

Stakeholder Report for the Universal Periodic Review of Saudi Arabia 2013

“Unfulfilled Promises”

Dr. Halah M. Eldoseri, an independent activist

heldo001@gmail.com

<http://saudiwomenrights.wordpress.com>

Mrs. Naseema Al-Sadah, an independent activists, Al-Adala center for human rights

nasda33@gmail.com

Introduction

This report aims to highlight the main concerns of women rights in Saudi Arabia for the upcoming UPR of 2013. The report was prepared and written by independent activists. Various sources have been used including news stories, written laws, statements of official figures in Saudi Arabia, and communication with people from Saudi Arabia. Though the government has taken small steps for reforms of women rights, this did not alleviate the root cause of problems for millions of Saudi women: the institutionalized guardianship system and the gender-segregation policy. Additionally, when a reform is adopted, it is left without effective implementation, rendering it useless.

Previous observations on 2009 Saudi Arabia UPR

1. Contrary to what the Saudi Arabian representatives of 2009 UPR (A/HRC/11/23), neither an effective mechanism to prevent domestic violence has been implemented, nor the enactment of the Protection from Harm Act.
2. Additionally, in the 1000 civil-society and other institutions concerned with issues relating to the protection of human rights are existed as charity operating as governmental organizations. To date, activists and concerned citizens are not allowed to establish independent civil society organizations.
3. To the best of our knowledge, promotion of human rights education in all curriculum levels as indicated by the 2009 UPR Saudi committee, particularly in regards to women rights, has never been implemented. On the contrary, a major conference on women rights was launched with a sponsorship from princess Saita bint Abdulaziz on 2012¹. Speakers were predominantly religious male scholars. Conference recommendation emphasized the concept of guardianship and gender segregation as prerequisite for education and work. It also called for abandonment of the government's commitment of international treaties advocating women rights as an alien concept to our Islamic society.

Assessment of Saudi Arabia Status of Women's Rights

Women Rights in the Basic Law of Governance

1. Equality between Saudi citizens, with no discrimination based on gender, has been indicated in article 8 in the Basic Law of Governance². However, equality between men and women is not realized. A guardian permit is generally required for women to access governmental services or resources including identification documents. Discrimination against women is not written explicitly as a punishable act in laws, policies, or procedures.
2. Extreme fatwa or religious edicts impact the governmental treatment of women in public policies. Examples include bans on driving, physical education for girls, and prejudiced court rulings in domestic conflicts. Without codification of regulatory laws and written penal code, women's access to resources and services are conditioned to arbitrary religious opinions and outdated social norms.

Political Participation

3. In 2011, a royal decree allowed women to participate for the first time in the municipal elections and to be appointed in the Consultative Council. In 2013, appointed women members were not able to resume their duties until separate exits, entries and office spaces are assigned. We believe that enforced gender segregation will potentially impact women members' active engagement in debate and limit their influence on political decision-making.
4. Representation of women in public offices in general is still below the minimum 30% threshold recommended by the Beijing protocol³. For examples, with the exception of the all-women University of Princess Nora, female professors are not appointed any higher position beyond the deputy dean position.

¹ <http://www.almoslim.net/spfiles/saudiwoman/index.htm>

² http://www.saudiembassy.net/about/country-information/laws/The_Basic_Law_Of_Governance.aspx

³ <http://www.un.org/ar/aboutun/structure/unwomen/guiding.shtml>

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

The Right to Nationality

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

Right to Education

Article 13 of the Basic Law of Governance indicates the government's responsibility towards educating the citizens without discrimination and helping them acquire the knowledge and skills to become useful members of the society:

8. Guardians' permission is required to enroll in education. Fathers who either refuse or neglect to enroll their children in education are not punishable by law. Mothers cannot obtain official documentation for their children as fathers do. They cannot obtain birth certificates or immunization records on their own.
9. Women's application for scholarships abroad is conditioned by the consent and the accompaniment of their guardians⁸.
10. Physical education (PE) for girls is still prohibited in schools, despite the positive approval to include two women in London 2012 Olympics.
11. The ministry of Education has issued a directive to all schools to obtain pre-authorization permission from guardians in order to provide medical assistance in emergencies⁹. A high school special-needs student in Taif city died on her way to the hospital after an accident at school and because of the late arrival of her father¹⁰.
12. Concerns of safety and appropriateness of buildings used for girls' education continues. In Jeddah city, two deaths and 32 injuries were reported after a fire incident¹¹. In Abha city, students organized protest against the neglected state of women's campus¹².

Economic Participation

13. Saudi women employment rate is among the lowest in the world. The ministry of labour issued a financial aid program for the unemployed youth; women represented 86% the applicants¹³. Approximately 60% of applicants to the aid program were disabled females, most were high school

⁴ <http://islamopediaonline.org/fatwa/fatwa-council-senior-scholars-kingdom-saudi-arabia-warning-against-mass-demonstrations>

⁵ <http://www.amnesty.org/en/library/asset/MDE23/006/2013/en/d1248857-75a3-402a-9c46-ee6b61894f63/mde230062013en.html>

⁶ <http://en.baladi-sa.net/index.php?skin2=18>

⁷ <http://www.alriyadh.com/2012/01/15/article701034.html>

⁸ <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentid=20110812107211>

⁹ <http://www.aawsat.com/details.asp?issueno=9532&article=337788#.USdsUKVmiSo>

¹⁰ <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentid=20120914136079>

¹¹ <http://www.alriyadh.com/net/article/684363>

¹² <http://www.aljazeera.com/news/middleeast/2012/03/2012391628527147.html>

¹³ <http://www.alriyadh.com/2012/06/28/article747532.html>

graduates¹⁴. Limitations to active economic participation of women include the gender-segregation enforcement, the driving ban, and the requirement of guardian permission. Nevertheless, thousands of women joined the service retail sectors when the ministry of labor enforced hiring women only in certain retail jobs dealing with women's merchandizes. In return, the religious police issued certain conditions to regulate women's access to work in retails¹⁵.

14. Driving ban in the absence of safe and reliable public transportation continue to limit the autonomy of women. Women2Drive¹⁶ is a campaign initiated by Manal-Al-Shareef, a single working mother, after several failed attempts to petition the Consultative Council by thousands of concerned citizens. Al-Shareef was held in Dammam prison for nine days until her father pleaded with the king. Women who challenged the ban and drove their cars were subjected to arrest and forced signing of pledges not to drive again. Three women activists, Manal Alshareef, Naseema Al-Sadah, and Samar Badawi, filed law suits against the ministry of interior and the traffic department, but they received no feedback to date.
15. Although the ministry of trade has removed the mandate of male representative or male-manager for Saudi business women, many governmental agencies remain inaccessible to women without a male-representative despite the decision¹⁷.
16. Similarly, the ministry of labor has revoked the permission of guardian for women to apply for jobs. Several employers still require women applicants to provide guardian consent, for instance the National guards Health Affairs and the National Commercial Bank.

Violence against women and girls

Violence against girls and women continue to rise without effective strategies to contain it. In 2011, The National society for human rights received 370 domestic violence cases, majority of which are caused by the husbands and fathers. Physical and emotional violence were the most common. In children, girls victims represented 62% of all cases. Fathers were the main perpetrator in 65% of cases. General observations are:

17. No laws to coordinate the official response to violence cases and to protect the victims were enacted. Lama Alghamdi is a five years old girl who was tortured and killed by her father. The father, an Islamic preacher, was given a lenient sentence of paying blood money based on a religious opinion considering fathers –but not mothers- forgiven for the murder of their children¹⁸.
18. Shelters are either not available in all areas or poorly equipped for women victims and their children. Sometimes, victims are housed in state rehabilitation centers. In addition, due to poor training and lack of procedures or protocols, shelters personnel can subject victims to further risk. Amra Al-Sufyani, an abused wife of a drug addict, was housed in a rehabilitation center in Taif city on the governor's direction. The center's management tried to return Amra back to another member of her family to solve her case despite the apparent risk of safety. Additionally, no help was provided to Amra to obtain her official documentation or attend her court hearings by the shelter, resulting a delay of her case hearing and inability to enroll her child in school.
19. Women prisoners are not allowed to leave the state institutions except in the care of a consenting guardian. Moreover, due to the social stigma in the Saudi conservative society, women released into the custody of their families are subjected to various forms of violence, and many were killed. A young man killed his two sisters when exiting correctional facility in Riyadh after being informed of the moral nature of their crime, getting caught in a car with two unrelated men¹⁹.

¹⁴ <http://www.amnesty.org/en/news/saudi-women2drive-anniversary>

¹⁵ <http://www.okaz.com.sa/new/Issues/20130223/Con20130223575126.htm>

¹⁶ http://en.wikipedia.org/wiki/Women_to_drive_movement

¹⁷ <http://www.jeg.org.sa/data/modules/contents/uploads/infopdf/businesswomen.pdf> (Page 9)

¹⁸ <http://www.dailymail.co.uk/news/article-2273719/Torment-mother-Lama-al-Ghamdi-raped-tortured-death-celebrity-cleric-ex-husband-Fayhan-al-Ghamdi.html>

¹⁹ <http://www.alriyadh.com/2009/07/06/article442704.html>

20. Increasingly, young women and girls escape from domestic violence to shelters. A total of 1400 girls and women escaped in one year²⁰. Generally, most women are treated as prisoners until reconciliation with family succeeds. This is due to the difficulty created by the institutionalized guardianship system. Released women cannot rent, drive, work, or obtain official documentation without their guardians' permission or presence.
21. Help hotlines are not manned for 24 hours, and rarely answered. Additionally, no help is provided to victims inside a place of residence, victims have to go to police stations and hospitals in person to report. Victims' access to help can be limited by driving ban, inability to leave residence, unresponsive social care workers or police personnel.

Access to Justice

Legal system continues to present a challenge to women in distress:

22. Police officers hesitate and refuse at times to accept women complaints without their guardians.
23. The ministry of justice does not allow women to use their national ID cards for identification. Instead, each woman need to have family male member or two unrelated men to prove her identity for legal services such as in making a power of attorney or filing a law suit.
24. Judges use strict Islamic opinions in the absence of codified laws.
25. Absence of personal status code and lengthy scheduling of cases complicates resolution of family disputes related to marriage, custody of children, inheritance, or divorces:
 - a. *Lea'an* practice, prevalent in Southern Saudi Arabia, subjects children to risk of having no legal documentation to avoid social stigma and thereof to lack of education or health. DNA paternity testing is not enforced neither naming the children by a pseudo name as happens with children of anonymous parents²¹.
 - b. Forced marriages are unregulated and difficult to annul. Forced women must prove their initial rejection by impossible measures including not attending the wedding party or not allowing the husband to consummate the marriage. A total of 62 cases to annul a forced marriage were filed in the ministry of justice in the past 14 years²².
 - c. Under age marriage can be difficult to annul without a media and public interventions.
 - d. Individual divorce by husbands is widely practiced and not legalized to protect women and children from the consequences of arbitrary divorce.
 - e. *Khulu*²³ or right of women to leave the marriage is enforced excessively when a woman fails to prove harm or abuse by a husband. A special fund has been recently allocated by the government to help women who cannot pay to leave their husbands.
 - f. Male guardians can request to annul a marriage -even when the woman approves a husband-based on a mismatch in the family status between a woman and her husband.
 - g. Judges often rule in favor of guardians even when women are asking for their basic rights. In Medina, a surgeon in her forties was not allowed to marry against the wish of her father after 10 years of legal proceedings and living in a shelter²⁴. Fatima Ahmed, a 35years old dental hygienist, was ordered by the judge to remain in prison if she did not accept to live with her abusive father²⁵.

²⁰ <http://mz-mz.net/93417/>

²¹ *Lea'an* refers to a religious annulment of marriage when a man doubts the paternity of a child. The child is named after the mother (e.g. "Ahmad son of (Fatima)" instead of the customary naming after the father's name), this makes the child identifiable as the son of a dubious woman and marks the child for a lifetime of social stigma.

²² <http://www.alarabiya.net/articles/2013/01/20/261404.html>

²³ *Khulu*, contrary to Divorce, is used when a woman applies for a divorce where she cannot prove a legitimate reason to leave her husband. Women have to pay amends for the husband to annul the marriage, customarily equal to the dowry.

²⁴ <http://news-sa.com/snews/2824-----qq-----10-----.html>

²⁵ <http://saudiwomenrights.wordpress.com/2012/01/16/%D9%85%D8%B9%D9%86%D9%81%D8%A9%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9-%D8%AA%D9%8F%D8%B3%D8%AC%D9%86-%D9%84%D8%A7%D8%AE%D8%AA%D9%8A%D8%A7%D8%B1%D9%87%D8%A7-%D8%A7%D9%84%D8%B9%D9%8A%D8%B4/>

- h. Judges at times condition the cases against women who rebel the authority of guardians as “disobedience of parents”, a crime where no evidence is needed but the word of the parent.
26. Women lawyers cannot apply for practice permit despite an amendment allowing them to practice after a period of training. Bayan Zahran, a female lawyer and advocate, was denied the application for a permit in the ministry of justice. The spokesperson justified the rejection as due to the lack of specific places for women applicants and unclear directives²⁶.
27. Migrant workers are at higher risk of unlawful imprisonment due to lack of knowledge of local norms and laws and the communication barrier. Many women prisoners are pregnant maids who were abused by their employers and had no means of redress. Rizana Nafeek was a 17 years old Sri-Lankan maid who was executed for the death of an infant left at her care. Flaws in interrogation and circumstantial evidence created doubts in the legal proceedings²⁷.

Recommendations

1. Alignment of local laws and policies with the commitments of Saudi Arabian government of international and regional human rights conventions and treaties.
2. Women’s access to decision-making must be promoted to reach the recommended minimum 30% ratio in all public offices and positions.
3. Nationality law should be amended to allow Saudi mothers to transfer their nationality to their husbands and children.
4. Non-government organizations and interest groups should be allowed to practice freely and independently. The right to assembly and speak should be protected.
5. Saudi Arabia should revoke the institutionalized guardianship system as a prerequisite for women’s access to identification, documentation, education, health, work, or other matters.
6. Gender-Segregation policy should be reviewed. No official should refuse to accept women citizens’ access to services or resources based on the gender-segregation policy, particularly when no other alternatives are available for women in distress.
7. Women’s autonomy should be granted unconditionally; lifting of driving ban, access to unconditional ownership and ability to rent are crucial for women’s security and safety.
8. Codification of personal status codes should be a priority to grant women equal status in marriage and family. Shared authority in the family should be enacted and enforced instead of husbands’ exclusive authority over the family’s decision making and the children lives.
9. Differentiation between moral deviations and crimes should be legally emphasized to reduce the retribution by women’s families due to moral issues.
10. Enactment of a law and a national strategy for violence against women is necessary to protect women and deter abusers. A registry of violence cases and publications of research findings are crucial for prevention and management.
11. The ministry of Social Affairs and the Ministry of Interior should collaborate to release women prisoners and victims of domestic abuses into safe transient houses and encourage women to lead independent, safe lives away from the abuse of their families.
12. Migrant workers should be protected by abolishing the sponsorship system and improving the effective access of women migrant workers to meaningful redress mechanism.

²⁶ http://alwatan.com.sa/Dialogue/News_Detail.aspx?ArticleID=117632&CategoryID=4

²⁷ <http://www.newyorker.com/online/blogs/newsdesk/2013/01/a-maids-execution-in-saudi-arabia.html>