

Stakeholder Report for the Universal Periodic Review of Saudi Arabia 2013

“Unfulfilled Promises”

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1. Introduction

This report aims to highlight the main concerns on women's rights in Saudi Arabia for the upcoming Universal Periodic Review in October 2013. The report was prepared and written by independent activists. Various sources have been used, including news reports, written laws, statements of official figures in Saudi Arabia and individual testimonies. Though the government has recently taken some small steps towards reforms concerning women rights, these have not contributed to alleviating the root cause of problems for millions of Saudi women: the institutionalized guardianship system and the gender-segregation policy. Additionally, when reforms are adopted, inadequate steps are taken to ensure effective implementation, rendering them without effect.

2. Observations on the state delegation's presentation to UPR in 2009 (A/HRC/11/23)

Violence against women: Contrary to the statements of the state delegation (§12(a)), no effective mechanism to prevent domestic violence has been implemented and the Protection from Harm Act has not been enacted.

Civil society: The state delegation referred to “1000 civil-society and other institutions concerned with issues relating to the protection of human rights” (§14). These exist as charities operating as governmental organizations. To date, activists and concerned citizens are not allowed to establish independent civil society organizations.

Human rights education: To the best of our knowledge, promotion of human rights education in all curriculum levels, as indicated by the state delegation (§17), particularly in regards to women's rights, has never been implemented. On the contrary, a major conference on women's rights was launched by the

government in 2012, sponsored by Princess Saita Bint Abdulaziz¹. Speakers were predominantly religious male scholars. Conference recommendations emphasized the concept of guardianship and gender segregation as prerequisites for women education or work. It also called for abandonment of the government's commitment to international treaties advocating women rights, as an alien concept to the Saudi Islamic society.

3. Assessment of the status of women's rights in Saudi Arabia

Women's Rights in law

Equality between Saudi citizens, with no discrimination based on gender, is specified in article 8 in the Basic Law of Governance². However, equality between men and women is not respected in practice. For example, a guardian's permission is generally required for women to access governmental services or resources including obtaining official identification documents. Discrimination against women is not explicitly prohibited in laws, policies, or procedures.

Extreme fatwa or religious edicts impact the governmental treatment of women in public policies. Examples include bans on women driving, prohibition of physical education for girls, and discriminatory court rulings in domestic conflicts. In the absence of codification of regulatory laws and a written penal code, women's access to resources and services are conditioned to arbitrary religious opinions and outdated social norms.

Political Participation

In 2011, a Royal Decree allowed women to participate for the first time in municipal elections and to be appointed to the Consultative Council. In 2013, appointed women members were not able to resume their duties until separate spaces are assigned. This enforced gender segregation risks impacting on women members' active engagement in debate and limiting their influence on political decision-making.

Representation of women in public offices in general is still below the minimum 30% threshold recommended by the Beijing protocol³. For example, with the exception of the all-women University of Princess Nora, female professors are not appointed in any higher position beyond the Deputy Dean position.

The right to protest and to peaceful assembly is officially banned, based on a religious Fatwa⁴. Women protesters have been arrested and sometimes beaten. Some were protesting against the neglected state of their campus while others were protesting against the unlawful detention of family members⁵. Activists who organized a national campaign to advocate political participation of women (*Balady Campaign*) had to work without formal authorization⁶. Consequently, difficulties were experienced in convincing the public to join their activities, in getting funds, or in promoting their cause for fear of prosecution.

The Right to Nationality

Saudi women cannot transfer their nationality to their non-Saudi spouses or children. Amendment to Saudi Nationality Act of 2012 maintains a clear discrimination. Wives of Saudi citizens are automatically granted the nationality after marriage and giving birth to a child. Non-Saudi men who are granted the Saudi citizenship can transfer the Saudi nationality to their non-Saudi wives and children. On the contrary, non-Saudi husbands and children of Saudi women can only be granted residence permits. Male children of Saudi Mothers can apply for citizenship upon reaching 18 years of age with some conditions. Female children of Saudi mothers can only apply for Saudi nationality through marriage to a Saudi citizen after giving birth to a child⁷.

Right to Education

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Article 13 of the Basic Law of Governance provides for the government's responsibility in educating citizens without discrimination and helping them acquire the knowledge and skills to become useful members of the society.

However, the permission of the guardian is required to enroll in education. Fathers who either refuse or neglect to enroll their children in education are not punishable by law. Mothers cannot obtain official documentation for their children as fathers do.

Women's application for scholarships abroad is conditioned by the consent and the accompaniment of their guardians⁸.

Physical education (PE) for girls is still prohibited in schools, despite the positive approval to include two women in London 2012 Olympics⁹.

The Ministry of Education has issued a directive to all schools to obtain pre-authorization permission from guardians in order to provide medical assistance in emergencies¹⁰. A high school special-needs student in Taif city died on her way to the hospital after an accident at school and because of the late arrival of her father¹¹.

Concerns of safety and appropriateness of buildings used for girls' education continues. In Jeddah city, two deaths and 32 injuries were reported after a fire incident¹². In Abha city, students organized protest against the neglected state of women's campus¹³.

Economic Participation

The employment rate of Saudi women is among the lowest in the world. In 2012, the Ministry of Labor issued a financial aid program for the unemployed youth; women represented 86% the applicants¹⁴. Approximately 60% of applicants to the aid program from the disabled citizens were females, most were high school graduates¹⁵. Limitations to active economic participation of women include the gender-segregation enforcement, the driving ban, and the requirement of guardian permission. Nevertheless, thousands of women joined the service retail sectors when the Ministry of Labor enforced hiring women only in certain retail jobs dealing with merchandise for women. In response, the religious police issued certain conditions to regulate women's access to work in retailing¹⁶.

The ban on driving, in particular in the absence of safe and reliable public transportation, continues to limit the autonomy of women. In 2011, Manal-Al-Shareef, a single working mother initiated the campaign "Women2Drive"¹⁷, after thousands of concerned citizens unsuccessfully petitioned the Consultative Council for the right to drive. In May 2011, Al-Shareef was held in Dammam prison for nine days until her father pleaded with the King for her release. Women who challenged the ban and drove their cars were subjected to arrest and forced to sign pledges not to drive again. Al-Shareef and two other women activists, Naseema Al-Sadah, and Samar Badawi filed lawsuits against the Ministry of Interior and the Traffic Department, but they have received no response to date.

Although the Ministry of Trade has removed the mandate of male representative or male-manager for Saudi business women, many governmental agencies remain inaccessible to women without a male-representative despite the decision¹⁸.

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Similarly, the Ministry of Labor has revoked the requirement of the permission of a guardian for women to apply for jobs. However, several employers still require women applicants to provide guardian consent, for instance the National Guards Health Affairs and the National Commercial Bank.

Violence against women and girls

Violence against girls and women continue to rise without effective strategies to combat it. There are no laws to coordinate the official response to cases of violence and to protect the victims. In 2011, The National Society for Human Rights received 370 complaints of domestic violence; the majority of them concerned the actions of husbands and fathers. Physical and emotional violence were the most common. In children, girls represented 62% of all cases of violence against children. Fathers were the main perpetrator in 65% of cases.

Fathers responsible for the death of a child can avoid responsibility by paying blood money based on a religious opinion considering fathers – but not mothers – to be forgiven for the murder of their children. This occurred in the case of Lama Al-Ghamdi, a five year old girl who was tortured to death by her father, an Islamic preacher in October 2012¹⁹.

Shelters are either not available in all areas or poorly equipped for women victims and their children. Sometimes, victims are housed in state rehabilitation centers. In addition, due to poor training and lack of procedures or protocols, shelter personnel can subject victims to further risk. Amra Al-Sufyani, an abused wife of a drug addict, was housed in a rehabilitation center in Taif city on the governor's direction. The center's management tried to return Amra back to another member of her family to solve her case despite the apparent risk to her safety. Additionally, no help was provided to Amra to obtain her official documentation or attend her court hearings by the shelter, resulting in a delay of her case hearing and her inability to enroll her child in school.

Women prisoners are not allowed to leave state institutions except in the care of a consenting guardian. Moreover, due to the social stigma in Saudi conservative society, women released into the custody of their families are subjected to various forms of violence, and many are killed. A young man killed his two sisters when exiting a correctional facility in Riyadh after being informed of the moral nature of their crime, being found in a car with two unrelated men²⁰.

Increasingly, young women and girls are escaping from domestic violence to shelters. A total of 1400 women have escaped their families in one year (2012) across the country²¹. Generally, escaping family is illegal and women are treated as prisoners until reconciliation with family succeeds. This is due to the difficulty created by the institutionalized guardianship system. Released women cannot rent, drive, work, or obtain official documentation without their guardians' permission or presence.

Emergency help lines are not operated 24 hours per day, and rarely answered. Additionally, no help is provided to victims inside a place of residence, victims have to go to police stations and hospitals in person to report. Victims' access to help can be limited by the driving ban, inability to leave residence, unresponsive social care workers or police personnel.

Access to Justice

There are major obstacles for women seeking access to justice. For example, police officers often hesitate and sometimes refuse to accept complaints from women without their guardians. The Ministry of Justice does not allow women to use their national ID cards for identification. Instead, each woman requires a male family member or two unrelated men to prove her identity for legal services such as making a power of attorney or filing a law suit. Judges apply strict Islamic opinions in the absence of codified laws.

Family law

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The absence of personal status code and lengthy scheduling of cases complicates resolution of family disputes related to marriage, custody of children, inheritance, or divorce.

The practice of *Lea'an* (Religious annulment of marriage when a man doubts the paternity of his child) remains prevalent in certain area of Saudi Arabia such as Southern region. This subjects children to the risk of having no legal documentation for fear of social stigma, with subsequent lack of access to educational and health services. DNA paternity testing is not enforced; neither are the use of pseudonyms use as happens with children of anonymous parents.

Forced marriages are unregulated and difficult to annul. Women must prove the forced nature of the marriage by impossible measures, including not attending the wedding party or not allowing the husband to consummate the marriage. A total of 62 cases to annul a forced marriage have been filed in the Ministry of Justice in the past 14 years²². Under-age marriage can be difficult to annul in the absence of media or other public interventions.

Unilateral divorce by husbands is widely practiced and not regulated by law to protect women and children from the consequences of arbitrary divorce. *Khulu*, or the possibility of a woman to leave a marriage on condition that she renounces her dowry and all financial support, is enforced excessively when a woman fails to prove harm or abuse by a husband. A special fund has been recently allocated by the government to help women who cannot pay to leave their husbands.

Male guardians can request to annul a marriage -even when the woman approves a husband- based on a mismatch in the family status between a woman and her husband. Judges often rule in favor of guardians even when women are asking for their basic rights. In Medina, a surgeon in her forties was not allowed to marry against the wishes of her father after 10 years of legal proceedings and living in a shelter²³. Fatima Ahmed, a 35 year old dental hygienist, was ordered by the judge to remain in prison if she did not accept to live with her abusive father²⁴.

In some cases, judges qualify cases of women who rebel against the authority of their guardians as “disobedience of parents”, a crime where no evidence is needed but the word of the parent.

Legal practice

Women lawyers cannot apply for a practice permit despite an amendment allowing them to practice after a period of training. Bayan Zahran, a female lawyer and advocate, was denied a permit to work in the Ministry of Justice. A spokesperson justified the rejection as due to the lack of specific places for women applicants and unclear directives²⁵.

Particular vulnerability of women migrant workers

Migrant workers are at higher risk of unlawful imprisonment due to general lack of knowledge of local norms and laws and the communication barrier. Many women prisoners are pregnant maids who have been abused by their employers and have no means of redress. Rizana Nafeek was a 17 years old Sri-Lankan maid who was executed for the death of an infant in her care, following legal proceedings which failed to respect international law²⁶.

Recommendations

1. Harmonization of local laws and policies with the commitments of Saudi Arabian government to international and regional human rights conventions.
2. Urgent measures must be taken to increase women’s access to decision-making positions, to reach a minimum 30% ratio in all public offices and positions.

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3. The Nationality Law should be amended to allow Saudi mothers to transfer their nationality to their husbands and children.
4. Non-governmental organizations and interest groups should be allowed to practice freely and independently. The right to peaceful assembly and freedom of expression should be protected.
5. Saudi Arabia should revoke the institutionalized guardianship system as a prerequisite for women's access to identification, documentation, education, health, work, or other matters.
6. The gender-segregation policy should be reviewed. No official should refuse to accept women citizens' access to services or resources based on the gender-segregation policy, particularly when no other alternatives are available for women in distress.
7. Women's autonomy should be granted unconditionally; including through the lifting of the driving ban, access to unconditional ownership and ability to rent, which are crucial for women's security and safety.
8. Codification of personal status codes should be a priority to grant women equal status in marriage and family. Shared authority in the family should be enacted and enforced instead of husbands' exclusive authority over the family's decision making and the children lives.
9. A law and a national strategy on combating violence against women are necessary to protect women and deter abusers. A registry of violence cases and publications of research findings are crucial for prevention and management.
10. Deviation from social norms and mores should not have legal consequences. Acts of legal offenses should be differentiated from acts of personal preferences and individual choices of moral behaviors and attitudes. Exposing women to risk of retribution by their families due to individual acts of personal choices such as gender mixing or choice of residence away from home should be avoided due to risk of their safety and security.
11. The Ministry of Social Affairs and the Ministry of Interior should collaborate to release women who finished their sentences and victims of domestic abuse into safe transient houses and encourage women to lead independent, safe lives away from the abuse of their families.
12. Migrant workers should be protected by abolishing the sponsorship system and improving the effective access of women migrant workers to meaningful redress mechanism.