

## Saudi Arabia

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

The legal system of Saudi Arabia is entirely based on Sharia law. According to article 23 of the Basic Law of Governance of Saudi Arabia, “The state protects Islam; implements its Shari'a orders people to do right and shun evil; fulfills the duty regarding God's call.” (Basic Law of Governance, Article 23). Consequently, family law and more specifically marriage law in Saudi Arabia is derived wholly from the Quran. As there is no written personal status or family law it allows judges to make decisions regarding family matters based on their own interpretations of Sharia (UN Women, n.d.).

Women in Saudi Arabia do not have the same rights as men to enter into marriage as the interpretation of Sharia favors men in matters of marriage. A marriage contract is usually executed by the prospective husband and the guardian of the intended bride. In addition, the contract requires the intended bride to specify whether she is a virgin, widow, or divorcee, but does not require the same information for the man. The formal contract excludes the bride as a signatory and is merely the legal confirmation of decisions taken jointly by two families or, increasingly, by the prospective husband and wife. Indeed, the degree to which a woman participates in decisions regarding her own marriage depends on her family's predilections and her own professional or social situation and age. A woman's consent is generally given orally before a religious official officiating the marriage, and both the woman and her male guardian are required to sign the marriage contract (Doumato, 2010). In 2016, the Justice Ministry issued a directive stating women must be provided a copy of the marriage contract. Men are not required to have their male guardian's consent and can marry up to four wives at one time provided that they can support and treat all wives equally (Human Rights Watch, 2016).

In addition, to register a marriage at the Civil Affairs office, the requirements are not the same for men and women. While a man only has to show his identity card, a woman has to provide the original family register of her father (Marriage registration procedures, n.d.)

#### b) Child marriage

There is no legally defined minimum legal age of marriage in Saudi Arabia and the degree to which women are involved in decisions surrounding their own marriages varies between families and social classes (Kelly et al, 2010).

According to the NGO Equality Now, child marriage is prevalent in Saudi Arabia (even though there is no recent data about it) as there is no laws against it and because of the commonly-accepted practice of male guardianship over women. Under this practice, a woman's closest male relative makes all decisions for her for her whole life-including whom she will marry (Equality Now, n.d.).

Information gathered by the NGO Girls Not Brides indicated that girls getting married young are doing so because of economic hardship and that their father needs the money that their dowries will provide (around 40000\$ for a young girl) (Girls Not Brides, 2011).

### c) Household responsibilities

The law stipulates that the husband is the head of the household (Civil Status System, Art. 91) and the woman must obey him (Royal Decree No. 53 of 2012, Art. 75).

When it comes to parental authority, children are legally under the sole guardianship of their father (Civil Status System, Art. 91) which means that women may not enroll their children in school or travel with them without written permission from their father (Doumato, 2010). In addition, married women do not have the same rights as married men to choose where to live. Their residence's locations must be where their husbands reside (Civil Status Law, Art 13).

Within the framework of marriage and family, women can easily be trapped because of the dependence upon their guardian. The potential for entrapment is exacerbated by the idea that a woman must always be obedient to her husband, an Islamic legal principle taken literally by the Saudis and culturally reinforced for girls in the national religious curriculum (Doumato, 2010).

Social norms within the society tend to encourage women to stay home instead of working. Despite change, views of males as breadwinners and women in subordinate roles remain strong. Men are expected to be the breadwinners and to pursue careers. There are on the other hand fewer expectations placed on women to excel and to pursue careers (Anzam, 2012). To a recent survey conducted by Gallup and the International Labour Organization (ILO) 42% of men answered that they would prefer that the women in their family stay at home instead of working. While 30% of the women surveyed answered that they would also prefer staying at home instead of working (only 12%), a huge majority of women also answered that they would prefer to do both (56%) (ILO-Gallup, 2017).

### d) Divorce

Men are able to repudiate (divorce unilaterally) their wives. Indeed, a Saudi husband is entitled to a divorce without explanation simply by registering his intent to divorce with a court and repeating his intent three times (Quran; 65 Surah At Talaq) while women are only able to obtain a divorce under certain, restricted circumstances. In practice, it is very difficult for women to obtain a divorce this way, as they must prove the grounds for divorce. A Saudi woman may initiate and obtain a divorce if her husband had granted her the right to divorce at the time of signing the marriage contract, although there is a likelihood that stipulations in marriage contracts deemed contrary to Shari'a will be invalidated by judges when presented for enforcement before the courts. Otherwise, a woman may petition for divorce in a court if she can show that her husband has deserted her, is impotent, or has a loathsome disease, which is humiliating and difficult claim to present before a court of male judges (Doumato, 2010).

In the event of divorce, women are normally granted physical custody of daughters until they reach the age of nine and sons until they reach the age of seven, although fathers retain legal guardianship (Civil Status Law, Art 91). However, in practice, women rarely receive custody of their children upon divorce as decisions regarding custody are left to judges who lack training in social and family welfare (Doumato, 2010).

In addition, women in Saudi Arabia lack equal access to courts because they must rely on a male relative or lawyer to represent them. This is particularly detrimental in divorce and child custody cases in which the guardian is also likely to be the husband, who is also the woman's legal adversary (Doumato, 2010).

### e) **Inheritance**

The distribution of inheritance is fixed according to Sharia (Basic Law, Article 23). Islamic law provides for detailed and complex calculations of inheritance shares, women may make a will and inherit from their father, mother, husband or children and, under certain conditions, from other family members. However, their share is generally smaller than that to which men are entitled. The Quran states that daughters should inherit half as much as sons. In rural areas, women are often overlooked in inheritance as they are considered to be dependents of their fathers or husbands (Doumato, 2010).

## 2. **Restricted Physical Integrity**

### a) **Violence against women**

Saudi Arabia has not ratified any specific international convention on the prevention and fight against gender-based violence. There is also no specific law addressing that concern despite numerous reports indicating that violence against women is prevalent in the country and human rights activists being jailed for publicly denouncing it (Human Rights Watch, 2013).

### b) **Domestic violence**

The Law of protection from abuse from 2013 covers physical, sexual, and psychological and economic abuse (the Law of protection from abuse, Art 1). The term “abuse” is defined as “any form of exploitation; physical, psychological or sexual, or the threat thereof committed by an individual against another exceeding the limits of powers and responsibilities derived from guardianship, dependency, sponsorship, trusteeship or livelihood relationship”. Hence it does not explicitly cover abuses from former partners. Acts of abuses are punishable by imprisonment for a period of not less than one month and not more than one year and a fine of not less than 5 000 and not more than 50 000 riyals (Law of protection from abuse, Art 13). However, protection orders for domestic violence do not exist in the law.

In addition to this legal framework, Supreme Order No. 27808 of 16 Jumada II A.H. 1438 established best procedures for dealing with cases relating to abuses. More particularly, it contains a number of directives on the subject with respect to guidance on raising awareness of domestic violence issues. It also implements targeted training plans for judges and personal status experts and staff working in court-based social services offices (CEDAW, 2017).

Nevertheless, according to Human Rights Watch, the system of guardianship and deeply entrenched discrimination within the legal system towards women (in particular in cases of divorce), make it difficult for women to escape domestic violence. According to sharia’s rules, men are entitled to remain women’s guardians, with all the associated levels of control, during court proceedings, and until a divorce is pronounced (Human Rights Watch, 2016). Therefore, if women do choose to file a legal complaint for domestic abuse, the guardianship system serves as a double-edged sword against them as women are legally required to bring their guardians to court to file the legal report. Moreover, the court can order that the victims return to their homes which are usually controlled by their legal guardians, this system clearly hinders the ability of women to report domestic abuses or file complaints (Abadeer, 2015).

### **c) Rape**

There is no Penal Code in Saudi Arabia and there is no written law which specifically criminalizes rape or prescribes its punishment. Therefore, judges when applying sharia law do not follow procedural rules and issue sentences that can vary widely (Human Rights Watch, 2008). While the law of protection from abuse defines abuse as bodily, psychological, or sexual, it does not specifically address rape or criminalise marital rape (Law of Protection from abuses, Art 1).

According to the Quran, which can be applied in the name of sharia, a rape victim must provide four witnesses to the rape or the perpetrator's confession (Quran, 24:2). Otherwise, the victim will be prosecuted for having illegal sex. Punishment imposed by the court for having illegal sex may range from flogging if she is single and execution if she is married. Any resulting pregnancy also leaves them open to criminal prosecution or other punishment such as honour killing (Abadeer, 2015).

Rape remains a taboo issue within the Saudi society, there is currently no available data on prosecutions or convictions, and NGOs working on the subject reported that very few cases are actually reported, as victims fear societal retaliation or punishment by the court (Human Rights Watch, 2013).

### **d) Sexual harassment**

There are no specific laws addressing sexual harassment, nor is sexual harassment addressed in other legislation, although employers in many sectors maintain separate male and female workspaces (Human Rights Watch, 2016). There is very low coverage from media on sexual harassment's cases and no government data; hence, information on the prevalence of is not available (Human Rights Watch, 2016).

Nevertheless, in a study conducted and reported by al Monitor in 2014, almost 80% of women age 18 years to 48 years said they had already experienced sexual harassment in their life—this data includes street harassment (Stop Street Harassment, n.d.)

### **e) Female genital mutilation**

There is currently no law addressing Female genital mutilation (FGM) in Saudi Arabia, which is not generally practiced, although there are indications that it does occur on the Southern region bordering Yemen (Stop FGM Middle East, n.d.). Data on the percentage of women who have undergone FGM is not available.

### **f) Abortion**

Abortion is considered as illegal with the only exception that if the continuation of pregnancy poses a threat to the life of the mother or severely jeopardize the mental or physical health of the mother. In order to undergo abortion, the pregnancy has to be less than four months old. In case of an older pregnancy the woman will need the permission of medical practitioner (Rules of Implementation for Regulations of the Practice of Medicine and Dentistry, Ministerial Resolution No. 218/17/L of 26 June 1989, art 24). There are is not available data on the prevalence of legal or illegal abortion.

### **3. Restricted Access to productive and financial resources**

#### **a) Secure access to land and assets**

Women in Saudi Arabia, in accordance with the rules of Sharia have the legal right to own land and non-land assets (Basic Law, Arts 7, 17, and 18). Upon marriage, women retain control and ownership of any property that they may already own and the default marital property regime is separation of property (Basic Law, Arts 7 and 23).

In addition to that legal framework, the government established a national plan aiming at increasing women's participation in cooperatives. The tenth development plan (2015-2018) goal 13.2 on social empowerment aims at encouraging the establishment of female cooperatives.

However, social norms and additional legislations such as the legislation requiring physical separation of unrelated men and women in all public areas limits women's ability to independently own and manage their lands and assets (UN Women, n.d.).

#### **b) Secure access to formal financial resources**

There are no restrictions in the law that hinder women from opening a bank account at a formal institution. They similarly have equal rights as men to obtain credit (no restriction in the law). However, social norms and discriminatory legislation such as legal provisions requiring physical separation of unrelated men and women in all public areas limits women's ability to independently own and manage their formal financial resources. In addition, the legislations restricting women's freedom of movement mean that it is difficult for them to physically access banks and other financial services if those services are not provided in separate branches from men (UN Women, n.d.).

According to data compiled by the World Bank in 2014, 58% of women aged 15 or more had an account in a financial institution (compared to 65% of men). In addition, only 10% of women own a formal credit (compared to 12% of men) (World Bank, 2014).

#### **c) Workplace rights**

Saudi Arabia has ratified ILO Conventions 100, 111, but not 156, 183 or 189. The law does not mandate non-discrimination on the basis of sex in employment or equal remuneration for work of equal value.

Women are permitted to work, but are restricted from working in certain fields and are prohibited from working in hazardous jobs or industries (Labour Law, Art 149). In addition, they are prohibited from working during a period of the night that would be superior to eleven consecutive hours (Labour Law, Art 150). The government does not require guardian permission for women to work but does not penalize employers who do require this permission (Human Rights Watch, 2016).

Saudi law mandates paid maternity leave of 10 weeks (Labour Law, Art 152), four of which are to be taken before the birth, while paternity leave allows one day off (Labour Law, Art 113). 100% wages

are covered by the employer for both paternity and maternity leave (Labour Law, Arts 113 & 152). There is no parental leave.

Authorities have provided incentives to employers to hire women and earmark certain positions for women. More particularly, the national tenth development plan (2015-2018) aims to “expand the scope of women participation in economic activities and provide more job opportunities for them in various fields in order to absorb the large supply of female workforce and to ensure decent life for them”.

However, while the government does encourage employers to hire women, it also requires employers to establish separate office spaces for men and women as well as enforcing a strict dress code on women. Those stringent policies have negative impacts and create disincentives for employers to hiring women (Human Rights Watch, 2016).

According to data compiled by the World Economic Forum in 2017, Saudi Arabia ranked 142<sup>nd</sup> out of 144 countries in terms of women’s economic participation and opportunities and 140<sup>th</sup> in terms of women’s labour force participation (World Economic Forum, 2017).

In addition, while there is no restriction in the law impeding women to register a business, data compiled by the World Bank’s Doing Business report in 2017 indicated that the number of procedures that women had to go through to open a business was superior to men’s (12 procedures for women compared to 10 for men). In addition, the same report also indicated that while it was taking 17 days to men in average to complete the process of opening a company, it took 19 days for women (World Bank, 2017).

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## 4. Restricted Civil liberties

### a) Citizenship rights

Saudi nationality law includes several provisions that discriminate on the basis of gender. Saudi women cannot acquire or change their nationality in the same way as men (Nationality Law, Art 14). In addition, they cannot confer their nationality to their spouse (Nationality Law, Art 5) or children (Nationality Law, Art 7) in the same way. Article 7 considers a Saudi to be any person born in the Kingdom of Saudi Arabia or abroad to a Saudi father; or to a Saudi mother and a father of unknown nationality or no nationality; or who is born in the Kingdom to unknown parents. In addition, article 8 sets additional requirements that must be fulfilled by a person born in the Kingdom to a Saudi mother and a foreign father to be eligible for Saudi Arabian nationality. Those conditions include

permanent residence at the time of maturity; good conduct, good command of the Arabic language; and submitting his application for nationality within one year of coming of age. Those requirements are not applicable to a person born to a Saudi father (Nationality Law, Art 8).

Multiple and intersectional discrimination are not explicitly addressed in national legislation.

Women have equal rights as men to register the birth of their children (Birth registration requirements). In 2002, women were allowed to apply for their own individual civil status (ID) card rather than, as in the past, having a legal identity only as a dependent on their guardian's identity card and in 2008 women for the first time were allowed to receive their civil status cards without their guardian's permission (Doumato, 2010). However, the requirements to obtain an ID card are different from the ones for men and women have to fill out a specific form to obtain an ID card (ID card requirements).

Regarding passports, women do not have the same rights as men to obtain a passport. For instance, the male guardian must approve the date of expiration of the passport and he is also entitled to interact on their behalf with the concerned passports administration (Passport requirements procedure).

The government generally did not restrict the free movement of male citizens within the country, but it severely restricted the movement of female citizens (US Department of State, 2016). In order to travel outside of the country, women must obtain the permission of their male guardian and apply for a travel permit for dependent (travel permit for dependents requirements). Women are, however, now able to check into hotels or rent apartments on their own (Doumato, 2010).

## **b) Voting**

In 2011 and for the first time in history, the Law of Municipal Councils, Royal Decree No. M/61, arts. 17, 66 allowed Saudi women to vote and run for 2015's municipals elections (Ansary, n.d.). The law came into effect in 2015. The elections were a significant, symbolic victory for women, particularly as many women had campaigned to obtain this right for more than 10 years (Human Rights Watch, 2016).

Nevertheless, the number of women registered to vote and certified to campaign in the 2015's elections has been somewhat small. Women made up less than 10% of the voters, with 130,637 women who registered to vote, compared with 1,355,840 men (Human Rights Watch, 2015). In addition, while women were allowed to run for a local municipal council seat in addition to voting, a man was required to give speeches on her behalf when addressing male voters as women could only address other women (Werft, 2015).

## **c) Political voice**

Regarding quotas, while there is no reserved seat at the local level, since 2013, women may now serve on the Shura council, a 150-member formal advisory body that drafts laws, debates major issues and provides advice to the king. A royal decree in 2013 stipulates that women should henceforth make up 20% of the council (Shural Council Law, Art 3). However, authorities ordered that the councils must be segregated by sex, with women members sitting in separate rooms away from their male colleagues and participating via video conference (Human Rights Watch, 2016).

Saudi Arabia legally prohibits women from becoming judges. Until recently, this prohibition was also extended to female lawyers but that is not the case anymore (World Bank, 2013).

There are no restrictions in the law impeding women from becoming part of the executive power. In February 2009, the King Abdullah appointed the first female, Noor Al Faiz, to the Saudi cabinet as deputy minister for women's education (Wynbrandt, 2010).

#### d) Access to justice

The law prohibits discrimination against women in courts of all types and levels. Article 47 of the Basic Law of Governance provides that the right to initiate proceedings is equally guaranteed to citizens and residents (Basic Law of Governance, Art 47). Nevertheless, in most cases a woman's testimony before a court counts as only half that of a man's (Executive Statute on the Law of Procedure before Shari'a Courts No. 3285, Art. 119 & US Department of State, 2016).

Women are at a further disadvantage if they want to testify as the court requires that a woman must wear a full-face veil (niqab). In addition, the court also requires the presence of someone able to identify the woman wearing it (usually her legal guardian) before being able to enter the courtroom. In addition, some judges continue to segregate men and women in their courtrooms and women cannot file complaints without the presence of their male guardian (Abadeer, 2015).

There is no governmental entity in charge of monitoring women's rights and handling complaints, but a number of civil society organizations play a role in that matter, they receive complaints, monitor violations and abuses of women's rights and contact the concerned government entities on behalf of the victims (CEDAW, 2017).

The Basic Law of Governance includes basic principles and provisions intended to strengthen and protect human rights. Under article 26 of the law, "The State shall protect human rights in accordance with the Islamic Sharia." (CEDAW, 2016). However, there is also no law protecting human rights activists despite reports of women's rights activists being jailed for publicly denouncing abuses against women (Human Rights Watch, 2013).

In Saudi Arabia, three educational institutions began to permit women to study law in 2007, although the graduates remain prohibited from serving as judges and advocates in court (Kelly et al, 2010). However, they are now allowed to become lawyers and the first female law firm in Saudi Arabia opened in 2014 (Feminist Majority Foundation, 2014).



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