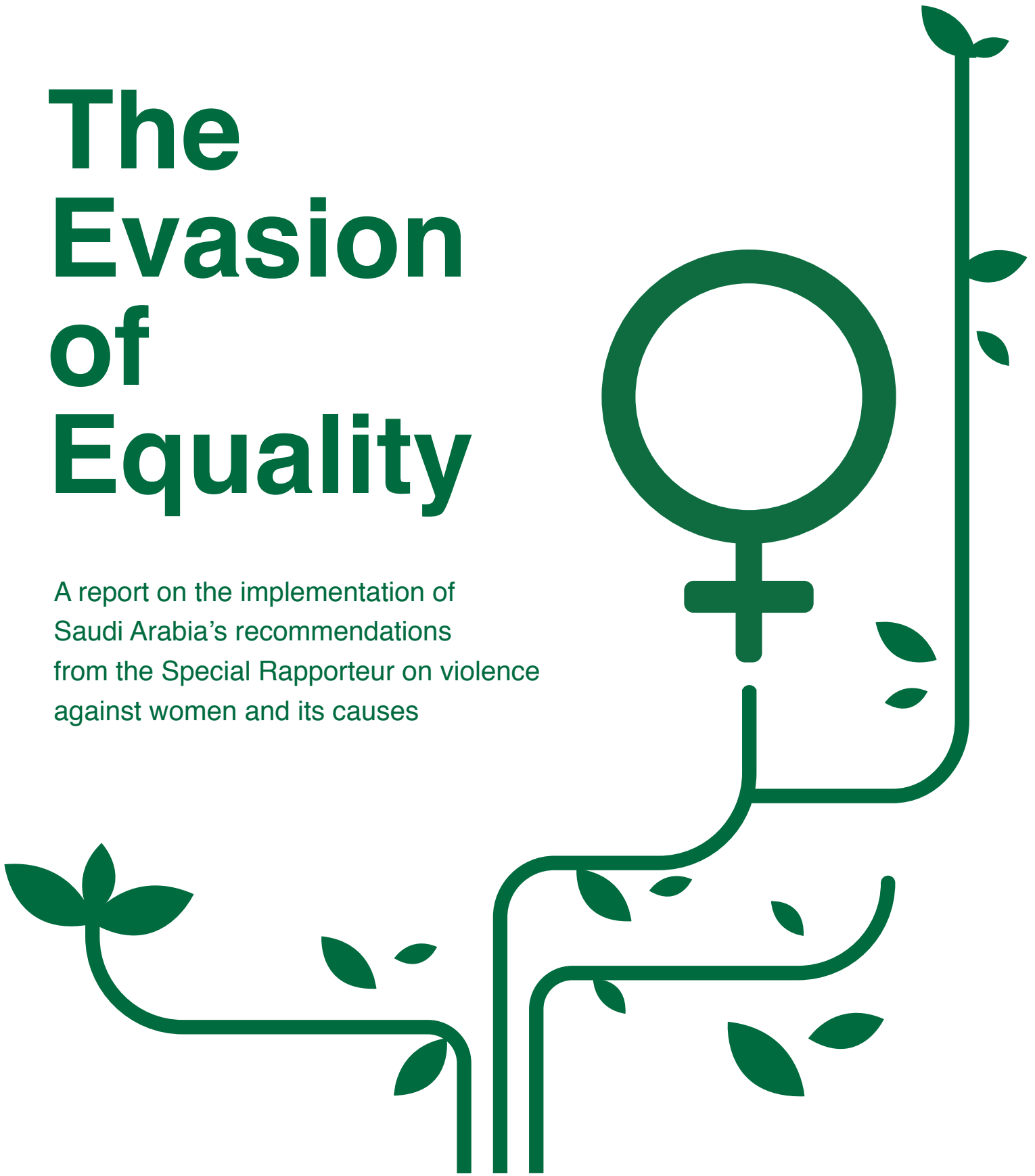


The Evasion of Equality

A report on the implementation of Saudi Arabia's recommendations from the Special Rapporteur on violence against women and its causes



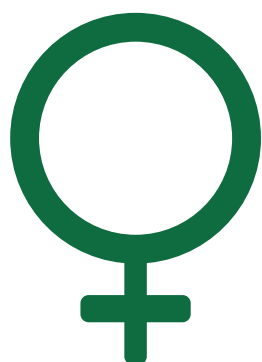
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The Evasion of Equality



A report on the implementation of Saudi Arabia's recommendations from the Special Rapporteur on violence against women and its causes

APRIL 2015

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The Bahrain Institute for Rights and Democracy is a London, UK based non-profit organization focusing on advocacy, education and awareness for the calls of democracy and human rights in Bahrain.

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FOREWORD

Critiquing the state of women's rights or even human rights in general in Saudi Arabia can result in situations navigable only with extreme difficulty. The Saudi government is well-experienced in deflecting criticism without addressing it head-on, oftentimes stating that any such remarks constitute violations of the country's sovereignty and unfair denigration of Sharia. In March 2015, the Foreign Minister of Sweden denounced the subjugation of women in Saudi Arabia. Over the course of the following two weeks, the Saudi government succeeded in changing the subject of the debate from the state of women's rights and equality in its country to what it characterized as Swedish interference in its domestic affairs and debasement of Islamic Sharia law.

Saudi Arabia's response in this scenario was not unprecedented. In November 2007, the government cited similar reasons when Western sources criticized a Saudi judicial ruling imposing 200 lashes on a rape victim. In March 2014, Saudi Arabia withdrew diplomatic representation from Qatar over sovereignty issues, and in 2003 the Saudi defense minister condemned international pressure to change Saudi education policy as "outside interference" in domestic Saudi affairs.

The international community seems largely content to allow Saudi Arabia to deflect. When Saudi Arabia employed the strategy against Sweden's Foreign Minister, the Swedish king felt compelled to intervene in order to "recreate good relations" with the Middle Eastern kingdom. Upon closer examination of both the concept of sovereignty and the wider implementation of Sharia, however, the Saudi argument falls apart, in the process exposing itself as a ploy by which Saudi Arabia can continue abusing the rights of its citizens with little consequence from the international community.

Critiquing a state's human rights record is never a violation of that state's sovereignty. The concept of sovereignty in international law applies very strictly to actual coercion, without interfering with any state's right to free expression. For criticism to amount to a sovereignty violation, it must carry force behind it, be it physical, economic, or otherwise. In this case, words are not bullets. Criticism of Saudi Arabia's human rights record is not a violation of sovereignty.

Further, leveling criticism at the government of Saudi Arabia is not at all the same as criticizing Sharia. Many other Muslim governments throughout the world, both past and present, have managed to find ways to incorporate women's equality into their own interpretations of Sharia. For all of its other human rights abuses, the Kingdom of Bahrain, Saudi Arabia's Sharia-state neighbor just across the causeway, has never employed the guardianship system and allows women to drive cars. In Malaysia, another country that has adopted Sharia, women own property, run businesses, and participate fully in public life.

Sharia does not preclude gender equality even within Islamic scholarly circles, as academics and religious authorities around the world have repeatedly challenged the idea that Islam mandates feminine submission. With the depth of interpretation available for Sharia scholars and practitioners alike, Saudi Arabia's claim that criticizing its stance on women's equality is equivalent to criticism of Sharia, falls apart. And speaking personally as a practicing Muslim with two Muslim daughters, I find the Saudi use of Sharia to deflect criticism indefensible, a ploy to shield the Saudi government from compulsion towards change and empowerment.

As this report takes aim at Saudi practices regarding the subjugation of women within the country, it does so without violating the sovereignty of the Saudi Arabian State and without debasing the sanctity of Sharia. In order for Saudi Arabia to move into modernity, it must discontinue its practice of discarding constructive criticism and fully incorporate international human rights standards, including those pertaining to gender equality and women's rights.

Husain Abdulla

Executive Director, ADHRB

A NOTE ON SHARIA

Any critique of the legal system and treatment of women in Saudi Arabia necessitates discussion of Sharia; before getting into a discussion of what the report is, we first want to speak about what the report is not. This report is not in any fashion intended to level criticism towards Sharia in general. Sharia, as employed by many modern States and as espoused by many modern Muslim scholars around the globe, is a legitimate and justiciable source of law, and several interpretations of Sharia are employed positively throughout the world.

The Saudi Arabian government espouses *Wahabbi* Islam based on an offshoot of the *Hanbali* School's interpretation of Sharia. The *Wahabbi* interpretation of Sharia necessitates the abandonment of precedent and jurisprudence, providing individual Saudi judges with wide discretion in making judicial decisions. The result has been the creation of an *ad hoc* system of justice discriminatory towards its women and intolerant of its accused; a system that forgives corruption while criminalizing dissent. Any criticism directed at Sharia by this report is aimed at that system and the Saudi interpretation creating it, and not at Sharia as a whole.

METHODOLOGY

This report is the product of significant research performed by interlocutors on the ground as well as an extensive literature review of sources including news articles, government and NGO reporting, and scholarly articles. Due to the danger of reporting on human rights abuses in Saudi Arabia, this report does not provide the identities of its sources on the ground. Anonymized information concerning our sources is available upon request.

ABBREVIATIONS

| | |
|--------------|--|
| ACPRA | Saudi Civil and Political Rights Association |
| ADHRB | Americans for Democracy and Human Rights in Bahrain |
| BIP | Saudi Bureau of Investigation and Prosecution |
| BIRD | Bahrain Institute for Rights and Democracy |
| CEDAW | Convention on the Elimination of all Forms of Discrimination Against Women |
| ICCPR | International Covenant on Civil and Political Rights |
| MOI | Saudi Ministry of Interior |
| NGO | Non-Governmental Organization |
| NSHR | Saudi National Society for Human Rights |
| UN | United Nations |

1. INTRODUCTION

The Special Rapporteur on violence against women and its underlying causes, Dr. Yakin Ertürk, visited Saudi Arabia in February 2008, producing her report on her visit a year later in April 2009. She arrived in the country at the invitation of a Saudi government notorious for its strict treatment of women; the World Economic Forum ranked Saudi Arabia 130 of 134 countries surveyed in 2009 in terms of women's equality.¹

In writing her report on the country, the Rapporteur interpreted her mandate broadly. Concluding that the position of Saudi women in the economic and political spheres of Saudi life influenced the situation of violence against women in the country, the Rapporteur issued recommendations not just touching on violence but also spearing the underlying causes of women's relatively weak position in Saudi society. Thus, while a substantial swathe of her recommendations concerned such issues as criminalizing domestic violence or better prosecuting rape, she also took aim at Saudi political and economic structures, recommending among other things that women be given leadership positions in the government and that the government lift any laws limiting a woman's ability to work.

This section of the report evaluates Saudi Arabia's unsatisfactory implementation of the Rapporteur's recommendations. While the government has recently criminalized domestic violence in the Basic Law, enforcement and implementation of the law remains virtually non-existent, and women continue to be punished for reporting spousal rape. For the first time, women have begun to receive appointments to the prestigious but ineffective Shura Council, but they remain absent from the far more influential Council of Ministers. In some areas, the government has refused to act at all; the crime of rape is still absent from the Basic Law, left rather to an interpretation of Sharia that derides jurisprudence in favor of the discretion of a universally male judicial system. These responses typify the Saudi implementation of the Rapporteur's recommendations: the little progress made since 2009 has been largely cosmetic, and does not strike at the heart of the issue.

¹ Hausmann, Ricardo, Laura Tyson, and Saadia Zahidi. "The World Gap Report 2009." 2009. Accessed March 31, 2015. http://www3.weforum.org/docs/WEF_GenderGap_Report_2009.pdf.

2. RECOMMENDATIONS

i. Women's Empowerment and Public Sphere Participation

INTRODUCTION

In her report, the Special Rapporteur made nine recommendations under the area of women's empowerment and public sphere participation. During her visit, she surveyed the scope of women's participation in the public sphere including employment, education and the judiciary. She also examined the country's male guardianship system and its role in stifling women's progress in the country.

RECOMMENDATIONS

Incorporate in law the principle of equality between women and men, and a definition of discrimination based on sex.

The law in Saudi Arabia relies fundamentally on the country's adopted *Wahhabi* interpretation of Islamic Sharia. As noted by the Rapporteur, the laws are unspecific and mostly unwritten. Therefore, there is a detrimental lack of uniformity in the legal and judicial processes. This becomes especially problematic in cases of gender equality, where women often fall victim to a judiciary process that is acutely discretionary.

Saudi Arabia's Basic Law of Governance has yet to define discrimination based on sex.² To the contrary, Saudi Law often institutionalizes discrimination against women. The Law of Procedure before Sharia Court designates women's autonomy as equal to that of a minor³ and Saudi Arabia's nationality laws prevent women from passing citizenship to their children.⁴ The law also punishes women for behaving in a fashion deemed unacceptable by Saudi society.

Saudi law places strict limitations on a woman's right to travel. The law famously prohibits women from driving in Saudi Arabia.⁵ A woman must obtain permission from her guardian before she is allowed to leave the

2 "The Basic Law of Governance." Royal Embassy of Saudi Arabia. March 1, 1992. Accessed March 31, 2015. http://www.saudiembassy.net/about/country-information/laws/The_Basic_Law_Of_Governance.aspx.

3 "Law of Procedure before Sharia Courts - Saudi Arabia." University of Minnesota Human Rights Library. (August 19, 2000). Accessed March 31, 2015. http://www1.umn.edu/humanrts/research/saudi-arabia/law_of_procedure.html.

4 "Background Note On Gender Equality, Nationality Laws and Statelessness 2014." UNHCR. March 7, 2014. Accessed March 31, 2015. <http://www.refworld.org/pdfid/532075964.pdf>.

5 "Calling to Ease Saudi Woman Driving Ban." Al Jazeera. November 8, 2014, Middle East sec. Accessed March 31, 2015. <http://www.aljazeera.com/news/middleeast/2014/11/call-ease-saudi-women-driving-ban-2014118783043576.html>.

country.⁶ Technically, women are prohibited from utilizing taxis or buses, although this law is unenforced in some areas of the country.⁷

The law also limits the professions in which a woman can engage. Interlocutors report that, while the government has recently issued eight licenses for female lawyers, women still cannot appear before a court in the Kingdom. The government has yet to appoint a female judge.

Establish an independent national machinery for the advancement of women, including with prerogatives to intervene in cases of violence against women.

There are no independent national mechanisms for the advancement of women. The state-run Human Rights Commission (HRC) and the National Society for Human Rights (NSHR) receive complaints for all human rights related cases, including those involving violence against women. The HRC and NSHR provide assistance to the victims and may occasionally advocate on their behalves.⁸ However, there is no government or legal body dedicated exclusively to women's issues.

Take measures, including through awareness-raising campaigns, to end the practice of guardianship and abolish existing legal provisions that require a guardian's authorization, such as those pertaining to women's travel or access to services or employment. Ensure public and private institutions, including health services, private businesses and the travel industry, are notified of the changes and monitor their actions in this regard.

The guardianship system remains in full practice in Saudi Arabia. A woman's male guardian, who can be the father, husband, uncle, or son,⁹ makes most of the woman's decisions. After marriage, guardianship rights transfer from the previous guardian to the husband. In the case of women with no qualifying relatives, a judge from a Personal Status court assumes the role of the guardian.¹⁰

This system affects every facet of a Saudi woman's life. In order to leave the country unaccompanied by a guardian, women and minors must obtain a permit proving that the guardian is aware of their travel. Female holders of a valid Saudi passport cannot leave the country without the formal consent of their guardian. According to the General Directorate of Passports, a female cannot travel outside the country without first obtaining a government permit signed by her guardian. In the case that the guardian is out of the country, the

6 Passport General Department, Kingdom of Saudi Arabia. Accessed March 31, 2015. <http://www.gdp.gov.sa/default.aspx>

7 "Saudi Arabia - Driving and Public Transportation." Expat Focus. Accessed March 31, 2015. <http://www.expatsfocus.com/expatriate-saudi-arabia-driving>.

8 Kerry, John. "Country Reports on Human Rights Practices for 2013: Secretary's Preface." 2013. Accessed March 31, 2015. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

9 Macintosh, Josephine. "United Nations Human Rights Council, 25th Session: Universal Periodic Review Report – Saudi Arabia." Center for Inquiry. 2014. Accessed March 31, 2015. http://www.centerforinquiry.net/docs/opp/CFI_UNHRC_UPR_Saudi_Arabia.pdf.

10 "Personal Status Courts." Ministry of Justice Kingdom of Saudi Arabia. Accessed March 31, 2015. <http://www.moj.gov.sa/ar-sa/Courts/Pages/personallyCourt.aspx>.

government directs the guardian to visit a Saudi embassy in order to authorize a woman's travel.¹¹ Additionally, male guardians have the power to "blacklist" women and dependents from leaving the country in cases of custody disputes.¹²

In November 2012, the Ministry of Interior launched a text messaging service that automatically informs guardians when their female dependents cross the Saudi border. This tracking system aims to inform the guardians of the whereabouts of their female dependents and alert them of their travel. Taking into account that only women who have obtained consent from their guardian can travel alone in the first place, the service is redundant and reinforces female dependency. The authorities announced a temporary suspension of the service in January of 2014 following public criticism.¹³ An official from the General Directorate of Passports stated in an interview that the tracking service has become optional.

Women must also obtain a guardian's consent to marry.¹⁴ In the case of guardians who would deny the right to marriage without plausible grounds, women may submit a complaint to a court. However, many women are discouraged to resort to this practice for fear of retaliation from their families. Moreover, considering that the justice system is largely biased against women, such cases are often futile. Samar Badawi, a Saudi women's rights activist, sued her father for refusing to let her marry. Her father countersued her for being "disobedient to her guardian." After a long battle and seven months of imprisonment, Samar won her case.¹⁵

Many institutions necessitate a guardian's consent even when not required by law. For example, regulations for medical practice do not stipulate that women must obtain a guardian's consent prior to undergoing medical procedures.¹⁶ However, many hospitals demand a guardian's consent before they admit a woman to the hospital.¹⁷ In 2012, a medical team had to postpone the amputation of a woman injured in an accident because she had no guardian present at the time, as her guardian had perished in the same accident.¹⁸ The Saudi government does not appear to be taking significant action towards countering this phenomenon.

11 Id.

12 Kerry, John. "Country Reports on Human Rights Practices for 2013: Secretary's Preface." 2013. Accessed March 31, 2015. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

13 Criado, Elisa. "Saudi Authorities Stop Text Message Trafficking of Woman for Now." The Independent, (January 16, 2014), World sec. Accessed March 31, 2015. <http://www.independent.co.uk/news/world/saudi-authorities-stop-textmessage-tracking-of-women-for-now-9065486.html>.

14 "Executive Summary." 2013 Human Rights Reports: Saudi Arabia. 2013. Accessed March 31, 2015. <http://www.state.gov/j/drl/rls/hrrpt/2013/nea/220374.htm>.

15 "Saudi Arabia: Where Fathers Rule and Courts Oblige." Human Rights Watch. October 18, 2010. Accessed March 31, 2015. <http://www.hrw.org/news/2010/10/18/saudi-arabia-where-fathers-rule-and-courts-oblige>.

16 Saudi Arabian National Society for Human Rights. نظام مزاولة المهين الصحية ولائحته التنفيذية. Accessed 13 April 2015. http://nshr.org.sa/wp-content/uploads/2013/10/529_PDF1.pdf

17 "تحقيق، الرياض. «موافقة ولي الأمر على إجراء عملية للمرأة».. الحقيقة غائبة" Al Riyadh. February 6, 2011. Accessed March 31, 2015. <http://www.alriyadh.com/601820>

18 "Saudi Arabia, World Report 2013". Human Rights Watch. 2013. Accessed March 31, 2015. <http://www.hrw.org/world-report/2013/country-chapters/saudi-arabia>.

Facilitate the procedure for women to obtain an identity card and raise awareness in this regard.

Since the Rapporteur's visit, the Saudi government has made evident strides on this issue. In March 2013, the Council of Ministers passed a new law mandating that women obtain identification cards.¹⁹ As stated in the law, "A Saudi woman must have a national ID card on the basis of a phased plan, but without exceeding seven years. Afterwards, a national identity card shall be the only way to prove her identity." Previously, women had to rely on *Bitaqat Alaalia* [family book] as a form of identification. A family book includes the guardian's female dependents and minor male dependents.

According to the Ministerial Agency of Civil Affairs' procedures for issuing new identification cards to women, "(an) applicant must present herself along with her husband, father or legal guardian."²⁰ Female holders of identification cards may travel within the GCC member states without a passport. However, a guardian's consent is still required to leave the country.²¹ In April 2014, the General Directorate of Passports announced that no new passports will be issued for women who do not possess identity cards.²²

Establish the facilities and mechanisms for women's equal participation in all public and private institutions, including law practices and the judiciary.

With no women judges, women's participation in the judiciary is virtually nonexistent.

Since the Rapporteur's visit, the country has seen some progress in including women in the practice of law. In October 2013, the government passed a law allowing women to receive licenses to practice law.²³ The first female legal office in the country opened in early 2014.²⁴ Nonetheless, in legal proceedings the testimony of women equals half that of a man,²⁵ and interlocutors report that female lawyers suffer extreme discrimination when appearing before court, with judges in some cases not allowing women to represent clients in the courtroom.

Concerning women's participation in national legislative bodies, on 11 January 2011 the king issued a historic royal decree allowing women to sit on the Shura Council (*Majlis al-Shura*), the country's consultative

19 Abuzaid, Jassim. "IDs a Must for Saudi Women." Arab News. March 26, 2013. Accessed March 31, 2015. <http://www.arabnews.com/news/446108>.

20 "Recent News." Ministry of Interior Kingdom of Saudi Arabia. Accessed March 31, 2015. http://www.moi.gov.sa/wps/portal/civilaffairs/tut/p/b1/jc_LCoMwEAXQb_ELZuKkYpY-ExfVhkgf2ZQsigg-oJR-f5XapdrZDZw7zAULNxaESEIME1zBDu7dNu7VjoPr5t0Gd1meDUIFTJZxioUWCQ8rg5L8Cdw-mECNmImYRopiBymvtG06Y4X95XJloN2_cEy5gN1nN9gBfAFb-MWU6iXLUIqcHoX6fLGCr6PfCepNSjf0Detvl.

21 "Saudi Women Free to Travel Across GCC with IDs: Report." Al Arabiya. September 19, 2012. Accessed March 31, 2015. <http://english.alarabiya.net/articles/2012/09/19/238953.html>; for more information, please see section on "Guardianship".

22 "No Passport for Saudi Women Without IDs." Al Arabiya. April 19, 2014. Accessed March 31, 2015. <http://english.alarabiya.net/en/News/middle-east/2014/04/19/No-passport-for-Saudi-women-without-IDs.html>.

23 Miley, Cynthia. "Saudi Arabia Permits First Women Lawyers to Practice Law." JURIST. October 7, 2013. Accessed March 31, 2015. <http://jurist.org/paperchase/2013/10/saudi-arabia-permits-first-women-lawyers-to-practice-law.php>.

24 "First Female Lawyer's Office Opens in Saudi Arabia." Al Arabiya. January 3, 2014. Middle East sec. Accessed March 31, 2015. <http://english.alarabiya.net/en/News/middle-east/2014/01/03/First-female-lawyer-s-office-opens-in-Saudi-Arabia.html>.

25 "Executive Summary." 2013 Human Rights Reports: Saudi Arabia. 2013. Accessed March 31, 2015. <http://www.state.gov/j/drl/rls/hrrpt/2013/nea/220374.htm>.

council.²⁶ All members of the council are appointed by the king and not elected. Following the decree, three women were appointed as “Deputy Chairpersons” of three committees in the al-Shura, including for the Human Rights and Petitions Committee, the Information and Cultural Committee, and the Health Affairs and Environment Committee. Despite this progress, women still remain a significant minority in Saudi politics. The decree allowing women to join the Shura Council limited their numbers to 20% of the council’s composition.²⁷ Further, the highest government appointment held by a woman is deputy minister of education. In 2009, Nora al-Fayez became Saudi Arabia’s first and thus far only female deputy minister.²⁸

Women may be making progress in establishing themselves in the private sector. In 2012, Saudi women participated in the Olympics for the first time.²⁹ A Saudi princess owns a business in Riyadh, and at one point led a team of women to hike Mount Everest.³⁰ In February 2014, Somayya Jabarti made history by becoming the first woman in Saudi Arabia to be appointed as Editor-In-Chief of a national paper. She now heads the English daily paper *Saudi Gazette*.³¹ However, women continue to make up only 30% of public sector employees,³² and the female unemployment rate reached as high as 34% in 2013³³ - over ten times higher than the male unemployment figure of 3.1% in 2012.³⁴

Take the necessary measures to enable women to exercise their right to vote and to stand for election in future elections.

The first municipal elections in Saudi Arabia took place in 2005.³⁵ The government did not allow women to vote or run.³⁶ Following a two-year delay, a second election was held in September 2011;³⁷ women were once

26 “Saudi Arabia: Women to Vote, Join Shura Council.” Human Rights Watch. September 26, 2011. Accessed March 31, 2015. <http://www.hrw.org/news/2011/09/26/saudi-arabia-women-vote-join-shura-council>.

27 Id.
Council.

28 Borger, Julian. “Saudi Arabia Appoints First Female Minister.” The Guardian. February 15, 2009. Accessed March 31, 2015. <http://www.theguardian.com/world/2009/feb/16/saudi-cabinet-woman-minister>.

29 “Unshackling Themselves: Saudi Women Are Gaining Ground, Slowly.” The Economist. May 17, 2014. Accessed March 31, 2015. <http://www.economist.com/news/middle-east-and-africa/21602249-saudi-women-are-gaining-ground-slowly-unshackling-themselves>.

30 Id.

31 Dehghan, Saeed. “Saudi Arabia’s First Female Editor of National Newspaper Appointed.” The Guardian, (February 17, 2014), Middle East sec. Accessed March 31, 2015. <http://www.theguardian.com/world/2014/feb/17/saudi-arabia-first-female-editor-national-newspaper>.

32 Schreiber, Uschi. “Opening Doors for Women Working in Government.” Worldwide Index of Women as Public Sector Leaders, (2013). Accessed March 31, 2015. [http://www.ey.com/Publication/vwLUAssets/EY_-_Worldwide_Index_of_Women_as_Public_Sector_Leaders/\\$FILE/EY-Worldwide-Index-of-Women.pdf](http://www.ey.com/Publication/vwLUAssets/EY_-_Worldwide_Index_of_Women_as_Public_Sector_Leaders/$FILE/EY-Worldwide-Index-of-Women.pdf).

33 Jiffry, Fadia. “Unemployment Rate Among Saudi Women Hits 34%.” Arab News. April 23, 2014. Accessed March 31, 2015. <http://www.arabnews.com/news/560096>.

34 “Unemployment, Male (% of Male Labor Force) (Modeled ILO Estimate).” The World Bank. 2015. Accessed March 31, 2015. <http://data.worldbank.org/indicator/SL.UEM.TOTL.MA.ZS>.

35 Al-Omran, Ahmed. “Saudi Arabia’s Municipal Elections.” Global Voices. May 2, 2005. Accessed March 31, 2015. <http://globalvoicesonline.org/2005/05/02/saudi-arabias-municipal-election/>.

36 “Saudi Arabia.” U.S. Department of State. Accessed March 31, 2015. <http://www.state.gov/documents/organization/160475.pdf>.

37 “Saudi Local Elections Postponed.” Carnegie Endowment for International Peace. May 21, 2009. Accessed March 31, 2015.

again barred from participating.³⁸ In protest, many women defied the ban and went to the polls to attempt to register.³⁹ Later that year, King Abdullah issued a royal decree granting women the right to vote and run in the municipal elections scheduled to be held in 2015.⁴⁰ In September 2014, the Ministry of Social and Municipal Affairs announced the postponement of the 2015 elections to 2017.⁴¹ As a result, although the government has ostensibly committed to allowing women to vote in municipal elections, women have yet to practice their right to vote in Saudi Arabia.

Expedite the implementation of the Eighth Development Plan objectives regarding women's employment and education, including developing training services and increasing the enrolment of women and girls in the sciences, and in applied and vocational specializations in secondary and higher education.

The Eighth Development Plan was the eighth in a series of five-year development plans issued by the Saudi government, covering the period from 2005 to 2009. A comprehensive plan for the development of the Kingdom, the Development Plans pay specific attention to the role of women in Saudi society. Because the plan is so meticulous, a thorough review of the implementation of the Eighth Development Plan's goals for Saudi women would require more extensive analysis than is suitable for this report. As such, this report will instead briefly touch upon the implementation of the Eighth Development Plan while also making mention of the goals of its successor, the Ninth Development Plan.

The Eighth Development Plan reviewed the participation of women in the Saudi economy, paying special attention to the role of women within Saudi development. Some of the primary objectives of the Eighth Development Plan with regards to women included: expanding job opportunities beyond the government sector, which provided the majority of women's jobs; expanding the literacy rate for women; reducing female unemployment; and removing constraints on the female participation in public life.⁴² The success of the government in these goals has been somewhat mixed. Remarkably, Saudi Arabia reported an adult female literacy rate of 91% in 2013,⁴³ significantly higher than the 50% estimated literacy rate of the same population in 2005.⁴⁴ The number becomes even more impressive when examining the literacy rate of school-age girls,

38 Stack, Liam. "Saudi Men Go to Polls; Women Wait." *New York Times*. September 29, 2011. Accessed March 31, 2015. http://www.nytimes.com/2011/09/30/world/middleeast/saudi-men-vote-in-elections-for-local-advisory-councils.html?_r=0

39 Shaheen, Abdul Nabi. "Saudi Women Defy Ban to Register for Polls." *Gulf News*. April 26, 2011. Accessed March 31, 2015. <http://gulfnews.com/news/gulf/saudi-arabia/saudi-women-defy-ban-to-register-for-polls-1.799161>.

40 Khalife, Nadya. "Getting the Vote Could Herald Real Change for Saudi Women." *Human Rights Watch*. September 29, 2011. Accessed March 31, 2015. <http://www.hrw.org/news/2011/09/29/getting-vote-could-herald-real-change-saudi-women>.

41 "وزير الشؤون البلدية يقرر تأجيل مشاركة المرأة في الانتخابات البلدية إلى 2017." *دار الأخبار*. Accessed March 31, 2015. http://www.daralakhbar.com/articles/4520224-%D9%88%D8%B2%D9%8A%D8%B1_%D8%A7%D9%84%D8%B4%D8%A4%D9%88%D9%86_%D8%A7%D9%84%D8%A8%D9%84%D8%AF%D9%8A%D8%A9_%D9%8A%D9%82%D8%B1%D8%B1_%D8%AA%D8%A3%D8%AC%D9%8A%D9%84_%D9%85%D8%B4%D8%A7%D8%B1%D9%83%D8%A9_%D8%A7%D9%84%D9%85%D8%B1%D8%A3%D8%A9_

42 The Eighth Development Plan. 1425-1430 H ed. Vol. Kingdom of Saudi Arabia Ministry of Economy and Planning. 2005. [http://planipolis.iiep.unesco.org/upload/Saudi Arabia/Saudi_Arabia_Eighth_Development_Plan.pdf](http://planipolis.iiep.unesco.org/upload/Saudi%20Arabia/Saudi_Arabia_Eighth_Development_Plan.pdf).

43 "Literacy Rate, Adult Female (% of Females Ages 15 and Above)." *The World Bank*. Accessed March 31, 2015. <http://data.worldbank.org/indicator/SE.ADT.LITR.FE.ZS>.

44 Hamdan, Amani. "Women and Education in Saudi Arabia: Challenges and Achievements." *International Education Journal*, 2005, 42-64. Accessed March 31, 2015. <http://files.eric.ed.gov/fulltext/EJ854954.pdf>.

which UNICEF reports as 97%.⁴⁵ Clearly, Saudi Arabia is making significant strides in ensuring female literacy.

Saudi Arabia has enjoyed far more limited success in securing female employment and encouraging employment in the private sector. The Ministry of Education remains the largest employer of women, with 83.4% of employed women in the country working in the academic and education sectors. Additionally, female unemployment in the Kingdom rose from just over 15% at the beginning of the period almost 34% in 2013,⁴⁶ in part due to the maintenance of laws limiting female vocation. While this may be because more women are participating in the workforce, it also shows that jobs are not keeping pace with the expanding labor market.

The government has recently concluded implementing its Ninth Development Plan,⁴⁷ issuing the 10th Development Plan in early 2015. As regards the development of women, the 10th Development Plan builds on the goals of the 9th, naming the promotion of the effective participation of women in the development of Saudi society as a significant goal.⁴⁸ The 10th Development plan continues to promote women's participation in the private sector workforce, a goal that the government largely failed to meet during the 9th iteration.

Overall, government implementation of the 8th and 9th Development Plan was mixed. The sharp rise in the adult female literacy rate must be commended, and Saudi Arabia's apparent commitment to the literacy of school-age girls is admirable. However, the government must continue its efforts towards encouraging female employment in the private sector and repealing laws limiting female vocation if it hopes to combat the steep female unemployment rates in the country.

Repeal or amend provisions in labour-related codes/regulations, such as Council of Labour Force, No. 1/19M/1405 (1987), which limit women's access to employment.

Since the release of the Rapporteur's report, some of the restrictive provisions have been omitted from the Labor Code, although they have not been officially repealed.⁴⁹ On the other hand, newer problematic regulations were introduced. The current governing regulations for women's employment provide that women may only work in fields "suitable to their nature,"⁵⁰ and the law specifically prohibits female employment in hazardous jobs or industries. Additionally, the Minister of Labor may determine at his discretion the suitability of professions for feminine employment. For positions deemed detrimental to the health of a woman or likely

45 "Statistics: Saudi Arabia." UNICEF. Accessed March 31, 2015. http://www.unicef.org/infobycountry/saudiarabia_statistics.html

46 Jiffry, Fadia. "Unemployment Rate among Saudi Women Hits 34%." Arab News. April 23, 2014. Accessed March 31, 2015. <http://www.arabnews.com/news/560096>.

47 "Brief Report on the Ninth Development Plan." Kingdom of Saudi Arabia Ministry of Economy and Planning 1431/32-1435/36. Accessed March 31, 2015. https://chronicle.fanack.com/wp-content/uploads/sites/5/2014/archive/user_upload/Documenten/Links/Saudi_Arabia/Report_Ninth_Development_Plan.pdf.

48 "Objectives of the 10th Development Plan." Ministry of Economy and Planning, Kingdom of Saudi Arabia. Accessed March 31, 2015. <http://www.mep.gov.sa/themes/BlueArc/index.jsp;jsessionid=63868E1CE01B60A525B54919E8DA9888.gamma?event=View&ViewURI=/inetforms/themes/clasic/article/articleView.jsp;jsessionid=63868E1CE01B60A525B54919E8DA9888.gamma&Article.ObjectID=119>.

49 "Saudi Labor Law." 2008. Accessed March 31, 2015. <https://docs.google.com/a/adhrb.org/document/d/1sOFgjGzilZ5WGesIKvww42AMsaPVv7BqbMDLduZSOzQ/edit>.

50 "Saudi Labor and Workmen Law." The Saudi Network. Accessed March 31, 2015. http://www.the-saudi.net/business-center/labor_law.htm.

to expose a woman to specific risks, women's employment shall be prohibited or restricted "under certain terms."⁵¹ The law also explicitly forbids women from working in mines or quarries.⁵²

Women are still confronted with crippling restrictions in employment, including stern gender segregation and the precondition of a male guardian's consent prior to obtaining employment. In a sign of slow progress, Saudi Ministry of Labor issued a number of decrees in 2012 concerning professions for which women do not need a guardian's consent, including positions in clothing stores, amusement parks, food preparation, and as cashiers (although women in such positions may still only serve other women).⁵³ However, women still require consent from their guardian before obtaining employment in the vast majority of positions or career tracks in the country.⁵⁴

Gender segregation is still widely and strictly enforced in public facilities, employment, and education, thereby limiting employment opportunities for women. Strict segregation provisions were removed from the amended labor law in 2005. However, the government backtracked on its progress in 2012 when a royal decree specifically enforcing gender segregation in the workplace was reintroduced. While the government has recently introduced extremely limited exceptions to this policy, most notably at medical schools and the King Abdulla University of Science and Technology, gender segregation remains the norm for broad swathes of the population,⁵⁵ and those who do not adhere may face stiff fines.⁵⁶

In education, some fields of study are still unavailable to women and segregation in employment further limits women's opportunities.⁵⁷ According to ADHRB's contacts on the ground, female engineers are not allowed to work in the field and they are confined to tasks that do not require being outdoors. Chemical engineers at Saudi ARAMCO, for example, cannot work in the oil fields or on oil rigs, unlike their male counterparts.

In June 2011, the Saudi King issued a royal decree banning men from working in lingerie shops and allowing women to work in retail. The law was not enforced until the following year,⁵⁸ when it became fully implemented. Violations are taken seriously; in August 2014, Saudi authorities shut down 27 lingerie shops in Dammam for not complying with the new law.⁵⁹

51 "Saudi Labor Law." 2008. Accessed March 31, 2015. <https://docs.google.com/a/adhrb.org/document/d/1sOFgjZzilZ5WGeslKvww42AMsaPVv7BqbMDLduZSOzQ/edit>.

52 Id.

53 "Saudi Clerics Issue Fatwa Against Female Supermarket Cashiers." The Clarion Project. February 20, 2013. Accessed March 31, 2015. <http://www.clarionproject.org/news/saudi-clerics-issue-fatwa-against-female-supermarket-cashiers>.

54 "World Report 2013: Saudi Arabia." Human Rights Watch. Accessed March 31, 2015. <http://www.hrw.org/world-report/2013/country-chapters/saudi-arabia>.

55 King Abdullah University of Science and Technology (KAUST). Accessed March 31, 2015. <http://www.kaust.edu.sa/>.

56 Wilcke, Christoph. "Workplace Battle Continues for Saudi Women." Global Public Square RSS. August 22, 2012. Accessed March 31, 2015. <http://globalpublicsquare.blogs.cnn.com/2012/08/22/workplace-battle-continues-for-saudi-women/>.

57 "2013 Human Rights Reports: Saudi Arabia." U.S. Department of State. February 27, 2014. Accessed March 31, 2015.

58 Lippman, Thomas. "Saudi Women Shatter the Lingerie Ceiling." The New York Times. January 21, 2012. Accessed March 31, 2015. <http://www.nytimes.com/2012/01/22/opinion/sunday/saudi-women-break-a-barrier-the-right-to-sell-lingerie.html>.

59 Chief, Habib Toumbureau. "27 Lingerie Shops Shut down in Dammam." Gulf News. August 21, 2014. Accessed March 31, 2015. <http://gulfnews.com>.

Ensure women’s equal participation in decision-making and planning at all levels, including the Shura Council and Council of Ministers. To that end, provide training for women in leadership skills and technical know-how.

The Shura Council is a consultative council with no legislative or executive authority. It has had little influence on policy making in the Kingdom. In 2011, King Abdullah promulgated a decree mandating that women comprise 20% of the Shura Council.⁶⁰ However, while their appointment marked a milestone in the advancement of Saudi women in the country, their influence and participation is limited. Women still only compose 20% of the Council, and their voices are seldom heard; upon their appointment in 2011, the new female members of the Shura raised a list of demands for women’s rights reform. The list has yet to be addressed by the Council.

Women continue to be excluded from decision-making posts as there are no women on the Council of Ministers.⁶¹ The highest government position held by a woman is deputy minister of education.⁶²

CONCLUSION

While the Government of Saudi Arabia has made some progress in implementing the suggestions of the Procedures, including by substantially increasing the literacy rate of adult women and school-age girls, the government has effectively ignored the majority of the Rapporteur’s recommendations. Women still do not enjoy equal participation in either public or private institutions, and oppressive laws continue to limit employment opportunities available to women. Additionally, while the government has made cosmetic changes by appointing a small number of women in relatively high ranking jobs, women still do not enjoy any significant leadership or decision-making within the country’s political structure.

In order for the government to credibly attempt to implement the Rapporteur’s recommendations, the country will need to lift the laws limiting women’s participation in the workplace and employ women in meaningful leadership positions within the government.

com/news/gulf/saudi-arabia/27-lingerie-shops-shut-down-in-dammam-1.1374862.

60 “Saudi Arabia: Women to Vote, Join Shura Council.” Human Rights Watch. September 26, 2011. Accessed March 31, 2015. <http://www.hrw.org/news/2011/09/26/saudi-arabia-women-vote-join-shura-council>.

61 “Country Reports on Human Rights Practices for 2013.” U.S. Department of State. Accessed March 31, 2015. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

62 For more information, please see analysis of the recommendation concerning women’s participation in public institutions.

ii. Elimination of Violence against Women and Girls

INTRODUCTION

Violence against women and girls in Saudi Arabia is one of the country's most pressing issues. Throughout its history, Saudi Arabia has failed to protect its women and girls. While Sharia mandates specific punishments for violence against women, the fundamental problem of the application of Sharia in Saudi is its lack of codification. By virtue of this issue, judges have great latitude in defining what constitutes a criminal act, consequently producing verdicts that are dangerously discretionary, inconsistent, and even inequitable. This has significant implications for violence against women and girls, especially as domestic violence has only recently been criminalized in the Basic Law, while rape remains open to the interpretations encouraged by Saudi application of Sharia. In many cases, women who report incidents of violence may themselves be subject to punishment. As a result, violence against women in Saudi Arabia, including spousal abuse, spousal rape, physical violence, and incestuous rape are extremely underreported. The only effective method of eliminating violence against women and girls is through binding legislation.

RECOMMENDATIONS

Adopt the draft law on domestic violence, with clear guidelines on implementation mechanisms, a monitoring and coordinating body, and sanctions against perpetrators.

In its 10th annual report, the state-run National Society for Human Rights (NSHR) reported 360 cases of domestic abuse in 2013 compared to 338 cases in 2012. Keeping in mind that domestic abuse cases are underreported to a great extent, these numbers do not reflect the reality of the situation in the country.

In April 2014, the King Khalid Foundation⁶³ launched *No More Abuse*, a campaign to raise awareness of violence against women. The campaign utilized powerful imagery, and was published in numerous venues throughout the country. The Foundation also drafted language for a domestic abuse law which was later submitted for discussion to the Saudi Cabinet of Ministers.

On 26 August 2013, Saudi Arabia's Council of Ministers passed a long-anticipated draft law criminalizing domestic violence. The first of its kind, the new law defines abuse as "all forms of exploitation, or bodily, psychological, or sexual abuse, or threat of it, committed by one person against another, including if [that person] has authority, power, or responsibility, or [if there is a] a family, support, sponsorship, guardianship, or living dependency relationship between the two [individuals]." ⁶⁴

63 "King Khalid Foundation." King Khalid Foundation. Accessed March 31, 2015. <http://www.kkfeng.org/>.

64 "Saudi Arabia: New Law to Criminalize Domestic Abuse." Human Rights Watch. September 3, 2013. Accessed March 31, 2015. <http://www.hrw.org/news/2013/09/03/saudi-arabia-new-law-criminalize-domestic-abuse>.

Only two months prior to the passage of the law, a Saudi court convicted two Saudi women's rights activists for "inciting a woman against her husband." The two activists were attempting to save the women from an abusive marriage.⁶⁵ In a prime example of the inequality in the justice system, in May 2012, the criminal court in Jeddah heard a case involving a domestic violence case against a man who beat his wife to the extent that she had to be hospitalized. The court sentenced the abuser to memorizing five parts of the Quran and 100 Hadiths by the prophet Mohammed.⁶⁶

According to our interlocutors on the ground, the law has yet to be fully implemented, and it is unclear which government entity would police this law. It also remains vague as to what mechanisms and regulations will be placed to ensure the implementation of this law. Women in the country are still reluctant to report abuse for fear of social stigma or retaliation from family members, who often happen to be the abusers. Women are frequently turned away at police stations, part of the reason why Saudi has established a number of women's police units in Riyadh and Jeddah to create a safer space for women to report abuse. It is not yet clear how effective the units have been.

Adopt a Penal Code clearly defining criminal offences - including rape and the use of torture and cruel, inhuman and degrading treatment or punishment - and specifying penalties for perpetrators.

While rape is criminalized under Sharia, the Basic Law has no such provisions, leaving rape open to the interpretation and discretion of the judge. The punishment for rape in Sharia law varies from lashing and imprisonment to the death penalty. However, rape cases in Saudi Arabia often result in the punishment of the victim, as judges have the discretion to decide that the rape resulted from the woman breaking the law by mingling with men. In one of the most appalling cases of rape in the country, a gang of seven men raped a 19-year-old girl and her male friend in Qatif when the two were alone in their car. In October 2006, the General Qatif Court initially sentenced the victim to 90 lashes and six months in prison. The Saudi Supreme Court of the Judiciary reviewed the case on appeal, increasing the number of lashes to 200. The international community rallied on the case, and King Abdullah issued a royal pardon for the girl in December 2007.⁶⁷ In his official decree, however, he emphasized that he believed the verdict was fair, and that he had no doubts regarding the integrity of the justice system.⁶⁸ Not all women get pardoned, and so this case has undoubtedly discouraged many rape victims from reporting assaults for fear of prosecution. It is therefore critical that Saudi Arabia passes legislation defining sexual violence with clear guidelines on the methodologies of investigation and detailed provisions on the prosecutions of sexual offenders. Most importantly, laws should be put in

65 "Saudi Arabia: Activists Convicted for Answering Call for Help." Human Rights Watch. June 18, 2013. Accessed March 31, 2015. <http://www.hrw.org/news/2013/06/17/saudi-arabia-activists-convicted-answering-call-help>.

66 "World Report 2013: Saudi Arabia." Human Rights Watch. Accessed March 31, 2015. <http://www.hrw.org/world-report/2013/country-chapters/saudi-arabia>.

67 Howden, Daniel. "In the Name of God: The Saudi Rape Victim's Tale." The Independent. November 29, 2007. Accessed March 31, 2015. <http://www.independent.co.uk/news/world/middle-east/in-the-name-of-god-the-saudi-rape-victims-tale-760847.html>.

68 Zoepf, Katherine. "Saudi King Pardons Rape Victim Sentenced to Be Lashed, Saudi Paper Reports." The New York Times. December 17, 2007. Accessed March 31, 2015.

place to ensure that victims are not punished for reporting rape.

Saudi Arabia has not criminalized torture in its domestic penal law, although it acceded to the Convention against Torture in 1997.⁶⁹ However, Saudi criminal law explicitly condones the use of torture as a punishment, and in many cases the use of the lash is an obligatory sentence for petty crimes.⁷⁰ Saudi Arabia also still employs amputation as a punishment, often for theft-related crimes. In a particularly gruesome case, the Kingdom made headlines in 2013 when a judge sentenced a convict to be paralyzed by the state for a crime he committed when he was 14; Saudi Arabia explicitly allows for reciprocal retributive punishment, or *gisas*, under the *Wahabbi* interpretation of Sharia.⁷¹

Finally, Saudi Arabia still regularly practices the death penalty, which it often implements via beheading. The Kingdom executed at least 345 persons in this fashion from 2010-2013,⁷² and an additional 79 persons in 2013.⁷³ In 2014, the government began utilizing this sentence against dissenters and human rights defenders. On 15 October 2014, a Saudi court ordered the beheading of Shaikh Nimr Baqr al-Nimr on charges of disobeying Saudi rulers, seeking foreign meddling in the country, and taking up arms against police officers.⁷⁴ In 2015, the government began accelerating the use of the death penalty, implementing capital punishment on 51 persons through the first three months of the year.⁷⁵ Several predominately Muslim countries have either explicitly banned the death penalty or placed a *de facto* moratorium on executions.⁷⁶

Adopt guidelines for government agencies and religious leaders aimed at preventing and ending child and forced marriage.

According to media reports released in 2012, 5,622 marriages of girls below the age of 14 had taken place across the country in an undefined but recent period of time.⁷⁷ Saudi Arabia's Regulations for Executive Personal Status Law do not specify a minimum age for marriage for either gender.⁷⁸ In May 2011, the Saudi

69 "Chapter IV Human Rights." UNTC: United Nations Treaty Collection. Accessed March 31, 2015. https://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-9&chapter=4&lang=en.

70 "Saudi Arabia - Amnesty International Report 2014/15." Amnesty International. February 25, 2015. Accessed March 31, 2015. <https://www.amnesty.org/en/countries/middle-east-and-north-africa/saudi-arabia/>

71 *Id.*

72 U.S. State Department Annual Human Rights Reports for Saudi Arabia 2007–2010: "2010 Human Rights Report: Saudi Arabia". U.S. State Department. April 8, 2011. Accessed 11 July 2011.; "2009 Human Rights Report: Saudi Arabia". U.S. State Department. March 11, 2010. Retrieved July 11, 2011.; "2008 Human Rights Report: Saudi Arabia". U.S. State Department. 25 February 2009. Accessed 11 July 2011.; "2007 Human Rights Report: Saudi Arabia". U.S. State Department. March 11, 2008. Accessed July 11, 2011.

73 "Death Sentences and Executions 2013." Amnesty International, 2013. Accessed March 31, 2015. <http://www.amnestyusa.org/sites/default/files/act500012014en.pdf>.

74 "Saudi Shia Cleric Nimr Al-Nimr 'sentenced to Death'" BBC News. October 15, 2014. Accessed March 31, 2015.

75 "Pakistani among 3 Beheaded in Saudi Arabia." The Nation. March 18, 2015. Accessed March 31, 2015. <http://nation.com.pk/national/18-Mar-2015/pakistani-among-3-beheaded-in-saudi-arabia>.

76 "The Death Penalty Worldwide." Infoplease. January 1, 2012. Accessed March 31, 2015. <http://www.infoplease.com/ipa/A0777460.html>.

77 Staff. "More than 5,000 Child Brides in Saudi Arabia." Gulf News. November 8, 2012. Accessed March 31, 2015. <http://gulfnews.com/news/gulf/saudi-arabia/more-than-5-000-child-brides-in-saudi-arabia-1.1101605>.

78 <http://adl.moj.gov.sa/ENG/attach/248.pdf> WEBSITE NOT AVAILABLE

al-Shura Council passed a nonbinding resolution whereby the age of marriage for girls is set at 17.⁷⁹ In December 2013, the Council proposed a draft law setting the minimum age for marriage at 18. Additionally, the Saudi Ministry of Justice drafted a law to set a minimum age at 15 while still allowing exceptions provided that a court deems the marriage legitimate and in compliance with Sharia. As of December 2014, the Saudi Gazette reports that the Ministry had submitted this proposal to the Board of Senior Scholars for approval. However, in the time since the submission, the Board has refused to make a decision on the matter.⁸⁰ What is more, in an interview with Al-Riyadh newspaper that month, the Grand Mufti Sheikh Abdulaziz Al-Asheikh reaffirmed the position that it is “permissible” for men to marry girls below the age of 15.⁸¹ Until the publishing of this report, the government had yet to take action on either proposal.

There is a general lack of data and documentation of child marriage cases. UNICEF's reports on child marriage do not include Saudi Arabia,⁸² in part because it is difficult for researchers to enter the country without an invitation from the government. However, in one well-documented and illustrative case, a judge in Onaiza city twice refused to look into a case filed by a woman trying to get her eight-year-old daughter divorced from her 50 year-old husband on account of the mother not being her daughter's legal guardian.⁸³ The girl was married off in a deal made between the father and the husband. The father needed the money to pay off loans. After international outcry and condemnation from several human rights and child protection organizations, the child was finally divorced.⁸⁴

Standardize the age of majority in the Kingdom at 18 in accordance with the Convention on the Rights of the Child, and ensure its application to the legal age of marriage.

On 26 January 1996, Saudi Arabia signed and accepted the international Convention on the Rights of the Child. The convention defines children as those under the age of 18.⁸⁵ In November 2008, government passed a law to raise the age of maturity to 18 years old.⁸⁶ In November 2014, the Saudi cabinet approved a law for child protection. In this law, a child is anyone below the age of 18.⁸⁷ However, Saudi law still provides exceptions for underage marriages deemed in compliance with Sharia.

79 “2013 Human Rights and Democracy Report - Saudi Arabia.” Refworld. April 10, 2014. Accessed March 31, 2015. <http://www.refworld.org/docid/536ccac114.html>.

80 “No plan to set minimum age for marriage of girls: Grand Mufti”. Saudi Gazette. December 21, 2014. Accessed March 31, 2015. <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentid=20141222228285>

81 Id,

82 “Child Protection- Access the Data.” UNICEF. December 1, 2014. Accessed March 31, 2015. <http://data.unicef.org/child-protection/child-marriage>.

83 Jamjoom, Mohammed. “Saudi Judge: It's OK to Slap Spendthrift Wives.” CNN. May 10, 2009. Accessed March 31, 2015. <http://www.cnn.com/2009/WORLD/meast/05/10/saudi.court.wife.slapping/>.

84 Reuters. “Lawyer: 9-year-old Saudi Girl Divorces 50-year-old Husband.” Haaretz. April 30, 2009. Accessed March 31, 2015. <http://www.haaretz.com/news/lawyer-9-year-old-saudi-girl-divorces-50-year-old-husband-1.275103>.

85 Habboush, Mahmoud. “Saudi Court Orders Investigation into Website.” Reuters. October 9, 2013. Accessed March 31, 2015. <http://www.reuters.com/article/2013/10/09/us-saudi-childbride-idUSBRE9980R920131009>.

86 Al Saleh, Huda. “Saudi Shura Council Considers Raising Childhood Age to 18.” Al Awsat. November 26, 2008. Accessed March 31, 2015. <http://archive.aawsat.com/details.asp?section=43&article=496255&issueno=10955>.

87 “Kingdom OK's Law to Protect Children.” Saudi Gazette. November 17, 2014. Accessed March 31, 2015.

Adopt a family law to regulate marriage and divorce, including the prohibition of marriage annulments against the will of both spouses.

In 2014, the government opened new family courts designed to deal specifically with family-related issues. Judges in these courts are specifically trained in Saudi family law. However, counselors and social workers seem to be absent from the system.

The government does not appear to have adopted any laws prohibiting marriage annulment against the will of both spouses.

Adopt guidelines for the police and the judiciary on how to investigate, prosecute and rule on cases of rape and sexual violence.

The Saudi government has yet to criminalize rape under the Basic Law, and decisions regarding rape are still subject to the discretion customarily enjoyed by Saudi judges in implementing the *Wahabbi* Sharia, which does not provide for a system of jurisprudence. Additionally, no prohibition exists outlawing marital or statutory rape, and neither of these offenses are investigated by the Saudi police or judiciary.⁸⁸

Establish women's units within the police and the General Prosecutor's office.

In 2012, the Commission on the Promotion of Virtue and Prevention of Vice, otherwise known as the religious police, announced that it would end the Kingdom's longstanding ban on female officers and form an all-women unit.⁸⁹ Implementation has been slow, and interlocutors report that, while the government has opened some administrative jobs to women, there does not appear to have been any substantial progress in creating a women's only unit within the police force.

The government does not appear to have created any such unit within the Office of the General Prosecutor.

Systematize the gathering of data and statistics on violence against women, disaggregated by type of violence and relationship with the aggressor.

Saudi Arabia does not systematically document domestic violence cases. No statistics or data on violence against women are available. The National Society for Human Rights publishes annual reports detailing the varying complaints received by the organization including complaints of violence against women. However, they are not indicative of the total number of cases.

Enhance the protection and services offered to victims of abuse by social protection committees, including through legal aid and empowerment programmes.

Saudi Arabia employs 24-hour domestic violence hotlines run by the Ministry of Social Affairs. Fax numbers

⁸⁸ For more information, please see analysis of the recommendation on defining rape in the Penal Code.

⁸⁹ Blomfield, Adrian. "Saudi Arabia to Recruit Women to Religious Police Force." The Telegraph. October 18, 2012. Accessed March 31, 2015. <http://www.telegraph.co.uk/news/worldnews/middleeast/saudi-arabia/9618870/Saudi-Arabia-to-recruit-women-to-religious-police-force.html>.

are also available in the case that victims cannot utilize a phone.⁹⁰ However, in a survey conducted by Al-Arabiya, more than 75% of Saudis were not aware of the national hotline for domestic violence.⁹¹

The General Directorate for Social Protection has offices across the country and receives complaints in person, and via phone, fax, or online through the ministry's website. The Ministry of Social Affairs has a subsidiary committee on the protection of the family. Since its launch in 2007, it has yet to undertake substantial activity.⁹²

Conduct awareness-raising campaigns and training for law enforcement officials, the judiciary, health-care providers, social workers, community leaders and the general public, to increase understanding that all forms of violence against women are grave violations of fundamental rights and incompatible with Islamic values.

Saudi Arabia has undertaken administrative and judicial reforms aimed at potentially improving the handling of violence against women. In July 2014, the Saudi Supreme Judicial Council formed a committee exploring the issue of domestic violence in the Kingdom.⁹³ Additionally, in November 2014, the Saudi Ministry of Justice appointed 150 judges to oversee domestic violence cases and launched training programs to introduce judges to the concept of domestic violence and its relationship with Sharia.⁹⁴

However, the government does not appear to have undertaken efforts aimed at reforming the image of women or the culture of domestic violence in the country. In 2012, the government imposed a ban on Arabic schoolbooks depicting images of women; English textbooks allow depictions of women so long as the women are veiled and fully covered.⁹⁵ Further, in many cases, officials appear to support or justify the status quo. In 2009, Saudi judge Hamad al-Razine was quoted saying, "if a person gives SR 1,200 [\$320] to his wife and she spends 900 riyals [\$240] to purchase an abaya [the black cover that women in Saudi Arabia must wear] from a brand shop and if her husband slaps her on the face as a reaction to her action, she deserves that punishment."⁹⁶ He also noted that oftentimes blame is put entirely on the man without taking into consideration what the wife had done to deserve punishment.

Additionally, in May 2009, Saudi Arabia's Grand Mufti Abdulaziz al-Alshaikh delivered a speech on domestic

90 "Contacts for Protection from Domestic Violence in Saudi Arabia." Saudi Women's Rights. Accessed March 31, 2015. <https://saudiwomenrights.wordpress.com/الاتصال-بلجان-الحماية-من-العنف-الأسري/>.

91 Al-Zahrani, Manal. "Most Saudis Do Not Know the "hotline" to Report Domestic Violence." Al Arabiya. November 2, 2010. Accessed March 31, 2015. <http://www.alarabiya.net/articles/2010/11/02/124582.html>

92 Global Goodness. جمعية حماية الأسرة الخيرية (موقع الخير الشامل) Ministry of Social Affairs <http://gg.org.sa/donor/viewcharityorganization?siteLanguage=en&organizationId=214>

93 Alhayat. «توجيه لـالمحاكم» بالتدقيق في قضايا «الحضانة» ودرس ظاهرة «العنف الأسري» <http://www.alhayat.com/Articles/3578530/التدقيق-في-قضايا-الحضانة-ودرس-ظاهرة-العنف-الأسري>

94 "Saudi Judges Allocate 150 Judges to Consider Domestic Violence Issues." The New Khalij. October 30, 2014. Accessed March 31, 2015. <http://www.thenewkhalij.com/ar/node/4679>.

95 "Saudi School Books Feature Women's Photos for the First Time." Al Arabiya. December 4, 2012. Accessed March 31, 2015. <http://english.alarabiya.net/articles/2012/12/04/253290.html>.

96 Jamjoom, Mohammed. "Saudi Judge: It's OK to Slap Spendthrift Wives." CNN. May 10, 2009. Accessed March 31, 2015. <http://www.cnn.com/2009/WORLD/meast/05/10/saudi.court.wife.slapping/>.

violence. In this speech he warned against the use of violence against women and children. However, he mentioned that hitting women can be permitted in certain conditions. In the case of disobedient women who do not respond to reason and who need to be disciplined, the Grand Mufti specifically stated that striking a woman is permitted, although with the caveat that other methods of discipline should have been previously employed. He later added that the hitting should not be harsh and should inflict no permanent harm.⁹⁷

CONCLUSION

The Kingdom of Saudi Arabia has not comprehensively engaged the Rapporteur's recommendations for eliminating violence against women and girls in the country. While the government has drafted laws pertinent to the subject of domestic violence, government security forces fail to implement these laws, and often practice victim blaming by punishing the women who bring cases of domestic violence to the authorities' attention. While Sharia specifically punishes rape, reliance on the *Harbali* interpretation of Sharia without access to precedent or jurisprudence allows judges to exercise considerable discretion in rape cases, often to the detriment of the victim. Further, the government has done little to combat the culture of impunity for violent and sexual crimes against women existing in the country. Finally, child marriage still occurs within the Kingdom at an alarming rate.

The government must dedicate significant attention towards the consideration of women's issues, especially those pertaining to violence. Most importantly, the government must fully and comprehensively implement the law against domestic violence, establish a system for the predictable and non-discretionary prosecution of rape, and establish a non-negotiable minimum age for marriage.

97 مفتي السعودية يحذر من خطورة ظاهرة العنف الأسري (نوافذ) <http://islamtoday.net/nawafeth/artshow-12-114549.htm>

iii. Judicial and Legal Reforms

INTRODUCTION

The Rapporteur made recommendations concerning the creation of family courts sympathetic towards the situation of women in the country, reforming the divorce system to be fairer towards women, and training Saudi judges and lawyers on women's issues. The government has made progress in training its judges and lawyers and setting up family courts, but the system still requires substantial reform. The government does not appear to have addressed the issue of divorce.

RECOMMENDATIONS

Accelerate the establishment of family or personal status courts, staffed with female lawyers, counsellors and social workers and with specialized women's committees.

On Tuesday, 19 August 2014, the Saudi Arabian government opened new courts focusing specifically on family disputes.⁹⁸ These courts are staffed by judges who are specially trained to deal with family law issues.⁹⁹ The government plans to open additional such courts located in Riyadh, Mecca, Jeddah, Medina, and Dammam.¹⁰⁰ It is unclear if counsellors, social workers, and specialized committees have been established in relation to this new court system, but interlocutors report their absence. While the government has begun issuing licenses to female lawyers, allowing them to change their status from legal consultants to attorneys,¹⁰¹ interlocutors report that few licenses have been granted and that female lawyers encounter difficulties when attempting to appear before a court. There are currently no female judges in the Saudi judicial system.

Set up training program for judges with the Higher Institute for Judges, in cooperation with the Ministry for Justice, to address the international obligations the Kingdom has pledged to respect, including those pertaining to women's rights and the protection of women from violence.

On 25 February 2014, the Council of Ministers established a new training center for judges. This training center is designed to increase the efficiency of the court system.¹⁰² The changes are meant to allow parties

98 McDowall, Angus. "Saudi Arabia Opens Family Courts, First Step in Wider Legal Reform." Reuters. August 19, 2014. Accessed March 31, 2015. <http://uk.reuters.com/article/2014/08/19/uk-saudi-courts-reform-idUKKBN0GJ1IR20140819>.

99 Id.

100 Id.

101 "First Female Law Firm Opens in Saudi Arabia." RT. January 3, 2014. Accessed March 31, 2015. <http://rt.com/news/saudi-women-lawyer-firm-107/>.

102 McDowall, Angus. "With Eye on Investors, Saudi Arabia Plans Training for Judges." Reuters. February 25, 2014. Accessed March 31, 2015. <http://www.reuters.com/article/2014/02/25/us-saudi-arabia-judges-idUSBREA1O13L20140225>

to resort to international rules that are absent from the Saudi legal system.¹⁰³ However, these changes are targeted at reforming the arbitration system and ensuring foreign investors that the Saudi court system will effectively handle commercial complaints, and have resulted in little positive change.¹⁰⁴

Provide free legal services to those unable to bear the cost of litigation.

In June 2014, the Ministry of Justice announced a plan to introduce new legislation that would provide free legal services to poor litigants.¹⁰⁵ The ministry began producing draft legislation, which would require every lawyer to provide free services to at least nine poor litigants per year.¹⁰⁶ The system would mirror legislation passed in European countries.¹⁰⁷ There are no reports that this legislation has been approved or that Saudi lawyers are providing free legal services to indigent litigants.¹⁰⁸

Examine the compatibility of the tribal customs pertaining to marriage and divorce with obligations under Sharia law and in international instruments ratified by the Kingdom.

Divorce is extremely difficult for a woman to obtain in Saudi Arabia. In order to dissolve a marriage in Saudi Arabia, a woman must show that she is suffering harm. Evidence of this harm is difficult to provide and can be rejected by the court. Upon divorce, the wife may be required to pay the man an agreed-upon sum of money, and her family may be required to return her dowry; this behavior becomes required in the case of divorce actions initiated by the woman for reasons not pertaining to spousal violence.¹⁰⁹ Men, on the other hand, maintain a unilateral and unqualified right to divorce. The divorce is effective upon declaration and is not subject to a requirement to obtain court order. In a particularly famous case, a man divorced a woman seconds after marrying her when he lifted her veil and saw her face for the first time.¹¹⁰ After declaring divorce, the only requirement is that the man financially provide for the woman for a period of three months, during which time the woman must remain in seclusion to ensure that she is not pregnant with her ex-husband's child.¹¹¹ Divorce rates are significantly on the rise in Saudi Arabia, but only a handful of divorces are initiated by women.¹¹²

103 Id.

104 Fatany, Samar. "Saudi Arabia Needs a Forward Thinking Judiciary." Al Arabiya. March 2, 2014. Accessed March 31, 2015. <http://english.alarabiya.net/en/views/news/middle-east/2014/03/02/Saudi-Arabia-needs-a-forward-thinking-judiciary.html>.

105 "Poor May Get Free Legal Services Soon." Arab News. June 16, 2014. Accessed March 31, 2015. <http://www.arabnews.com/news/587411>.

106 Id.

107 Id.

108 For more information, please see analysis of the recommendation concerning the provision of public defenders.

109 Fatany, Samar. "Why Divorce Is on the Rise in Saudi Arabia." Al Arabiya. March 24, 2013. Accessed March 31, 2015. <http://english.alarabiya.net/en/views/2013/03/24/Why-divorce-is-on-the-rise-in-Saudi-Arabia.html>.

110 Toumi, Habib. "Saudi Arabia Bride Divorced on Wedding Night." Gulf News. November 16, 2014. Accessed March 31, 2015. <http://gulfnews.com/news/gulf/saudi-arabia/saudi-arabia-bride-divorced-on-wedding-night-1.1413187>.

111 Otto, Jan Michiel. *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*. Leiden: Leiden University Press, 2010.

112 Fatany, Samar. "Why Divorce Is on the Rise in Saudi Arabia." Al Arabiya. March 24, 2013. Accessed March 31, 2015. <http://english.alarabiya.net/en/views/2013/03/24/Why-divorce-is-on-the-rise-in-Saudi-Arabia.html>

CONCLUSION

While the government has taken positive action with the creation of the family court system and with training its judges and lawyers on women's issues, the government must still undertake ample judicial reform in order to best serve the interests of its women. The judicial staff of the family courts is still exclusively male, and the government does not appear to have set up any specialized committees or created positions for counselors or social workers to operate within the court's framework. Additionally, the government has still yet to reform the unfair divorce system, making it extremely difficult for women to escape abusive marriages while allowing men to abandon their responsibilities towards their wives in a relatively short period of time. The Saudi government must urgently reform its divorce system and re-allocate resources towards sympathizing the family courts with the position of women in the country.

iv. Migrant Workers

INTRODUCTION

An estimated eight million noncitizen workers constitute the majority of Saudi Arabia's labor force.¹¹³ In 2013, non-nationals comprised 89% of the private sector workforce.¹¹⁴ Although the country has attempted to improve the working conditions and legal status of these workers, severe discrepancies exist between the treatment and rights of migrant workers and employed Saudi nationals, and migrant in Saudi Arabia remain vulnerable to abuse and mistreatment.

In her report, the Rapporteur issued five recommendations towards correcting the plight of migrant workers and specifically the issues faced by female domestic migrant workers in the country. The government of Saudi Arabia has passed laws aimed at addressing several of these issues, but a lack of implementation combined with inaction on several issues forces the conclusion that the Government of Saudi Arabia has not comprehensively engaged the Rapporteur's recommendations.

RECOMMENDATIONS

Adopt the addendum to the Labour Law in order to cover domestic workers and ensure the protection of their rights, with adequate enforcement mechanisms.

In 2009, Saudi Arabia's Shura Council passed an annex to the labor code on domestic workers that improved the existing protections for migrant workers. However, this new annex failed to regulate fair working hours. According to reports, the Council rejected a clause that would have required domestic workers' employers to provide rest hours between 10 P.M. and 5 A.M. "because it 'contradicted' the needs and traditions of Saudi families."¹¹⁵ There is additional evidence that many employers of migrant workers do not follow these new protections or disregard them, and instead elect to pay the fines associated with the violation.¹¹⁶ The Saudi government ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women

113 "Country Reports on Human Rights Practices for 2013: Saudi Arabia." U.S. Department of State, Bureau of Democracy, Human Rights and Labor. January 1, 2014. Accessed March 31, 2015. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.; see also "World Report 2014: Saudi Arabia." Human Rights Watch. Accessed March 31, 2015. <http://www.hrw.org/world-report/2014/country-chapters/saudi-arabia>. 2014, p. 2.

114 De Bel-Air, Françoise. "Demography, Migration and Labour Market in Saudi Arabia." Gulf Labour Markets and Migration. 2014. Accessed March 31, 2015. http://gulfmigration.eu/media/pubs/exno/GLMM_EN_2014_01.pdf.

115 Varia, Nisha. *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East*. New York, NY: Human Rights Watch, 2010. P 15

116 "Country Reports on Human Rights Practices for 2013: Saudi Arabia." U.S. Department of State, Bureau of Democracy, Human Rights and Labor. January 1, 2014. Accessed March 31, 2015. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

and Children in 2007,¹¹⁷ but has yet to implement any of the treaty's standards.¹¹⁸

Reform the sponsorship system so that workers' visas are not tied to a particular employer/sponsor and workers are able to transfer employment or leave the country without the individual sponsor's consent.

The *kafala* system remains unchanged in Saudi Arabia, requiring that all migrant workers a Saudi citizen or company as their sponsor.¹¹⁹ Such sponsors are responsible for the worker's visa and for their legal status within the country. In April 2012, the Labour Ministry proposed the abolition of the *kafala* and the transfer of all immigration sponsorship to newly created recruitment and placement agencies. However, the Ministry later retracted this proposal.¹²⁰

Although *kafala* is still in place, Saudi Arabia's Council of Ministers passed regulations in February 2014 that for the first time offered domestic workers certain basic protections, including a nine-hour daily break, timely payment of salaries, sick leave, and a one-month paid vacation every two years.¹²¹ However, the contract fails to give workers the right to retain their own passports.¹²² Despite this change, domestic workers have fifteen hour work days and non-migrant workers are only required to work eight hours per day.¹²³ These domestic workers are predominately foreign nationals.¹²⁴

There is also evidence that even when pro-migrant worker laws are passed by the Saudi government, they are not followed and make little impact on the lives of workers.¹²⁵ In the year 2000, the Council of Ministers issued Decision 166, prohibiting the practice of withholding foreign workers' passports, residency permits, and the use of exit permits to control workers' movements.¹²⁶ These practices, however, remain commonplace in the country, and the government seldom enforces the Decision.¹²⁷

117 "Chapter IV Human Rights." UNTC: United Nations Treaty Collection. Accessed March 31, 2015. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVII-12-a&chapter=18&lang=en#EndDec.

118 U.S. Department of State Office to Monitor and Combat Trafficking Persons. "Trafficking in Persons 2013 Report, Country Narratives: Saudi Arabia." Accessed March 31, 2015. <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215608.htm>

119 Varia, Nisha. "As If I Am Not Human: Abuses against Asian Domestic Workers in Saudi Arabia." Human Rights Watch. July 7, 2008. Accessed March 31, 2015. <http://www.hrw.org/reports/2008/07/07/if-i-am-not-human>.

120 Rodriguez, Andres. "The Kafala System in the GCC." The Gazelle. March 15, 2014. Accessed March 31, 2015. <http://www.thegazelle.org/issue/33/features/kefala-system/>.

121 "Proposed Domestic Workers Contract Falls Short." Human Rights Watch. November 17, 2013. Accessed March 31, 2015. <http://www.hrw.org/news/2013/11/16/proposed-domestic-workers-contract-falls-short>; see also ADHRB. Slaving Away: Migrant Labor Exploitation and Human Trafficking in the Gulf. 2014, 44.

122 "Proposed Domestic Workers Contract Falls Short." Human Rights Watch. November 17, 2013. Accessed March 31, 2015. <http://www.hrw.org/news/2013/11/16/proposed-domestic-workers-contract-falls-short>

123 Id.

124 Id.

125 U.S. Department of State Office to Monitor and Combat Trafficking in Person. "Trafficking in Persons 2013 Report, Country Narratives: Saudi Arabia." <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215608.htm>; see also ADHRB. Slaving Away: Migrant Labor Exploitation and Human Trafficking in the Gulf. 2014, 44.

126 Id.

127 Bureau of Democracy, Human Rights, and Labor. "Country Reports on Human Rights Practices." U.S. Department of State. 2013. Accessed March 31, 2015. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/>

In order to further address the issue of passport confiscation, the Saudi government implemented regulations that require the formation of new unified recruitments companies. By the end of 2011, the Saudi government claimed to have registered thirteen such firms having offices in each of the country's thirteen provinces.¹²⁸ In theory, these companies are designed to replace the model of individual sponsorship that exists in the country. However, the government has yet to implement the system, and migrant laborers currently retain their sponsorship through their individual employers.

In 2011, the government began a campaign to transform the labor market.¹²⁹ The government is actively promoting the removal of illegal workers from the country and subsidizing the employment of Saudi nationals. Although this development may be intended to promote a more legally sound labor market in Saudi, its effects on foreign nationals have been devastating.¹³⁰ In November 2013, the Saudi government began expelling foreign nationals from the country. These foreign nationals included some 550,000 Yemenis, 180,000 Ethiopians, and 36,000 Somalis. The Saudi government claims that these expulsions are meant to reform the private sector by removing illegal migrant workers and providing jobs for Saudi nationals. According to Refugees International, the deportations are likely to cause further humanitarian challenges. Specifically, the source nations of the deported populations are amongst the poorest in the world, relying heavily on the remittances provided by their expatriate workers in Saudi Arabia. Many of these workers may try to return to Saudi Arabia through "dangerous migratory routes" or they will be left to face dire conditions upon return to their home countries.¹³¹

Effectively investigate and prosecute employers whose treatment of domestic workers violates national and international provisions, in particular in cases of physical/sexual violence.

It is often difficult for abused workers to seek aid or legal remedy. In 2013, the Council of Ministers passed a number of amendments to the 2005 Labor Law in an attempt to reform its migrant worker system. However, there is little evidence that change will occur.¹³² Although some police officers assisted workers by sending them to shelters, many police officers "returned foreign workers to their employers, pressured them to drop cases, or persuaded victims to take monetary compensation in lieu of filing criminal charges against their employers."¹³³ Additionally, there are cases where employers filed false counter claims against employees

128 Id.

129 "Saudi Arabia Cushions Labour Reform With New Hours, Subsidies." Gulf Business. September 7, 2014. Accessed March 31, 2015. <http://gulfbusiness.com/2014/09/saudi-arabia-cushions-labour-reform-new-hours-subsidies/#.VEIKGfnF95I>

130 Georges, Katherine. "In the Horn of Africa, Saudi's Mass Deportations Have Devastating Impact." Refugees International. August 25, 2014. <http://refugeesinternational.org/blog/horn-africa-saudis-mass-deportations-have-devastating-impact>

131 Id.

132 "Legal Rights of Employees According to Labor Law." Al-Watan/Saudi Gazette. March 27, 2013. Accessed March 31, 2015. <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentid=20130327158640>.

133 Office to Monitor and Combat Trafficking in Person. "Trafficking in Persons 2013 Report, Country Narratives: Saudi Arabia." U.S. Department of Stat. 2013. Accessed March 31, 2015. <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215608.htm>.

in order to retaliate against claims of abuse. It is extremely unlikely that a migrant worker will successfully press criminal charges against their employer; in the case that a migrant brings a successful claim against an employer, punishment is limited to a fine.¹³⁴

Provide shelters, psychosocial and legal aid to migrant victims of abuse.

In 2009, the Council of Ministers issued a statement saying that victims have the right to remain in the country during investigation and subsequent legal proceedings. Despite this statement, workers who overstayed their visas, left their employers, or in any way violated their visas were jailed and often deported. Migrant workers must rely on their employers to be released from detention. In cases where workers are charged with committing crimes against their employers, workers are detained for long periods of time. The United States Department of State documented at least 38 Indonesian domestic workers who at the time of the issuance of the report remained in judicial proceeding for crimes against their employers and sponsors. It is possible that these workers could be sentenced to death. Media reports have indicated that workers subjected to forced labor were sentenced to death for crimes against their employers. The judiciary is hesitant to take action in these cases. Source-country embassies also have difficulty in communicating with their nationals who are held in detention.¹³⁵

Raise awareness among the population about domestic workers' rights and regulations/punishments in case of abuse against them.

Migrant workers are severely limited in their knowledge of their rights. The Ministry of Labor has continued to produce a guidebook to all migrant workers. The guidebook contains a telephone number for workers to report abuse, and the Saudi police also maintain a 24 hour hotline for victims of trafficking. Outside of these measures, it appears that foreign nationals remain relatively ignorant of what little rights they have. Saudi law does not provide for the right of workers to form unions or to participate in collective bargaining. If a migrant worker is found to have participated in union activity, he or she faces potential imprisonment or deportation.¹³⁶

CONCLUSION

Far from implementing the Rapporteur's recommendations, Saudi Arabia has actually taken several steps backwards in the time since the Rapporteur's report. *Kafala* remains an issue, as does passport confiscation, and migrants continue to report facing significant abuse from their employers. Worse, Saudi Arabia has begun actively deporting its migrant laborers *en masse*, often under dangerous circumstances. In order to better provide for the foreigners living under its care, the Saudi government must undertake serious legal and cultural reforms.

¹³⁴ Office to Monitor and Combat Trafficking in Person. "Trafficking in Persons 2013 Report, Country Narratives: Saudi Arabia." U.S. Department of State. 2013. Accessed March 31, 2015. <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215608.htm>; see also ADHRB. Slaving Away: Migrant Labor Exploitation and Human Trafficking in the Gulf. 2014.

¹³⁵ Office to Monitor and Combat Trafficking in Person. "Trafficking in Persons 2013 Report, Country Narratives: Saudi Arabia." U.S. Department of State. 2013. Accessed March 31, 2015. <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215608.htm>

¹³⁶ Id.

v. International Commitments

INTRODUCTION

In her report, the Rapporteur heavily emphasized the need for Saudi Arabia to ratify the instruments of the international human rights law treaty regime. She specifically cited Saudi Arabia's need to ratify the International Covenant on Civil and Political Rights, the International Covenant on Social and Cultural Rights, and their Optional Protocols, as these represent the core accountability mechanisms for implementation of international human rights.

RECOMMENDATIONS

Ratify the International Covenants on Civil and Political Rights [ICCPR] and on Economic, Social and Cultural Rights [ICESCR], and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families [Migrant Workers Convention].

Saudi Arabia refuses to ratify the ICCPR, ICESCR,¹³⁷ and the Migrant Workers Convention.¹³⁸ There are no indications that Saudi Arabia plans to ratify these conventions in the foreseeable future.

Lift the general reservation to the Convention on the Elimination of All Forms of Discrimination against Women [CEDAW] and amend national legislation accordingly.

When Saudi Arabia ratified the CEDAW, it did so with the general reservation that it would not hold itself liable for any provisions within the CEDAW that conflicted with Sharia.¹³⁹ Saudi Arabia's interpretation of Sharia under *Wahabbi* Islam substantially conflicts with the CEDAW. As a result, the reservation provides the Saudi government with wide discretion in choosing its compliance; as the *Hanbali* Sharia in Saudi Arabia is open to interpretation without reliance on precedent, Saudi Arabia in effect allows individual judges to determine their own level of comfort with the CEDAW as opposed to creating strict compliance leading to predictable outcomes. As a result, Saudi Arabia's general reservation has had the effect of insulating the government from having to implement any of the CEDAW's provisions.

In the six years since the Rapporteur issued her recommendation, Saudi Arabia has undertaken no efforts towards rescinding or altering its reservation to the CEDAW.

137 "Chapter IV Human Rights." UNTC: United Nations Treaty Collection. Accessed March 31, 2015. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en

138 Id.

139 This is normally not a substantial issue, as many interpretations of Sharia align with the text of the CEDAW.

Ratify the Optional Protocol to the Convention.

The Optional Protocol to CEDAW would allow Saudi citizens to complain to the Committee on the Elimination of Discrimination against Women regarding State action in violation of the treaty. The Optional Protocol effectively creates an accountability mechanism for subscribing countries. Saudi Arabia has failed to ratify the Optional Protocol to CEDAW,¹⁴⁰ and has therefore immunized itself from the accountability mechanisms of the Committee.

Strengthen bilateral and multilateral cooperation - as reflected for instance in the Abu Dhabi Declaration of January 2008 - to ensure migrant worker rights and prevent trafficking.

According to the International Labor Organization good practices database, Saudi Arabia has no policies or programs in place that work towards bilateral or multilateral cooperation to ensure migrant worker rights.¹⁴¹

Issue invitations to the Special Rapporteurs on the human rights of migrants and on contemporary forms of slavery to comprehensively assess the situation of migrant domestic workers.

In early 2015, the Government of Saudi Arabia invited the Special Rapporteur on contemporary forms of slavery to conduct a country visit. At the time of this writing, however, the Rapporteur's office and the Government of Saudi Arabia had yet to announce that they had agreed upon a date for the proposed visit. Saudi Arabia has not invited the Special Rapporteur on trafficking in persons, especially in women and children or ¹⁴² the Special Rapporteur on the human rights of migrants¹⁴³ to visit the country. As a result, they have been unable to comprehensively address the situation of migrant domestic workers in the country, and the Special Rapporteur on Violence against Women's assessment and recommendations remain the only metric.

140 "Chapter IV Human Rights." UNTC: United Nations Treaty Collection. Accessed March 31, 2015. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en

141 "Good practices database - Labour migration policies and programmes". International Labour Organization. 2014. Accessed March 31, 2015. http://www.ilo.org/dyn/migpractice/migmain.listPractices?p_lang=en&p_country=SA

142 UN Office of the High Commissioner for Human Rights, Special Rapporteur on Trafficking in Persons. Accessed March 31, 2015. <http://www.ohchr.org/EN/Issues/Trafficking/Pages/TraffickingIndex.aspx>

143 UN Office of the High Commissioner for Human Rights, Special Rapporteur on the Human Rights of Migrants. "Country Visits." Accessed March 31, 2015. <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>

CONCLUSION

Saudi Arabia has been completely unsuccessful in implementing any of the Rapporteur's recommendations as regards to new international human rights commitments. The government has not yet ratified any new human rights treaties, and has not indicated any intention of doing so in the immediate future.

Saudi Arabia's reluctance to ratify the ICCPR is particularly concerning. The ICCPR is widely considered to be the core human rights document in the international legal treaty regime; by failing to ratify the document, Saudi Arabia broadcasts its intention to continue to ignore large parts of human rights law.

3. CONCLUSION

The Saudi government's implementation of the Rapporteur's recommendations has been largely ineffectual. The government's commitment towards and success with elevating the literacy rate of Saudi women must be commended, and the introduction of women into the workforce, no matter how limited, should be encouraged. Progress has waned, stalled, or deteriorated in nearly every other area, however, and the Saudi government must recommit to tackling the issue comprehensively if it ever hopes to see its women prosper in modernity.

Thus far, the Saudi commitment towards solving the issue of violence against women in the country has been uninspiring. To its credit, the government passed a law criminalizing domestic violence under the Basic Law. Enforcement of this law, however, appears to be non-existent, and women are still harassed and even tried as criminals when reporting domestic violence to the police. While rape is rightly criminalized in Sharia, the Saudi interpretation of Sharia does not allow for the creation of jurisprudence or the establishment of precedent, leaving enforcement of Sharia's provisions to historically biased judges. The Kingdom still does not have a minimum age for marriage, and members of the government itself have commented on the abundance of forced child marriages in the country. The government must do more to protect women in the country from violence.

Saudi progress in incorporating women into the work force, while moving forward, has been slow, and has seen significant setback in the last several years. The government omitted formal restrictions on a woman's right to work in its latest iteration of the labor code, but then promptly reintroduced them just a few years later. Women continue to be forbidden from certain professions, either on account of their unfit feminine characteristics or their posing a danger or hazard specific to a woman. Strict sex segregation laws additionally limit the ability of women to find employment. Female unemployment rates are staggeringly high, while females comprise under 20% of the total workforce in the Kingdom.

The Saudi government's elevation of women to leadership positions in the government has been equally lacking. While the king declared that women would be eligible to join the Shura Council, women only represent 20% of their total number, their concerns are seldom addressed, and the Shura Council is relatively powerless besides. There is no female presence on the far more influential Council of Ministers, nor is there a single female judge to be found in the Kingdom. If Saudi Arabia is serious about elevating the condition of women, it must have women leaders to help make those changes.

Current Saudi law works to the detriment of the country's migrant laborers. *Kafala* remains in force, and the practice of passport confiscation continues without enforcement of legislation designed to counter the phenomenon. Worse, Saudi Arabia is currently in the process of mass deporting its migrant workers through a process that often physically endangers the lives of migrant deportees. Additionally, Saudi Arabia has been unsuccessful in undertaking any new international human rights obligations by signing new treaties or conventions, including

conventions that would force them to address the plight of migrant workers in their territory.

Comprehensively, Saudi Arabia has not implemented the recommendations of the Rapporteur on the situation of violence against women. Women remain unprotected from domestic violence and rape, continue to be significantly limited in their career prospects, and do not maintain any positions of authority within the government. Migrants, and particularly female migrant household workers, remain a particularly vulnerable population, and Saudi Arabia refuses to ratify additional human rights treaties towards their protection. If women in Saudi Arabia are ever to receive equal rights, their government must recommit to their cause and legislate to provide for gender equality and human rights in the country. Failure to do so will result in Saudi women continuing to struggle with problems that the rest of the world has since left behind.

RECOMMENDATIONS

To the Government of Saudi Arabia:

1. **Implement** the recommendations made by the Special Rapporteur on violence against women and its underlying causes;
 - a. **Reconcile** the judiciary and legal system with the situation of women in Saudi society by training judges in women's issues, appointing women to judgeships, and removing barriers from women's participation at court.
 - b. **Enforce** established laws for the benefit and protection of women, including domestic violence laws;
 - c. **Reform** any laws actively restrictive towards women in Saudi society, including any laws limiting women's travel or employment, and create new laws that promote the advancement and protection of women, including a law criminalizing all forms of rape;
 - d. **Abolish** the guardianship and kafala systems;
2. **Consider** examining alternative interpretations of Sharia outside of Wahabbism;
3. **Further develop** the role of human rights in Saudi society by ratifying and implementing international human rights conventions, including the International Convention on Civil and Political Rights and the International Convention on Economic, Social, and Cultural Rights;
4. **Vacate** the seat at the Human Rights Council until such time as Saudi Arabia complies with established international human rights norms; and
5. **Issue** a standing invitation to all Special Procedures of the Human Rights Council to visit the country and perform human rights assessments;

To the United Nations:

1. **Consider** issuing a resolution formally condemning the human rights situation in Saudi Arabia, making specific mention of the lack of progress that the country has made in modernizing its criminal justice system;
2. **Further enable** the Special Procedures of the United Nations to perform their duties as they relate to the Kingdom of Saudi Arabia:
 - a. **Insist** that the Government of Saudi Arabia permit further Special Procedures to visit the country to perform human rights assessments, and recommend that Saudi Arabia issue a standing general invitation to all Special Procedures of the United Nations;
 - b. **Encourage** further Special Procedures to issue new requests or reiterate old requests for permission to conduct country assessments in Saudi Arabia, including the Special Rapporteur on counter-terrorism and human rights, the Special Rapporteur on torture and other cruel, unusual, or degrading treatment or punishment, and the Special Rapporteur on the rights of migrants;
 - c. **Issue recommendations** based on the Special Rapporteur on violence against women's findings in Saudi Arabia's next cycle of its Universal Periodic Review;
 - d. **Hold accountable** the Government of Saudi Arabia by publicly commenting on the implementation of recommendations made by the Rapporteur on violence against women and its causes;
3. **Request** that the Government of Saudi Arabia allow the United Nations Office of the High Commissioner for Human Rights to establish a permanent mission in Riyadh, complete with a full reporting mandate;
4. **Consider** requesting that the Government of Saudi Arabia vacate its seat on the Human Rights Council until such time as it complies with established international human rights standards.

To the International Community, the European Union, and the United States of America:

1. **Hold accountable** the Government of Saudi Arabia by publicly commenting on the implementation of the recommendations made by the Rapporteur on violence against women, especially in the Kingdom's next cycle of its Universal Periodic Review;
2. **Condemn** the lack of progress made by the Government of Saudi Arabia in providing for women's rights and equality by issuing resolutions in national and international parliaments and legislatures, including in the National Parliament of the United Kingdom, the Congress of the United States of America, and the European Parliament;
 - a. **Cease** all sales of any arms or weapons that may be used by the Government of Saudi Arabia to further endanger the lives of its citizens and residents;
 - b. **End** any foreign aid programs benefitting Saudi Arabia until such time as the government complies with international human rights norms;
3. **Consider** addressing concerns regarding ongoing human rights abuses in Saudi Arabia by passing a resolution at the Human Rights Council publicly condemning the human rights issues in the country and calling for concrete steps towards their resolution; and
4. **Cease** the export of migrant labor to Saudi Arabia until such time as the government amends the kafala system to provide for the human rights and protection of migrants.

Americans for Democracy



& Human Rights in Bahrain

