation, and I had checked with them two days before and they promised to put my name on the ballot?” Now I am suing the local council and the general council of the elections, since they did not apply the court order of reinstating me to the ballot list of candidates. I am also filing cases with the board of grievances, the commission of anti-corruption, and requesting an administrative investigation.”

Saudi Arabia was, until recently, the only country in the world to prohibit women from driving a car. Representatives of the Saudi authorities, including the Prince⁴, regularly explained that this ban is in line with tradition and society's demands⁵ whereas it is in fact based on a *fatwa* of October 1990 issued by the Council of the Ulemas and supported by a subsequent decree issued by the Ministry of the Interior⁶.

The action of pro-right-to-drive activists, involving arrests and prosecutions since 1990 until today, finally succeeded when King Salman ben Abdelaziz signed on September 26, 2017, a decree authorising women to obtain driving licences. The licences will be issued without the prior authorisation of a male guardian and the presence of a man in a vehicle driven by a woman will not be required. The text indicates that the authorisation will come into effect in June 2018. This progress should enable women to secure greater independence, particularly as regards getting to work, without having to sacrifice a proportion of their salary to pay a driver.

This step forward however comes with several reservations. According to a Saudi journalist, these appointments are largely viewed as "showcase measures", while at the same time "there have not been many legal changes" benefiting women and while the status of women is evolving only "very slowly", such as on the question of repudiation or of male guardianship⁷.

As part of the development plan entitled Vision 2030⁸ intending to free the country from its dependence on oil), the increase of women's presence in the work force appears as a necessary and calculated concession in the face of the freshly-empowered Crown Prince Mohamed ben Salman's willingness to take strong action and implement economic and social reforms in Saudi Arabia.

The Royal Decree authorising women to drive prompted numerous reactions, such as that of the UN General Secretary Antonio Guterres, who presented the decision as "an important step in the right direction"⁹. In addition, it is certainly no mere chance that the long-awaited publication of this decree happened three days before a crucial Human Rights Council vote on the conflict in Yemen.

Excessively exploited to improve the country's reputation on the international stage, the yet-to-be-implemented achievement, although important for the empowerment of Saudi women, seems to be used by the regime with the aim of confining debate to less sensitive subjects¹⁰ than the male guardian system and the practice of repudiation, or other human rights issues such as political repression or violations resulting from the war in Yemen.

4 Practice unheard of in the context of Saudi Arabia. Available on the TV news channel *Al-Arabiya*, April 25, 2016 (in Arabic): <https://www.youtube.com/watch?v=uhWfUK0aizw>

5 See from 3 min 30 sec, in response to an *AFP* journalist's question (in Arabic): <https://www.youtube.com/watch?v=gDGLHEgNozl>

6 See the blog of the Saudi woman activist M.A., *When will Saudi women drive?*, April 7 2014 (in Arabic): <https://manal-alsharif.com/tag/%D9%85%D9%86-%D8%AD%D9%82%D9%8A-%D8%A3%D8%B3%D9%88%D9%82/>

7 See Badr Al-Rached, on the Qatari website *Al-Araby Al-Jadid*, *Laws against women*, April 20, 2017 (in Arabic): <https://www.alaraby.co.uk/opinion/2017/4/19/AB-1>

8 See <http://vision2030.gov.sa/en/node>.

9 See <https://twitter.com/antonioguterres/status/912831976083771392>

10 See B.A., on the Saudi website *Al-Maqaal.com* (deactivated for several years, probably by coercion), *Women driving and priorities for reform*, September 26, 2013 (in Arabic): <https://www.almqaal.com/?p=2995>

1.2. The lack of commitment and the prevalent male guardianship system (Articles 1, 2, 3, 5, 10, 11 and 12)

One of the main forms of discrimination against Saudi women lies in the system of male guardianship (*wali al-amr* in Arabic), according to which women remain minors for life. Formal permission from the guardian can be required to carry out a large number of activities and procedures, legally regulated or not, such as obtaining a passport¹¹, travelling abroad¹², renting an apartment¹³, opening a bank account for their children¹⁴, enrolling at a university or a training centre, or accessing justice (particularly as they have been dependent on men to drive them everywhere)¹⁵, getting a job, having a surgical procedure related to reproductive functions (such as a life-saving abortion)¹⁶, getting released from jail, or choosing her own residence¹⁷. In most cases, this requirement is not based on law, but practices that vary from a region to the other and from one matter to the other.

From 2016, dozens of incidents related to individuals, including the arrest of women who fled conflictual or abusive home environments, have led to important campaigns, successfully mobilising large audiences via social networks using a tweet or hashtag.

These include, for example, the hashtag launched in defence of the activist D.A.L.¹⁸, who feared being killed by her family, or the hashtag launched in defence of the activist M.A.¹⁹, victim of violence at the hands of family members.

Women's rights defender M.A. was arrested in April 2017 for having disobeyed her *wali al-amr*, namely her father, and imprisoned for more than 100 days. On 30 July 2017, Al-Otaibi was released from prison after more than 100 days. She was freed without a guardian but went to live with her married sister.²⁰ Her case is still being reviewed in court, and an initial decision was issued to force her to return and live with her abusive father, despite her reports of being physically and emotionally abused. The decision also punishes her with prison terms for travelling to seek a job without the consent of her father and for engaging online in the campaign to abolish the male guardianship system. She is currently appealing the decision (see more details on her case below).

11 See website of the Ministry of the Interior, Passport Service: "As regards children under 21 years of age as well as women (holders of identity cards), registration is done electronically via the intermediary of the server account [dedicated for the purpose] by the wali al-amr" (in Arabic). Another procedure is available and requires the presence 'of the applicant in person or of the wali al-amr of women or children under 21 years of age' (in Arabic).

12 According to the Ministry of Interior Passport Service website: "Women as well as children under 21 years of age must obtain a declaration [authorisation] to travel from their wali al-amr" (in Arabic): <http://www.gdp.gov.sa/sites/pgd/ar-SA/Procedures/SaudiProcedures/TravelConditionsProcedures/Pages/default.aspx>

13 According to numerous testimonies, like that of defender Nassima Al-Sadah (in Arabic): <https://www.youtube.com/watch?v=zHWEGWsl1w&t=9s>

14 See Human Rights Watch Report, *Boxed In, Women and Saudi Arabia's Male Guardianship System*, July 16, 2016 (in English and Arabic): <https://www.hrw.org/report/2016/07/16/boxed/women-and-saudi-arabias-male-guardianship-system>

15 A woman may not enter a police station unless accompanied by her *wali al-amr* and may have difficulty entering a court unless accompanied by a male member of her family or *mahram*. See *Ittijahat* programme on the Saudi TV channel *Khalijiya*, with guest Nassima Al-Sadah, as from 0hr 41min 40sec and 1hr 6min 44sec.

16 See *Ittijahat* programme on the Saudi TV channel *Khalijiya*, with Saudi journalist Nadia Al-Boudair, October 30, 2016 (in Arabic): <https://www.youtube.com/watch?v=zHWEGWsl1w&t=9s> (with guest, human rights defender Nassima Al-Sadah, as from 1hr 05min).

17 See The English-language Saudi daily newspaper *Saudi Gazette*, *Saudi woman can't travel with her father without hubby's nod*, April 9, 2016: <http://saudigazette.com.sa/article/160897/Saudi-woman-cant-travel-with-her-father-without-hubbys-nod>

18 See on Twitter #SaveDinaAli: <https://twitter.com/hashtag/SaveDinaAli>

19 See Twitter #Kulluna Mariam Al-Otaibi : https://twitter.com/hashtag/%D9%83%D9%84%D9%86%D8%A7_%D9%85%D8%B1%D9%8A%D9%85_%D8%A7%D9%84%D8%B9%D8%AA%D9%8A%D8%A8%D9%8A?src=hash

20 See Gulf Centre for Human Rights *Saudi Arabia: Human rights defender Mariam Al-Otaibi released from prison despite defying guardianship system* August 1, 2017 <http://www.gc4hr.org/news/view/1656>

D.A.L.

24-year-old D.A.L. was travelling to Australia to request asylum and to be able to live independently from her family. On April 10, 2017, during a stopover in the Philippines, she was intercepted by agents at Manila airport and forced to return to Saudi Arabia by members of her family, apparently with the cooperation of the Saudi embassy in the Philippines.²¹

D.A.L. managed to talk to fellow-travellers the moment she realised what was going to happen, saying in particular: *"If I am taken back to my family, they will kill me."* This information was immediately put out on social media in Saudi Arabia.

Activists launched a campaign of solidarity on social networks²², inviting people to form a welcoming committee at Riyadh airport where D.A.L.'s plane was due to land on the evening of April 12. **A.A.** in particular responded to this initiative, which led to her being arrested (See below).

Saudi authorities attempted to hush up the case, not only by arresting the male and female activists who wanted to witness D.A.L.'s return but also by denying the involvement of the Saudi State services in the issue, via the Spokesperson for the Saudi embassy in Manila, according to whom it was simply a *"family matter"*.

Between D.A.L.'s forced return to Saudi Arabia and the writing up of this report, no news has emerged about her fate.²³

It's a fact that the lack of transparency from the state is a structural limitation to civil society to effectively engage and support women at risk. According to the National Commission of Human Rights who is tasked with forming the CEDAW delegation, D.A.L. was released from the shelter and put into the custody of her family, and the state has asked her father and uncle to sign pledges not to abuse her. We could not confirm their statement as no communication with D.A.L. was possible.

M.A.

M.A., 29 years old, is originally from the city of Al-Rass, in the province of Al-Qassim, close to Riyadh. She is known to the Saudi public for her social media campaigning for women's rights.

Her story began in 2013, when two of her brothers were radicalised. One of them joined Daesh in Syria, where he was killed. The other brother then demanded that their father, in order to honour the 'martyr', should show strict discipline, particularly towards M.A., who was opposed to her brother's radical discourse.

From that moment on, M.A. suffered verbal and physical violence at the hands of family members. She finally went to the police in her city to file a complaint against her brother, supported by a medical report as evidence of the violence. Her brother undertook to treat her better. Back at home, M.A. was once again subjected to pressure aimed at forcing her to withdraw her complaint, which she did.

Shortly afterwards, she complained for a second time, but was once again taken back home. From then on, she turned to public opinion to act as her witness via her Twitter account.²⁴ She was, in addition, one of the most active contributors on the #SaudiWomenWeDemandAnEndtoGuardianship

21 See Human Rights Watch, *Fleeing woman returned to Saudi Arabia against her will*, April 14, 2017: <https://www.hrw.org/ar/news/2017/04/14/302316>

22 See <https://twitter.com/hashtag/whereisalaaanazi?f=tweets&vertical=default&src=hash>

23 See Human Rights Watch, *Fleeing woman returned to Saudi Arabia against her will*, April 14, 2017: <https://www.hrw.org/ar/news/2017/04/14/302316>

24 See her Twitter account: https://twitter.com/MERiAM_AL3TEEBE

campaign on social media.

She provided proof of her identity and her story notably by publishing a photo of her passport and her identity card. Her brother believed that for a woman to show her face uncovered in full view of everyone was a shameless act. He demanded that M.A. withdraw her complaint, which she refused to do. He urged his father to file in turn a complaint against M.A. for disobedience.

In November 2016, she received a call from the Al-Rass police, purportedly about her complaint. When the police arrived, she was arrested and imprisoned for the complaint of disobedience that her father had subsequently filed. The news set Twitter alight. Public opinion seized on the affair. After a few days, she was freed, but had to return to the family home.

Six months later she succeeded in finding accommodation and a job as a cashier in Riyadh, which should allow her to be independent. She announced it on Twitter, saying that she would never return to the family home.

A week later, on April 17, 2017, she was arrested by the police at her workplace. Her apartment was searched, her personal belongings seized, including her mobile and her computer. Her arrest came following a complaint filed by her father for running away and disobedience. She spent several days in Al-Malaz prison in Riyadh awaiting the outcome of the police investigation.

Several days after, she learned that she was being accused of “breach of the peace” as a result of her human rights activism via Twitter. The body responsible for the case (file no. 41529) was the Riyadh Unit for Cases of Breach of the Peace. M.A.’s name became a rallying cry on social networks under a hashtag related to her name.²⁵

In mid-July, the Public Prosecutor announced that she would be released due to a lack of evidence against her.²⁶ After being held for 104 days in Al-Malaz prison in Riyadh, she was released on bail on July 30, 2017. The remarkable fact is her wali al-amr was not present for her release.²⁷

What is more, this area is shrouded in legal uncertainty, because the system of male guardianship is guaranteed by multiple sources (official religious institutions, the State...), because Saudi media display contradictory information^{28 29}, and finally because a woman may find that her guardian is not the person she thought he was, or she may be the victim of strife between male members of the family who dispute the title³⁰.

A **Royal Circular, signed on April 18, 2017**, has signalled the beginning of a response to the campaign to abolish male guardianship. The circular asks government bodies not to demand the authorisation of the male guardian in the absence of any legal basis to do so, that they supply a list of procedures requiring the agreement of the *wali al-amr*, and do so within three months, that is by July

25 See the hashtag #kulluna Maria Al-Otaibi [we are all Mariam Al-Otaibi]: https://twitter.com/hashtag/%D9%83%D9%84%D9%86%D8%A7_%D9%85%D8%B1%D9%8A%D9%85_%D8%A7%D9%84%D8%B9%D8%AA%D9%8A%D8%A8%D9%8A?f=tweets&vertical=default&src=has h

26 See the daily newspaper *Al-Makkah*, *The woman released by the order of the Prosecutor: the decision safeguarded my freedom*, July 16, 2017 (in Arabic): <http://makkahnewspaper.com/article/608164>

27 See *EremNews* website, *Saudi Arabia releases the activist Mariam Al-Otaibi four months after her arrest*, July 30, 2017 (in Arabic): <https://www.ere news.com/news/arab-world/saudi-arabia/931982>

28 See the Saudi daily newspaper *Al-Hayat* available worldwide, *Saudi decision concerning shopping centres. The Employment Ministry rescinds the non-conditionality of the agreement of the wali al-amr for women in work*, April 21, 2017 (in Arabic): <http://www.alhayat.com/Articles/21421879/>

29 See for example the Saudi daily newspaper *Okaz*, *Women in work and the wali al-amr’s agreement*, April 23, 2017 (in Arabic): <http://okaz.com.sa/article/1541804/>

30 See the legal expert Mouadh Al-Jandar, in the programme *Ittijahat* of Nadia Al-Budair, on the Saudi TV channel *Khalijiya*, April 9, 2017 (in Arabic): <https://www.youtube.com/watch?v=qOjtrWII60>

2017.³¹ In addition, this circular asks the Saudi Human Rights Commission to inform the public on international treaties ratified by Saudi Arabia and to raise awareness on their content, in particular with respect to women's rights. If the circular was to be fully implemented, it would trigger significant improvements for women's rights.

Interestingly, it was the Saudi Human Rights Commission that reacted almost immediately to reaffirm that women should still obtain the authorisation of their male guardian to travel abroad and to obtain a passport³² as well as to marry, although no legislation or regulation imposes this obligation.

If this circular does not question gender inequality, it does seem to signal the beginning of a more conservative, restrictive approach towards the requirement for authorisation.

The circular was greeted with a mixture of scepticism and careful optimism. Speaking anonymously, a woman human rights defender considered that *"it is pretty inadequate and quite vague."* For her part, L.A.H. declared in a video posted online on the Arab Feminist³³ Youtube account on July 18, 2017 that: *"The problem is that it does not bring about the necessary change being demanded. However, it will change things in the lives of many women."* She goes on to add that she hopes that it is just a first step: *"We hope that this circular will be followed by the abolition by the regime [of male guardianship] and the introduction into law of an age of majority for women."* She also considers that the circular should at least, in theory, put an end to the practice of keeping women in prison when they cannot be handed over to their *wali al-amr*. As she explains, there is nothing in the prison regulations to indicate that a prison administration must impose this condition.

On July 13, 2017, the Ministry of Education responded to this circular by asking *"all sectors not to request that a woman obtain the agreement of the wali al-amr in order to offer services or conclude procedures that concern her, except where a regulatory basis for this exists"*.³⁴ However, it is not clear, for example, whether universities can still ask the *wali al-amr* to stipulate the hours when the girl or woman student under his guardianship has the right to leave the campus.

Overall, in reality the circular *"will not change much in current practices"*, reckoned one Saudi woman defender.³⁵ *"This decree contributes nothing to the matter on which we have been mobilising for a year, in that the State sides with a violent father [or brother] rather than with the young woman who is the victim, as in the case of M.A."*, added H.A..

It is also regrettable that **this circular does not include the establishment of a mechanism to oversee and punish such practice out of the legal provisions, nor mentions practices followed in the private sphere**. Thus, private individuals – for example employers, landlords of rented properties, private hospital facilities, etc. – may still demand that women produce the authorisation of their *wali al-amr* in practice without fear of being sanctioned, even though, according to some testimonies, authorities are inclined to limit this practice.³⁶

While this circular has prompted hope in the women human rights defenders' community, more than ten months after its publication in reality little has actually changed and some fear that it will remain a dead letter.

31 See Human Rights Watch, *Saudi Arabia: 'Unofficial' guardianship rules banned*, May 9, 2017: <https://www.hrw.org/news/2017/05/09/saudi-arabia-unofficial-guardianship-rules-banned>

32 See MzMz website, *Human rights, these cases are not affected by the royal decree allowing women [to benefit] from services without the agreement of their wali al-amr*, May 5, 2017 (in Arabic): <http://mz-mz.net/730027/>

33 See <https://www.youtube.com/watch?v=kHNb0tpWsLo&feature=youtu.be>

34 See the website *Anha*, *Circular from the Ministry of Education on not asking women for the agreement of their wali al-amr in order to access services*, July 13, 2017 (in Arabic): <http://www.an7a.com/305854/>

35 Anonymous testimony.

36 See Human Rights Watch, *Saudi Arabia: 'Unofficial' guardianship rules banned*, May 9, 2017: <https://www.hrw.org/news/2017/05/09/saudi-arabia-unofficial-guardianship-rules-banned>

2. No space to defend the fundamental rights and freedoms of women (Article 7)

The legal framework in place in Saudi Arabia is unfavourable towards the pursuit of campaigning activities to promote and protect human rights. This is all the more true when defending the rights of women. Respect for fundamental rights and freedoms, such as freedoms of association, expression and peaceful assembly and the right to effective recourse, is not guaranteed by law. Worse, exercising these rights and freedoms is hampered by explicitly repressive laws combined with vague provisions, which are open to discretionary interpretation by those responsible for overseeing their enforcement.

Authorities view the promotion of human rights as a threat to public order and even a terrorist activity. In addition, the margin for manoeuvre for women defenders is extremely limited and constrained particularly by the concept of the *wali al-amr*.

Although the King declared in May 2015 that his government ensured Saudi citizens' right to freedom of expression, the crackdown on voices of dissent has continued to intensify. Anyone pointing the finger of responsibility for human rights violations at the authorities, condemning specific measures such as decrees, or the existence of political prisoners, is liable to prosecution before the Specialized Criminal Court and to a hefty punishment, such as imprisonment and even public flogging or the death penalty.

Between December 2016 and November 2017, defenders **I.A.**³⁷, **E.K.**, **A.A.**³⁸, **N.A.M.**³⁹, **A.A.S.**⁴⁰, and **N.A.M.** were arrested. Between September 9 and the beginning of October 2017 only, the authorities arrested almost 70 people⁴¹. On 10 November 2017, the Specialised Criminal Court (SCC) in Riyadh sentenced Internet activist Naimah Al-Matrod to six years in jail followed by six years of travel ban after her sentence is served⁴².

The crackdown on any attempt to establish a movement or set up an organisation has been particularly severe. Dozens of defenders, bloggers, lawyers and demonstrators are serving long prison sentences having been accused of "terrorism", "inciting public disorder", "attempting to overthrow the Government or the authority of the King", "attempting to influence public opinion" or "creating an unlicensed organisation".

In this ultra-repressive environment, **women who adopt the stance of activists** and attempt to collectively establish their demands **face reprisals for their opinions and activities**.

The **Specialised Criminal Court** set up in 2008 was initially presented as **a court devoted to terrorist cases**, but is in fact a jurisdiction dealing with cases affecting "*national security*" in the broadest sense of the term and *de facto* all of the most sensitive cases. **It is an instrument used to repress all men and women who criticise the government and its policy** or express ideas that differ from the official doctrine – and it is tarnished with multiple and various violations of the right to a fair trial⁴³. Among the

37 See Gulf Centre for Human Rights (GCHR), *Saudi Arabia: Human rights defender Issa Al-Nukhaifi arrested*, December 20, 2016: <http://www.gc4hr.org/news/view/1450>

38 See Observatory Urgent Appeal SAU 001/0117/OBS 003, published on January 12, 2017.

39 See Human Rights Watch, *Saudi Arabia: Intensified Repression of Writers, Activists; Rising Arrests, Prosecutions*, February 6, 2017: <https://www.hrw.org/news/2017/02/06/saudi-arabia-intensified-repression-writers-activists>

40 Ibid.

41 See the Saudi 'Prisoners of Conscience' Twitter account: <https://twitter.com/m3takl>

42 See Gulf Centre for Human Rights (GCHR), *Saudi Arabia: Internet activist Naimah Al-Matrod sentenced to six years in prison*, November 15, 2017 <http://www.gc4hr.org/news/view/1731>

43 See Press Release of the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, May 5, 2017: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?>

victims are Civil and Political Rights Association in Saudi Arabia (ACPRA) members, **A.B.**⁴⁴, **W.A.A**, **M.A.O.**, **M.A.**, and **L.A.**. On January 25, 2018, the SCC sentenced **M.A.O.** to 14 years in prison and **A.M.A.** to seven years in prison for establishing the Union for Human Rights, one of which's aims is to strengthen the role of women in society⁴⁵.

A prominent young woman who advocated online to abolish the male guardianship was summoned for interrogation, asked why she had posted information on a workshop she attended in Beirut to train women human rights defenders and forced to sign a pledge to refrain from promoting the campaign online.

This repression, in particular the criminalisation of women human rights defenders, is contrary to Articles 9, 10, 19 and 20 of the Universal Declaration of Human Rights (UDHR), the UN Declaration on Human Rights Defenders and article 7 of the CEDAW.

2.1. No freedoms of assembly and association to defend the rights of women

The legal framework regulating civil society organisations is fixed by the Law on Associations and Foundations of December 6, 2015⁴⁶, which is supposed to guarantee “*citizen participation in the running and development of society*” by allowing the first-ever creation, management and supervision of organisations by civil society. The new law did not come into effect until March 17, 2016 and the enforcement decrees were not published until April 14, 2016.

This text contains many vague provisions, however, enabling restrictions to be placed on registering organisations. It also **grants extensive discretionary powers** to the government, which can dissolve any organisation viewed as “*harming national unity*”. The text goes on to specify that no “*organisation has the right to exercise any activity while it has not completed all the procedures*” for its creation (Article 8, paragraph 4).

The law lists a large number of areas in which an organisation may operate⁴⁷, but **the list does not include the legal, political or human rights spheres**. When applying to register an organisation, the choice has to be made from a pre-established list of spheres of activity in which defending human rights or women's rights does not appear; nor does any potentially related activity. **Furthermore, the law limits organisations' activities by means of imprecise restrictions that are subject to interpretation**, which give judges plenty of scope and allow them to go as far as to restrict the right to exercise freedom of association and to condemn dissenting voices. Organisations are obliged to

44 See Amnesty International, *Saudi Arabia: Journalist sentenced to five years in prison for tweets latest victim of crackdown*, March 25, 2016: <https://www.amnesty.org/en/press-releases/2016/03/saudi-arabia-journalist-sentenced-to-five-years-in-prison-for-tweets-latest-victim-of-ruthless-crackdown/>

45 See Gulf Centre for Human Rights (GCHR), *Saudi Arabia: Authorities continue systematic targeting of human rights defenders*, January 26, 2018 <http://www.gc4hr.org/news/view/177>

46 See Law on Associations and Foundations, adopted by Royal Decree No. M/8, 19.2.1437H of December 1, 2015. In Arabic, ‘*Nidham al-jam’iyyat wa al-muassasat al-ahliya*’: <https://boe.gov.sa/ViewSystemDetails.aspx?lang=ar&VersionID=353&SystemID=374>; alalternative link (in Arabic):

<https://sd.mlsd.gov.sa/ar/%d8%a7%d9%84%d8%b3%d9%8a%d8%a7%d8%b3%d8%a7%d8%aa-%d9%88-%d8%a7%d9%84%d9%84%d9%88%d8%a7%d8%a6%d8%ad/%d9%86%d8%b8%d8%a7%d9%85-%d8%a7%d9%84%d8%ac%d9%85%d8%b9%d9%8a%d8%a7%d8%aa-%d9%88%d8%a7%d9%84%d9%85%d8%a4%d8%b3%d8%b3%d8%a7%d8%aa-%d8%a7%d9%84%d8%a3%d9%87%d9%84%d9%8a%d8%a9>

See also the profile of Saudi Arabia on the website of the International Center for Not for Profit Law (ICNL): <http://www.icnl.org/research/monitor/saudiarabia.html>

47 List of the spheres mentioned: involving activities that are “*charitable, mutual support, religious, social, cultural, health, environmental, educational, teaching, scientific, professional, artistic, youth, tourism, etc. or consumer protection, or any other civil activity as understood by the Ministry of Social Affairs*” (Article 1).

respect “Sharia, public order, good morals, national unity” and “any other regulation” (Article 8, paragraph 2, and Article 21, paragraph 8).

The legislation subjects organisations to significant government interference in their internal affairs. The Ministry of Social Affairs can therefore suspend or dissolve an organisation which “exceeds the limits of its sphere”, “seriously contravenes” the enforcement decree or “contravenes the rules of Sharia, public order, good morals or commits any act that harms national unity” (Article 23, paragraph 1 b and e).

The framework in which organisations may operate is restated for a third time: “Organisations [...] do not have the right to act outside the framework of the objectives which have been defined for them or to conduct activities likely to disrupt public order or incite division among citizens” (Article 39, paragraph 3).

Overall, the law grants the Ministry of Social Affairs a major role. It is responsible in particular for authorising associations and organisations and of supervising their activities (Article 4). Moreover, “all supervisory bodies must agree to the creation of associations and organisations coming within their area of expertise in order for all authorisation procedures to be completed” (Article 5).

Organisations must hold at least one general meeting per year and must “inform the Ministry of Social Affairs and supervisory bodies” of such a meeting, being aware that the Ministry and said bodies may delegate someone to attend (Article 13, paragraph 2). Likewise, the Ministry of Social Affairs may call an extraordinary general meeting (Article 13, paragraph 4). It may also “send a delegate to be present at the holding of the election” of members of the organisation’s bureau (Article 18, paragraph 2), and may “annul the results of the election” if it considers that the regulations have been breached (Article 18, paragraph 3). It may also “remove the elected [association bureau] and appoint a provisional one” in the event that “the number of its members does not reach a quorum for whatever reason”, or if the association bureau “contravenes any element whatsoever of the regulations” (Article 19, paragraph 1).

Lastly, according to this law, foreign organisations and foundations are banned from opening branches in Saudi Arabia. The text forbids Saudi organisations from forging relations with international organisations: they are prohibited from “receiving foreign aid without the prior agreement of the Ministry of Social Affairs” (Article 21, paragraph 12), nor do they have the right “to sign contracts or agreements with States or international organisations and institutions, except with the prior agreement of the Ministry of Social Affairs and expert bodies” (Article 39, paragraph 2).

As a defender who was contacted anonymously during the study explained: “It is difficult to work as a defender because of the lack of any legal framework in which to do so. We cannot form an association, and so feel extremely isolated. It means we lose a lot of people: some are in prison, others in exile, while others chose to drop out and get forgotten so as not to suffer repression. Large numbers of others continue on anonymous Twitter accounts. Instead of giving us legal protection, the State lays down laws that criminalise us. These laws are a weapon that can be drawn at any moment against us. The simple fact of talking to a foreign journalist can result in prosecution and being tried before the Specialized Criminal Court under the Anti-Terrorism Law. We are living constantly in terror of this sword of Damocles.”

Women activists have been trying to establish a civil society to provide a shelter for women survivors of domestic violence and were waiting for months until the officials requested them to remove the shelter from their services. Their application is still ongoing for the second year.

Several aspects of these provisions are contrary to the right to freedom of association as protected under Article 20 of the UDHR and Article 22 of the International Covenant on Civil and Political Rights.⁴⁸ Under the current circumstances, **the freedom of association is not effective in Saudi Arabia.** Check Royal order No. 44 and the anti-cybercrimes law which are frequently cited by

48 For more information on good practices concerning freedom of association, see UN Special Rapporteur on the Right to Freedom of Association and Peaceful Assembly, UN Document A/HRC/20/27, May 21, 2012.

courts to charge activists for commenting in the media or their social accounts, attending conferences, workshops or challenging the religious pretexts of existing discriminatory laws.

The government is crushing any possibility to create an independent organisation

As a Saudi activist notes anonymously for security reasons:

"I looked at the list of organisations published on the Ministry website. Many are involved in charity work and there are also some concerned with the environment or with supporting people with Alzheimer's and potentially with helping women who have been repudiated. But organisations defending women's rights and even human rights do not exist."

The same observation is made by *Al Qst*, whose members living in Saudi Arabia remain anonymous for reasons of security, with only those living in exile showing themselves publicly: *"Several attempts have been made by other activists to form organisations and organise peaceful meetings, but all have come up against obstruction by the government."*⁴⁹

The best-known example is that of **ACPRA**, established in 2009 by a dozen activists and closed down by the Saudi authorities in 2013.⁵⁰ Between 2011 and 2017, all known members were tried and sentenced in turn to heavy prison terms ranging from seven to fifteen years, with some of them also sentenced to flogging.⁵¹ Those being held today are **A.Y.A.**, **A.H.A.**, **A.H.A.H.**, **I.H.A**, **M.F.A.**, **A.A.S.**, **O.A.S.** and **S.A.**⁵² It should be noted that most of the convictions accused them of *"creating an unauthorised organisation"*⁵³, although the first Saudi law dealing with the creation of organisations dates from 2015.

As mentioned above, on January 25, 2018, the SCC sentenced **M.A.A** to 14 years in prison and **A.M.A.** to seven years in prison for establishing the Union for Human Rights, one of which's aims is to strengthen the role of women in society⁵⁴.

The same happens when women activists try to form an organisation. For example, **N.A.** tried to create a women's rights organisation under the name *Noun* at the beginning of 2017, completing the online form on the dedicated government website. Normally she should have had a response within two months, but had still not heard by mid July 2017, seven months later.

Similarly, any attempt at organising a public event is impeded. For example, when several women human rights defenders wanted to organise a public conference in Qatif on November 24, 2016 entitled *"The end to male guardianship and the history of Saudi women's demands"*, the person organising the

49 See *Al Qst, Freedom of assembly and association*, March 14, 2014 (in English and Arabic): <https://alqst.org/eng/freedom-of-assembly-and-association/>

50 See Amnesty International Report, *Saudi Arabia's ACPRA: How the Kingdom silences its human rights activists*, October 2014: <https://www.amnesty.org/en/documents/MDE23/025/2014/en/>

51 See Amnesty International, *Saudi Arabia increases ruthless sentence in unfair trial of human rights defender to 11 years*, December 1, 2016: <https://www.amnesty.org/en/latest/news/2016/12/saudi-arabia-increases-ruthless-sentence-in-unfair-trial-of-human-rights-defender-to-11-years/>

52 In addition, **Sheikh Sulaiman Al-Rashudi**, former judge and ACPRA's President, was released on December 12, 2017. He had been detained since December 12, 2012 and was sentenced to 15 years in prison on November 11, 2011. To date, reasons for his early release are unknown.

53 See Amnesty International, *Saudi Arabia: Counter-terror court sentences human rights activist in relentless onslaught against civil society*, April 14, 2016: <https://www.amnesty.org/en/latest/news/2016/04/saudi-arabia-issa-al-hamid-sentenced-to-nine-years/>

54 See Gulf Centre for Human Rights (GCHR), *Saudi Arabia: Authorities continue systematic targeting of human rights defenders*, January 26, 2018 <http://www.gc4hr.org/news/view/177>

event received a call from the police a few days before the scheduled date, indicating that she would have to cancel the event⁵⁵.

2.2 No freedom of expression to defend the rights of women

While the women's rights movement has been more vigorous than ever in recent years, it continues to operate in the private sphere, given the impossibility to create independent organisations. Women rights defenders therefore meet in their own homes with their immediate social circle on a more or less regular basis. They also have to be careful not to talk about overtly political subjects such as those that touch on how the regime functions or on the political responsibilities of decision-makers, or anything that involves calling for reforms. As soon as a 'circle' acquires an audience that goes beyond its attendees and starts to talk politics in the strict sense of the term, its participants may be exposed to hefty prison sentences.

Immediately after the announcement of the Decree on driving, the Royal Court contacted several women's rights activists to ask them not to comment on the new decree in the media.⁵⁶ This would seem to confirm that the Saudi authorities do not accept civil society's freedom of expression or the autonomy of political activists or human rights defenders, even when it appears compatible with the decisions of those in power.

Women are not allowed to drive before June 2018 and those who violate the Royal order are subjected to fines for driving without a Saudi issued licence. A woman was fined in Hail city for driving without a license and the owner of the vehicle was also fined for allowing someone without a valid driving license to drive his car.

The **crackdown on voices of dissent has intensified**, directed particularly against human rights defenders, activists, intellectuals, journalists and bloggers. While certain figures in civil society have been able to publicly express their commitment to the key principles of human rights, **pointing the finger of responsibility for human rights violations at the authorities** (such as the Home Office, the judicial system or religious bodies) **remains a line that cannot be crossed**. The same applies to condemning specific measures such as decrees, or the existence of political prisoners. **To cross the line exposes the perpetrator to prosecution before the Specialized Criminal Court and to a hefty punishment**, such as imprisonment and even public flogging or the death penalty.

Despite the risks posed, a certain number of Saudi women are, against all odds, taking action to defend human rights outside an organisational framework.

There are currently thousands of women cyber activists in Saudi Arabia. Many operate through anonymous accounts on social media for fear of reprisals. They have a thousand faces and, thanks to social networks, are able to virtually meet, discuss and organise. Some women openly conduct their activities without hiding their identity. They give interviews or publish articles. They even go so far as to publicly state that they campaign for human rights. They include women with no previous history of activism, who are having to deal with untenable personal circumstances and who, in the face of State complicity, are driven to speak out on social media, to call for help, condemn discrimination and push for change. There are others whose activism is more structured and takes place within the human rights or feminist movement. Whatever the circumstances, **all these women take risks and find themselves**

55 See the video (in Arabic): https://www.youtube.com/watch?v=CpYaIB0Dk_Y, interspersed with private interviews with Saudi sources.

56 See Twitter accounts of Saudi women defenders: tweet by Hala Al-Dosari, September 28, 2017: https://twitter.com/Hala_Aldosari/status/913378410633850885; tweet by Maya Al-Amoudi, September 27, 2017: <https://twitter.com/maysaaX/status/913045695887806464>

in a highly vulnerable situation, subject to family pressures, occasional arrests and threats of prosecution, notably before the Specialized Criminal Court.

Several women human rights defenders, notably **M.A.**, were accused of breach of the peace for her human rights activism via Twitter for the abolition of the male guardianship system and held for 104 days in Al-Malaz prison in Riyadh. **A.A.** took part in the campaign for women's rights to drive in 2006⁵⁷, in the campaign against male guardianship⁵⁸ and against domestic violence. The police accused her of wanting to bear witness to D.A.L.'s arrival by publishing photos on social networks such as WhatsApp, and of doing so in order to spread her ideas.

At the beginning of 2014, the Ministry of the Interior forbade **S.B.** from speaking out publicly on the issue of human rights, appearing in the media and communicating with foreign organisations or diplomats, at the risk of being imprisoned or tried under the Anti-terrorism Law. She has suffered regular police harassment. In addition to the ban imposed on her preventing her from speaking out publicly, she was also the target of a travel ban announced by the Ministry of the Interior in December 2014. She was arrested several times by the police, notably on January 12, 2016, when she was with her two-year-old daughter, and was subsequently brought before a prosecutor to be interrogated over her alleged role in maintaining the Twitter account of her husband and imprisoned defender Waleed Abou Al-Khair. She was not released until the following day. Once again, on February 15, 2017, she was summoned to the Jeddah bureau of investigation for an interrogation⁵⁹. The *"questions related to historic subjects concerning [her] activities in the field of human rights and civil rights, including the women's campaign against male guardianship."*⁶⁰

Recommendations

In light of the findings presented in this submission to the CEDAW, and in order to strengthen protection for women human rights defenders in Saudi Arabia, FIDH, GCHR and ALQST make the following recommendations to:

The government of Saudi Arabia to:

1. End the repression of women human rights defenders and in particular:

- Under all circumstances, guarantee the physical and psychological integrity of detained human rights defenders and all human rights defenders in Saudi Arabia;
- Immediately and unconditionally release all detained human rights defenders, given that their detention is aimed at punishing legitimate human rights activities;
- Guarantee the right to a fair trial for all human rights defenders by removing obstacles to access to their lawyers;
- End all forms of judicial harassment against human rights defenders;
- End restrictions on their freedom of movement (including the right to travel abroad), expression, association and peaceful assembly.

57 Ibid.

58 On Twitter, under the hashtag #SaudiWomenWeDemandAnEndtoGuardianship. Source *ibid*.

59 See the Gulf Centre for Human Rights (GCHR) *Saudi Arabia: Prominent human rights defender Samar Badawi interrogated once again*, February 16, 2017 <http://www.gc4hr.org/news/view/1499>

60 See her Twitter account: <https://twitter.com/samarbadawi15/status/831821514819383297>: 'Today's investigation is related to previous issues about my human rights and civil activities including the women's campaign against male guardians.'

2. Guarantee an open environment that is favourable to those wishing to engage in defending women's rights, and in particular:

- Adopt a Criminal Code that clearly defines acts liable to incur criminal responsibility in line with the rights enshrined in the Universal Declaration of Human Rights;
- Revise the Law on Associations and Foundations of December 1, 2015, to enable civil society organisations to work freely and independently without undue interference by the authorities:
 - Replace the procedure of prior authorisation by a notification procedure;
 - Authorise the creation of associations and foundations to promote and protect human rights;
 - Allow members of organisations the freedom to determine their articles of association, their structure and their activities and to take decisions without State interference;
 - Grant organisations and others the right to express their opinion, share information, exchange with the public and make recommendations to governments and to international human rights bodies;
 - Refrain from interfering in the internal affairs of organisations and respect the right to a private life. The authorities should therefore not have the right to overturn decisions and override the activities of an organisation linked to any condition; annul the election of members of an organisation's board; subject the validity of decisions of that board to the presence of a government representative at the meeting; demand that organisations submit reports prior to publication; or demand that organisations submit work plans for approval;
 - Authorise foreign funding and collaboration between Saudi organisations and organisations abroad.

- Abolish the male guardianship system;

- Guarantee the competence, independence and impartiality of the courts in Saudi Arabia; and ensure that religious sources cited in the decisions support women's safety, ability to make informed and independent choices and enforce the state commitments to human rights;
- Revise the Anti-Terrorism Law, royal decree 44, anti-cybercrimes law as well as other criminal laws containing vague provisions to ensure they comply with international human rights norms and, in particular, prevent them from being used for the purposes of repressing human rights defenders;
- Consult civil society, including human rights defenders, on the reforms to be carried out in the country;
- Lift the reservations made to the CEDAW to allow Saudi women to fully enjoy their rights as enshrined in the Convention;
- Ratify the Optional Protocol to the CEDAW;
- Cooperate with and allow access to the country to players from the human rights system of protection: UN representatives, mechanisms and special procedures (notably the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, the Special Rapporteur on the Situation of Human Rights Defenders, the Special Rapporteur on Violence against Women, its Causes and Consequences, the Working Group on the issue of Discrimination Against Women in Law and in Practice and the Working Group on Arbitrary Detention), international and regional NGOs.