



SAUDI ARABIA

Perpetual Minors

Human Rights Abuses Stemming from Male Guardianship
and Sex Segregation in Saudi Arabia

HUMAN
RIGHTS
WATCH



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Male Guardianship and Sex Segregation
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Glossary of Key Terms

<i>Ahliyya</i>	Legal capacity to act in legal or financial transactions.
<i>Madhhab</i>	School of Islamic law or jurisprudence.
<i>Mu'arif</i>	A male relative able to verify the identity of a woman wearing <i>niqab</i> (a face veil).
<i>Mahram</i>	A close male relative whom it would be unacceptable to marry.
<i>Qiwama</i>	The act of being superior to, a degree above, or given more physical strength.
<i>Wakil</i>	A legal proxy.
<i>Wali al-amr</i>	The guardian who acts on behalf of a minor or any person not qualified to act in legal matters on his or her own behalf.
<i>Wilaya</i>	Guardianship or the appointment of a person to act on behalf of and in the interest of a person of limited legal capacity.

Summary

I'm not proud to be a Saudi woman. Why should I be proud of a country that is not proud of me?

—A Saudi woman (name withheld), Riyadh, December 7, 2006

Fatma A., a 40-year-old Saudi woman living in Riyadh, cannot board a plane without written permission from her guardian. As a divorced woman whose father is deceased, the Saudi authorities have now transferred her guardianship to her son. “My son is 23 years old and has to come all the way from the Eastern Province to give me permission to leave the country,” she said. Throughout much of the world, it is taken for granted that the law empowers both men and women upon reaching the age of majority (typically 18) to make decisions for themselves. In Saudi Arabia, however, the government denies more than half of its citizens this fundamental right.

The Saudi government has instituted a system whereby every Saudi woman must have a male guardian, normally a father or husband, who is tasked with making a range of critical decisions on her behalf. This policy, grounded in the most restrictive interpretation of an ambiguous Quranic verse, is the most significant impediment to the realization of women’s rights in the kingdom. The Saudi authorities essentially treat adult women like legal minors who are entitled to little authority over their own lives and well-being.

Every Saudi woman, regardless of her economic or social status, is affected by these guardianship policies and the deprivation of rights that their enforcement entails. Adult women generally must obtain permission from a guardian to work, travel, study, or marry. Saudi women are similarly denied the right to make even the most trivial decisions on behalf of their children.

Male guardianship over adult women also contributes to their risk of confronting family violence and makes it nearly impossible for survivors of family violence to avail themselves of protection or redress mechanisms. Social workers, physicians,

and lawyers told Human Rights Watch about the near impossibility of removing male guardianship of women and children, even from abusive male guardians.

Even where permission from a male guardian is not mandatory or even stipulated under the government's own guidelines, some officials will ask for it, since the overarching system in place in the kingdom transfers virtually all decision-making power to a woman's guardian. Officials may ask women for their guardian's consent even where no law or guideline requires such consent because current practice assumes women have no power to make their own decisions. For example, several Saudi women and health professionals told Human Rights Watch that some hospitals require a guardian's permission to allow women to undergo certain medical procedures and to be discharged.

While the government has taken some steps in recent years to limit the absolute power of guardians, there is little evidence that these measures are actually being implemented in practice. Saudi women told Human Rights Watch that despite a recent Ministry of Interior decision allowing women over the age of 45 to travel without permission, most airport officials continue to ask all women for written proof that their guardian has allowed them to travel.

Strictly enforced sex segregation adds to these barriers and hinders a Saudi woman's ability to participate fully in public life. The Saudi government is willing to sacrifice a host of fundamental human rights in order to prevent the intermingling of men and women. In 2005 the absence of separate voting booths for women was used as an excuse to exclude them from the country's first-ever municipal elections. For employers, the need to establish separate office spaces and women's inability to interact with many government agencies without a male representative provide a significant disincentive to hiring women. In education, segregation often means that women are relegated to unequal facilities with inferior academic opportunities. Female students and professors also told Human Rights Watch that, unlike for their male counterparts, the gates to their colleges and departments are locked during teaching hours.

The government's role in establishing and enforcing male guardianship and sex segregation is often ambiguous. In most manifestations of these practices, there appear to be no written legal provisions or official decrees explicitly mandating male guardianship and sex segregation, yet both practices are essentially universal inside Saudi Arabia. It is certainly the case that the government has done little to end these discriminatory practices and plays a central role in enforcing them. In doing so, the Saudi government chooses to ignore not only international law but even elements of the Islamic legal tradition that support equality between men and women. The religious establishment has consistently paralyzed any efforts to advance women's rights by applying only the most restrictive provisions of Islamic law while disregarding more progressive interpretations and the evolving needs of a modern society.

Senior government officials consistently told Human Rights Watch that the kingdom needed to wait for society to accept the notion of women's rights before the government could reform laws and policies in this area. Yet the Saudi government's policies toward women, including its complicity in allowing guardianship and sex segregation to persist and to permeate every aspect of women's lives, call into question its commitment to the advancement of women's rights. It is clear that Saudi Arabia's segregation and guardianship policies and practices are fundamentally affecting the ability of half its population to enjoy even their most basic rights, and are severely restricting their ability to participate meaningfully in society.

Saudi Arabia's accession to the United Nations Convention on the Elimination of all Forms of Discrimination against Women in 2001, however, obliges Saudi Arabia to take action to end discrimination against women without delay. For as long as it fails to take steps to eliminate the discriminatory practices of male guardianship and sex segregation, the Saudi government is scorning its international commitment to guarantee women and girls their rights to education, employment, freedom of movement, marriage with their free and full consent, and their right to health, including protection from and redress for family violence.

King Abdullah bin 'Abd al-'Aziz Al Sa'ud should promulgate by royal decree the dismantling of the legal guardianship system for adult women. The King should

establish an oversight mechanism to ensure that government agencies no longer request permission from a guardian to allow adult women to work, travel, study, marry, receive health care, or access any public service. The Ministries of Health, Higher Education, Interior, and Labor should issue clear and explicit directives to their staff prohibiting them from requesting a guardian's presence or permission to allow a woman access to any service, and they should ensure that women's full realization of their rights is not compromised or jeopardized by segregation policies and practices.

Methodology

This report is based on 109 interviews conducted in Riyadh, Jeddah, Dammam, and al-Ahsa in November and December 2006 during Human Rights Watch's first fact-finding visit to Saudi Arabia. During this three-week investigation, a female researcher interviewed Saudi women from a range of professional and socioeconomic backgrounds both privately and in group settings in their homes. Interviews were conducted in Arabic for the most part and interviewees were identified largely with the assistance of Saudi human rights activists. This report also draws on meetings with government officials in Riyadh during a short visit in March 2008. That visit, coordinated by the Human Rights Commission of Saudi Arabia, provided the opportunity for the government and Human Rights Watch to discuss our report findings and recommendations prior to publication.

The identity of interviewees has been disguised with pseudonyms, and in some cases certain other identifying information has been withheld, to protect their privacy. Identifying information for other individuals has been withheld in some cases for the same reasons. All participants were informed of the purpose of the interview, its voluntary nature, and the ways in which the data would be collected and used, and verbally consented to be interviewed.

I. Background on Women's Rights and the Role of the Religious Establishment

Here we understand [human] nature as static. We think that women can do certain things but not others.

—Dr. A.A. al-Abdulhai, professor, King Saud University, Riyadh, November 29, 2006

The religious character of Saudi Arabia, whereby the state is the guardian of religion and all that it requires in human conduct, has a direct bearing on women's status in the kingdom. Saudi Arabia applies *Sharia* (Islamic law) as the law of the land. The first article of the kingdom's Basic Law of Governance elevates the Quran and the Prophet's traditions (*Sunna*) to the status of a constitution.¹ Consequently, the religious establishment plays a central role in the country's governance and has broad influence over many aspects of everyday life.² It is largely in control of all levels of education in the kingdom and the all-male judiciary, as well as of the policing of "public morality" through the Commission for the Promotion of Virtue and the Prevention of Vice (the religious police, *al-hisba*).³

Notwithstanding the diversity of its views in other areas, the religious establishment in Saudi Arabia has by and large opposed the empowerment of Saudi women. The Council of Senior Religious Scholars,⁴ an official body created as a forum for regular consultation between the monarch and the religious establishment, successfully orchestrated Saudi Arabia's withdrawal from the 1994 United Nations Population and Development Conference in Cairo. The Council disapproved of the conference

¹ According to the Basic Law of Governance (1992), Saudi Arabia's "constitution is the Almighty God's Book, The Holy Quran, and the Sunna (Traditions) of the Prophet (PBUH)." See Basic Law of Governance, *Umm al-Qura Newspaper* (Mekka), issue 3397, March 6, 1992, art. 1.

² The "religious establishment" in Saudi Arabia consists of clerics whom the government has officially appointed and employed and individuals who belong to religious organizations that receive state support.

³ This Commission (*al-hisba*) is an early institution of the Islamic state, where, in Egypt, for example, its powerful officials regulated weights, measures, and proper dealings in the marketplace.

⁴ The Council of Senior Religious Scholars is headed by Grand Mufti Shaikh Abd al-'Aziz Al al-Shaikh who issues the official interpretations of Islamic law in Saudi Arabia with the consent of the King. For more information on the Council and the role of religion in the kingdom, see Frank E. Vogel, *Islamic Law and Legal System: Studies of Saudi Arabia* (Leiden: Brill Academic Publishers, 2000).

topics, which included birth control, abortion, equality between men and women, and co-education, which it said were “against the laws of God and against the laws of nature.”⁵

The Permanent Council for Scientific Research and Legal Opinions (CRLO), the official institution in Saudi Arabia entrusted with issuing Islamic legal opinions (*fatawa*, sing. *fatwa*), has also consistently promoted opinions that restrict women’s rights. As one scholar noted, “Perhaps it does not come as a surprise that in most determinations, if the rights of women must be balanced against the rights of others, the CRLO consistently demands that women bear the burden of the loss of rights.”⁶ For example, when the Council was asked in the late 1990s whether delaying marriage until a woman finished her secondary or university education was religiously acceptable, it issued the following *fatwa*:

For a woman to progress through university education, which is something we have no need for, is an issue that needs examination. What I see [to be correct] is that if a woman finishes elementary school and is able to read and write, and so she is able to benefit by reading the Book of God, its commentaries, and Prophetic *hadith*, that is sufficient for her. This is so unless she excels in a field that people need, such as medicine or its like, and as long as this study involves nothing prohibited, such as the mixing of the sexes and other things.⁷

When asked what the Islamic ruling is with respect to women’s employment, the Council said,

God Almighty ... commended women to remain in their homes. Their presence in the public is the main contributing factor to the spread of fitna [strife]. Yes, the Shari’ah permits women to leave their home only when necessary, provided that they wear hijab and avoid all

⁵ Amani Hamdan, “Women and Education in Saudi Arabia: Challenges and Achievements,” *International Education Journal*, vol.6 (1) (2005), p. 56.

⁶ Khaled Abou El Fadl, *Speaking in God’s Name: Islamic Law, Authority, and Women* (Oxford: One World Publications, 2001), p. 192.

⁷ *Ibid.*, p. 274.

suspicious situations. However, the general rule is that they should remain at home.⁸

Much of the support for attributing to women a diminished personhood is found among these conservative religious scholars, and the Saudi royal family, absolute rulers of the kingdom, has been careful in taking measures that would upset the religious establishment and the latter's place in the balance of power in the kingdom. As a reflection of this balancing act, the Saudi foreign minister, Prince Sa'ud al-Faisal, told Human Rights Watch, "Any decision that does not break the social fabric we will take. We are very much sensitive to the social cohesion of the country. We are a new country where social cohesion is very important."⁹

⁸ *Ibid.*, p. 288.

⁹ Human Rights Watch interview with Prince Sa'ud al-Faisal, minister of foreign affairs, Riyadh, December 2, 2006.

II. Human Rights Violations Resulting from Male Guardianship and Sex Segregation

Though interpretations may vary, there is no question that all the world's religions are committed to the pursuit of equality and human rights. However, certain man-made practices performed in the name of religion not only denigrate individual religions but violate internationally accepted norms of human rights, including women's rights.

—Radhika Coomaraswamy, then United Nations special rapporteur on violence against women, 1994¹⁰

No other policy affects the status of women in Saudi Arabia more fundamentally than the government's imposition of male guardianship over women. This practice is derived from an ambiguous verse in the Quran that some scholars argue has been misinterpreted by the Saudi religious establishment. Sura 4 verse 34 of the Quran states, "Men are the protectors and maintainers of women, because God has given the one more [strength] than the other, and because they support them from their means."¹¹

Several Islamic law experts have provided analysis of the rationale behind the institution of guardianship in Islamic history and explain its diminishing relevance today. Islamic scholars have argued that male guardianship over women should be done away with since its two basic preconditions no longer hold true: physical strength is not relevant in the modern era and women can now support themselves financially, often sharing in the household expenses.¹² According to some experts, pre-modern jurists argued for an extension of the authority of male guardians over women because women were more vulnerable to poverty, harm, and exploitation

¹⁰ UN Commission on Human Rights, Report of the Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, E/CN.4/1995/42, November 22, 1994, para. 66.

¹¹ A. Yusuf Ali, *The Holy Qur'an: Text, Translation and Commentary* (Maryland: Amana Corp., 1983), p. 190.

¹² See Abdullahi Ahmed An-Na'im, "Islam and Women's Rights: A Case Study," *Women Living under Muslim Laws*, dossier 14-15 (1996), p. 7.

than men.¹³ However, “reasonable modern jurists realize that an argument for extending protection to women by assigning them a guardian is much weaker in the modern context.”¹⁴ Echoing these views, one Saudi professor argues, “Guardianship is linked to a certain era where there was insecurity. But now the authorities and the government are providing you with your security.”¹⁵

Another Islamic law expert has argued that there is no basis to conclude that the jurisprudence of the Hanbali School, the official *madhhab* (school of thought) in Saudi Arabia, discriminates between men and women with respect to legal capacity.¹⁶ According to Prof. Mohammad Fadel, the vast majority of Hanbali texts reject the notion that a husband has some sort of guardianship powers over his wife that would restrict her independent legal capacity. While some Hanbali jurists believe that a guardian (or ultimately the government) can restrict a woman’s private rights in the name of some other good, such as protecting the family name or the sexual boundaries of society, these restrictions are not legally mandatory. Therefore, according to Professor Fadel, “any restrictions in Saudi law or custom which prevent women from exercising their legal rights is a matter of political will and not strict adherence to Hanbali law.”¹⁷

There is also considerable disagreement among Islamic jurists on the extent of a male guardian’s authority and its restrictions. For example, different interpretations in the Hanafi and Shafi’i schools of legal thought limit the application of guardianship to minors on the basis that they do not have the full legal capacity to act for themselves. According to Dawoud El Alami, a Sharia expert at the University of Wales, “As to who must have a guardian in marriage, the jurists have taken different positions. The general view is, however, that minors, the insane, and inexperienced

¹³ Ingrid Mattson, “Law: Family Law, 7th–Late 18th Centuries” in Suad Joseph, ed., *The Encyclopedia of Women and Islamic Culture* (Leiden: Brill Academic Publishers, 2006).

¹⁴ Ahmad Atif Ahmad, “Women’s Freedom and limitations of Guardians’ Authority: Based on the Sources of Hanbali Law and Other Sources of Islamic Law,” p. 15 (on file with Human Rights Watch). This paper was commissioned by Human Rights Watch.

¹⁵ Human Rights Watch interview with Dr. A.A. al-Abdulhai, professor of political science at King Saud University and member of the National Society for Human Rights, Riyadh, November 29, 2006.

¹⁶ The Hanbali School of jurisprudence is named after Imam Ahmad ibn Hanbal. Its hallmark is to go directly to the sources of legislation, the Quran and the Prophetic traditions (*Sunna*), in an attempt to derive guidance to a legal problem, whereas other schools of jurisprudence rely more on principles established by scholarly consensus, even where there is little guidance from the Quran and the *Sunna*.

¹⁷ Email communication from Prof. Mohammad Fadel, assistant professor of law, University of Toronto Faculty of Law, to Human Rights Watch, June 18, 2007.

or irresponsible persons of either sex, must have a guardian — yet the jurists focus on the woman’s need for guardianship while little is said about the need of the man for the same.”¹⁸ Even among those who support male legal guardianship over adult women, there exist certain requirements for the exercise of this guardianship. The person must be a Muslim male of sound mind and good character. Even some Hanbali jurists have argued that guardianship must take into account Quranic prohibitions on guardians’ overreach (*‘adl*) and should be limited and conditional.¹⁹

Disregarding these current debates about the need for guardianship of women, the Saudi government has allowed its clergy to interpret a verse in the Quran in the most restrictive way possible and has institutionalized it into every aspect of a woman’s life. A representative of the Ministry of Islamic Affairs argued that the rationale for guardianship of men over women is based on a guardian’s financial responsibility or obligations towards his female relatives. “It is not an issue of standards. The issues are clear. A married woman is under her husband’s guardianship. He is responsible for her education, her health in all cases. Even if she is very rich, she is not responsible for paying for these costs. She has no responsibility to pay for the house, or for daily expenditures.”²⁰

The Saudi government is also unique among Muslim-majority countries in that it imposes almost complete sex segregation. While the policy is not discriminatory on its face since it is directed at both men and women, in practice it prevents Saudi women from participating meaningfully in public life. The government’s Commission for the Promotion of Virtue and the Prevention of Vice (the religious police) strictly monitors and enforces sex segregation in all workplaces with the exception of hospitals. When they discover unlawful mixing of the sexes, they are authorized to arrest the violators and bring them to the nearest police station where they can be criminally charged. Saudi jurists from the Permanent Council for Scientific Research and Legal Opinions described the rationale behind this policy:

¹⁸ Dawoud S. El Alami, “Legal Capacity with Specific Reference to the Marriage Contract,” *Arab Law Quarterly*, vol. 6, no. 2 (1991), p. 192

¹⁹ Ahmad, “Women’s Freedom and limitations of Guardians’ Authority,” p. 1.

²⁰ Human Rights Watch interview with Dr. Maged al-Turky, Ministry of Islamic Affairs, Riyadh, March 9, 2008.

In an Islamic society, the call for women to join men in their workplace is a grave matter, and intermingling with men is among its greatest pitfalls. Loose interaction across gender lines is one of the major causes of fornication, which disintegrates society and destroys its moral values and all sense of propriety.²¹

According to Ahmad Ahmad, a professor of religious studies teaching at the University of California, Santa Barbara, specializing in Sharia, the underlying rationale of this ruling is outdated in that it assumes that Saudi women simply have no exposure to public life that would allow them to make informed decisions. “Saudi clergy who are not in favor of women’s freedom speak as if the conditions in Saudi society today are the same as they were in a pre-modern society where women’s vulnerability to harm is a paramount concern and the realm of women’s experience, by and large, is severely limited.”²² He noted that other Islamic jurists argue that “modern transformations of society render certain views restricting women’s participation in the public sphere obsolete” and so “if juristic rulings revolve where the rationale revolves, then these outdated rulings must revolve out of the realm of juristic discussion today, as their bases often exist only in distant memory.”²³

Denying Women the Right to Education

Education is a compulsory religious duty. No one has the right to deprive women of that.

—A Saudi woman, Riyadh, December 2, 2006

Saudi Arabia has made significant progress on female education and literacy in the past 50 years, albeit within restricted parameters.²⁴ According to a UN report, while in 1970 only 16.4 percent of Saudi women over the age of 15 were literate, by 2005, 83.3 percent of Saudi women within that age bracket were estimated to be literate.²⁵

²¹ El Fadl, *Speaking in God’s Name*, p.289.

²² Ahmad, “Women’s Freedom and limitations of Guardians’ Authority,” p. 2.

²³ *Ibid.*, p. 16.

²⁴ The late King Faisal introduced girls’ education in Saudi Arabia in the 1950s.

²⁵ UNESCO, “Adult illiteracy for population aged 15 and above, by country and by gender 1970-2015,” July 2002, <http://www.uis.unesco.org/en/stats/statistics/literacy2000.htm> (accessed February 21, 2007).

Despite these steps forward, the general framework of education continues to reinforce discriminatory gender roles and women's second-class status. Article 153 of the Saudi Policy on Education states, "A girl's education aims at giving her the correct Islamic education to enable her to be in life a successful housewife, an exemplary wife and a good mother." To ensure this aim, the Department of Religious Guidance oversaw girls' schooling at all levels until 2002.²⁶ Dr. Amani Hamdan, an education expert who has studied Saudi Arabia's approach to female education, wrote that "this was to ensure that women's education did not deviate from the original purpose of female education, which was to make women good wives and mothers, and to prepare them for 'acceptable' jobs such as teaching and nursing that were believed to suit their nature."²⁷ The UN Committee on the Rights of the Child expressed serious concern in 2001 that Saudi Arabia's "policy on education for girls (e.g. articles 9 and 153 of the 1969 Policy of Education) discriminates against girls and is incompatible with article 29 (a) of the Convention."²⁸

Women's and girls' access to education often depends on the good will of male guardians. According to a number of students, school authorities require a guardian's permission to enroll women and girls in all levels of education. Female university students told Human Rights Watch that they cannot pursue a course of study or apply for an academic internship without permission from their guardian. One female student told Human Rights Watch, "Even some of our fathers are disgusted by this. They have to come all the way to the university to approve our courses and register us."²⁹ Another student said, "In order to ensure that a woman's education will not interfere with her household chores, the husband of one of my peers had to come to the university and give permission to allow his wife to do an internship during her studies."³⁰ A representative of King Saud University (KSU) in Riyadh denied that this was a Ministry of Higher Education policy and told Human

²⁶ In 2002 the government combined the General Presidency for Girls' Education (overseen by the Department of Religious Guidance) and the Ministry of Education. The latter has always overseen boys' education.

²⁷ Hamdan, "Women and Education in Saudi Arabia: Challenges and Achievements," p. 44.

²⁸ UN Committee on the Rights of the Child, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations, Saudi Arabia, U.N. Doc. CRC/C/15/Add.148, February 21, 2001, para. 39 (a). Article 29(d) of the Convention on the Rights of the Child states that education "shall be directed to the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin...." Saudi Arabia acceded to the Convention on the Rights of the Child in 1996.

²⁹ Human Rights Watch interview with a female medical student, Khobar, December 9, 2006.

³⁰ Human Rights Watch interview with a female medical student, Khobar, December 9, 2006.

Rights Watch her university does not require permission from a guardian in order to enroll female students in any discipline. She said that the dean of the university even intervened when a father refused to allow his daughter to study dentistry because it would require her to interact with male students.³¹

To be eligible for government scholarships to study abroad, the Ministry of Higher Education requires female students—unlike their male counterparts—to be married and accompanied by their husband, or otherwise accompanied by a male guardian.³² The Saudi press has reported on the increasing phenomenon of “*mesfaar* marriages” (derived from the Arabic word for travel) whereby female university students desperate to continue their studies overseas marry simply in order to meet these scholarship requirements.³³

The practice of strict sex segregation also undermines the right of women to equality in education. Female university students and professors are often relegated to unequal facilities with unequal academic opportunities: for example, at KSU, a public university, female students study in the older buildings with an inferior library, and the administration only allows them to use the main library in the male colleges one day per week, from 8 a.m. to 5 p.m.³⁴ No women are allowed in the King Fahd public library in Riyadh; women must call in advance for materials and send their drivers to pick these up.³⁵

University policy also restricts the number and types of programs offered to female students. While Saudi women make up 58 percent of university graduates,³⁶ the vast majority study at teachers’ colleges. The state fully funds undergraduate education for Saudi men and women, but there are still no public university programs for women in engineering, architecture, or political science, and women are prohibited

³¹ Human Rights Watch interview with Dr. Halam al-Oudan, registrar’s officer, King Saud University, Riyadh, March 12, 2008.

³² See “Ministry Enforces Travel Rules for Women Students,” *Saudi Gazette*, September 18, 2007, http://www.saudigazette.com.sa/index.php?option=com_content&task=view&id=37324&Itemid=1 (accessed October 1, 2007).

³³ “Mesfaar Marriage Travel Solution for Women,” *Arab News*, April 10, 2007, <http://www.arabnews.com/?page=1§ion=0&article=94783&d=10&m=4&y=2007> (accessed September 15, 2007).

³⁴ Human Rights Watch interview with a professor at King Saud University, Riyadh, November 29, 2006.

³⁵ *Ibid.*

³⁶ Tabitha Morgan, “Saudi Arabia: More female graduates but no more jobs,” *University World News*, March 16, 2008, <http://www.universityworldnews.com/article.php?story=20080314090309746> (accessed March 31, 2008).

from studying these disciplines in the male colleges. The prestigious King Fahd University of Petroleum and Minerals in Dhahran continues to exclude female students entirely. According to a Saudi professor at King Saud University, while there are 14 languages taught in the male departments, only two are taught in the female departments.³⁷ Several female medical students at King Fahd Teaching Hospital in Khobar told Human Rights Watch that some professors do not allow women to pursue studies in those professors' specialization or department.³⁸ At the Teaching Hospital in Khobar, female students are restricted from pursuing a specialization in general surgery, orthopedic surgery, and pediatrics. One student said, "In all hospitals, there are certain departments headed by people who are against women being in the medical profession."³⁹

Female university students at public universities told Human Rights Watch that university administrators prohibit women from leaving the premises unless they verify the identity of the person picking them up. A female university professor confirmed that female departments are locked during the teaching hours and female students cannot leave the campus unless a legal guardian or designated driver comes to collect them.⁴⁰ Female students living in dormitories said they are prohibited by school authorities from leaving (even in the case of illness) except with a legal guardian. They said school authorities require a guardian's authorization even to allow ambulance personnel (who are always male) into the school, so if an emergency arises and academic administrators cannot reach a guardian to authorize the student's removal, her health and life could be at risk.

The risk sex segregation can present to life and health is illustrated by reports of a tragedy in March 2002, when a fire at an elementary girls' school in Mekka resulted in the death of 15 girls. According to journalists and eyewitnesses, the religious police did not allow the girls to exit the school without their headscarves, contributing to their deaths.⁴¹ The Ministry of Education denies this version of events.

³⁷ Human Rights Watch interview with a professor at King Saud University, Riyadh, November 29, 2006.

³⁸ Human Rights Watch interview with a female medical student, Khobar, December 9, 2006.

³⁹ Human Rights Watch interview with a female medical student, Khobar, December 9, 2006.

⁴⁰ Human Rights Watch interview with a professor at King Saud University, Riyadh, November 29, 2006.

⁴¹ See "Saudi Arabia: Religious Police Role in School Fire Criticized," Human Rights Watch news release, March 15, 2002, <http://hrw.org/english/docs/2002/03/15/saudia3801.htm>. The fire was followed by the merger of the General Presidency for Girls' Education (overseen by the Department of Religious Guidance) and the Ministry of Education, mentioned above.

Denying Women the Right to Employment

Women need jobs and an income, but they are sitting there fighting about technicalities. Women need jobs not only to support their [nuclear] families but also their parents. We need to find a way to bring these women into the labor force.

—A Saudi businesswoman, Jeddah, December 11, 2006

Saudi women continue to be marginalized almost to the point of total exclusion from the Saudi workforce. The kingdom has one of the lowest rates of working women in the world. In 2004, the latest year for which information is available, the United Nations ranked Saudi Arabia 74th out of 75 countries with respect to gender empowerment, an indicator determined by the extent to which women are taking part in economic and political life.⁴² Saudi women account for only 4 percent of the total workforce and 10.7 percent of the Saudi labor force (excluding migrant workers).⁴³ As women are prohibited from studying at the engineering colleges (with the exception of interior design), there are no practicing female engineers in the kingdom. There are also no female judges, prosecutors, or practicing lawyers in Saudi Arabia. While King Abdul Aziz University's first class of female law students will graduate in 2008, the Saudi Ministry of Justice continues to prohibit women lawyers from acquiring licenses to practice.⁴⁴ Sharia scholar Shaikh Ahmad bin Hamad al-Mazyad, who served as a senior advisor to the Ministry of Justice for more than 20 years, told Human Rights Watch that the appointment of female judges was not under discussion.⁴⁵

Female professionals told Human Rights Watch that employers in both the private and public sector require female staff to obtain the permission of a male guardian in

⁴² The United Nations Development Programme (UNDP) calculates gender empowerment by tracking the share of seats in parliament held by women; the number of female legislators, senior officials, managers, and professional and technical workers; and the gender disparity in earned income. See UNDP, *Human Development Report 2006* (New York: Palgrave Macmillan, 2006), http://hdr.undp.org/hdr2006/statistics/countries/country_fact_sheets/cty_fs_SAU.html (accessed April 4, 2007).

⁴³ Raid Qusti and Ali Al-Zahrani, "Obstacles before Women's Employment Discussed," *Arab News*, February 6, 2006, <http://www.arabnews.com/?page=1§ion=0&article=77368&d=6&m=2&y=2006> (accessed February 5, 2007).

⁴⁴ See Razan Baker, "Saudi Women Studying Law Wish to Practice It Once They Graduate," *Arab News*, August 29, 2007 <http://www.arabnews.com/?page=1§ion=0&article=100554&d=29&m=8&y=2007> (accessed September 27, 2007).

⁴⁵ Human Rights Watch interview with Shaikh Dr. Ahmad bin Hamad al-Mazyad, board member, Human Rights Commission, Riyadh, March 10, 2008.

order to be hired. One woman told Human Rights Watch, “I was applying for a job as a teacher. All my papers were in order, and everything was fine. But before I started work, they asked me to get written permission from my guardian to take the job.”⁴⁶ A representative of the Ministry of Labor confirmed that under the current system, women are required to provide proof of a guardian’s permission in order to be hired in some sectors. While he initially told Human Rights Watch that, in practice, when women reach working age “employers often do not ask for permission,” he admitted that the government requires teachers, the profession of the vast majority of Saudi women, to provide such permission. “We ask [female] teachers to provide permission since they often teach far away, so yes, they need permission from a guardian. But we often don’t ask in the medical sector.”⁴⁷

Employers can force a woman to resign or fire her at any time if her guardian decides (for any reason) that he no longer wants her to work outside the home.

Although the new Saudi Labor Code, which came into force in 2006, does not include a provision requiring sex segregation in the workplace, there is little evidence that this has in any way affected the current work environment, which remains highly segregated. The Code states that “all Saudi workers have equal right to work in all parts of the kingdom, without discrimination,”⁴⁸ but other provisions within the Code counteract the equality provision, notably article 149, which states, “Taking into consideration the provisions of article 4 [vaguely requiring adherence to Sharia] of this law,⁴⁹ women shall work in all fields suitable to their nature.”⁵⁰

Sex segregation in the workplace has particularly adverse and discriminatory consequences for women by making them unattractive as employees. For employers, the need to establish separate facilities for women, and women’s inability to interact with government agencies without a male representative, provide significant

⁴⁶ Human Rights Watch interview with a Saudi woman, Riyadh, December 14, 2006.

⁴⁷ Human Rights Watch interview with Fawzi al-Dahhan, general manager of the manpower planning department, Ministry of Labor, Riyadh, March 9, 2008.

⁴⁸ Labor Code, Royal Decree No.M/51, 23 Sha’aban 1426 (September 27, 2005), art. 48. The law came into force 180 days later.

⁴⁹ Article 4 of the Labor Code (Part I: Definitions and General Provisions) reads, “When implementing the provisions of this law, the employer and the worker shall adhere to the provisions of Sharia.”

⁵⁰ Labor Code (Part IX: Employment of Women), art. 149.

disincentives to hiring them.⁵¹ An additional disincentive is that employers must sometimes coordinate their female employees' transportation since women are barred from driving. One businesswoman told Human Rights Watch that she is forced to raise the salaries of her female employees to compensate for their transportation costs:

Otherwise her salary will go solely to pay for transportation. If a cleaning lady gets 1500 SR [US\$400], 500 SR [US\$133] goes to the driver. Transportation is a big problem. As a businesswoman, I'll always hire a man over a woman; for the woman, I have to figure out how she's going to come into work every morning. Some will tell me the driver didn't come today or came an hour late. How can I blame her for that? I'm not talking about rich women who can get a driver, but everyone else. You can't depend on your brother or father or uncle to take you where you need to go. It's not a luxury; it's one of the basic needs of life.⁵²

In 2005 the Council of Ministers passed Resolution 120 aimed at expanding employment opportunities for women. Section 8 of the resolution stipulates that only Saudi women would be allowed to work in shops for women's products. However, opposition from influential religious authorities hostile to women's participation in the public space is said to have blocked these efforts.⁵³ Minister of Labor Ghazi al-Qusaibi told Human Rights Watch, "We want to expand the horizon for women to participate in the labor force. We thought to go about it in a way that doesn't clash with our mores. We started with places that sell women's clothing and lingerie. We want to start with those, then at least get some support. We were surprised by the most ferocious and orchestrated attack against us."⁵⁴ As the government did not establish any implementing authority to execute the resolution, the resolution was never put into practice.

⁵¹ Human Rights Watch interview with a Saudi businesswoman, Riyadh, December 2, 2006.

⁵² *Ibid.*

⁵³ See The Middle East Media Research Institute, "Public Debate in Saudi Arabia on Employment Opportunities for Women," Inquiry and Analysis Series - No. 300, November 17, 2006, <http://memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA30006> (accessed February 5, 2007).

⁵⁴ Human Rights Watch interview with Ghazi al-Qusaibi, minister of labor, Riyadh, December 3, 2006.

Denying Women the Right to Health

Even if you go to a hospital for an operation, you need a guardian. It's your life. Why do you need his signature?

—A Saudi woman, Riyadh, November 29, 2006

Saudi women's fundamental right to health is jeopardized by the male guardianship system. At some hospitals, health officials require a guardian's permission for women to be admitted, discharged, or to administer a medical procedure on her or her children. The requirement for guardian consent is not based on any regulation, but as one physician explained to Human Rights Watch, "It depends on the [hospital] administration, whether those responsible hold extremist religious views or not."⁵⁵ The head of the General Directorate of Hospitals told Human Rights Watch,

The law is written and clear that a woman has the right to be admitted without permission. It is the right of any lady or male to be admitted and discharged if [they are] over 18. Any procedure can be signed by the patient himself if they are wise enough. It is well known that a physician must provide medical care whenever a patient needs it. But a lot of social factors play a role limiting the application of the law. What we need right now is to work hard to educate the people about their rights. The law is there; that it is not applied is something else.⁵⁶

Given the all-encompassing guardianship system in place in the kingdom, it is clear that the Ministry of Health has a vital role to play in informing female patients of their rights and ensuring that health professionals do not violate their medical obligations by requiring a guardian's permission for a woman to receive care of any kind. Health professionals told Human Rights Watch that healthcare providers require husbands to approve, in particular, any treatments that may affect the fertility of their spouses.⁵⁷ However, a representative of the Ministry of Health told Human Rights Watch that under their guidelines the only medical procedure requiring a

⁵⁵ Human Rights Watch interview with a clinical psychologist, 2006 (location and date withheld). The physician pointed out that his own workplace does not ask for the guardian to approve an operation.

⁵⁶ Human Rights Watch interview with Dr. Ali al-Qahtani, head of the General Directorate of Hospitals, Riyadh, March 12, 2008.

⁵⁷ Human Rights Watch interview with a physician, Riyadh, 2006 (exact date withheld).

guardian's permission was sterilization.⁵⁸ One woman told Human Rights Watch, "I had a problem with my cervix. The doctor told me that I needed an operation and wouldn't be able to have any more children. I needed to bring my husband to the hospital to sign and approve the operation."⁵⁹ One physician described her frustration with this policy: "Why does a husband need to sign and approve these procedures? Why should she wait to be treated? What if he doesn't care about her physical well-being?"⁶⁰

Another physician told Human Rights Watch, "When no guardian is available, some hospitals require medical procedures to be approved by two medical consultants and a medical director. If it's an emergency, we can proceed."⁶¹ One woman told Human Rights Watch, "My sister needed to get approval to have an IV inserted. We got the driver to sign and approve it."⁶²

Women in labor who arrive at a hospital without a guardian are particularly at risk since the authorities could contend that the pregnancy was the result of an extramarital relationship, a criminal offense. A clinical psychologist told Human Rights Watch,

If a [pregnant] woman comes in to the hospital with a guardian, then she can leave with anyone, even the driver. If she comes in without a guardian, it becomes a "police case," and she'll need a guardian to come to the hospital in order for her to get discharged. She stays here if no one picks her up.⁶³

A physician at the Riyadh military hospital told Human Rights Watch that two years previously, a woman came into the hospital in labor without her guardian and required an emergency caesarian section. Her husband was traveling and could not provide permission for the procedure. The physician carried out the operation

⁵⁸ Human Rights Watch interview with Dr. Ali al-Qahtani, March 12, 2008.

⁵⁹ Human Rights Watch interview with a Saudi woman, Dammam, December 8, 2006.

⁶⁰ Human Rights Watch interview with a physician, Riyadh, 2006 (exact date withheld).

⁶¹ Human Rights Watch interview with a physician, Riyadh, 2006 (exact date withheld).

⁶² Human Rights Watch interview with a Saudi woman, Dammam, December 8, 2006.

⁶³ Human Rights Watch interview with a clinical psychologist, Dammam, December 9, 2006.

anyway, taking on considerable personal responsibility. Once the husband was able to arrive at the hospital, they managed to falsify the date of approval to predate the procedure.⁶⁴

Contributing to Women's Risk of Violence

There's no other place we can send her. We're always going to run into the problem of guardianship. We treat all the abuse cases, and then they go home. The police advise the women to go back to their husbands. They don't do anything that will cause a scandal. They will advise them that it's important to avoid scandal and then they are convinced.

—A Saudi social worker, Riyadh, December 7, 2006

The imposition of male guardianship on women makes it nearly impossible for victims of domestic violence to independently seek protection or to obtain legal redress. Police frequently require women and girls to obtain their guardian's permission to file a criminal complaint, even when the complaint is against the guardian.⁶⁵ A social worker at the National Guard Hospital in Riyadh described her frustration with this policy and gave an illustration of her hospital's inability to respond to cases of violence against women. The social worker told Human Rights Watch about a case of a Saudi woman in her late thirties who came to the hospital after her husband shot her. "Her husband was a retired police officer, an alcoholic and drug addict. She came in twice with bullet wounds. After we treated her the first time, I came in with the police to ask her whether she wanted to file a complaint. To do that, she would need a legal guardian to file it on her behalf at a police station in her neighborhood," she said. Understandably, the woman chose not to file the complaint. When her husband later shot her a third time, she died of her wounds at the hospital.⁶⁶

⁶⁴ Human Rights Watch interview with a physician, Riyadh, 2006 (exact date withheld).

⁶⁵ Individuals working with victims of domestic violence told Human Rights Watch that police frequently cited the lack of a guardian's permission to file the complaint when refusing to intervene in cases of domestic violence. Human Rights Watch interview with a clinical psychologist, Riyadh, December 4, 2006; and Human Rights Watch interview with a social worker, Riyadh, December 7, 2006.

⁶⁶ Human Rights Watch interview with a social worker, Riyadh, December 7, 2006.

The lack of specific legislation criminalizing all forms of family violence and the near impossibility of removing guardianship from abusive relatives can condemn women and children to a life of violence. According to an attorney working with the National Society for Human Rights (the only recognized quasi-independent human rights organization in the country), removing guardianship from a father, even an abusive one, is one of the most difficult legal processes they undertake. Only 1–2 percent of these cases succeed.⁶⁷ In one case it took the courts five years to remove the guardianship from a father who was sexually abusing his children.⁶⁸ One clinical psychologist told Human Rights Watch of a case in which a father sexually abused his five daughters. When one of them complained to the police, they asked her to bring her guardian to the station to file the report.⁶⁹ Another physician who runs a private clinic told Human Rights Watch, “There are no laws that protect women. Every day we see cases, and there is nothing we can do to protect them. This is his daughter or wife, so he can do whatever he wants with her. There are no laws that protect women from abusive situations.”⁷⁰

The prevailing environment of sex segregation makes women hesitant to walk into a police station (all police officers are male). Some Saudi women voiced reluctance about even calling the police without a guardian in the house. One social worker told Human Rights Watch, “A woman cannot just walk into any police station. She needs a legal guardian.”⁷¹ The Saudi authorities did not respond to Human Rights Watch’s request for information about whether the police officially require a guardian’s permission to admit women into the station.⁷²

Denying Women the Right to Equality before the Law

You’re faced with being humiliated daily. We really do not have an identity.

—A female Saudi professor, Riyadh, November 29, 2006

⁶⁷ Human Rights Watch interview with an attorney, National Society for Human Rights, Riyadh, December 12, 2006.

⁶⁸ Human Rights Watch interview with a social worker, National Society for Human Rights, Riyadh, December 12, 2006.

⁶⁹ Human Rights Watch interview with a clinical psychologist, Riyadh, December 4, 2006.

⁷⁰ Human Rights Watch telephone interview with a physician operating a private clinic, December 9, 2006.

⁷¹ Human Rights Watch interview with a social worker, Riyadh, December 7, 2006.

⁷² Human Rights Watch letter to the Saudi Human Rights Commission, May 10, 2007.

While in the vast majority of countries governments only deny minors and those with certain mental disabilities the right to make decisions for themselves, in Saudi Arabia the government extends these limitations on legal capacity to fully competent adult women. At its core, the imposition of male guardianship denies Saudi women their right under the UN Convention on the Elimination of all Forms of Discrimination against Women to “a legal capacity identical to that of men and the same opportunities to exercise that capacity.”⁷³ The Saudi authorities essentially treat adult women as legal minors who are entitled to little authority over their own lives and well-being.

Women and the courts

As legal minors, women are severely constrained in their ability to access and engage with the courts and the government bureaucracy without a male representative. Women continue to have trouble filing a case or being heard in court without a legal guardian. Courts generally refuse to accept a Muslim woman’s testimony as a witness in criminal cases.⁷⁴ Two women told Human Rights Watch that judges had refused to allow them to speak in the courtroom because they deemed their voices to be shameful (*‘awra*).⁷⁵ Judges granted only their *mahram* (chaperone) the right to speak on their behalf. When asked about this, a former representative of the Ministry of Justice told Human Rights Watch that women are entitled to be present in the courtroom and speak to judges if they are wearing a full face veil (*niqab*). He added that any restrictions “could be an exceptional case. It depends. No one should raise their voices or speak in too feminine a manner in the courtroom.”⁷⁶ Saudi courts require a *mu’arif* (a person able to identify a woman wearing *niqab*) to confirm a woman’s identity before she enters the courtroom; it is not enough to have an ID card. This same representative confirmed that without

⁷³ UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, art. 15. Saudi Arabia ratified the CEDAW in 2001 (see Chapter IV, below).

⁷⁴ Fu’ad Abd al-Mun’im Ahmad, *On Criminal Lawsuits in Islamic Jurisprudence* (Riyadh: Modern Arab Bureau, 2001), p. 177. In addition, the testimony of non-Muslims is admissible only in cases of “necessity,” especially while “traveling.” *Ibid.*, p.101. See also US Department of State, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices –2006: Saudi Arabia,” March 6, 2007, <http://www.state.gov/g/drl/rls/hrrpt/2006/78862.htm> (accessed November 13, 2007).

⁷⁵ Human Rights Watch interview with a Saudi woman, Riyadh, December 5, 2006; and Human Rights Watch interview with a female member of the National Society for Human Rights, Riyadh, December 15, 2006.

⁷⁶ Human Rights Watch interview with Shaikh Dr. Ahmad bin Hamad al-Mazyad, March 10, 2008.

female sections in the courts with female staff able to confirm a woman's identity, all women are required to bring a *mu'arif*.⁷⁷ One attorney told Human Rights Watch, "The attitude in the Sharia courts is that people don't need lawyers to deal with the sheikh. Of course a woman shouldn't address the sheikh herself. If she does, she needs to wear *niqab*. It's preferred that a *mahram* speaks for her."⁷⁸ According to another attorney, "Unfortunately, judges consider women to be lacking in 'aql [reason] and faith, so generally do not agree with her arguments."⁷⁹

The government's guardianship policy has created a legal paradox that holds women legally responsible for any crimes they commit while at the same time not considering them to have full legal capacity. In fact Saudi Arabia has established no minimum age of criminal responsibility for girls. While there is no law determining a uniform age when children can be treated as adults in criminal cases, the Council of Senior Scholars decreed puberty as the threshold for trying a child as an adult in murder and manslaughter cases.⁸⁰ While the Saudi government denies women their right to make decisions throughout their lives, it has no apparent qualms about holding them responsible for their actions at puberty. "If we commit a crime, we will be held responsible just like any man. But when we want to deal with our own affairs and finances, we cannot," said one woman.⁸¹

Identity documents

The government only granted Saudi women the right to an independent identification card in 2001. Prior to 2001 the authorities registered all Saudi women under their father or husband's family card. Obtaining a separate identification card is optional and still requires a guardian's permission. According to the Saudi Civil Affairs Law, "Whoever completes fifteen years of age of the male Saudi nationals shall check with one of the civil status department to obtain his own identity card, and obtaining such card shall be optional for women and for those between ten and fifteen years of

⁷⁷ Ibid.

⁷⁸ Human Rights Watch interview with an attorney, Riyadh, December 7, 2006.

⁷⁹ Human Rights Watch interview with an attorney, National Society for Human Rights, Riyadh, December 12, 2006.

⁸⁰ For a detailed discussion of juvenile justice in Saudi Arabia, see Human Rights Watch, *Adults Before Their Time: Children in Saudi Arabia's Criminal Justice System*, vol. 20, no. 4(E), March 2008, <http://hrw.org/reports/2008/saudicrdo308/>.

⁸¹ Human Rights Watch interview with a member of the National Society for Human Rights, Riyadh, December 15, 2006.

age after agreement of their guardians.”⁸² One 22-year-old woman told Human Rights Watch, “I don’t have a right to ask for my identity. The law says that all women should have an ID card, but we need permission from our guardian. I’ve been asking my father to take me to get one for a year, but he has refused.”⁸³ While the Ministry of Interior is said to have taken a decision recently eliminating the need for a guardian’s permission for women to issue ID cards for themselves or their children, Human Rights Watch was not able to find any written evidence of this decision. As late as March 2008, Saudi women complained that officials continued to ask for a guardian’s permission to issue the cards.

While the religious police put pressure on Saudi women to wear full *niqab* in public, as a security measure they appear with their faces uncovered in their identification cards. Saudi women who wear full *niqab* must bring a *mu’arif* to identify them in order to carry out any administrative actions that would require a verification of their identity in offices without women’s sections. One woman told Human Rights Watch, “Nobody recognizes our ID cards. I can’t even pick up my divorce papers with it. If I try, they will ask me to bring someone in to verify who I am.” Even the most mundane tasks often require a *mu’arif*. For example, some cellphone stores prohibit women from buying cellphones without their guardian. One woman told Human Rights Watch, “My daughter tried to get [a cellphone] and told the salesman that she could uncover her face to verify her identity but the salesman refused.”⁸⁴

Particular difficulties facing divorcees and widows

The lack of full legal capacity affects divorcees and widows in particular, many of whom find it extremely difficult to survive in Saudi Arabia without a male guardian who is willing and able to navigate the government bureaucracy on her behalf. One woman told Human Rights Watch, “You need a guardian for everything, and poverty makes this need even worse. Women are lost when their guardian is absent. Her whole life gets cut off. She cannot do anything.” Another woman told Human Rights Watch that her mother decided to remarry because of the problems she faced with male guardianship: “She had to get married to get things done. She told me, ‘I sold

⁸² See Section 8 (Identity Cards and Family Books), Royal decrees No. 7, dated 20/4/1407H(1) (December 21, 1986), art. 67.

⁸³ Human Rights Watch interview with a Saudi woman, Dammam, December 8, 2006.

⁸⁴ Human Rights Watch interview with a Saudi woman, Riyadh, December 5, 2006.

my body so that my paperwork can get taken care of. It's tarnished my reputation and dignity, but our affairs are being resolved.' I saw how much my mother suffered from guardianship. We cannot take any step forward without a guardian's approval."⁸⁵

While the authorities usually transfer guardianship of divorcees and widows to their closest male relative, some foreigners who acquired Saudi nationality through marriage and subsequently divorced remain in the kingdom without a guardian; while most return to their country of origin, some continue to reside in Saudi Arabia in order to ensure contact with their children. One such woman, a divorcee, told Human Rights Watch, "I'm *mahram*-less, which makes me persona non grata in Saudi Arabia ... I don't really exist in the system. My passport is a married passport and in order to transfer it to a single passport, I need an ID card."⁸⁶ However, she is unable to get an identification card without a guardian and needs her ex-husband's permission in order to travel with her current passport. She is also concerned that if she were to return to her country of origin, the Saudi authorities may deny her a visa to reenter Saudi Arabia to see her children.

Denying Women the Right to Freedom of Movement

Does the fact that a son supports his mother, or a brother his sister, empower them to restrict her movements? What if that son or brother were evil, unkind to his parents or sisters, refusing to let his mother travel even in cases of necessity?

—Saudi writer Nura al-Khuraiji's open letter to the Consultative Council, April 2000⁸⁷

No country restricts the movement of its female population more than the kingdom of Saudi Arabia. The Ministry of Interior prohibits Saudi women from boarding a plane without the written permission of a male guardian. When traveling without a guardian, the ministry requires Saudi women to travel with yellow cards that stipulate the number of trips and for how many days their guardian has approved

⁸⁵ Human Rights Watch interview with a Saudi woman, Riyadh, December 16, 2006.

⁸⁶ Human Rights Watch interview with a naturalized Saudi woman, Riyadh, November 30, 2006.

⁸⁷ *Arab News*, April 4, 2000.

their traveling.⁸⁸ The authorities also deny women the right to acquire a passport without a guardian's permission.⁸⁹ The Ministry of Interior's website contains a specific section on "Travel Permits for Women and Children" where it clearly states, "Passport owners cannot travel before being issued a travel visa from the Ministry of Foreign Affairs and family guardian approval is necessary to issue this visa."⁹⁰ Airport officials may stop women from boarding a flight without valid permission. One 35-year-old woman, Wafa A., told Human Rights Watch, "I worked for five years at a bank. I'm completely financially independent. But the major problem that I'm facing is that I'm not allowed to travel even to Jeddah or the Eastern Province without permission. Sometimes I have work in Jeddah but I can't go." Wafa A.'s father transferred guardianship rights to her brother, who is 10 years younger than her: "My father gave him full control and responsibility over me ... My father is still my guardian on paper, but my brother is the one in reality."⁹¹ Foreign women under the age of 45 traveling to Saudi Arabia for the *hajj* or pilgrimage are required to travel with a male relative as their chaperone.⁹²

Saudi Arabia remains the only country in the world that prohibits women from driving. The government's restrictions on driving combined with limited affordable and accessible public transportation options prevent Saudi women from fully participating in public life. While the government claims that there is no official ban,⁹³ there are no women drivers in the kingdom as it universally understood that it

⁸⁸ See Appendix for a sample yellow card required for female travel outside the kingdom.

⁸⁹ According to Ministry of Interior guidelines, "Procedures to issue a passport for a Saudi female are the same for Saudi males but the family guardian must be present to approve on issuing the passport." See Ministry of Interior, General Directorate of Passports, "Saudi Procedures," FAQ. http://www.moi.gov.sa/wps/portal/passports/kcxml/o4_Sj9SPYkssyoxPLMnMzovMoY_QjzKLNzSMdwp2AcIb2c76kRiiho6uWEVdkETD9aOQzltCMi8KyZQoL1BqXn63vq-Hvm5qfoB-gW5oaERBpmeuo6OigDjSg41/delta/base64xml/LolDUoIKQ1RPN29na21BISEvboVvUUFBSVFnakZJQUFRaENFSVFqRoVBLzRKRmIDbzBlaDFpY29uUVZHagQtcolRIS83XzExXoozNC8y?WCM_PORTLET=PC_7_11_M34_WCM&WCM_GLOBAL_CONTEXT=/wps/wcm/connect/Passports/FAQs/ (accessed September 15, 2007).

⁹⁰ Ibid.

⁹¹ Human Rights Watch interview with a Saudi woman, Riyadh, December 19, 2006.

⁹² The Saudi Embassy in Washington DC's website states, "All ladies are required to travel for Hajj with a Mahram. Proof of kinship must be submitted with the application form. Any lady over the age of forty-five (45) may travel without a Mahram with an organized group, provided she submits a letter of no objection from her husband, son or brother authorizing her to travel for Hajj with the named group. This letter should be notarized." See "Hajj Requirements," <http://www.saudiembassy.net/Travel/hajj.asp> (accessed October 2, 2007).

⁹³ The Saudi government has stated that "There is no legal provision banning women from driving cars. However, this matter is the subject of study and requires time for implementation." See Committee on the Elimination of All Forms of Discrimination against Women, Responses to the list of issues and questions contained in document number CEDAW/C/SAU/Q/2, A.H. 1428 (A.D. 2007), UN Doc. CEDAW/C/SAU/Q/2/Add.1 (2007), p. 5.

is not allowed. A *fatwa* (religious ruling) issued by the late Shaikh 'Abd al-'Aziz bin Abdullah bin Baz, then chairman of the Council of Senior Religious Scholars, reinforced the prohibition. The *fatwa* stated,

There is no doubt that such [driving] is not allowed. Women driving lead to many evils and negative consequences. Included among these is her mixing with men without her being on her guard. It also leads to the evil sins due to which such an action is forbidden.⁹⁴

On November 6, 1990, 47 Saudi women drove in a Riyadh parking lot in protest against the driving ban. The traffic police stopped the protesters, took them into custody, and released them only after their male guardians signed statements that they would never attempt to drive again. The government suspended the women from their government jobs, confiscated their passports, and told them not to speak to the press. Several of the women were forced out of their jobs for three years.⁹⁵ Sixteen years on, one such woman told Human Rights Watch she believes she has been denied many opportunities for career advancement due to her participation in the protest.⁹⁶

Denying Women the Right to Equality in Marriage

The Right to Enter Freely into Marriage

Like other Muslim-majority countries, Saudi Arabia relies on a personal law system based on Sharia, which treats marriage as a contract concluded by mutually consenting parties where one party makes an offer (*ijab*) and the other accepts (*qabul*).⁹⁷ The Saudi authorities limit a woman's ability to enter freely into marriage by requiring her to have the permission of a male guardian (*wali al-amn*).

⁹⁴ Muhammad bin Abdul-Aziz Al-Musnad, *Islamic Fatawa Regarding Women* (Riyadh: Darussalam Publications, 1996), p. 310.

⁹⁵ Human Rights Watch interview with a professor who took part in the protest, Riyadh, November 29, 2006.

⁹⁶ *Ibid.*

⁹⁷ Saudi law has established no minimum age of marriage. Saudi Arabia's submission to the Committee on the Rights of the Child explained why: "With regard to social status, the law does not define a specific minimum age for marriage; the Islamic Shariah regulates discrepancies relating to capacity for marriage and promotes marriage in a manner that ensures the happiness of both spouses and averts the countless social dangers inherent in the deferment of marriage. This flexibility of the Islamic Shariah helps to satisfy the disparate needs of men and women and serves the interests of both parties." See Government of Saudi Arabia, Second Periodic Report to the Committee on the Rights of the Child, CRC/C/136/Add.1, April 21, 2005, para. 37.

Guardianship in marriage falls under two categories: guardianship with the right of compulsion (*wilayat-ul-ijbar*), and guardianship without the right of compulsion (*wilayat-un-nadb*).⁹⁸ According to scholars, the opinion of the jurists in the Hanbali School is that “[a] guardian who is the father or grandfather of a minor or virgin girl is free to approve a marriage for his ward without her consultation.”⁹⁹ However, Hanbali scholars recommend that the approval of virgin women who have reached majority be given as well as the approval of minor girls who have already been married.¹⁰⁰ In Saudi Arabia guardians also have the unilateral authority to dissolve marriages they deem unfit.

In April 2005 Grand Mufti Shaikh Abd al-‘Aziz Al al-Shaikh, the head of the Council of Senior Religious Scholars, spoke out against forced marriages, stating, “Forcing a woman to marry someone she does not want and preventing her from wedding that whom she chooses ... is not permissible” under Islamic law.¹⁰¹ However, to date the government has done nothing to prevent Sharia court judges from preventing women from choosing their spouse or forcing their divorce when their guardians insist on it.

A recent case given a high profile in the Saudi press highlights the overarching power legal guardians have to dissolve marriages they deem unacceptable. It concerns the forcible divorce of 34-year-old Fatima `Azzaz from Mansour al-Timani.¹⁰² Fatima `Azzaz’s half-brothers took legal action following the death of their father, claiming that Mansour had misrepresented his tribal affiliation when he asked for permission to marry Fatima. While Fatima, who was pregnant at the time of the first hearing, informed Judge Ibrahim al-Farraj at a court in the northern city of Juf that she wanted to remain married, he ruled in favor of the brothers and ordered the divorce in August 2005. He found that Timani’s tribal lineage was socially inadequate for him to marry `Azzaz, essentially declaring that the marriage could harm the reputation of

⁹⁸ Jamal J. Nasir, *The Status of Women under Islamic Law and Under Modern Islamic Legislation* (London: Graham & Trotman, 1990), p. 9

⁹⁹ *Ibid.*, p.10

¹⁰⁰ *Ibid.*

¹⁰¹ “Saudi Arabia bans forced marriage,” *BBC News Online*, April 12, 2005, http://news.bbc.co.uk/2/hi/middle_east/4437667.stm (accessed April 4, 2007).

¹⁰² For more information, see Andrew Hammond, “Saudi court to rule on reluctantly divorced couple,” *Reuters News*, November 21, 2006; Suzan Zawawi, “An Avalanche of Support for Fatima,” *The Saudi Gazette*, February 7, 2007; and Ebtihal Mubarak, “Fatima Case Verdict Opens Door to More Forced Divorced,” *Arab News*, February 6, 2007.

`Azzaz's family since Timani is of a lower social class. Following the court ruling, Eastern Province governorate officials, who answer to the Ministry of Interior, harassed and persecuted the couple, including by detaining `Azzaz and her two children in Dammam Public Prison because of her unwillingness to return to her half-brothers, whom she feared because of violence directed against her and a history of family disputes. In April 2006 she was transferred to another detention center in Dammam under the administration of the Ministry of Social Affairs, where she remains at this writing. The Riyadh Court of Appeals in January 2007 upheld the original court verdict, ending judicial appeals.¹⁰³

In February 2007 a group of Saudi women launched a petition to King Abdullah urging him to forward the couple's case to the Supreme Judicial Council in an effort to reverse the appellate court's decision. The petition also asked the king to re-evaluate the "laws pertaining to guardianship of competent, adult women."¹⁰⁴ The government did not respond to this petition. The chairman of the Human Rights Commission of Saudi Arabia told Human Rights Watch in March 2008 that he has asked the king to intervene several times in the case. The Commission has commissioned a study by a Sharia expert on the unlawfulness of divorces based on differing tribal lineage that they plan to send to the Supreme Judicial Council.¹⁰⁵

The Right to Equality with Respect to Guardianship of Children

The Saudi government deprives women of the right not only to act as their own guardian but also to be the legal guardian of their children during marriage and following divorce.¹⁰⁶ In the event of divorce the law automatically transfers legal and physical custody to fathers when boys are nine and girls are seven; even when

¹⁰³ See "Saudi Arabia: Officials Harass Forcibly Divorced Couple," Human Rights Watch news release, July 17, 2007, <http://hrw.org/english/docs/2007/07/18/saudia16399.htm>.

¹⁰⁴ See Aishah Schwartz, "Will Forced Divorce Become Rule-of-the-Day in Saudi Arabia?" *MWANET*, February 8, 2007, http://muslimahwritersalliance.com/articles/king_abdullah_petitioned.html (accessed February 15, 2007).

¹⁰⁵ Human Rights Watch interview with Shaikh Turki bin Khalid al-Sudairy, chairman of the Saudi Human Rights Commission, Riyadh, March 8, 2008.

¹⁰⁶ Custody laws in Saudi Arabia favor men and are not based on any determination of the best interest of the child. Judges do not award custody to non-Saudi women or non-Muslims. As recently as March 2006 the UN Committee on the Rights of the Child expressed concern that the "general principle of the best interests of the child contained in article 3 of the Convention is not systematically included in laws, regulations and practices concerning children, for example regarding the status of the child, the custody decisions and in the area of alternative care." See UN Committee on the Rights of the Child, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations, Saudi Arabia, U.N. Doc. CRC/C/SAU/CO/2, March 17, 2006, para. 30. See also Abdullahi An-Na'im, *Islamic Family Law in a Changing World* (London: Zed Books, 2002), p. 102.

women succeed in getting a court to grant them physical custody of their children (for example, because the father is found unfit), fathers always retain legal custody and the right to make virtually every decision for the children. Married and divorced Saudi women alike told Human Rights Watch that they cannot open bank accounts for their children, enroll them in school, obtain school files, or travel with their children without written permission from their children's father. One woman told Human Rights Watch, "I tried to have a birth certificate issued for my one-year-old child but I couldn't. They needed the legal guardian [to make the request]. I can't even deposit a birthday check into his account for him."¹⁰⁷

Human Rights Watch spoke to a divorced woman in her thirties who has physical custody of her children while their father retains legal guardianship. In December 2006 two doctors recommended that her 11-year-old son have a minor operation. Her husband refused to provide permission for the operation, which he deemed to be unnecessary. "I spoke to the insurance company, and they said they received approval to carry out the operation but it was cancelled. I asked them why, and they said that it was because the father had prohibited it." In an effort to override his decision, she wrote letters to the minister of justice, the governor of Riyadh, and the head of the Human Rights Commission. Initially, the governor's office told her that there was nothing they could do, but two weeks later they provided permission to go ahead with the operation.¹⁰⁸

A pediatrician confirmed to us that while either a mother or father can sign for an operation under the Ministry of Health's guidelines, some doctors assume that only the child's father is empowered to do so. "A mother can sign for her child. But there are some problems with doctors. We need to educate them that a *wali al-amr* [guardian] is a mother or father."¹⁰⁹

In exceptional cases when no male guardian is present, the Saudi authorities allow women to play an advisory role (*wisaya*) of children, with legal guardianship rights. Human Rights Watch spoke to a woman in her thirties who is the legal advisor of two

¹⁰⁷ Human Rights Watch interview with a Saudi woman, Riyadh, December 7, 2006.

¹⁰⁸ Human Rights Watch interview with a Saudi woman, Jeddah, December 12, 2006.

¹⁰⁹ Human Rights Watch interview with Dr. Maha al-Munif, pediatrician, National Guard Hospital, Riyadh, March 12, 2008.

teenage half-sisters, while her own guardian is her uncle. “I’m a responsible person ... I have the *wasiya* of two younger siblings and can take responsibility for these two girls but I can’t take responsibility for myself. Instead, someone who doesn’t support me in any way or even contact me can make decisions about my life.”¹¹⁰ This creates the paradox that women may have legal authority over others while they themselves still require a guardian’s permission in major aspects of their lives.

¹¹⁰ Human Rights Watch interview with a Saudi woman, Riyadh, December 14, 2006.

III. Saudi Arabia's Obligations under International Law

The Committee urges the State party to take immediate steps to end the practice of male guardianship over women.

—Concluding Observations of the CEDAW Committee, February 2008

Through its ratification of the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 2001, Saudi Arabia assumed the obligation to take action to end discrimination against women in all its forms.¹¹¹ The convention obliges Saudi Arabia “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” including “any distinction, exclusion or restriction made on the basis of sex which has the purpose of impairing or nullifying the recognition, enjoyment or exercise by women ... of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”¹¹²

Saudi Arabia's reservations to critical articles in CEDAW and its general reservation to the treaty cast doubt on its commitment to advance women's rights. The Saudi government entered a general reservation upon ratification of CEDAW stating that “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.” Saudi Arabia is asserting full authority on the basis of religion to discriminate against women in any of the areas specified in the treaty. Saudi Arabia also “does not consider itself bound by paragraph 2 of article 9 of the Convention” granting women equal rights with men with respect to the nationality of their children. Reservations that are incompatible with the object and purpose of a treaty violate international law¹¹³ and are unacceptable precisely because they would render a basic international obligation meaningless.

¹¹¹ CEDAW, art.2. Saudi Arabia's accession to the convention was formalized through the adoption of Royal Decree No. 25 of 28/5 [Concerning the kingdom's accession to the Convention on the Elimination of All Forms of Discrimination against Women] on 28 August 2000.

¹¹² CEDAW, art. 1.

¹¹³ See art. 19(c), Vienna Convention on the Law of Treaties, adopted May 23, 1969, entered into force on January 27, 1980. United Nations, *Treaty Series*, vol. 1155, p. 331.

CEDAW explicitly acknowledges social and cultural norms as the source of many women’s rights abuses, and obliges governments to take appropriate measures to address such abuses. Article 5(a) of the convention obliges states 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.”¹¹⁴ As the findings of this report demonstrate, the Saudi government has not only done little to tackle these customary laws and practices, it has instituted an entire system that is premised on the inferiority of women.

Saudi Arabia’s imposition of male legal guardianship on adult women violates article 15 of CEDAW, which requires states to “accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity.” States parties are further required to ensure that “all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.”¹¹⁵ In Saudi Arabia the government only grants adult men the right to full legal capacity. The authorities deprive women of this right and subsequently deny them the ability to act not only on their own behalf but also on behalf of their children.

Numerous treaties and treaty bodies acknowledge women’s equal rights to travel, work, study, access health care, and marry without discrimination. Article 15(4) of CEDAW obliges states to “accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.”¹¹⁶ Restrictions imposed on women’s freedom of movement in Saudi Arabia also violate the Universal Declaration of Human Rights, which is considered customary international law. Article 13 provides that “Everyone has the right to freedom of movement and residence within the borders of each state” and that “Everyone has the right to leave any country, including his own, and to return to his country.” Article 12 of the International Covenant on Civil and Political Rights also sets out the right to freedom of movement. The UN Human Rights Committee, in its

¹¹⁴ CEDAW, art. 5(a).

¹¹⁵ *Ibid.*, art.15.

¹¹⁶ *Ibid.*, art.15(4).

General Comment on the right to freedom of movement, stated that states' obligation to protect freedom of movement is particularly pertinent in the case of women. It went on to say, "[I]t is incompatible with article 12, paragraph 1, that the right of a woman to move freely and to choose her residence is made subject, by law or practice, to the decision of another person, including a relative."¹¹⁷ While Saudi Arabia is not a party to the International Covenant on Civil and Political Rights, the government informed a United Nations committee in March 2003 that it would "soon accede" to this treaty.¹¹⁸

With regard to nondiscrimination in employment, Saudi Arabia has additional obligations as a member of the International Labour Organization (ILO) and as a party to ILO Convention No. 111 dealing with discrimination in employment.¹¹⁹ Since 1991 the ILO's Committee of Experts has repeatedly expressed concern about the government's policy on sex segregation in the workplace codified in section 160 of the 1969 Labor Code. The Committee has said the following in relation to segregation in the workplace:

The Committee notes once again that Section 160 of the Labour Code has the effect of prejudicing equality of opportunity and treatment between men and women and is therefore incompatible with the Convention. The prohibition on men and women being together at the workplace results in occupational segregation according to sex since it restricts women to jobs where they will only be in contact with other women and which are deemed to be suitable to their nature and not contrary to current traditions.¹²⁰

The Committee also criticized the restriction of women to occupations deemed suitable to their nature and not contrary to "tradition."¹²¹ It called on Saudi Arabia to

¹¹⁷ UN Human Rights Committee, General Comment No. 27, Freedom of Movement, UN Doc. CCPR/C/21/Rev.1/Add.9 (1999), para. 6.

¹¹⁸ See Committee on the Elimination of Racial Discrimination, Concluding Observations: Saudi Arabia, 21/03/2003, paragraph 8, CERD/C/62/CO/8. (Concluding Observations/Comments), March 20, 2003.

¹¹⁹ ILO Convention No. 111 concerning Discrimination in Respect to Employment and Occupation, adopted June 25, 1958, 362 U.N.T.S. 31, entered into force June 15, 1960.

¹²⁰ Report of the Committee of Experts, ILO, Geneva 1996.

¹²¹ *Ibid.*

review the occupations and activities that women may not perform, in light of current scientific knowledge and technology relevant to those occupations. As noted above, while the new Saudi Labor Code, which came into force on April 23, 2006, does not include a provision enforcing sex segregation in the workplace, there is little evidence that this has in any way affected the current work environment, which remains highly segregated.

The need for a male guardian to grant a woman permission to work and his ability to suspend her employment at any time and for any reason also violates Saudi Arabia's obligations under article 11 of CEDAW. Article 11 stipulates that

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service.

With regard to education, CEDAW further obliges Saudi Arabia to

take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes,

particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women.¹²²

Saudi Arabia has ratified the UNESCO Convention against Discrimination in Education, which specifies that segregation is not in itself a breach of the Convention if “these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study.”¹²³ As noted in Chapter III, in Saudi Arabia, segregation often means that women are relegated to inferior facilities and unequal opportunities.

CEDAW also provides that states “shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations.”¹²⁴ In particular, states are required to afford to women the right to enter into marriage only with their free and full consent.¹²⁵ Saudi Arabia violates this fundamental right when it allows legal guardians to withhold consent for marriages or dissolve marriages that they see as unfit. By denying women legal guardianship of children, Saudi Arabia is also violating article 16(f) of CEDAW, which clearly notes that state parties should ensure men and women “[t]he same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount.”

Saudi Arabia’s failure to ensure that all hospitals admit women and provide medical treatment without a male guardian’s consent violates its obligations to ensure women’s basic health rights. Article 12 of CEDAW obliges states to “take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.”¹²⁶

¹²² CEDAW, art. 10.

¹²³ UNESCO Convention against Discrimination in Education, adopted on December 14, 1960, art. 2.

¹²⁴ *Ibid.*, art. 16(1).

¹²⁵ *Ibid.*, art. 16(1)(b)

¹²⁶ *Ibid.*, art. 12.

The CEDAW Committee, in its General Recommendation on the Right to Health, also explicitly states,

The obligation to respect rights requires States parties to refrain from obstructing action taken by women in pursuit of their health goals ... States parties should not restrict women's access to health services or to the clinics that provide those services on the ground that women do not have the authorization of husbands, partners, parents or health authorities, because they are unmarried or because they are women.¹²⁷

When legal guardianship stands in the way of redress for victims of violence, Saudi Arabia is also failing to act with due diligence to prevent, investigate, and punish violence against women, putting women's health and lives in jeopardy. Domestic violence prevents women from exercising a host of other rights. These rights include the right not to be subject to cruel, inhuman or degrading treatment or punishment,¹²⁸ security of person,¹²⁹ and in extreme cases, the right to life.¹³⁰ The CEDAW Committee noted that "gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men," including the right to the highest attainable standard of physical and mental health.¹³¹ In 2001 the UN Committee on the Rights of the Child reviewed Saudi Arabia's initial report under the Convention on the Rights of the Child.¹³² The Committee expressed concern that "domestic violence is a problem in Saudi Arabia and that this has harmful consequences on children,"¹³³ and recommended that

¹²⁷ UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 24, The Right to Health, UN Doc. A/54/38/Rev.1 (1999), para. 14.

¹²⁸ The right to be free from torture and cruel, inhuman or degrading treatment is provided for in article 7 of the International Covenant on Civil and Political Rights (ICCPR), 999 UNT.S. 171, entered into force March 23, 1976.

¹²⁹ Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art.3; ICCPR, art.6.

¹³⁰ Article 6 (1) of the ICCPR states that "every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

¹³¹ UN Committee on the Elimination of Discrimination against Women, General Recommendation 19, Violence against Women, UN Doc. HRI/GEN/1/Rev.1 (1992), paras. 1,7.

¹³² Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990. Saudi Arabia acceded to the convention on January 26, 1996. The Saudi government entered a general reservation upon accession stating that "[The Government of Saudi Arabia enters] reservations with respect to all such articles as are in conflict with the provisions of Islamic law."

¹³³ UN Committee on the Rights of the Child, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations, Saudi Arabia, U.N. Doc. CRC/C/15/Add.148, February 21, 2001, para. 35.

Saudi Arabia “establish hotlines and shelters, staffed by women, for the protection of women and children at risk of or fleeing abuse” and “seek assistance from UNICEF [the United Nations Children’s Fund] and WHO [the World Health Organization], among others” to carry this out.¹³⁴

The Committee on the Rights of the Child also expressed concern about discriminatory laws and policies in force in the kingdom. It recommended that Saudi Arabia “take effective measures, including enacting or rescinding civil and criminal legislation where necessary, to prevent and eliminate discrimination on the grounds of sex and birth in all fields of civil, economic, political, social and cultural life.” The Committee also encouraged Saudi Arabia “to consider the practice of other States that have been successful in reconciling fundamental rights with Islamic texts.”¹³⁵

¹³⁴ *Ibid.*, para. 36.

¹³⁵ *Ibid.*, para. 24.

IV. Recommendations

To the Government of Saudi Arabia

To King Abdullah bin 'Abd al-'Aziz Al Sa'ud

- Promulgate by royal decree the dismantling of the legal guardianship system for adult women, guaranteeing that women are considered to have reached full legal capacity at 18 years of age. In the interim, ensure that all government agencies no longer request permission from a guardian to allow adult women to work, travel, study, marry, receive health care, or access any public service.
- Appoint a committee tasked with examining the ways in which strict sex segregation prevents Saudi women from fully participating in public life.
- Establish an independent body tasked with monitoring the implementation of laws, royal decrees, and ministerial decisions that advance women's rights, including decisions that limit a guardian's authority, and create female sections in all government offices.
- Appoint women as full members to the consultative council to ensure that women in the kingdom have a voice in decision making.
- Sign and ratify the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).
- Lift reservations made upon acceding to CEDAW, which violate the object and purpose of the treaty.
- Implement the recommendation made by the Committee on the Rights of the Child to seek technical assistance from the Office of the High Commissioner for Human Rights, the United Nations Children's Fund, and the World Health Organization to support efforts to address violence against women and children.
- Establish an independent mechanism with a mandate to regularly monitor and evaluate progress in the implementation of CEDAW and the Convention on the Rights of the Child at the national and local levels.

To the Ministry of Interior

- Issue clear and explicit directives to all police stations allowing women to enter the station and file a complaint without the presence or approval of a guardian.
- Revise Saudi travel regulations to remove any barriers specifically imposed on female travelers.
- Amend Section 8 of the Civil Affairs Law requiring women to get permission from a guardian in order to acquire a separate identification card for themselves or their children. Publicize widely any decisions that have been taken to eliminate this requirement, and ensure that all civil servants are aware of any new regulations in this area.
- Eliminate any restrictions on female driving in the kingdom, ensuring that women are afforded the same opportunities to drive and acquire a driver's license as men. The ministry should also approve a system of public transportation for women who cannot afford a car or driver.

To the Ministry of Higher Education

- Issue clear and explicit directives to all academic institutions prohibiting staff from requesting a guardian's permission to allow a woman to be admitted for any course of study, or from removing a female student from her program at the request of a male relative.
- Uphold the rights of female university students to freedom of movement by removing the need for a male guardian's permission to allow students over the age of 18 to leave university grounds.

To the Ministry of Labor

- Issue clear and explicit directives to all places of employment prohibiting staff from requesting a guardian's presence or permission to allow a woman to work, or from removing a female employee from her position at the request of a male relative.

- Remove any special procedures imposed on female business owners, including the need for a male proxy to conduct business and the need for permission from a guardian to access a loan.

To the Ministry of Health

- Issue clear and explicit directives to all government hospitals and private clinics prohibiting their staff from requesting a guardian's presence or permission to allow a female adult patient to be admitted, discharged, or receive care of any kind.
- Ensure that the Patient's Bill of Rights explicitly affords female patients in the kingdom the same access to health care as male patients.

To the Ministry of Justice

- Ensure that women are afforded the same rights as men to file a case, testify in court on all matters, including criminal matters, and speak on their own behalf in the courtroom.
- Establish women's sections in all courtrooms and in the Ministry of Justice's headquarters in Riyadh in order to ensure that women have equal access to justice and no longer need to bring a relative to identify them in court.
- Eliminate restrictions on the appointment of women as judges, members of the Bureau of Investigation and Public Prosecution, and law enforcement officers. Ensure that all female lawyers who wish to practice law can obtain lawyers' licenses.
- Ensure the right of all adults to freely enter into marriage. The ministry should also instruct judges not to accept law suits from third parties seeking to judicially divorce couples.
- Ensure that upon divorce, custody is determined on the basis of the best interests of the child in line with international standards. The ministry should ensure that during a marriage and following a divorce, both parents should have equal rights to open bank accounts for their children, enroll them in school, obtain school files, or travel with them.

To Governments with Final or Pending Free Trade Agreements with Saudi Arabia

- Condition the ratification of free trade agreements with the government of Saudi Arabia on improved protection for women's rights. In particular, insist that prior to adoption of the agreements, Saudi Arabia dismantle the legal guardianship system that denies Saudi women their most basic rights.
- Include in free trade agreements with the government of Saudi Arabia strong, binding, and enforceable women's rights provisions that require that the kingdom's laws and policies conform to international human rights standards.

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Appendix A: Yellow Travel Card Compulsory for Saudi Women

[Translated by Human Rights Watch from the Arabic original]

Kingdom of Saudi Arabia
Ministry of Interior
General Directorate of Passports
Riyadh Region Passport Office
(Saudi Travel Permit)

Number: _____ Date: ____ / ____ / 142__ AH

Name of the Passport Holder: _____

Passport Number: _____ Place of Issue: _____

Number of Dependents: _____

Legal Guardian's Acknowledgment. I, _____

Do not object to the travel of the holder of this permit and dependents:

To the state of: _____ for the period of: _____

ID Number: _____

Kinship: _____

Signature of Legal Guardian: _____

Concerned Employee: _____

Director of Passports Department, Riyadh Region
Stamp:

8. Name of university: City: Governorate/ District: State:

Give the names of three references that you know well and their addresses:

	Full Name	Address	City	Phone Number(s)
1.				
2.				
3.				

I hereby certify that the above provided information is accurate.

The applicant must read carefully the following consent forms and sign the relevant ones:

I, student [Name] ----- hereby certify that:

I am NOT an employee and do NOT work in any government division.

Signature:

I commit to not leave my educational institution before paying back all my financial obligations. I also commit to pay back any fees that would cause financial claims after my departure. I commit to provide the cultural attaché office at least an annual report about the progression of my education.

Signature:

Certification applicable to students of Medicine

I acknowledge that I will take an exam upon my return with the degree from the Saudi Committee of Medical Specialties, the results of which will determine whether I will be authorized to practice.

I commit to consult the bylaws and the guidelines of the practice of Medicine in Saudi Arabia and abide by them.

Signature:

I, guardian of the [female] student commit to accompanying her during her entire schooling.

Name:

Relationship:

Signature:

Appendix C: Surgical Procedure Form Requiring a Guardian's Consent

Patient Name : اسم المريض :
Nationality : الجنسية : Age : العمر : Sex : الجنس :
Address : العنوان :
Telephone : التليفون :
Guardian's Name : اسم ولي أمر المريض :
Telephone : التليفون Relationship : نوع الصلة :

Intended Surgical Operation : اسم العملية الجراحية :

I , the undersigned have agreed upon and permitted أنا الموقع أدناه أذنت ووافقت على إجراء العملية الجراحية
the Surgical Operation on my self (or on my relative,
named : المينة أعلاه على نفسى (أو على قريبى المدعو :

I , do hereby accept all the responsibilities that may متحملاً بذلك كافة المسئوليات والمضاعفات التى تنتج
result from the Surgical Operation or anesthesia in عن العملية الجراحية أو التخدير عند إجرائها حسب المتضى الطبي
accordance with medical practice . Date / / 198 وعليه حررقى / / ١٤٤ هـ

Patient Name : اسم المريض :

Signature : توقيعہ :

Guardian's Name : اسم الولى أو الوصى :

Signature : توقيعہ :

Witness's Name : اسم الشاهد :

Signature : توقيعہ :

Witness's Name : اسم الشاهد :

Signature : توقيعہ :

KINGDOM OF SAUDI ARABIA
KING FAISAL UNIVERSITY
KING FAHD HOSPITAL OF THE UNIVERSITY
AL-KHOBAR



المملكة العربية السعودية
جامعة الملك فيصل
مستشفى الملك فهد الجامعى
الخبير

اقرار بالموافقة على إجراء عملية جراحية
CONSENT FOR SURGICAL OPERATION

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مطبعة جامعة الملك فيصل بالاحساء

Perpetual Minors

Human Rights Abuses Stemming from Male Guardianship and Sex Segregation in Saudi Arabia

Throughout much of the world, it is taken for granted that the law empowers both men and women to make decisions for themselves. In Saudi Arabia the government denies women this fundamental right. Saudi women must obtain permission from a guardian (father, husband, or even a son) to work, travel, study, marry, or even access health care. They are denied the legal right to make even the most trivial decisions about their children, like picking up school records. Male guardianship over women and sex segregation also make it difficult—sometimes impossible—for victims of family violence to seek protection or redress. Strictly enforced sex segregation prevents women from accessing certain government agencies without a male representative, creates disincentives to hiring female employees, and often relegates female students to inferior academic opportunities.

Perpetual Minors documents how guardianship and segregation policies and practices fundamentally affect Saudi women's ability to enjoy even their most basic rights. Measures by the Saudi government to limit the powers of male guardians are rarely fully implemented and do not go far enough. Even where a guardian's consent is not mandatory or stipulated under the government's own regulations, officials may still request it since the overarching framework in place in the kingdom transfers nearly all decision-making power to a male relative.

Human Rights Watch calls on King Abdullah bin 'Abd al-'Aziz Al Sa'ud to promulgate by royal decree the dismantling of the legal guardianship system for adult women, ensuring that all government agencies no longer request or require permission from a male guardian before allowing women to travel, work, study, marry, or access any public service. Female sections or other accommodations should be established in every government office and courtroom in order to ensure that women have equal access to these bodies.

A Saudi student taking notes as she attends a medical gathering at King Fahd Medical City in Riyadh. Strict sex segregation has often undermined the right of Saudi women to equality in education by relegating them to unequal facilities with unequal academic opportunities.

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