

SAUDI ARABIA¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES (Updated as at March 2018)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncodified? If</i></p>	<p>Article 8 of the Basic Law states that Saudi Arabia is established on the foundation of justice, consultation (<i>shura</i>) and equality in compliance with <i>Shari'ah</i>.² The Basic Law does not specifically guarantee gender equality.³</p> <p>Under the Judiciary Law of 2007, the court system is composed of First instance courts, followed by Courts of appeal and finally the Supreme Court. The First instance courts are composed of the following:⁴</p>		<p>Saudi Arabia has a general reservation to CEDAW as follows: “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.” In addition, Saudi Arabia has specific reservations on Articles 9(2) and 29(1) of the Convention.¹⁰</p>	<p>A woman is placed under the guardianship of her husband upon signature of the marriage contract.¹²</p> <p>Until 2014, women may only have access to the courts for legal redress if two of her male relatives identify them for who they are.¹³ In 2014, the Supreme Judicial Council issued a decision to annul the</p>	<p>According to the 2016 UNDP Human Development Report, Saudi Arabia ranked 38 on the UNDP Human Development Index and 50 on the UNDP Gender Inequality Index.¹⁵ However, according to the 2016 World Economic Forum Global Gender Gap Report, Saudi Arabia ranked 141 out of 144 on the Global Gender Gap Index.¹⁶</p> <p>In September 2016, an unprecedented petition</p>

¹ This Musawah project to map Muslim Family Laws globally was led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Saudi Arabia country table, we would also like to thank Vaishali Sharma and Gianna Ceophas from Harvard Law School, and Hatoun Alfassi and Mida Zantout for their inputs in its preparation.

² Article 8 of Saudi Arabia's Basic Law (2005), https://www.constituteproject.org/constitution/Saudi_Arabia_2005.pdf

³ OECD Development Centre, “Saudi Arabia”, *Social Institutions and Gender Index*, 2013, p. 1, <http://www.genderindex.org/sites/default/files/datasheets/SA.pdf>

⁴ Article 9 of the Law of the Judiciary (2007), http://www.wipo.int/wipolex/en/text.jsp?file_id=328937; Esther van Eijk, “Sharia and National Law in Saudi Arabia”, in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 159-160,

<p><i>codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncodified, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school</i></p>	<ul style="list-style-type: none"> • General courts; • Penal courts; • Family courts; • Commercial courts; and • Labour courts. <p>The Family courts started in independent buildings and structure in 2014.⁵</p> <p>Saudi Arabia does not have codified laws relating to marriage and the family.⁶ These areas are governed by a combination of: (i) <i>Shari'ah</i> principles, which in</p>		<p>In April 2017, a royal decree was issued stating that women are not required to obtain consent from their guardians for services provided to them by government agencies “unless there is a legal basis for this request in accordance with the provisions of Islamic <i>Shari'ah</i>.” However, the implementation of the decree is still uncertain as it does not state under what</p>	<p>requirement and substituted it with the woman’s national ID.¹⁴</p>	<p>calling for an end to the male guardianship system was presented to Royal Court after gaining thousands of signatures. The reaction to the petition from Muslim clerics were diverse. On the one hand, the Grand Mufti Sheikh Abdul Aziz al-Sheikh proclaimed that calls to repeal the guardianship system are “a crime against the religion of Islam” and posed “an existential threat to Saudi society.”¹⁷ On the other, a member of the Council of Senior Scholars,</p>
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https://openaccess.leidenuniv.nl/bitstream/ha_dle/1887/21170/file221087.pdf?sequence=1; OECD Development Centre, Social Institutions and Gender Index: Saudi Arabia, 2013, p. 1, <http://www.genderindex.org/sites/default/files/datasheets/SA.pdf>; Saudi Women for Reform, “Saudi Arabia Shadow Report”, *Submission to the CEDAW Committee for the 40th Session*, 2007, p. 2,

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf.

¹⁰ United Nations Treaty Collection Website: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

¹² Human Rights Watch, “Boxed in: Women and Saudi Arabia’s Male Guardianship System”, 2016, p. 16,

https://www.hrw.org/sites/default/files/report_pdf/saudiArabia0716web.pdf

¹³ Saudi Women for Reform, “Saudi Arabia Shadow Report”, *Submission to the CEDAW Committee for the 40th Session*, 2007, p. 12,

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf

¹⁵ UNDP, “Human Development Report 2016”, Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

¹⁶ World Economic Forum, “Global Gender Gap Report 2016”, Table 3, pp. 10-11,

http://www3.weforum.org/docs/GGGR16/WEF_Global_Gender_Gap_Report_2016.pdf

⁵ Information obtained from Saudi advocate, January 2017

⁶ Esther van Eijk, “Sharia and National Law in Saudi Arabia”, in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 163,

https://openaccess.leidenuniv.nl/bitstream/ha_dle/1887/21170/file221087.pdf?sequence=1; The Arab Gulf States Institute in Washington, “Personal Status Laws in the Gulf States”, 2016, <http://www.agsiw.org/personal-status-laws-in-the-gulf-states-past-event/>

¹⁴ Information obtained from Saudi advocate, January 2017

¹⁷ Josie Ensor, “Saudis File First-Ever Petition to End Male Guardianship”, *The Telegraph*, 26 September 2016,

<http://www.telegraph.co.uk/news/2016/09/26/saudis-file-first-ever-petition-to-end-male-guardianship/>

<p><i>of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Article 16(1)(c)</p> <p>Paras. 17-18 GR21</p> <p>Paras. 54-55 GR29</p>	<p>turn is primarily based on the rules of Hanbali jurisprudence (<i>fiqh</i>) of the Sunni School; and (ii) judicial precedence, whereby individual judges have significant discretionary power when deciding cases as well as interpreting and applying the uncodified laws relating to marriage and the family.⁷</p> <p>There is no equality of spouses in marriage. Saudi Arabia practices a strict male guardianship system, which, until April 2017, was loosened by a royal decree. Pending clarification on the implementation of the royal decree, all women must have a male guardian whose permission must be granted for anything from marriage to travel, renting a flat, medical procedures and</p>		<p>circumstances a woman should or should not obtain the consent of her guardian for services provided to her. Feminists are of the view that the decree codifies the rights of Saudi women to access a job, higher education or medical procedures and to exit prison, among others without a guardian's permission.¹¹</p>	<p>Sheikh Abdulla Al-Maneei, declared that there is no guardianship over adult sane women. A guardian is only required for marriage.¹⁸</p> <p>According to information on the ground:¹⁹</p> <ul style="list-style-type: none"> • Human rights lawyers and feminists rely on Article 8 of the Basic Law to call upon the Saudi government to meet its obligations to ensure gender equality in Saudi Arabia. This is despite the fact that the phrase “in compliance with <i>Shari’ah</i>” has proven to be an obstacle in advocacy work in this regard,²⁰ • When adjudicating a case, a judge is empowered to rely on their personal
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⁷ Esther van Eijk, “Sharia and National Law in Saudi Arabia”, in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 163, <https://openaccess.leidenuniv.nl/bitstream/ha-dle/1887/21170/file221087.pdf?sequence=1>; OECD Development Centre, Social Institutions and Gender Index: Saudi Arabia, 2013, p. 1, <http://www.genderindex.org/sites/default/files/datasheets/SA.pdf>

¹¹ Faisal Al Nasser, “Cautious welcome to Saudi decree over guardian system”, *Al Jazeera*, 6 May 2017, <http://www.aljazeera.com/news/2017/05/saudi-decree-guardian-system-170505210416738.html>; Lulwa Shalhoub, “Saudi women no longer need guardian’s consent to receive services”, *Arab News*, 5 May 2017, <http://www.arabnews.com/node/1094681/saudi-arabia>

¹⁸ Fatima Al-Dubais, “There is no guardianship over women except in marriage”, *Okaz*, 7 September 2016, www.goo.gl/yS2ba0

¹⁹ Information obtained from Saudi advocate, January 2017

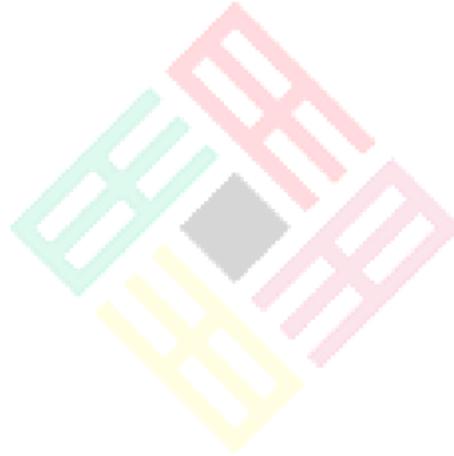
²⁰ Information obtained from Saudi advocate, January 2017

	<p>even exiting prison upon serving a sentence. Under the male guardianship system, initially, a woman is under the legal guardianship of her father. When she marries, her husband becomes her new guardian. When a guardian dies or a woman divorces, a new guardian is appointed. It is generally the next oldest male relative. Guardianship may revert to a woman's younger brother or son if she does not have older male relatives.⁸</p> <p>Notes:</p> <p>Shias have their own courts which are geographically limited to the Qatif and Ahsa governorates. Similarly, laws relating to marriage and the family are not codified. Shia courts apply the rules of Jafari jurisprudence.⁹ This</p>				<p>understanding of the theoretically 600 books on Hanbali <i>fiqh</i>. While they may refer to the books from the other schools of law, they rarely do.²¹</p> <p>According to reports by the US Commission on International Religious Freedom and the media, Saudi Arabia is due to submit its "first personal status law in its history" to the Royal Court by the end of 2016. The personal status law is said to have been developed "following thorough studies and judicial provisions developed by the Ministry of Justice with the participation of committees representing several bodies including the human rights entities</p>
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⁸ Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, pp. 1, 16, https://www.hrw.org/sites/default/files/report_pdf/saudi-arabia0716web.pdf; Josie Ensor, "Saudis File First-Ever Petition to End Male Guardianship", *The Telegraph*, 26 September 2016, <http://www.telegraph.co.uk/news/2016/09/26/saudis-file-first-ever-petition-to-end-male-guardianship/>; Faisal Al Nasser, "Cautious welcome to Saudi decree over guardian system", *Al Jazeera*, 6 May 2017, <http://www.aljazeera.com/news/2017/05/saudi-decree-guardian-system-170505210416738.html>; Lulwa Shalhoub, "Saudi women no longer need guardian's consent to receive services", *Arab News*, 5 May 2017, <http://www.arabnews.com/node/1094681/saudi-arabia>

⁹ Information obtained from Saudi advocate, January 2017; USCIF, "Saudi Arabia", *Tier 1: USCIRF-Recommended Countries of Particular Concern*, 2017, p. 6, <http://www.uscirf.gov/sites/default/files/SaudiArabia.2017.pdf>; Global Security, "Saudi Arabia: Shias", <http://www.globalsecurity.org/military/world/gulf/sa-shia.htm>.

	table primarily discusses the position of personal status of Saudi Sunni Muslims.				and the Family Security Programme.” ²² Based on information on the ground, the personal status law has still not been released. ²³
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²¹ Information obtained from Saudi advocate, January 2017; Esther van Eijk, “Sharia and National Law in Saudi Arabia”, in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 161-162, https://openaccess.leidenuniv.nl/bitstream/ha_dle/1887/21170/file221087.pdf?sequence=1

²² USCIF, “Saudi Arabia”, *Tier 1: USCIRF-Recommended Countries of Particular Concern*, 2017, p. 6, <http://www.uscifr.gov/sites/default/files/SaudiArabia.2017.pdf>; Arab News, “Work on provisions of personal status laws ‘nearly completed’”, *Arab News*, 28 July 2016, <http://www.arabnews.com/node/960846/saudi-arabia>

²³ Information obtained from Saudi advocate, January 2017

<p>Minimum and equal legal age for marriage</p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u></p>	<p>There is no minimum age for marriage.²⁴</p> <p>The implementing regulation of the Law on Child Protection states that “before contracting a marriage, it is mandatory to ensure that marrying a person below 18 years of age would not result in harm to the person and would achieve his best interest, whether a male or a female.”²⁵</p>	<p>According to media reports, in December 2008, a judge, Sheikh Habib Abdallah al-Habib, refused to annul a marriage of an 8-year old girl with a 47-year old man when he rejected a petition by the girl's mother, whose lawyer said the marriage was arranged by her father to settle a debt with "a close friend." The judge required the girl's husband to sign a pledge that he would not have sex with her until she reaches puberty.²⁶ The girl was</p>	<p>Saudi Arabia acceded to the Convention on the Rights of the Child in 1996, with a general reservation as follows: “The Government of Saudi Arabia enters reservations with respect to all such articles as are in conflict with the provisions of Islamic law.”²⁸</p> <p>In 2009, the Grand Mufti Sheikh Abdul Aziz al-Sheikh declared that girls as young as 10 were marriageable.²⁹</p> <p>In 2013, the Ministry of Justice proposed that the minimum age of marriage be 16. However, the</p>	<p>Those who marry under the age of 18 require the approval of an advisory committee before a marriage document can be issued. The committee consists of a group of psychology and health specialists who conduct an examination of each case and interview any girl below 18 in private and without the presence of the parents.³¹</p> <p>It is possible to seek the assistance of the National Human Rights Society (NHRS) to intervene in a child marriage. In 2009, the NHRS intervened to stop the marriage of an 11-year-old girl and a</p>	<p>According to a media report, there were 5,622 marriages involving child brides under the age of 14 in 2012.³³</p> <p>According to UN World Marriage Data 2015, the average of first marriage among Saudi Arabian females and males was 24.9 and 28.0 in 2007, respectively.³⁴</p> <p>According to information on the ground, the procedure of interviewing a girl below 18 before a marriage document can be issued is not commonly followed since it is only advisory in nature.³⁵</p>
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²⁴ Saudi Arabia State party report, U.N. Doc. CRC/C/SAU/3-4 (2015), para. 72, <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx#sthash.cDNPOz37.dpuf>

²⁶ CNN, “Top Saudi Cleric: OK for Young Girls to Wed”, *CNN*, 17 January 2009, <http://edition.cnn.com/2009/WORLD/meast/01/17/saudi.child.marriage/>

²⁸ United Nations Treaty Collection Website: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en#EndDec

²⁹ CNN, “Top Saudi Cleric: OK for Young Girls to Wed”, *CNN*, 17 January 2009, <http://edition.cnn.com/2009/WORLD/meast/01/17/saudi.child.marriage/>

<p>Article 16(2) Paras. 36-39 GR21</p>		<p>eventually allowed to divorce her husband through an out-of-court settlement.²⁷</p>	<p>proposal faced strong resistance by the Grand Mufti.³⁰</p>	<p>40-year-old man, who had six children from his first marriage. The case was brought to the attention of the NHRS by the girl's teenage brothers as both the parents had agreed to the child marriage despite the experiences of the girl's elder sister who was in a child marriage and who was divorced by 20.³²</p>	
<p>Women's consent to marriage</p>	<p>Regardless of their age, both prospective brides and</p>		<p>In April 2005, the Grand Mufti Sheikh</p>	<p>It is incumbent upon the groom and the</p>	<p>According to academic research, reports by civil</p>

³¹ Saudi Arabia State party report, U.N. Doc. CRC/C/SAU/3-4 (2015), para. 72, <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx#sthash.cDNPOz37.dpuf>

³³ Staff Report, "More than 5,000 Child Brides in Saudi Arabia", *Gulf News*, 8 November 2012, <http://gulfnews.com/news/gulf/saudi-arabia/more-than-5-000-child-brides-in-saudi-arabia-1.1101605>

³⁴ United Nations Population Division, "World Marriage Data 2015", <https://esa.un.org/ffps/Index.html#/maritalStatusData>

³⁵ Information obtained from Saudi advocate, January 2017

²⁷ AP, "Saudi girl, 8, divorces 50-year old husband", *NBC News*, http://www.nbcnews.com/id/30501798/ns/world_news-mideast_n_africa/t/saudi-girl-divorces--year-old-husband/#.WFaQXf97IU.

³⁰ Tara Abhasakun, "Exposing UNICEF's dirty laundry: Why the UN won't punish Saudi Arabia for its child marriage problem", *Borderless*, 23 October 2016, <http://www.borderlessnews.com/exposing-unicefs-dirty-laundry-why-the-un-wont-punish-saudi-arabia-for-its-child-marriage-problem/>

³² Abdul Rahman Shaheen, "Human rights body intervenes to stop child marriage in Saudi Arabia", *Gulf News*, 8 July 2009, <http://gulfnews.com/news/gulf/saudi-arabia/human-rights-body-intervenes-to-stop-child-marriage-in-saudi-arabia-1.500470>

<p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p>	<p>grooms must consent to the marriage.³⁶</p> <p>Marriage can only take place with the free and full consent and forced marriage is prohibited under the Islamic Sharia.³⁷</p>		<p>Abdul Aziz al-Sheikh issued a statement saying that the Council of Senior Scholars had ruled that forced marriages are "a major injustice" and "un-Islamic." According to the statement: "Forcing a woman to marry someone she does not want and preventing her from wedding whom she chooses ... is not permissible. Anyone who insists on forcing a woman ... to marry against her will is disobeying God and His prophet (Mohammed) under Islamic law."³⁸</p>	<p>official officiating the marriage (<i>imam</i>) to get the consent of the prospective bride before concluding the marriage. Generally, a woman's consent is given orally before the <i>imam</i> and both the woman and her male guardian are required to sign the marriage contract.³⁹</p> <p>In 2016, the Justice Ministry issued a directive stating that women must be provided a copy of the marriage contract.⁴⁰</p> <p>There is a standardised marriage contract. It is a simple form</p>	<p>society report and the media as well as information on the ground, in practice, it is not uncommon for women (especially young women) to be forced into unwanted marriages because the guardianship system renders women vulnerable to abuse.⁴³ For instance :</p> <ul style="list-style-type: none"> • The consent of the male guardian is often deemed sufficient proof of a bride's acceptance; • The <i>imam</i> rarely asks a woman to show her face or compare it with her ID. This makes it easy for any
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³⁶ Saudi Arabia State party report, U.N. Doc. CRC/C/SAU/3-4 (2015), para. 72, <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx#sthash.cDNPOz37.dpuf>; Tahiri Justice Centre, "Saudi Arabia", *Forced Marriages Overseas*, <http://preventforcedmarriage.org/forced-marriage-overseas-saudi-arabia/>

³⁷ Saudi Arabia Reply to List of Issues, U.N. Doc. CEDAW/C/SAU/Q/3-4/Add.1, para 41, <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>

³⁸ Agencies, "Grand Mufti bans force marriages in Saudi Arabia", *Gulf News*, 13 April 2015, <http://gulfnews.com/news/gulf/saudi-arabia/grand-mufti-bans-forced-marriages-in-saudi-arabia-1.284338>; BBC, "Saudi Arabia bans forced marriage", *BBC*, 12 April 2015, http://news.bbc.co.uk/2/hi/middle_east/4437667.stm

³⁹ Staff Writer, "Saudi Grooms Told Verbal Approval Required From Bride to Marry", *Gulf Business*, 28 July 2016, <http://gulfbusiness.com/saudi-grooms-told-verbal-approval-required-bride-marry>

⁴⁰ Information obtained from Saudi advocate, January 2017; Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 49, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf;)

<p><u>Applicable CEDAW Provision</u></p> <p>Article 16(1)(b)</p> <p>Paras. 15-16 GR21</p> <p>Paras. 25-26, 33-34 GR29</p>				<p>that:⁴¹</p> <ul style="list-style-type: none"> Asks for the amount of the dower (<i>mahr</i>); Permits stipulations to be made by the contracting parties; Requires the intended bride to specify whether she is a virgin, widow, or divorcee but does not require the same information of the man. <p>Registration of the marriage is mandatory following which, a new ID is issued for the family.⁴²</p>	<p>woman to consent answer on her behalf,⁴⁴</p> <p>Forced marriages and child marriages are difficult to annul, as women must prove the absence of their consent through “impossible” measures such as not attending the wedding party or not allowing their husband to consummate the marriage.⁴⁵</p> <p>Under-age marriage can be difficult to annul in the absence of media or other public interventions⁴⁶.</p>
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⁴³ Information obtained from Saudi advocate, January 2017; Human Rights Watch, “Boxed in: Women and Saudi Arabia’s Male Guardianship System”, (2016), p. 49, https://www.hrw.org/sites/default/files/report_pdf/saudi-arabia0716web.pdf; Maha Yamani, “Polygamy and Law in Contemporary Saudi Arabia” (UK: Ithaca Press, 2008), p. 84; Abdul Rahman Shaheen, “Human rights body intervenes to stop child marriage in Saudi Arabia”, *Gulf News*, 8 July 2009, <http://gulfnews.com/news/gulf/saudi-ara> Information received from Saudi advocate, February 2018 http://www.hrw.org/sites/default/files/report_pdf/saudi-arabia-1.500470

⁴¹ Eleanor Abdella Doumato, “Saudi Arabia”, in *Women’s Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), pp. 8-9, https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf

⁴² Website of the Ministry of Interior: <https://goo.gl/W8TZhZ>; Information obtained from Saudi advocate, January 2017

⁴⁴ Information received from Saudi advocate, February 2018.

<p>Women's capacity to enter into marriage</p> <p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her marital rights prior to marriage</i></p>	<p>Regardless of her age, a woman requires the consent of a marital guardian (<i>wali</i>) to marry. If a guardian continually opposes her marriage (<i>adel</i>), the woman may file a case in court whereby the judge may authorise the marriage after determining the suitability of the marriage.⁴⁷</p> <p>Any male relative of a woman may petition the court to revoke a marriage on the ground that the marriage is unfit, which is based mainly on genealogical incompatibility.⁴⁸</p>	<p><i>Adel</i> cases are often resolved in favour of the guardian as judges often respect a guardian's decision regarding the suitability of a marriage.⁴⁹ In 2010, in the case of <i>Samar Badawi</i>, the judge not only ruled in favour of the father, he also accused Samar of parental disobedience</p>	<p>In 2016, the Ministry of Justice removed from its website "<i>faskh al-nikah li 'adam takafu' al-nasab</i>" (divorce for lack of genealogical compatibility).⁵²</p>	<p>Both the wife and husband can negotiate their marriage rights prior to marriage.⁵³</p>	<p>Although a bride has the right to marry whomever she chooses and she can negotiate her marriage contract, in practice, according to academic research, civil society and information on the ground:⁵⁴</p> <ul style="list-style-type: none"> • It is possible for any woman to answer the marriage officer on behalf of the bride because of the veiling practice; • There are instances when the marriage contract is drawn up by the woman's male
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⁴⁵ Human Rights Watch, "Boxed In: Women and Saudi Arabia's Male Guardianship System", (2016), p. 39, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf

⁴⁶ Summary of stakeholders' submission to the universal period review of Saudi Arabia, U.N. Doc. A/HRC/WG.6/17/SAU/3 (2013), p. 7, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SAindex.aspx>

⁴⁷ Information obtained from Saudi advocate, January 2017; Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 49, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf; Staff Writer, "Saudi Grooms Told Verbal Approval Required From Bride to Marry", *Gulf Business*, 28 July 2016, <http://gulfbusiness.com/saudi-grooms-told-verbal-approval-required-bride-marry>

⁴⁸ Saudi Women for Reform, "Saudi Arabia Shadow Report", *Submission to the CEDAW Committee for the 40th Session*, 2007, p. 13, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf; Hatoun al-Fassi, "Mansour and Fatima and the Victory of the Muslim State over Tribal practices", *Al-Riyadh*, February 2010, <http://www.alriyadh.com/498377>

⁴⁹ Information obtained from Saudi advocate, January 2017; Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 49, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf; Staff Writer, "Saudi Grooms Told Verbal Approval Required From Bride to Marry", *Gulf Business*, 28 July 2016, <http://gulfbusiness.com/saudi-grooms-told-verbal-approval-required-bride-marry>

<p><i>and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Articles 16(1)(a), 16(1)(b)</p> <p>Paras. 15-16 GR21</p> <p>Para. 34 GR29</p>		<p>(‘uquq) and sent her to prison.⁵⁰</p> <p>In 2006, in the case of <i>Fatimah al-Azzaz</i>, upon the death of Fatimah’s father, her half-brothers petitioned the court to revoke the marriage between Fatimah and her husband, Mansour al-Taymani. Fatimah’s half-brothers had claimed that Mansour belonged to a tribe of lower genealogy. Although by the time the petition was filed in</p>			<p>relatives (not the woman herself). Thus, in these instances, the stipulations in the contract depend on what the bride’s family is willing to negotiate for her;</p> <ul style="list-style-type: none"> • The common stipulations a wife inserts into the marriage contract relate to her right to continue her education and her right not to be housed with her husband’s family; • The common stipulations a husband inserts into the marriage contract include forbidding the wife from leaving the house within his permission (main stipulation), requiring
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⁵² Information obtained from Saudi advocate, January 2017

⁵³ L.L Wynn, “Marriage Contracts and Women’s Rights in Saudi Arabia: *Mahr, Shurut*, and Knowledge Distribution”, 2008, <https://www.researchgate.net/publication/275644031>; Maha Yamani, “Polygamy and Law in Contemporary Saudi Arabia” (UK: Ithaca Press, 2008), p. 107

⁵⁴ Saudi Women for Reform, “Saudi Arabia Shadow Report”, *Submission to the CEDAW Committee for the 40th Session*, 2007, p. 13, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf; Maha Yamani, “Polygamy and Law in Contemporary Saudi Arabia” (UK: Ithaca Press, 2008), p. 107; L.L Wynn, “Marriage Contracts and Women’s Rights in Saudi Arabia: *Mahr, Shurut*, and Knowledge Distribution”, 2008, <https://www.researchgate.net/publication/275644031>

⁵⁰ Amanda Figueras, “Saudi Samar’s Activist Struggle: Samar Badawi”, *The Islamic Monthly*, 1 April 2015, <http://theislamicmonthly.com/saudi-samars-activist-struggle-samar-badawi/>; Edwin Mora, “Saudi Arabia Arrests Hilary Clinton’s ‘Woman of Courage’ Award-Winner”, *Breitbart*, 13 January 2016, <http://www.breitbart.com/national-security/2016/01/13/female-activist-who-got-courage-award-from-hillary-clinton-arrested-by-saudis/>

		<p>court, Fatimah and Mansour already had a daughter and a son, the court ruled in favour of the half-brothers. Fatimah and Mansour lost their appeal. Fatimah was imprisoned with her children (one was only two months old) for not accepting the court ruling and not wanting to go to her half-brothers' house. She also had no other safe place to go. Fatimah and Mansour were only reunited when she was pardoned. Their case set a precedent for other similar court cases i.e. where relatives contested a</p>			<p>that the wife not spend his money without his permission and forbidding the wife from admitting individuals into the marital home whom he does not approve of.</p> <p>Although the Ministry of Justice has removed divorce for lack of genealogical compatibility from its website, the practice of male relative seeking to revoke a marriage on that ground and the court procedure of dealing with such cases continue. It is also not uncommon for husbands to be rightly or wrongly accused of deceit regarding their genealogy in these cases prior to the conclusion of the marriage.⁵⁵</p>
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		marriage on the grounds of the pre-Islamic practice of non-compatible genealogy. ⁵¹			
<p>Polygamous marriages</p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? Is the permission of an existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of</i></p>	<p>A Muslim man may marry up to four wives at one time without much restrictions e.g. no requirement to seek permission of the court for or to inform his existing wife of the new marriage. The only requirement is that he can support and treat his wives equally.⁵⁶</p> <p>Temporary (<i>misyar</i>) marriages, which involve the wife waiving her rights to maintenance, accommodation and cohabitation with the husband, are legal and common.⁵⁷</p>		<p>In 2001, the Grand Mufti issued a religious ruling (<i>fatwa</i>) calling upon Saudi women to accept polygamy as part of the “Islamic package” and declaring that polygamy was necessary to fight against the growing epidemic of spinsterhood.⁵⁸</p> <p>In 2006, the International Islamic Fiqh Academy issued a</p>	<p>A woman may not stipulate in the marriage contract that her husband cannot take on another wife. However, she may make stipulations in her marriage contract stating that:⁶⁰</p> <ul style="list-style-type: none"> • She be divorced if her husband takes on an additional wife; • The polygamous husband pay her a certain amount of money; and 	<p>Available data suggests that polygamy is common in Saudi Arabia. In 2016:⁶¹</p> <ul style="list-style-type: none"> • More than half a million Saudi men (about 5% of Saudi men) were reported to have more than one wife at a time;⁶² • Around 73,000 men aged 25-49 engaged in polygamous relationships; men aged 50-54 came in the second place and more than 16,000 men aged 60-64 were married to at least three women at a

⁵¹ Saudi Women for Reform, “Saudi Arabia Shadow Report”, *Submission to the CEDAW Committee for the 40th Session*, 2007, p. 13, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf; Hatoun al-Fassi, Mansour and Fatima and the Victory of the Muslim State over Tribal practices, Al-Riyadh (2010), <http://www.alriyadh.com/498377>

⁵⁶ Information obtained from Saudi advocate, January 2017; OECD Development Centre, “Saudi Arabia”, *Social Institutions and Gender Index*, p. 1, <http://www.genderindex.org/sites/default/files/datasheets/SA.pdf>

⁵⁷ Maha Yamani, “Polygamy and Law in Contemporary Saudi Arabia” (UK: Ithaca Press, 2008), p. 107; Lynn Welchman, “Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy”, (Amsterdam: Amsterdam University Press, 2007), p. 54,

<p><i>the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recognised? Is it necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Para. 14 GR21</p>			<p><i>fatwa</i> permitting temporary (<i>misyar</i>) marriages provided the bride's guardian and two witnesses are present and the contract is concluded on mutually agreed upon and binding conditions.⁵⁹</p>	<ul style="list-style-type: none"> • She and her children be given a separate house to live in with their children. 	<p>time.</p> <p>According to academic research, women are often reluctant to insert polygamy-related stipulations into their marriage contracts because society (including women) deem such demands shameful.⁶³ In addition, the enforcement of such stipulations is difficult.⁶⁴</p> <p>According to academic research, media reports and information on the ground, a number of women engage in polygamous unions as they prefer to be married and enjoy a more 'respectable' social</p>
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⁵⁸ <https://goo.gl/AeQSDU>; Saudi Gazette, "Unable to afford marriage expenses, young men go for 'misyar'", *Saudi Gazette*, 29 October 2015, <http://saudigazette.com.sa/saudi-arabia/unable-to-afford-marriage-expenses-young-men-go-for-misyar/>

⁶⁰ IBP Inc., "Saudi Arabia Criminal Laws, Regulations and Procedures", (USA: IBP Inc., 2015), p. 97, L.L Wynn, "Marriage Contracts and Women's Rights in Saudi Arabia: *Mahr, Shurut, and Knowledge Distribution*", 2008,

⁶¹ <https://www.researchgate.net/publication/275644031>

Staff writer, "Over half million Saudi men engaged in polygamy, report shows", *Al Arabiya*, 2016, <http://english.alarabiya.net/en/variety/2016/10/25/Over-half-million-Saudi-men-engaged-in-polygamy-in-2016-report-shows.html>

⁶² According to the General Authority for Statistics, there were about 10.2 million Saudi men in 2016, <https://www.stats.gov.sa/en/5305>

⁵⁹ Esther van Eijk, "Sharia and National Law in Saudi Arabia", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 164-165,

⁶³ <https://openaccess.leidenuniv.nl/bitstream/ha-dle/1887/21170/file221087.pdf?sequence=1>

⁶⁴ L.L Wynn, "Marriage Contracts and Women's Rights in Saudi Arabia: *Mahr, Shurut, and Knowledge Distribution*", 2008, <https://www.researchgate.net/publication/275644031>

Information obtained from Saudi advocate, January 2017

<p>Para. 34 GR29</p>					<p>status. Marriage may give a woman more freedom to pursue her own interests in life, such as studying or working. This is especially true for those divorced well-off mothers who enter into a <i>misyar</i> marriage for the company and because they need a man to carry out administrative duties.⁶⁵</p> <p>According to a media report, <i>misyar</i> marriages are on the rise in Saudi Arabia due to unaffordable living expenses.⁶⁶ In 2017 the hashtag “we-demand-that-polygamy-becomes-compulsory” was trending on Saudi Twitter, indicating popular support for the practice of polygamy</p>
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⁶⁵ Information obtained from Saudi advocate, January 2017; Matt Young, “Rising number of spinsters and divorced women in Saudi Arabia leads to polygamy push”, *New.com*, 11 January 2017, <http://www.news.com.au/lifestyle/relationships/marriage/rising-number-of-spinsters-and-divorced-women-in-saudi-arabia-leads-to-polygamy-push/news-story/a5c40bc6bd190db41a72702e87f9eadc>; Esther van Eijk, “Sharia and National Law in Saudi Arabia”, in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 165, https://openaccess.leidenuniv.nl/bitstream/ha_dle/1887/21170/file221087.pdf?sequence=1

⁶⁶ Saudi Gazette, “Unable to afford marriage expenses, young men go for ‘misyar’”, *Saudi Gazette*, 29 October 2015, <http://saudigazette.com.sa/saudi-arabia/unable-to-afford-marriage-expenses-young-men-go-for-misyar/>

					which could further discourage women who do not wish to participate in polygamous marriages. ⁶⁷
<p>Divorce rights</p> <p><i>Is there equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If</i></p>	<p>Women do not enjoy an equal right to divorce as men. Men have the right to unilaterally divorce without any restrictions while women have to satisfy specific and limited grounds to obtain divorce.</p> <p>There are three different mechanisms for divorce:</p> <p>i) Unilateral divorce (<i>talaq</i>)</p> <p>Under this, a husband has the right to unilateral divorce through repudiation (<i>talaq</i>) without restrictions and</p>	<p>In 2009, a court in the Red Sea city of Jeddah finalised the divorce of a woman whose husband unilaterally divorced her through a text message he sent while he was in Iraq informing her she was no longer his wife. The husband followed up with a telephone call to two of his friends that had witnessed his marriage. The</p>		<p>Although the husband is the guardian of his wife, the latter can petition the court for a divorce without the husband's approval.⁷⁸</p> <p>According to the Civil Status Code, it mandatory to register a divorce within two months of its occurrence.⁷⁹ Additionally, only a man may register a divorce – primarily the husband or, in his absence, a male relative.⁸⁰</p>	<p>Saudi Arabia has a relatively high rate of divorce which has exponentially increased in the recent years. Number of divorce cases handled by courts reached 53,675 in 2017 or 149 cases each day. Further, the actual figure could be much higher than the officially reported number.⁸¹</p> <p>According to a media report, Saudi women started a campaign in 2008 aimed at showing the mishaps and injustices that affect women with regard to</p>

⁶⁷ Mariam Nabbout, “ ‘Make polygamy compulsory’ hashtag goes viral in Saudi Arabia”, *StepFeed*, 24 October 2017, <https://stepfeed.com/make-polygamy-compulsory-hashtag-goes-viral-in-saudi-arabia-2864>.

<p><i>unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage</i></p>	<p>without the presence of the wife.⁶⁸</p> <p>The divorce is effective immediately. The former husband can go to the courts at a later date and obtain a document of his decision and send a copy to the former wife.⁶⁹</p> <p>A husband may delegate his unilateral right to divorce his wife (<i>isma</i>) through a stipulation in the marriage contract.⁷⁰</p>	<p>court finalised the divorce after summoning the two friends to check they had received word of the husband's intention. The court also ruled that the woman did not have to go through the post-divorce waiting period (<i>iddah</i>) as the marriage was not consummated.⁷⁴</p>			<p>their divorce rights. The 73 points demands of the Saudi women were sent to the <i>Shura</i> Council in vain.⁸²</p> <p>Based on academic research, civil society reports and information on the ground, the following are some of the challenges that women face with regard to their divorce rights:⁸³</p> <p><u>Unilateral Divorce:</u></p>
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⁷⁸ Information obtained from Saudi advocate, January 2017

⁷⁹ Civil Status Code, issued by Royal Order no. m/7 on 20/4/1407 (Hijri), with amendments, Ministry of Interior, https://www.moi.gov.sa/wps/wcm/connect/c152dd004d4bb7bd8debddbed7ca8368/AR_civil_affairs_system.pdf?MOD=AJPERES&CACHEID=c152dd004d4bb7bd8debddbed7ca8368, article 46.

⁸⁰ Civil Status Code, issued by Royal Order no. m/7 on 20/4/1407 (Hijri), with amendments, Ministry of Interior, https://www.moi.gov.sa/wps/wcm/connect/c152dd004d4bb7bd8debddbed7ca8368/AR_civil_affairs_system.pdf?MOD=AJPERES&CACHEID=c152dd004d4bb7bd8debddbed7ca8368, article 47.

⁸¹ Staff writer, "A rundown on reasons for rising divorce rate in Saudi Arabia", *Saudi Gazette*, 10 February 2018, <http://saudigazette.com.sa/article/527994/SAUDI-ARABIA/A-rundown-on-reasons-for-rising-divorce-rate-in-Saudi-Arabia>

⁶⁸ Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 51, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf; OECD Development Centre, "Saudi Arabia", *Social Institutions and Gender Index*, p. 2, <https://www.genderindex.org/wp-content/uploads/files/datasheets/SA.pdf>.

⁶⁹ Saudiwoman's Weblog, "Divorce in Saudi Arabia", *Saudiwoman's Weblog*, 7 April 2009, <https://saudiwoman.me/2009/04/07/divorce-in-saudi-arabia/>

⁷⁰ Eleanor Abdella Doumato, "Saudi Arabia", in *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), pp. 9-10, https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf

⁷⁴ Reuters, "Saudi man divorces wife by text message", *Al Arabiya*, 9 April 2009, <https://www.alarabiya.net/articles/2009/04/09/70302.html>

⁸² Haifa Khaled, "A Woman in the Kingdom is of Less Importance than a Traffic Light", *Akhbar 24*, 11 June 2013, <http://akhbaar24.argaam.com/article/detail/139027> [arabic link]

<p><i>contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Article 16(1)(c)</p> <p>Paras. 17-18 GR21</p> <p>Paras. 34, 39-40 GR29</p>	<p>ii) Judicial divorce (<i>faskh</i>)</p> <p>This is a fault based divorce and a wife may seek judicial divorce if she is able to prove at least one of the few available grounds for divorce, which include her husband's desertion, impotence, loathsome disease, and mistreatment.⁷¹</p> <p>In order to obtain this divorce, women are required to undergo a mandatory mediation process which is usually headed by two or more male religious officials.⁷²</p> <p>iii) Redemptive divorce (<i>khul'</i>)</p>	<p>In 2016, local media reported a few <i>khul'</i> cases in which:</p> <p>- a judge granted <i>khul'</i> to a wife based on the husband's failure to perform his daily prayers and ordered the wife to pay her husband SAR55,000.⁷⁵</p>		<ul style="list-style-type: none"> While the right to unilateral divorce may be delegated to the wife through the marriage contract, in practice, such stipulations are uncommon. It is considered shameful to include such stipulations. In addition, many marriage officers refuse to include it in the marriage contract in spite of a request by the woman as they consider such a condition 'un-Islamic.' Consequently, without a firm law allowing women to request for
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⁸³ Information obtained from Saudi advocate, January 2017; Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, pp. 52,53, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf; Saudi Women for Reform, "Saudi Arabia Shadow Report", *Submission to the CEDAW Committee for the 40th Session*, 2007, pp. 31, 71, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf; Esther van Eijk, "Sharia and National Law in Saudi Arabia", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 163-164, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>; Eleanor Abdella Doumato, "Saudi Arabia", in *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), pp. 9-10, https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf; Lynn Welchman, "Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy", (Amsterdam: Amsterdam University Press, 2007), p. 102, <https://goo.gl/AeQSDU>; Saudi Gazette, "Personal Status Court improves performance", *Saudi Gazette*, 28 November 2016, <http://saudigazette.com.sa/saudi-arabia/personal-status-court-improves-performance/>

⁷¹ Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 52, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf; Eleanor Abdella Doumato, "Saudi Arabia", in *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), p. 10, https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf

Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 52, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf.

⁷⁵ *Strangest Khul' Case of a Saudi Woman in Jeddah*, Almowaten.net, February 13, 2016, <https://www.almowaten.net/2016/02/أغرب حالة خلع لمواطنة سعودية من زوجها ب/>

	<p>A wife may also seek redemptive divorce (<i>khul'</i>), whereby she is granted a divorce in exchange for a mutually-agreed compensation to be paid to the husband.</p> <p>A special fund has been allocated by the government to help women who cannot pay to leave their husbands.⁷³</p>	<p>- a judge denied a <i>khul'</i> petition despite the husband's alleged abuse, cross-dressing, failure to provide financial maintenance, and criminal record, which the latter judge considered inadequate reasons.⁷⁶</p> <p>- a judge rejected a <i>khul'</i> request by a wife who stated that her husband's behavior was too controlling and that he prevented her from leaving the house, and instead referred the husband and</p>			<p>the delegated right to divorce, women remain vulnerable to personal judgment and at the mercy of procedure writers. Additionally, although stipulations in the marriage contract are enforceable under the Hanbali jurisprudence, in practice many conditions are denied enforcement by judges.</p> <ul style="list-style-type: none"> • Though it is mandatory to register the divorce, in practice, the deadline for divorce registration is often ignored, and a woman may not even be notified or have knowledge of the divorce until many years later.
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⁷³ Summary of stakeholders' submission to the universal period review of Saudi Arabia, U.N. Doc. A/HRC/WG.6/17/SAU/3 (2013), p. 7,

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/SAindex.aspx>

⁷⁶ A Saudi Woman Fails to Obtain *Khul'*, Rotana, May 5, 2016, <http://rotana.net/السعودية تفشل في خلع زوجها بقرار من القاضي>

		<p>wife to a mediation process .⁷⁷</p>			<p><u>Judicial divorce:</u></p> <ul style="list-style-type: none"> • While women may initiate divorce without her husband's approval, it is not always possible for them to access the courts for reasons that include: (i) women, who cannot drive in Saudi Arabia, need a car to reach these courts; (ii) women often lack legal knowledge; and (iii) courts are not known to be a friendly environment. In fact, court staff are male dominated and female lawyers were only allowed to appear in court beginning in 2013; • It is very difficult for a woman to obtain a judicial divorce. Proving harm in her marriage, for instance, is quite a challenge. • There are no codified guidelines
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⁷⁷ Strangest case of khul' of a Saudi woman, Almoaten, 2 February, 2013 (Arabic) <https://www.almowaten.net/2016/02/اب-زوجهامن-سعودية-لمواطنة-خلع-حالة-أغرب/>

					<p>regarding the available grounds for granting divorce.</p> <ul style="list-style-type: none"> • It is not uncommon for judges to act in a biased manner and even propose a <i>khul'</i> in order to secure financial compensation for the husband • The mandatory mediation process which is administered by a religious conciliation committee is problematic as it delays the divorce proceedings and makes women uncomfortable. Some women have reported that men on these committees sometimes make improper advances or try to minimize women's grievances and simply advise them to be patient and obedient. <p><u>Redemptive Divorce:</u></p>
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					<ul style="list-style-type: none"> • In Saudi courts, <i>khul'</i> may be granted only if the wife's reasons for seeking a divorce are deemed acceptable by the judge.⁸⁴ Thus, a judge has the discretion to grant or deny the <i>khul'</i> and to specify the compensation to be paid by the wife to the husband. There are no codified guidelines on what constitutes acceptable <i>khul'</i> reasons. , • In practice, lawyers might refuse to bring <i>khul'</i> cases if they find a wife's reasons to be trivial.⁸⁵ • In <i>Khul'</i> It is common for the wife to pay back the full amount of her dower (<i>mahr</i>) and forfeit her financial rights which makes it a very costly affair.⁸⁶
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⁸⁴ Information received from Saudi advocates, February 2018

⁸⁵ Information received from Saudi advocates, February 2018

⁸⁶ Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 52, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf; Eleanor Abdella Doumato, "Saudi Arabia", in *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), p. 10, https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf.

					In November 2016, the Saudi Gazette reported that the Family court in Riyadh displayed a significant improvement in performance by handling 75% of backlog in a matter of 20 working days. ⁸⁷
<p>Women’s financial rights after divorce</p> <p><i>Is there a legal concept of matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman’s role as wife and mother</i></p>	<p>Upon a divorce, a woman is entitled to financial maintenance during the waiting period after the divorce (<i>iddah</i>) unless she has forfeited her financial rights. The <i>iddah</i> period is usually three months.⁸⁸</p> <p>A woman may request for a consolatory gift or compensation (<i>mu’tah</i>). However, this is rarely granted.⁸⁹</p>			<p>There is a procedure set out to ensure a husband pays the court-ordered financial maintenance after the divorce. The woman needs to start the process by filing a suit for maintenance. The judge will then form a committee to assess the amount to be disbursed by the husband. Thereafter, a woman can get her</p>	<p>According to information on the ground, there is a gap between the legal obligation of the former husband to pay post-divorce maintenance to the former wife and its enforcement⁹³ for reasons that include: (i) lack of awareness among women of their rights; and (ii) the procedure to enforce a court-ordered maintenance is lengthy.</p>

⁸⁷ Saudi Gazette, “Personal status court improves performance”, *Thomsan Reuters Zawya*, 28 November, 2016, https://www.zawya.com/mena/en/story/Personal_status_court_improves_performance-ZAWYA20161128035144/

⁸⁸ Eleanor Abdella Doumato, “Saudi Arabia”, in *Women’s Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), p. 10, https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf

⁸⁹ Information obtained from Saudi advocate, January 2017

<p><i>recognised as contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mut'ah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what</i></p>	<p>Saudi Arabia has issued Enforcement Law which provides for the immediate enforcement of orders and rulings in personal status matters including financial maintenance and the imposition of penalties to expedite execution. This law's implementing regulations were issued in February 2013 by Ministerial Order.</p> <p>If the enforcement order includes a periodic financial payment, then this payment takes precedence over other debt.⁹⁰</p> <p>There is no legal concept of matrimonial assets.</p> <p>Following a divorce, a father is responsible for the financial maintenance of his</p>			<p>maintenance by asking the judge for a letter directed to the Saudi Monetary Authority requesting a bank statement of all the man's property. The court will then send a text message to the husband's mobile number informing him of the court's decision. The husband should conform and carry out the payment within five days.⁹²</p>	<p>The lack of a financial support system or division of assets following a divorce is a significant hurdle limiting women's ability to exit abusive or harmful marriages. Even under the mandated three-month financial maintenance (<i>nafaqa</i>) and compensation (<i>mut'aa</i>) system, the amount provided to a divorced wife is often arbitrary and limited.⁹⁴</p>
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⁹³ Eleanor Abdella Doumato, "Saudi Arabia", in *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), p. 10, https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf [

⁹⁰ Saudi Arabia State party report, U.N. Doc. CEDAW/C/SAU/3-4 (2016), paras 145, 146, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SAU&Lang=EN

⁹² Information obtained from Saudi advocate, January 2017

⁹⁴ Information received from Saudi advocates, February 2018.

<p><i>basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Articles 16(1)(c), 16(1)(h)</p> <p>Paras. 30-33 GR21</p> <p>Paras. 34-35, 43-48 GR29</p>	<p>children. If the mother is the custodian, he is obligated to pay her maintenance to cover the expense of his children.⁹¹</p>				
<p>Custody of Children</p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers</i></p>	<p>A mother has priority right over her daughter until she turns seven and her son until he turns nine. Thereafter, custody of daughters is transferred to the father while sons are given the choice.⁹⁵</p> <p>A mother may have custody over her daughter after the age of seven if she has not remarried but the father has.⁹⁶</p>	<p>Decisions regarding custody vary according to the judge's personal views. While some judges do decide custody cases on the basis of the best interest of the child, in many instances, the primary concern of judges is that</p>			<p>Based on civil society and media reports as well as information on the ground, some of the issues of concern regarding child custody include:⁹⁹</p> <ul style="list-style-type: none"> Judges lack of training in social and family welfare. This has led to cases whereby unfit fathers have been awarded custody or judges

⁹¹ Saudi Women for Reform, "Saudi Arabia Shadow Report", *Submission to the CEDAW Committee for the 40th Session*, 2007, p. 72, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf

⁹⁵ Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 54, https://www.hrw.org/sites/default/files/report_pdf/saudiArabia0716web.pdf

⁹⁶ Information obtained from Saudi advocate, January 2017

<p><i>automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Articles 16(1)(d), 16(1)(f)</p> <p>Paras. 19-20 GR21</p>	<p>The state has issued Order No. 27808 of 16 Jumada II A.H. 1438 (15 March A.D. 2017) which includes a study of best procedures for dealing with cases relating to <u>guardianship and custody</u>. <u>The order contains various directives related to children’s custody e.g. instructing the Supreme Court to promulgate judicial principles to decide on most suitable party for custody; providing adequate support to Judges hearing cases of custody; raising awareness of issues related to custody to better inform the Judges; and reviewing relevant laws to propose appropriate amendments to regulate work and facilitate procedure in cases of custody, among others.</u>⁹⁷</p>	<p>the child be raised in accordance with Islamic faith. In this regard, a judge may just base his ruling on which of the two parents appear more conservative. Thus a mother has been known to lose custody over her children if she: (i) remarries; (ii) resides in a home with a non-relative; (iii) moves to another country; (iv) has satellite TV; or (v) listens to music.⁹⁸</p>			<p>recognise paternal grandparents’ claim to the child over the mother’s. Also, sometimes the mere appearance of a woman (the way in which she is veiled, and her ability to answer back and knowledge of her rights, etc.) might cause a judge to rule against her;</p> <ul style="list-style-type: none"> • Women fear losing custody over their children should they file for divorce as “in most child custody cases, the father usually wins.” This has led women to either not file for divorce despite being in a bad marriage or being pressured to seek a <i>khul’</i> divorce to her detriment;
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⁹⁹ Information obtained from Saudi advocate, January 2017; Eleanor Abdella Doumato, “Saudi Arabia”, in *Women’s Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), p. 10, https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf; Marian Nihal, “Women fear losing custody of their children if they file for divorce”, *Arab News*, 17 December 2011, <http://www.arabnews.com/node/401246>

⁹⁷ Saudi Arabia Reply to List of Issues, U.N. Doc. CEDAW/C/SAU/Q/3-4/Add.1 (2017), para 6, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SAU&Lang=EN.

⁹⁸ For more, see the 30 volume court cases published by the Ministry of Justice, https://www.moj.gov.sa/ar-sa/ministry/versions/Documents/AhkamGroup_1434/30.pdf; Human Rights Watch, “Boxed in: Women and Saudi Arabia’s Male Guardianship System”, 2016, pp. 55-56, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf; Immigration and Refugee Board of Canada, “Saudi Arabia:

					<ul style="list-style-type: none"> • Women endure the difficulty of having to travel back and forth to court for months and years but yet may have to deal not only with delays but disappointments at the end of the custody hearing.
<p>Guardianship of Children</p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p>Applicable CEDAW</p>	<p>A father has priority right over the guardianship of the children. In case of the father's death, guardianship is given to the male relatives of the father. The mother may request the right to guardianship, but this would take prolonged court hearings and such requests are rarely granted.¹⁰⁰</p> <p>According to the regulations of the Saudi Arabian Monetary Agency (SAMA), a woman is not allowed to open a bank account in the name of her children except</p>				<p>According to information gathered by the Immigration and Refugee Board of Canada and information on the ground, although a mother has custody over her children, it is the guardian who determines where the children live and when/where they travel. Though the mother can seek travel permission from a court for her children, such demands are rarely granted and if they are granted, the authorisation to travel</p>

Whether Saudi Arabian laws concerning child custody are applicable to Palestinians in Saudi Arabia, and whether Islamic Law provides that following a divorce a child must live with his or her mother for a period of seven years without contact with the father, after which time the child must be returned to the father", 2002, <http://www.refworld.org/docid/3f7d4e130.html>

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Saudi Women for Reform, "Saudi Arabia Shadow Report", *Submission to the CEDAW Committee for the 40th Session*, 2007, p. 74, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf

<p><u>Provision</u></p> <p>Articles 16(1)(d), 16(1)(f)</p> <p>Paras. 19-20 GR21</p>	<p>with the father's consent, nor is she allowed to carry any transactions on her child's behalf even if it is she is the one making the deposit.¹⁰¹</p> <p>In 2014, the Supreme Judicial Council ruled that mothers who have custody of their children after divorce can obtain documents and conduct government business for their children. In 2015, the Council declared that the decision is to be applied retroactively. This enabled women to register their children in schools, take them to health centers, and obtain identity documents for them.¹⁰²</p> <p>The state has issued Order</p>				<p>will only be valid for one exit.¹⁰⁴</p> <ul style="list-style-type: none"> • Mothers are still unable to change the civil status of their children, unless they are divorced or widowed. They can only obtain a copy of the husband's family identification card, listing the names of his wives and children and dependents.¹⁰⁵ • Over 21% of families registered for government social assistance were headed by women as the main providers. Yet, women are treated
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¹⁰¹ Saudi Women for Reform, "Saudi Arabia Shadow Report", *Submission to the CEDAW Committee for the 40th Session*, 2007, p. 3, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf3, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf; Hala Al-Qahtani, "Why SAMA prevents women to open accounts for children?", *Saudi Gazette*, January 29, 2018, <http://saudigazette.com.sa/article/527209/Opinion/Local-Viewpoint/Why-SAMA-prevents-women-to-open-accounts-for-children>.

¹⁰² Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 55, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf

¹⁰⁴ Information obtained from Saudi advocate, January 2017; Immigration and Refugee Board of Canada, "Saudi Arabia: Whether Saudi Arabian laws concerning child custody are applicable to Palestinians in Saudi Arabia, and whether Islamic Law provides that following a divorce a child must live with his or her mother for a period of seven years without contact with the father, after which time the child must be returned to the father", 2002, <http://www.refworld.org/docid/3f7d4e130.html>

¹⁰⁵ Information received from Saudi advocate, February 2018

	No. 27808 of 16 Jumada II A.H. 1438 (15 March A.D. 2017) which includes a study of best procedures for dealing with cases relating to guardianship and custody. The order contains various directives related to children's guardianship e.g. providing adequate support to Judges hearing cases of guardianship; raising awareness of issues related to guardianship to better inform the Judges; and reviewing relevant laws to propose appropriate amendments to regulate work and facilitate procedure in cases of guardianship of children, among others. ¹⁰³				as heads of the family in a manner similar to that of men. According to the Civil Status Law, a woman may be considered head of the household only if her husband dies. ¹⁰⁶
Family Planning <i>Do women require the consent of the husband to practise family planning, including abortions</i>	A woman is not allowed to: ¹⁰⁷ <ul style="list-style-type: none"> • Determine the number of children she wants to have without the husband's agreement; • Enter a hospital for 		In 2014, the Shura Council rejected a population control policy document prepared by the Ministry of Economic and Planning Family and submitted the		According to World Bank data, the total fertility rate decreased from 7.2 children per woman in 1960 to 2.7 in 2015. ¹¹⁰ According to the UN Population Division's

¹⁰³ Saudi Arabia Reply to List of Issues, U.N. Doc. CEDAW/C/SAU/Q/3-4/Add.1 (2017), para 6, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SAU&Lang=EN.

¹⁰⁶ Civil Status Code, issued by Royal Order no. m/7 on 20/4/1407 (Hijri), with amendments, Ministry of Interior, https://www.moi.gov.sa/wps/wcm/connect/c152dd004d4bb7bd8debddbed7ca8368/AR_civil_affairs_system.pdf?MOD=AJPERES&CACHEID=c152dd004d4bb7bd8debddbed7ca8368, article 91

¹⁰⁷ Information obtained from Saudi advocate, January 2017; Saudi Women for Reform, "Saudi Arabia Shadow Report", *Submission to the CEDAW Committee for the 40th Session*, 2007, pp. 3, 72, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf

<p><i>and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Articles 16(1)(e), 12 Paras. 21-23 GR21</p>	<p>delivery except with her husband's approval, nor can she be discharged from hospital or without his signature (subject to clarification of the April 2017 decree);</p> <ul style="list-style-type: none"> Officially do anything to their genitals and womb without the husband's consent (i.e. theoretically and practically, the husband owns these parts). <p>Abortion is strictly prohibited by law, except when it is necessary to save the pregnant woman's life.¹⁰⁸</p>		<p>planning document to the Saudi king for his opinion.¹⁰⁹</p>		<p>2015 Trends in Contraceptive Use Worldwide:¹¹¹</p> <ul style="list-style-type: none"> 37% of married women aged 15-49 are using a method of contraception, with 31% of women using a modern method; 24% of married women aged 15-49 have an unmet need for family planning services; and 50% of marriage women aged 15-49 had their demands for family planning satisfied by modern methods of contraception.
<p>Personal rights of spouses</p>	<p>Saudi Arabia practices a male guardianship system whereby all women must</p>		<p>Article 3(a) of the Ministry of Health Manual for</p>		<p>According to World Bank data, female labour force participation increased</p>

¹¹⁰ The World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

¹⁰⁸ Centre for Reproductive Rights, "The World's Abortion Laws", 2014, <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap2014.PDF>

¹⁰⁹ Information obtained from Saudi advocate, January 2017

¹¹¹ United Nations Population Division, "Trends in Contraceptive Use Worldwide 2015", Annex Table 1, pp. 36-42, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

<p><i>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u></p>	<p>have a male guardian. Subject to the clarification on the implementation of the April 2017 royal decree, women cannot go to school, travel, work, enter into restaurants, hotels, have an operation, apply for a passport, etc. without the approval of the guardian.¹¹² The guardian need not always be the husband. It is not uncommon for a widowed mother to seek the permission of her son to travel.¹¹³</p> <p>Women are also barred from driving, making Saudi Arabia the only country in the world that does not allow women to drive.¹¹⁴</p> <p>Women retain their birth name upon marriage.</p>		<p>Medical Practitioners states that “men should not examine women, and vice versa, unless it is not possible to find an alternative technician of the same sex as the patient to perform the tasks needed.”¹¹⁹</p>	<p>decreased from 14% in 1990 to 20% in 2016.¹²⁰ During the same period, male labour force participation was stable at 79%.¹²¹</p> <p>According to the 2016 UNDP Human Development Report:¹²²</p> <ul style="list-style-type: none"> • 63% of women over 25 have at least some secondary education as compared to 72% of men of the same age group; • 99% of females and males aged 15-24 are able to read and write a short simple sentence; and • 79% of women are satisfied with their
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¹¹² Human Rights Watch, “Boxed in: Women and Saudi Arabia’s Male Guardianship System”, 2016, https://www.hrw.org/sites/default/files/report_pdf/saudiArabia0716web.pdf; Saudi Women for Reform, “Saudi Arabia Shadow Report”, *Submission to the CEDAW Committee for the 40th Session*, 2007, pp. 2-3, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_40_10011_E.pdf; Josie Ensor, “Saudis File First-Ever Petition to End Male Guardianship”, *The Telegraph*, 26 September 2016, <http://www.telegraph.co.uk/news/2016/09/26/saudis-file-first-ever-petition-to-end-male-guardianship/>

¹¹³ Human Rights Watch, “Boxed in: Women and Saudi Arabia’s Male Guardianship System”, 2016, p. 22, https://www.hrw.org/sites/default/files/report_pdf/saudiArabia0716web.pdf

¹¹⁴ Adam Coogle, “Women should take the wheel in Saudi Arabia”, *Human Rights Watch*, 5 December 2016, <https://www.hrw.org/news/2016/12/05/women-should-take-wheel-saudi-arabia>

<p>Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>In 2012, the Ministry of Health approved a regulation to allow female patients above 18 years old to sign their own admission and release forms without male guardian.¹¹⁵</p> <p>The Labor Code does not require a guardian's permission for a woman to work.¹¹⁶</p> <p>A guardian's permission is not required by law for a woman to enroll in a school or higher education institutions.</p>				<p>freedom of choice as compared to 84% of men.</p> <p>Some women are prevented from leaving their homes without their guardian's permission and guardians can bring legal claims requesting that judges order a female dependent to return to the family home.¹²³</p> <p>Even though not mandated by law, in practice women need guardian's permission to receive identity documents, access courts, healthcare, and</p>
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¹¹⁹ Hala Aldosari, *The Effect of Gender Norms on Women's Health in Saudi Arabia*, May 2, 2017, pp.6-7, http://www.agsiw.org/wp-content/uploads/2017/05/Aldosari_Womens-Health_Online-1.pdf

¹²⁰ The World Bank, "Labour force participation rate, female (% of female population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

¹²¹ The World Bank, "Labour force participation rate, male (% of male population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>

¹²² UNDP, "Human Development Report 2016", Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

¹¹⁵ Hala Aldosari, "The Effect of Gender Norms on Women's Health in Saudi Arabia", May 2, 2017, p.6 http://www.agsiw.org/wp-content/uploads/2017/05/Aldosari_Womens-Health_Online-1.pdf

¹¹⁶ Saudi Labor Code, issued Royal Decree no. m/51 on 23/8/1426(Hijri) and last amended on 5/6/1436(Hijri), <https://mlsd.gov.sa/sites/default/files/3نظام%20العمل.pdf>

¹²³ Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 20, https://www.hrw.org/sites/default/files/report_pdf/saudiArabia0716web.pdf

	<p>In 2013, the Council of Ministers issued a decision requiring Saudi women to obtain national identity cards and removing the formal requirement for guardian approval in order to apply.¹¹⁷</p> <p>The Supreme Judicial Council issued a circular in February 2014 permitting women to attend court hearings once they present their national identity cards, removing the requirement to be identified in court by two males.¹¹⁸</p>				<p>education. For instance:</p> <ul style="list-style-type: none"> • Several universities continue to require a guardian's signature before a woman can be enrolled.¹²⁴ • Many employers in the private and public sectors continue to require guardian's permission as a condition for a woman's employment. Alternatively, other employers may ask a woman to present a family card, as an indirect means of ensuring a husband's consent in the
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¹¹⁷ Council of Ministers Orders with Respect to Requiring Saudi Women to Obtain a National Identity Card, Al-Riyadh Newspaper, March 26, 2013, <http://www.alriyadh.com/820546>

¹¹⁸ Human Rights Watch, *Boxed In: Women and Saudi Arabia's Male Guardianship System*, 2016, p. 62, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf

¹²⁴ Information obtained from Saudi advocates, January 2018.

					<p>case of married woman.¹²⁵</p> <ul style="list-style-type: none"> It is reported that many medical facilities continue to require the signature of a male guardian before a woman can be admitted into or released from healthcare facilities, without penalty.¹²⁶ Further, guardians can and often do demand that women be treated only by same-sex health professionals thus hampering women's access to healthcare.¹²⁷
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¹²⁵ Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, p. 71, https://www.hrw.org/sites/default/files/report_pdf/saudiArabia0716web.pdf

¹²⁶ Hala Aldosari, *The Effect of Gender Norms on Women's Health in Saudi Arabia*, May 2, 2017, p.6, http://www.agsiw.org/wp-content/uploads/2017/05/Aldosari_Womens-Health_Online-1.pdf.

¹²⁷ Hala Aldosaria, *The Effect of Gender Norms on Women's Health in Saudi Arabia*, May 2, 2017, pp.6-7, http://www.agsiw.org/wp-content/uploads/2017/05/Aldosari_Womens-Health_Online-1.pdf

					<ul style="list-style-type: none"> Applying for an identity card requires a woman to present either a passport – which she cannot obtain without a guardian’s permission – or be accompanied by a male guardian to confirm her identity.¹²⁸ Further, a married woman is required to present a family card to receive a national identity card which is issued to the husband with the exception of widowed or divorced
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¹²⁸ Information received from Saudi Advocates, February 2018; Procedures for Obtaining a National Identity Card for Women, Ministry of Interior, https://www.moi.gov.sa/wps/portal/Home/sectors/civilaffairs/contents/!ut/p/z0/04_Sj9CPykssy0xPLMnMz0vMAfIjo8ziDTxNTDwMTYy8LUwC3AwcA428nB2dPY3fc31gxOL9L30o_ArApqSmVVYGOWoH5Wcn1eSWIGiH5GcWZaZo5CYIpaYVWVSSaoDGLU4tKstMTi1WMNQvyHYPBwB0wHxz/

					<p>women.</p> <ul style="list-style-type: none"> Some courts continue to require a woman to bring forth two males to identify her.¹²⁹ As any two males may serve as “identifiers,” there exists a business for male identifiers who loiter around the courts offering this service to women, often in exchange for sums of money, typically SAR 200 (US\$53).¹³⁰
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¹²⁹ Human Rights Watch, *Boxed In: Women and Saudi Arabia’s Male Guardianship System*, 2016, p. 62, https://www.hrw.org/sites/default/files/report_pdf/saudiArabia0716web.pdf; information received from Saudi advocates, February 2018

¹³⁰ Information obtained from Saudi advocates, January 2018

<p>Inheritance rights</p> <p><i>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children</i></p>	<p>Generally, inheritance rights between women and men are unequal. Inheritance is based on <i>Shari'ah</i>. In many instances, such as in the cases of widows and widowers and siblings, a woman is entitled to half the share of a man.¹³¹ For instance, with respect to daughter's share, it is one half of her brother's share.¹³²</p>		<p>According to the state, there are some cases in which a woman might inherit more than a man or have equal share. Additionally, the unequal shares are justified by the State on the ground that men are also required to provide for women' financial maintenance which is not required for women.¹³³</p>	<p>Judicial procedure requires the presence of the woman in division of inheritance cases.¹³⁴</p>	<p>According to a commentary, women are often prevented from obtaining their inheritance because of cultural norms and tribal practices.¹³⁵</p>
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¹³¹ Esther van Eijk, "Sharia and National Law in Saudi Arabia", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 165, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/13374/Women+and+Muslim+Family+Laws+in+Arab+States.pdf;jsessionid=520214776437CF24AE15BA40C188C51F?sequence=1>.

¹³² Saudi Arabia Reply to List of Issues, U.N. Doc. CEDAW/C/SAU/Q/3-4/Add.1 (2017), para 86, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SAU&Lang=EN.

¹³³ Saudi Arabia Reply to List of Issues, U.N. Doc. CEDAW/C/SAU/Q/3-4/Add.1 (2017), para 149, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SAU&Lang=EN.

¹³⁴ Saudi Arabia Reply to List of Issues, U.N. Doc. CEDAW/C/SAU/Q/3-4/Add.1 (2017), para 149, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SAU&Lang=EN

¹³⁵ Samar Fatany, "An Inheritance of Injustice for Women", *Al Arabiya*, 17 June 2013, <http://english.alarabiya.net/en/views/2013/06/17/An-inheritance-of-injustice-for-women.html>

<p><i>agree to forgo their inheritance in favour of their mother upon the death of their father?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Paras. 34-35 GR21</p> <p>Paras. 49-53 GR29</p>					
<p>Violence against women in the family</p> <p><i>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault and violence that affect a woman's mental health which are perpetuated by</i></p>	<p>Law of Protection from Abuse criminalises a number of acts of domestic violence. Article 1 of the Law defines abuse as physical, psychological, or sexual abuse.¹³⁶</p> <p>Saudi Arabia has no Penal Code.¹³⁷</p> <p>The Law of Protection from Abuse does not specifically</p>		<p>The Government of Saudi Arabia has increasingly recognised violence against women as a public policy issue. Several measures have been undertaken to address this issue. This include:¹³⁸</p> <ul style="list-style-type: none"> • Enactment of the Law of Protection from Abuse. This 		<p>According to the Ministry of Labour and Social Development, in 2015, there were 8,016 reported cases of physical and psychological abuse, most of which involve violence between spouses. In one major city alone, the Ministry recorded 961 cases of domestic violence in one year, with most cases involving women and children being denied</p>

¹³⁶ Article 1 of Law of Protection from Abuse (2013), <https://goo.gl/xJBRdq>

¹³⁷ Human Rights Watch, "Saudi Arabia: Criminal Justice Strengthened", *HRW News*, 14 January 2010, <https://www.hrw.org/news/2010/01/14/saudi-arabia-criminal-justice-strengthened>

¹³⁸ Human Rights Watch, "Boxed in: Women and Saudi Arabia's Male Guardianship System", 2016, pp. 3, 31, https://www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf; Majed al-Kasabi, "Center for Violence and Abused Reports Launched", *Saudi Gazette*, 22 March 2016, <http://saudigazette.com.sa/saudi-arabia/center-violence-abuse-reports-launched/>; Sabria S. Jawhar, "Child Abuse: Stop Being Spectators & Call 1919", *Arab News*, 2 December 2013, <http://www.arabnews.com/news/486056>

<p><i>traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19 Para. 40 GR21</p>	<p>criminalise marital rape.</p>		<p>includes establishment of:</p> <ul style="list-style-type: none"> • Establishment of a center specifically tasked with receiving and responding to reports of family violence and a corresponding hotline (1919); • Building of more shelters for abused victims. 		<p>their basic rights to education, health care, or personal identification documents.¹³⁹</p> <p>According to information on the ground, in the past, women struggle to report incidence of domestic violence. However, today, with the law and the implementing measures, there has been some improvements. Cases that reach the media or social media tend to be taken more seriously by the authorities. Nevertheless challenges remain.¹⁴⁰ Based on media and civil society reports, these challenges include:¹⁴¹</p> <ul style="list-style-type: none"> • Many in Saudi Arabia, including some social workers, believe that
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¹³⁹ Human Rights Watch, “Boxed in: Women and Saudi Arabia’s Male Guardianship System”, 2016, p. 30, https://www.hrw.org/sites/default/files/report_pdf/saudiArabia0716web.pdf

¹⁴⁰ Information obtained from Saudi advocate, January 2017

¹⁴¹ Human Rights Watch, “Boxed in: Women and Saudi Arabia’s Male Guardianship System”, 2016, pp. 26-27, 32, 34-35, https://www.hrw.org/sites/default/files/report_pdf/saudiArabia0716web.pdf; Tahiri Justice Center, “Saudi Arabia”, *Forced Marriage Overseas*, <http://preventforcedmarriage.org/forced-marriage-overseas-saudi-arabia/>; Carlyle Murphy, “Saudi Women Still Assigned Male Guardians”, *USA Today*, 9 December 2014, <http://www.usatoday.com/story/news/world/2014/12/09/globalpost-saudi-arabia-male-guardians/20134065/>

					<p>a guardian has the right to use physical violence to discipline women and children;</p> <ul style="list-style-type: none"> • Law enforcement has generally treated domestic violence situations as private, domestic matters with few legal consequences for the perpetrators. Courts are lenient in cases when abuse is perpetrated by a male against a female in the same household; • Women running away from domestic violence are considered criminals. Leaving the marital home has been under the spotlight lately with women fleeing the Kingdom or escaping from their husbands while travelling; • Trying to convince a judge that a guardian is abusive is a very lengthy and culturally difficult situation for a woman. A
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					<p>woman must show specifically how she was harmed, and even then judges do not usually revoke guardianship unless the man is doing something wrong according to religious laws, such as drinking alcohol;</p> <ul style="list-style-type: none"> • The Law of Protection from Abuse and its implementing measures are steps in the right direction to address the issue of domestic violence. However, it has been critiqued to be too general.
<p>Nationality rights</p> <p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can</i></p>	<p>A Saudi man may pass his nationality to his non-Saudi wife provided she meets various conditions.¹⁴² The Saudi Arabian Citizenship System does not specifically provide for a Saudi woman to confer her nationality to</p>		<p>Saudi Arabia has made a reservation through which it does not consider itself bound by paragraph 2 of Article 9 of CEDAW by which provides</p>		<p>According to information on the ground, only sons whose mother is Saudi and father a non-Saudi may apply for Saudi citizenship. Daughters born in such marriages cannot be conferred</p>

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Article 16 of the Saudi Arabian Citizenship System,
https://www.moi.gov.sa/wps/wcm/connect/121c03004d4bb7c98e2cdfbed7ca8368/EN_saudi_nationality_system.pdf?MOD=AJPERES

<p><i>the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Article 9</p> <p>Para. 6 GR21</p>	<p>her foreign husband.</p> <p>A Saudi woman risk losing her Saudi nationality if she marries a non-Saudi and adopts her husband's nationality.¹⁴³</p> <p>While applying for nationality, the applicant gets 3 points if his/her father is Saudi and 2 points if only his/her mother is Saudi.¹⁴⁴ A Saudi father passes his citizenship to his children wherever they are born. However, a Saudi mother may only pass her citizenship to her children if the father is unknown.¹⁴⁵</p> <p>A child born in Saudi Arabia and whose mother is Saudi and father a non-Saudi may be granted Saudi citizenship through a decision of the Minister of Interior provided certain conditions are met i.e. the child has reached 18 and has a permanent resident permit.¹⁴⁶</p>		<p>women equal rights with men with respect to the nationality of their children.¹⁴⁹</p> <p>Saudi Arabia stated that with regard to ensuring the effective implementation of Cabinet Decision (November 2012) granting privileged services and facilities to the children of Saudi women, the concerned authorities oversee its implementation and monitor compliance. Under its Statute, the Human Rights Commission follows</p>	<p>Saudi nationality unless they marry a Saudi.¹⁵¹ [</p> <p>Many children of Saudi mothers and foreigner father are not granted citizenship even if their application meets all the required conditions, as the law permits and does not require this grant of citizenship by the Minister of Interior.¹⁵²</p> <p>Saudi women are not entitled to social security benefits, their children from a foreign spouse are not entitled to state-sponsored scholarships for higher education, and it is not possible for a Saudi mother to designate her foreign son as her agent or representative.¹⁵³</p> <p>If the Saudi mother dies, her children cannot inherit real estate property (they may sell it</p>
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¹⁴³ Article 12 of the Saudi Arabian Citizenship System, https://www.moi.gov.sa/wps/wcm/connect/121c03004d4bb7c98e2cdfbed7ca8368/EN_saudi_nationality_system.pdf?MOD=AJPERES

¹⁴⁴ Section 8 of the Implementing Regulation, Saudi Nationality Law: Global Campaign for Equal Nationality Rights and Equality Now, *Joint submission to the CEDAW Committee Pre-Sessional Working Group for the 69th Session*, 2017, pp. 2-3, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_28018_E.pdf.

¹⁴⁵ Article 7 of the Saudi Arabian Citizenship System, https://www.moi.gov.sa/wps/wcm/connect/121c03004d4bb7c98e2cdfbed7ca8368/EN_saudi_nationality_system.pdf?MOD=AJPERES

¹⁴⁶ Article 8 of the Saudi Arabian Citizenship System, https://www.moi.gov.sa/wps/wcm/connect/121c03004d4bb7c98e2cdfbed7ca8368/EN_saudi_nationality_system.pdf?MOD=AJPERES

	<p>Pursuant to Cabinet Decision No. 152 of 25 March 2013, female international scholarship students married to non-nationals are awarded the same monthly allowance as women married to Saudi men.¹⁴⁷</p> <p>In 2012, the Saudi cabinet ordered special privileges for non-citizen children of Saudi women, including ability to enter Saudi Arabia at the invitation of their mothers, waiving of residency fees, permission to work in the private sector, and access to education and healthcare on the same basis as Saudi citizens.¹⁴⁸</p>		<p>up the implementation of this decision and takes the necessary action. The Ministry of Labour and Social Development also monitors the private sector to ensure the implementation of this decision. It does so through its Inspection Department, which deals immediately with any identified failure and imposes the penalties prescribed by law on the employers responsible.¹⁵⁰</p>		<p>and receive its value), and must then find another sponsor in order to remain in Saudi Arabia.¹⁵⁴</p>
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¹⁴⁹ United Nations Treaty Collection, “Convention on the Elimination of All Forms of Discrimination Against Women”, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&lang=en.

¹⁵¹ Information obtained from Saudi advocate, January 2017

¹⁵² Information received from Saudi advocate, February 2018

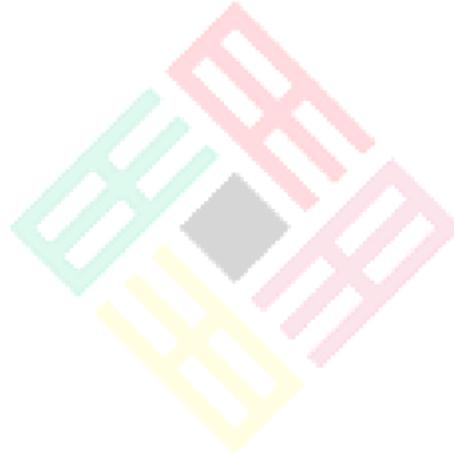
¹⁵³ *Marriage of Saudi Women to Foreigners: Increasing Proportions and a Price Paid by the Children*, Sabq Electronic Newspaper, March 20, 2015, <https://sabq.org/7muGHe>; Information received from Saudi advocate, February 2018

¹⁴⁷ Saudi Arabia National report, U.N. Doc. A/HRC/WG.6/17/SAU/1 (2013), para 56, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/160/88/PDF/G1316088.pdf?OpenElement>.

¹⁴⁸ Human Rights Watch, *Submission to the CEDAW Committee for the 69th Session*, 2018, p.2, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SAU/INT_CEDAW_NGO_SAU_30052_E.pdf.

¹⁵⁰ Saudi Arabia Reply to List of Issues, U.N. Doc. CEDAW/C/SAU/Q/3-4/Add.1 (2017), para 62, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SAU&Lang=EN.

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¹⁵⁴ Information received from Saudi advocate, February 2018; *8 Obstacles Facing the Husband of a Saudi Woman*, Okaz Newspaper, October 24, 2017, <http://www.okaz.com.sa/article/1583285>; Saudi Arabia Nationality Law, issued by Order No. 4 on 25/1/1374(Hijri), http://www.mofa.gov.sa/aboutKingDom/SaudiGovernment/RegimesInKingdom/CivilStatusSystem/Documents/87757_2جنسية.pdf, article 8.