



The Male Guardianship System in the Kingdom of Saudi Arabia

Summary

The male guardianship system that reigns in the GCC countries assumes that women should be treated as second-class citizens. Crown Prince Mohammed bin Salman, in an attempt to position himself as a progressive reformer who believes in equality between men and women, has pushed for a series of reforms in Saudi Arabia that, although relevant for women, are insufficient to end the burdensome restrictions of this oppressive structure. The current paper explores the different implications and ramifications of the guardianship system and also delves into Saudi Arabia's human rights obligations and the International Community's stance on the issue. Lastly, it proceeds to make recommendations.

1. The male guardianship system in the GCC countries, particularly in Saudi Arabia

The male guardianship system is a social structure prevalent in several [Middle Eastern and Northern African countries](#), mandating that every woman has a male guardian authorized to make critical decisions on her behalf. Traditionally, a woman's guardian is her father from birth and her husband once she is married. While this system restricts women's freedom across the region, it is particularly concerning in Saudi Arabia, often considered [the most draconian](#) in terms of gender equality.

In Saudi Arabia, the male guardianship system forms a legal and social framework that significantly limits women's autonomy. Women are required to obtain permission from a male guardian—typically their father, brother, husband, or even son—to make crucial decisions such as traveling, marrying, or accessing specific healthcare services. This system is deeply rooted in



cultural and religious beliefs, particularly [interpretations of Sharia law](#), and has profound implications for women's rights and freedoms.

Historically, Saudi Arabia has been one of the most gender-segregated countries globally, with stringent laws regulating gender relations. These laws are heavily influenced by Wahhabism, a strict interpretation of Sunni Islam. The legal system in Saudi Arabia grants considerable discretionary power to judges, owing to the largely unwritten nature of the law, further complicating women's quest for equal rights. Although Saudi Arabia has made some strides in advancing women's rights, significant barriers remain, largely due to the male guardianship system. Genuine progress necessitates substantive reforms that address the root causes of gender inequality, dismantle the guardianship system, and promote women's full participation in society. Without these fundamental changes, Saudi Arabia's claims of reform will appear superficial, and its leadership in advocating for women's rights will continue to be scrutinized.

2. Current status of women's rights in the Kingdom of Saudi Arabia

In 2018, Crown Prince Mohammed bin Salman lifted the driving [ban on women](#) as part of a broader initiative to modernize and diversify Saudi Arabia's economy. Indeed, not having to rely on male relatives to be able to move was a relevant achievement for Saudi women's autonomy and rights in general. Moreover, in 2019, Saudi authorities announced several additional reforms that reduced the scope of the male guardianship system in the country. For example, women over 21 were granted the right to [obtain passports and travel](#) without the permission of a male relative; women over 18 gained the ability to [register](#) marriages, divorces, births, and deaths and to obtain family records; women are no longer [legally required](#) to live with their husbands; and a [ban on gender-based discrimination in employment](#) was announced, with job sectors previously reserved for men being gradually opened to women.



Despite these recent developments, however, authorities have failed to abolish the male guardianship system entirely, leaving women subjected to much of the legal and societal discrimination it entails. In fact, the modest gains introduced with the reforms have been overshadowed by the Personal Status Law (PSL) passed by Saudi Arabia in 2022 on International Women's Day - a law that, despite introducing some positive reforms, such as the minimum age of marriage, [codifies](#) many of the widespread informal problematic practices inherent to the country's male guardianship system.

Family law and personal status represent a field of law that inevitably affects women more than men. Musawah, a global movement for equality and justice in the Muslim family, understands that [egalitarian family laws](#) are essential to achieving gender equality altogether. Without full autonomy in marriage and equal rights to divorce, inheritance, and nationality, "[it is impossible for women to make key decisions pertaining to education, employment, and livelihood](#)".

Musawah particularly denounces the use of family law to deny women rights and choices in life, standing against those who often use arguments based on religious grounds to resist family law reform in Muslim contexts. In this regard, these campaigners for Justice in Family Laws defend, in particular, that "[many provisions in Muslim family laws, as defined by classical jurists and as reproduced in modern legal codes, are untenable in contemporary circumstances nor defensible on Islamic grounds](#)". This corresponds, clearly, to the women's attempts to find solutions within Islam to the problems posed to women's rights by its conservative interpretations. In this regard, it is paramount to highlight the clear difference between *Shari'ah*, the totality of religious values and principles revealed by God to Prophet Muhammad to guide human life (divine and eternal), and *fiqh*, human-made understandings and interpretations of *Shari'ah* from a specific time and place which are therefore changeable. As Musawah [states](#), today's Muslim family laws were written and enacted by governments based on a combination of classical *fiqh*, local culture, and colonial heritage. They are, in this sense, open to change.



If anything, when analyzing the situation of women's rights in countries with Muslim-majority populations, a [continuous comparison](#) must be made between the reality in countries like Malaysia or Indonesia, where there is an important debate and dialogue among society on many sensitive issues in the field of Muslim women's rights, and the situation in the vast majority of Arab and North African countries, where a single view is declared valid and imposed on the entire population without any debate. This should be done to assert an [important lesson](#): there is no universal and definitive Islamic view of the status of women. On the contrary, a great diversity of approaches and interpretations have been coexisting within Islam. According to [Musawah](#), for example, no two Muslim family laws in the world are exactly the same, which evidences human's role in developing these laws and how changeable they can be.

2.1. Negative aspects of Saudi Arabia's Personal Status Law (PSL)

Though framed as progressive by Crown Prince Mohammed bin Salman and other Saudi government officials, the 2022 Saudi Arabia's PSL entrenches a system of gender-based discrimination in matters such as marriage, divorce, child custody, and inheritance and includes provisions that facilitate domestic violence and sexual abuse in marriage. [Input](#) from Saudi women's rights activists, who had long campaigned for a codified PSL that could end discrimination against women, was neither taken into account nor welcomed. In fact, women's rights activism in the country was met with nothing more than [government reprisal](#) in the form of arbitrary arrest, detention, torture, and travel bans.

- **Marriage**

The patriarchal idea that the husband must be the head of the household and have absolute authority over the wife is common across different cultures and religions. In Muslim contexts, particularly, the idea that husbands are expected to protect and provide and wives, in turn, must obey, is enshrined in many Muslim countries laws. Also, these [laws](#) usually have minimum ages



of marriage below 18 or offer exceptions that allow children to marry below the minimum age -the latter being Saudi Arabia's case. Although child marriage might affect both girls and boys, girls are more likely to marry before the age of 18 than boys, often marrying much older men, with the devastating effects these might have on them.

Article 9 (PSL): The marriage contract of a person under the age of 18 may not be registered. However, the **court may authorize the marriage of a person under such age** if the person has reached the age of puberty and the marriage is in his or her interest”.

Although the 2022 PSL introduced a minimum age of marriage, the possibility of getting married under 18 could entail the risk of forced child marriage if consent without undue influence or coercion has not been expressed.

Following the country's longstanding practice, the 2022 PSL states that a woman must obtain a guardian's permission to marry and for the marriage contract to be valid. Since only males can be legal guardians, their influence over women's significant life decisions is clear.

Article 13 (PSL): “For a marriage contract to be valid, the following conditions must be satisfied: (...) **2. Consent of the spouses**”. **Article 17.3 (PSL):** “A guardian, including the father, may not conclude the marriage contract of a woman under his guardianship without her consent; the marriage contract must indicate her consent”.

While the previous dispositions seek to protect women from being forced into marriage, they do not clarify what “consent” means or how it should be obtained. Thus, questioning the effectiveness of such safeguards.



Article 17 (PSL): “**Guardianship in a marriage** shall be in the following order: the father, the father’s trustee, the paternal grandfathers in ascending order, the son, the son’s male patrilineal descendants, the full brother, agnate brother (...) and finally the judge”.

Further limiting women, Article 17 implies that women cannot choose their legal guardians, defining the order of male legal guardians by rank, starting with the woman’s father.

Article 20 (PSL): If a guardian, including the father, precludes the marriage of a woman under his guardianship to an eligible person she consents to marry, the **court shall assume such responsibility** at the woman’s request or the request of a person with interest.”

According to [Amnesty International](#), this transfer of guardianship from a male relative to a male-dominated entity, such as the court, would further diminish women’s agency and exacerbate the unequal power dynamics between men and women.

Article 42 (PSL): “The obligations of each spouse toward the other shall be as follows: (...) A wife shall reasonably **obey her husband**”. **Article 51:** (...) a wife shall be entitled to financial support from her husband under a valid marriage contract **if she enables him to consummate the marriage**, whether actually or constructively”. **Article 55:** “A wife’s right to **financial support shall be forfeited** if she, without a legitimate excuse, abstains from intercourse with her husband or refuses to move to the matrimonial home or spend the night therein or travel with her husband”.

The underlying ideas of these dispositions are in sync with some of the ten harmful social norms identified by [Oxfam International](#) to be contributing to gender inequality and potentially perpetuating violence against women and girls, particularly: 1) women must be submissive to



male family members in all aspects of life and not strive for equal decision-making; 2) men have to exercise power and control over their families; and 3) women cannot deny sex to their male partner because women's and girl's choices over their bodies are dominated and controlled by them.

- **Divorce and other forms of separation**

In many Muslim countries law's contexts, such as in Saudi Arabia, men and women [do not have the same ability to access divorce](#). When analyzing the separation between spouses' rights in this country, three avenues for separation contained in 2022 PSL must be differentiated: divorce; *khul'* (separation which can be initiated at the request of the wife but requires the consent of the husband); and *faskh* (court-ordered, fault-based separation). Inequality between men and women regarding the dissolution of marriages is enshrined in the way these different forms are considered and applied. For example, only men can initiate divorce without conditions, while women face legal, financial, and practical barriers in the cases available to them for pushing the dissolution of marriage (*khul'* and *faskh*). Because of the lack of equal access to divorce, husbands hold considerable power over their wives.

Article 77 (PSL): "Divorce is the dissolution of a marriage contract at the will of the husband expressed by the wording which denotes divorce". **Article 79 (PSL):** "Divorce shall take effect if expressed verbally or in writing, or by a discernible sign in case of inability to speak or write". **Article 91 (PSL):** "If a husband fails to register the divorce as provided for in Article 90 of this Law and the wife is not aware of the divorce, she shall be entitled to compensation (...)".

Men are the only ones who hold the power to unilaterally divorce their wives without any conditions. The only requirement is that the woman is informed. If this is not the case and the



husband fails to register the divorce, the unique law's not-so-negative aspect is that the woman is entitled to financial compensation.

Article 95 (PSL): “*Khul*’ means separation of spouses **at the request of the wife** and with the consent of the husband in **return for compensation paid by the wife** or a third party”.

The separation being conditional to the husband's consent as well as the wife's financial compensation, normally by paying back her *mahr* or dowry, exemplifies perfectly the barriers imposed on women to get a divorce. If women do not comply with the consent and financial requirements, the only option available to them is to obtain a court-ordered annulment -or *faskh*- for at least one out of a limited set of grounds: illness, husband's failure to pay her mahr (dowry), husband's refusal or inability to provide financial maintenance, mistreatment by the husband on the condition that the harm is proven, desertion, and husband refusal to have sexual intercourse with his wife. To get a divorce women are therefore at the mercy of the husband's goodwill and the considerations of a male-dominated entity. The situation of women is worsened by the disproportionate financial burdens they have to endure during divorce.

Furthermore, following Amnesty International, in all cases of marriage dissolution, the 2022 PSL [disadvantages women disproportionately](#). In this regard, because of traditional gender roles, which place women in unequal positions in the family, as well as the fact that women are more likely to be financially dependent on their husbands -the ones making financial and therefore “valuable” contributions under PSL-, women do not receive a fair financial arrangement at the end of marriage, in particular when talking about property distribution and post-dissolution maintenance. Thus becoming economically vulnerable.

- **Custody and guardianship of children**



Children's custody and guardianship provisions in Saudi Arabia laws, often discriminate against mothers of the child. Following Musawah, these provisions are primarily derived "[from fiqh rules developed many centuries ago by jurists who had fixed gender stereotypes about parental roles and children's needs](#)".

Article 127 (PSL): "Custody is the responsibility of both parents as long as they remain married. In case of separation, **custody shall be awarded to the mother** (...)"

In Saudi Arabia, upon separation, the mother is automatically granted custody of the child. However, the father remains the child's legal guardian and, therefore, retains the power to make critical decisions about the child's life.

Article 126 (PSL): 1. "If the custodian is a woman, she must not be married to a man who is not a mahram to the person subject of custody, unless it is in the interest of said person". **Article 129 (PSL):** "If the custodian is a parent, said parent may not take the person subject of custody outside the Kingdom for a period exceeding 90 days per year without the consent of the other parent or the guardian of the person subject of custody if the father is deceased".

The previous dispositions further exemplify the discrimination women endure in matters of child custody. Based on these, a legal guardian -usually the father- can terminate the mother's custody if she marries a man unrelated to the child. However, no similar provision under PSL applies to the father. The risk of losing their children would thus deter women from re-marrying unless they can prove that the marriage is in the "interest" of the child. As Amnesty International states, "[it is unclear how the judiciary will interpret the "interest" of the child](#)". Furthermore, the child's custodian -usually the mother- is only allowed to travel with the child outside the kingdom for 90 days a year maximum. For this period to be extended, the consent of the other parent -the father- is needed.



Article 57 (PSL): 1. “A husband may allow (...) his children from another marriage to live with his wife in the matrimonial home if he is required to financially support them, provided **this does not result in any harm to the wife**”. 2. “The wife’s children from a previous marriage may live with her in the matrimonial home if they have no other custodian; if they would be harmed if separated from her; or if the **husband explicitly or implicitly consents thereto**, and the husband may withdraw his consent if he sustains harm therefrom”.

As asserted, a woman who retains the custody of her children after re-marrying needs her husband’s consent for the children to live in the marital home, providing that there is no other custodian and they might be affected by being separated from her. In any case, the husband has the right to reverse consent if he feels “harmed”, a term not defined in the 2022 PSL. Conversely, the husband does not need the wife’s consent to have the children from a previous marriage live in the home. He can do so as long it does not cause harm to the wife.

2.2. Citizenship Act

Discrimination between men and women is also applied in the [Saudi Arabian Citizenship System](#). In this case, while individuals born inside or outside the Kingdom from a Saudi father are considered Saudis, those born inside the Kingdom from a Saudi mother and a foreign man may be granted Saudi citizenship only when the child reaches the age of 18 and complies with a series of conditions.

3. Crackdown on women’s rights movements in Saudi Arabia



Codifying a personal status law is important to reduce the discretionary and inconsistent judicial rulings related to family matters. In Saudi Arabia, for example, before the codification of the 2022 PSL, the judges applied their own interpretation of Islamic rulings when treating cases related to personal status, usually leading to [inconsistent outcomes](#), especially for women. As an academic and expert in women's rights in Saudi Arabia [puts it](#): “the fact the Personal Status Law has been codified into law is a positive point. We have been asking for this for a long time”. At the same time, however, she denounces that the law should take into account the view of civil society and feminists. To do that, a safe environment for women's activism must arise, decriminalizing critical opinions. Nonetheless, the opposite is true: women campaigning for equal rights and the abolishment of the male guardianship system have been subjected to ongoing repression. In this regard, according to [Human Rights Watch](#), prominent women's rights activists such as Loujain al-Hathloul, Nassimah al-Sadah, Samar Badawi, and Mohammed al-Rabea have been arbitrarily detained, banned from travel, and horrifically tortured or ill-treated in prison.

The case of Loujain al-Hathloul is illustrative. In December 2020, she was sentenced to five years and eight months in prison -suspended by two years and 10 months- by the Specialized Criminal Court (SCC) for promoting women's rights and demanding the end of the male guardianship system. While held [behind bars](#), she was tortured and sexually harassed, experienced solitary confinement, and was denied access to her family for months. Now released, she is facing a travel ban.

As Amnesty International [asserts](#), the lack of civic space to express critical views that are not aligned with the Saudi authorities' narrative stands in the way of effective reforms in the country, the ones related to women's rights included. Freedom of expression is paramount for women's voices to be heard on issues that affect them gravely. By negating this right, Saudi Arabia would violate a primordial tenant of the Universal Human Rights Declaration.



4. Saudi Arabia's human rights obligations and the stance of the International Community

The Kingdom of Saudi Arabia has only ratified five out of nine UN human rights treaties. The ones not ratified include the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

Quite important for the matter at hand is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), of which Saudi Arabia is, in fact, a party since the year 2000. In spite of this, Saudi Arabia's [Sharia-based reservation](#) to the treaty raised doubts about the country's commitment to the realization of the text's object and purpose.

Saudi Arabia's reservation: "In case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention".

The general reservation that gives precedence to *sharia* in case of conflict between the provisions of the Convention and those of the Islamic law, had brought the attention of the Committee on the Elimination of All Forms of Discrimination against Women, which [stated](#) that it constitutes an obstacle to the implementation of the Convention as a whole and is thereby impermissible under article 28 of the CEDAW Convention. In this vein, the Committee urged Saudi Arabia to withdraw these reservations, taking into consideration "[the best practices of countries that are members of the Organization of Islamic Cooperation and have similar cultural and religious backgrounds and legal systems](#)".

As a party to the CEDAW, the kingdom should also, based on [Article 5](#) of the Convention, take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or



on stereotyped roles for men and women. The 2022 Saudi Arabia's PSL, however, contradicts international human rights standards by codifying such stereotypical gender roles and ideas of women's inferiority in accordance with the country's longstanding practice of male guardianship.

Before its codification, the CEDAW Committee had already expressed concern over the persistence of the male guardianship system in the concluding observations on the combined third and fourth periodic reports of Saudi Arabia (2018), [claiming](#) that its maintenance underscores the subordination of women to a male guardian and undermines the rights and capacity of women and girls to develop their abilities and make free choices about their lives. Thus recommending the male guardianship abolition.

The CEDAW Committee is not the unique United Nations body that has expressed its concerns about women's reality in Saudi Arabia. In Saudi Arabia's last Universal Periodic Review (UPR), which took place during the Fifty-sixth Human Rights Council session (2024), several countries made [recommendations](#) that involved this issue, paying special attention to the abolition of the male guardianship system. For example:

- Iceland: 43.41. Withdraw all reservations to the Convention on the Elimination of All Forms of Discrimination Against Women. 43.162. **Repeal all provisions in the Personal Status Act that discriminate against women and girls**, including in marriage, divorce and custody. 43.163. **Criminalize marital rape**. 43.164. **Abolish the male guardianship system**.
- Finland: 43.67. Continue to engage with the Committee on the Elimination of Discrimination Against Women and implement all its recommendations on remaining issues, including **abolishing the male guardianship system**.
- Brazil: 43.160. Take measures to **fight discrimination against women in family matters**, including in decisions related to children, and to eliminate violence against



women by, among other initiatives, adopting legislation criminalizing all forms of violence, particularly domestic violence.

- Cyprus: 43.161. **Amend the Citizenship Act** to enable Saudi women to transfer their nationality to their children and spouses on an equal basis with men.
- Norway: 43.118. Ensure a safe and enabling environment for all human rights defenders and journalists, **in particular for women human rights defenders**.

For its part, the European Union, or at least the European Parliament, has stood with women's rights defenders in Saudi Arabia, as it demonstrated in a 2018 [resolution](#) condemning the ongoing repression of human rights defenders in the country who were campaigning against the ban on women driving and the male guardianship system. Moreover, MEPs [argued](#) that the discriminatory Saudi political and social system makes women second-class citizens and that the male guardianship system remains the most serious impediment to women's rights in the country. This being the case, however, the EU should invest more political will in pressuring Saudi Arabia to abolish it.

5. Conclusion and recommendations

Both the Committee on the Elimination of Discrimination Against Women and the International Community recommended the kingdom to abolish the male guardianship system that hinders women's capacity to make choices about their lives. Despite mild reforms, legal texts such as the 2022 Personal Status Law show that Saudi women's lives are traversed by an iron patriarchal control justified on the basis of religion. Musawah demonstrates, nonetheless, that Muslim women will not accept the fact that their religion might promote injustice and ill-treatment of half of the human race, working within the frame of Islam to respond to women's rights abuses.

Women's rights activism in the country, even though confronted with numerous restrictions, exists and challenges the values of a patriarchal society where the power and authority reside



exclusively with the father, husband, or brother. To display, in fact, an image of real modernization of the country, Crown Prince Mohammad bin Salman should seriously consider the international community's recommendations on the abolition of the male guardianship system, as well as the relevant opinions of women, whose voices are essential to accomplish women's emancipation from a male-dominated society.