

SAUDI ARABIA¹
OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES
(Updated as at 2 July 2022)

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 uncoded? If 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</i></p>	<p>R1. 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. In the First</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</p>	<p>A woman is placed under the guardianship of her husband upon signature of the marriage contract.¹⁷ Until 2014, women may only have access to the courts for legal redress if two of their male relatives identify them for who they are.¹⁸ In 2014, the Supreme Judicial Council issued a decision to annul</p>	<p>According to the UNDP Human Development Report, Saudi Arabia ranked the 2019 UNDP HDI became 40²⁰ on the UNDP Human Development Index and 56 on the UNDP Gender Inequality Index.²¹ In 2019 UNDP GII of Saudi Arabia</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>

¹⁷ 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

¹⁸ 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

²⁰ UNDP, "Human Development Insights" Prepared for 2021/2022 Human Development Report https://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/SAU.pdf

²¹ UNDP, "Human Development Report 2016", Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

<p><i>uncodified, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school 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> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<p>instance courts are composed of the following:⁴</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 structures in 2014.⁵ Before the declaration of the Personal Family Law in 2022, Saudi Arabia did not have codified laws relating to marriage and the family.⁶ These areas were governed by a combination of (i) <i>Shari'ah</i> principles, which in turn are primarily based on the rules of Hanbali jurisprudence (<i>fiqh</i>) of the</p>		<p>29(1) of the Convention.¹⁴</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 by the provisions of Islamic <i>Shari'ah</i>." However, the implementation of the decree is still</p>	<p>the requirement and substituted it with the woman's national ID.¹⁹ As seen above, guardianship was abolished in Aug 2019.</p>	<p>became 56²²</p> <p>However, according to the 2020 World Economic Forum Global Gender Gap Report, Saudi Arabia ranked GGI Saudi Arabia 147²³ out of 156 on the Global Gender Gap Index.²⁴</p> <p>In September 2016, an unprecedented petition calling for an end to the male guardianship system was presented to Royal</p>
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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, 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.

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.aqsiw.org/personal-status-laws-in-the-gulf-states-past-event/>

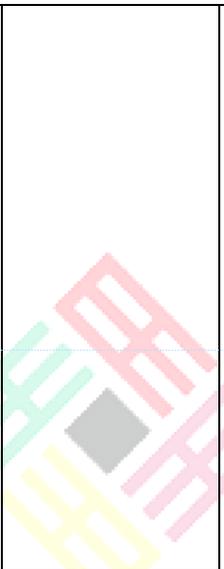
¹⁴ United Nations Treaty Collection Website: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IV-8&chapter=4&clang=en

¹⁹ Information obtained from Saudi advocate, January 2017

²² UNDP, "Human Development Insights" Prepared for 2021/2022 Human Development Report https://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/SAU.pdf

²³ World Economic Forum, "Global Gender Gap Report 2021" Insight Report, March 2021 https://www3.weforum.org/docs/WEF_GGGR_2021.pdf

²⁴ 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

	<p>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 The main school of thought that the courts follow is the Hanbali school. However, For the first time, Saudi Arabia announced to issue a Family Law in the first quarter of 2022. The law has been discussed in the Shura council last year, was sent to the council of Ministers in May 2021, and approved by the king on the women's international day on 8 March 2022. The royal decree appeared on 14th March 2022. It took effect on 18th June 2022⁸. These are the titles of the laws</p>		<p>uncertain as it does not state under what 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.¹⁵ These stipulations were annulled in Aug 2019 when</p>		<p>Court after gaining thousands of signatures. The reaction to the petition from Muslim clerics was 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."²⁵ On the other, a member of the Council of Senior Scholars, Sheikh Abdulla Al-Maneei,</p>
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Commented [1]: A positive update

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/handle/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>

⁸ Al-Muwasi, M., 18-6-2022, "bid' sarayan nizam al-ahwal al-shakhsiyyah", *Sabq online newspaper*, <https://sabq.org/saudia/%D8%A8%D8%AF%D8%A1-%D8%B3%D8%B1%D9%8A%D8%A7%D9%86-%D9%86%D8%B8%D8%A7%D9%85-%D8%A7%D9%84%D8%A3%D8%AD%D9%88%D8%A7%D9%84-%D8%A7%D9%84%D8%B4%D8%AE%D8%B5%D9%8A%D8%A9-%D8%A7%D9%84%D8%AC%D8%AF%D9%8A%D8%AF>

¹⁵ 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>

²⁵ 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>included in the Saudi Personal Status Law (PSL)⁹: -The law applies to all citizens without distinctions; however, it is not clear how it will apply to shiaas. The Code ends with an instruction to the Minister of Justice to prepare the needed registers for this Code (article 250).</p> <p>Article 251: Where there is no text, the provisions of Islamic Law the most suitable and close to the weights of the Code apply. Regarding equality of spouses in marriage, the PSL defines the contract of marriage as: “a contract formed of stipulations and pillars, that imposes rights</p>		<p>guardianship was abolished, women became their guardians and can travel on their own. Including women released from prison, at least one case was allowed to be released on her guardianship after a long trial. (Mariam al Oteibi)¹⁶</p>		<p>declared that there is no guardianship over adult sane women. A guardian is only required for marriage.²⁶ According to information on the ground:²⁷</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
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⁹ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

(1) Marriage: Betrothal (1-5) General laws on Marriage أحكام عامة للزواج (6-11) Pillars of Marriage contract and its conditions (12-41) (14 about the compatibility in marriage) (15-20 all about the *wali*), (21- the witnesses) (22- 26 the prohibitions of marriage) (27-29 conditions) Spouses' Rights (42-66);

(2) Genealogy النسب (67-75)

(3) Dissolving marriage; General rules *Ahkam*, (76) Divorce (77-94) *Khul'* (95-102) Dissolving faskh فسخ of marriage contract (103-115)

(4) The results of the separation of spouses; *iddah* (116-123); Custody (124-135);

(5) Guardianship (*Wisayah* and *Wilayah*) ; General rules for *wisayah* and *wilayah* (136-144); The *wasi* (the person, the guardian) (145-155) *Wisayah* is usually for minors; The *wali* who is appointed by court (152-154); The actions of the *wasi* and *wali* appointed by the court (155-160); The absentee and lost (161-168)

(6) The Will; General rules (161-172); The pillars and conditions of the will (173-195); The Nullifiers of wills (196) ميطلات التركة

(7) The Inheritance; General rules (197-206); The inheritance of those who belong to *alfuroodh* الفروض (207-220); The *hajib*, *ta'seeb*, *'awal* and *radd* (221-231) الحجب، التعصيب، الرد العول; Inheritance of relatives ذوي الأرحام (232-237); Inheritance of the missing, pregnancy and whose genealogy been rejected منفي النسب (238-242); The exit in inheritance التخرج في التركة (243-245)

(8) Ending Rules أحكام ختامية (246-252).

¹⁶ David Rose, "Saudi Woman wins right to live alone in Riyadh", The Times, 12/9/2020, <https://www.thetimes.co.uk/article/saudi-woman-write-wins-right-to-live-alone-in-riyadh-ktf7hwcv5>

²⁶ Fatima Al-Dubais, "There is no guardianship over women except in marriage", *Okaz*, 7 September 2016, www.goo.gl/yS2ba0

²⁷ Information obtained from Saudi advocate, January 2017

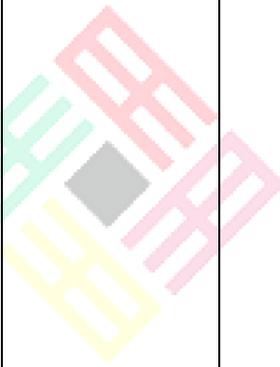
	<p>and duties on the spouses. Its aim is sexual immunity (to be satisfied sexually) and to build a stable family cared for by the spouses in harmony and caring" (article 6).</p> <p>They are both required to build the family, they are considered as both the heads of the household¹⁰. The new amended CIVIL AFFAIRS LAW نظام الأحوال المدنية issued in Nov 2017 specifies in article 91: "The father and mother each are considered the head of the household in the application of this law regarding their minor children"</p> <p>The executive regulations of the CIVIL AFFAIRS LAW add more specifics to article 91: that "the head of the household in the application of this code is a- the husband in relation to the wife, b- the father in relation to the sons added with him and the unmarried daughters, c- the mother in relation to her minor sons and</p>				<p>Arabia. This is even though the phrase "in compliance with <i>Shari'ah</i>" has proven to be an obstacle in advocacy work in this regard;²⁸</p> <ul style="list-style-type: none"> • When adjudicating a case, a judge is empowered to rely on their 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.²⁹ <p>In 2018, most of the leading women behind the petition and</p>
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¹⁰ This new tone in the law was preceded by the announcement the year before, that women are entitled to get their own copies of family registered documents and all documents related to the family which used to be exclusively the father's ownership.

²⁸ Information obtained from Saudi advocate, January 2017

²⁹ 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>

	<p>unmarried daughters after the death of their father, d-the relative who lives with his relatives whom he maintains and giving care, even if he was not obliged to do that by Islamic law after the loss of the head of household, or not been registered earlier in the central civil register".</p> <p>However, the part on obedience is still there found in article 42 which says:</p> <p>"Each spouse has a right towards the other and they are:</p> <ul style="list-style-type: none"> -Living in harmony, exchange respect that solidifies <i>mawaddah</i> and <i>rahmah</i> among them. -None should harm the other financially or morally. -No party should refuse to have marital intimate relation or procreate unless with the approval of the other party. -The living is in the marital house, by the sleeping of the husband and the remaining of his wife in it with him. -Keeping the family's interest and taking care of the children and raising them well. <p>"And the husband must provide with <i>maarouf</i>, and justice among the wives in dividing the sleeping over, and providing. <u>In return, the wife has to obey in <i>maarouf</i>, and to breastfeed their children unless</u></p>				<p>the call were imprisoned for times that varied from 10 months to 3 years plus and forbade from traveling for five years.</p>
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	<p>there is an obstacle.” As we can see from this article, the obedience comes back again at the end of the article and after establishing all the quranic requirements, then the word of <i>maarouf</i> was injected in to soften the language of obedience. When it comes to the roles, the providing is very clear is the man’s responsibility. There is no reference to women providing under any condition. Note also that breastfeeding which became obligatory, contrary to the Quran.</p> <p>Extra note, marrying a madman: It is important to refer to this article and what it entails for women. It is marrying a madman or lunatic. This article contradicts the concept of marriage in Islam and does not build a sane safe stabled family. Article 11: “The court may allow the marriage of the madman and the lunatic according to the demand of his guardian when the following conditions are available: 1-providing a medical report about his insanity or madness. 2- the approval of the other party to enter this contract after knowing the condition of the madman or the lunatic.</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 and the Family Security Programme.”³⁰ Based on information on the ground, the personal status law has still not been released.³¹ It was finally</p>
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	<p>3-that this marriage is to the advantage of the madman or the lunatic".</p> <p>Guardianship: Saudi Arabia used to practice 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 flat, medical procedures, and 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 divorce, 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.¹¹</p>				<p>released on 8th March 2022.</p>
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³⁰ USCIF, "Saudi Arabia", *Tier 1: USCIRF-Recommended Countries of Particular Concern*, 2017, p. 6, <http://www.uscirf.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>

³¹ Information obtained from Saudi advocate, January 2017

¹¹ 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/saudiarabia0716web.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

	<p>The guardianship law was abolished in Saudi Arabia starting on 2nd Aug 2019.</p> <p>Amendments were announced to CIVIL AFFAIRS LAW and travel documents law. The amendment of the CIVIL AFFAIRS LAW articles specified the following: Another aspect of the guardianship law has been removed, which is to require of a guardian's approval for work, study, or hospitalization. Women are given an equal stand to men citizens in all respects except for extending nationality to children of a Saudi mother and marriage, which still needs a guardian for it to be valid.</p> <p>Changes are made to the law of issuing passports. It should be issued to any person holder of Saudi nationality (Decision no. 684, dated 27-11-1440H, i.e. 30-7-2019)¹² without any exceptional clauses. Travel restriction was the main representation of the guardianship rules which used to be implemented on women even by their sons.</p>				
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¹² 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>
The National Center for Archives & Records, <https://ncar.gov.sa/Documents/Details?Id=3%2BVtaiDm%2BPiyDNRDd8MHA%3D%3D>

	<p>Notes: Shias have their 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.¹³ This table primarily discusses the position of personal status of Saudi <i>Sunni</i> Muslims. However, it is expected that some articles of the PSL will apply to <i>Shiaas</i> as well. No information about how it will be applied to <i>Shiaas</i> has circulated.</p>				
<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</i></p>	<p>There used to be no minimum age for marriage. However, article 9 from the PSL issued in 2022, states clearly a minimum age of 18 years old. However, marriage is accepted with exceptions. Article 9: "forbids registering a marriage contract for those under 18 years old, however, the court has the right to permit a younger male or female to marry after verifying his/her advantage of this</p>	<p>According to media reports, in December 2008, a judge, Sheikh Habib Abdallah al-Habib, refused to annul the marriage of an 8-year-old girl to a 47-year-old man when he rejected a petition by the girl's mother, whose lawyer said the</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 concerning all such articles as conflicts the provisions of</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</p>	<p>According to a media report, there were 5,622 marriages involving child brides under the age of 14 in 2012.⁴¹ According to UN World Marriage Data 2015, the average of first marriage among Saudi Arabian</p>

¹³ Information obtained from Saudi advocate, January 2017; USCIF, "Saudi Arabia", *Tier 1: USCIRF-Recommended Countries of Particular Concern*, 2017, p. 6, http://www.uscifr.gov/sites/default/files/SaudiArabia_2017.pdf; Global Security, "Saudi Arabia: Shias", <http://www.globalsecurity.org/military/world/gulf/sa-shia.htm>.

⁴¹ Staff Report, "More than 5,000 Child Brides in Saudi Arabia", *Gulf News*, 8 November 2012, <http://gulfnnews.com/news/gulf/saudi-arabia/more-than-5-000-child-brides-in-saudi-arabia-1.1101605>

<p><i>verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>marriage, the by-laws of this law show the restrictions and procedure needed for that". The implementing regulation of the PSL article 9 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." The main page of the Ministry of Justice has a special page for applications for early marriage: "The needed steps are as follows: -Enter the early marriage approval service. -Choose the court. -Choose the status of the applicant. -Enter the details of the young man and the girl. -Attach all required documents. -Submit the request.</p>	<p>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.³⁴ The girl was eventually allowed to divorce her husband through an out-of-court settlement.³⁵</p>	<p>Islamic law."³⁶ In 2009, the Grand Mufti Sheikh Abdul Aziz al-Sheikh declared that girls as young as 10 were marriageable.³⁷ In 2013, the Ministry of Justice proposed that the minimum age of marriage be 16. However, the proposal faced strong resistance from the Grand Mufti.³⁸</p>	<p>case and interview any girl below 18 in private and without the presence of the parents.³⁹ It is possible to seek the assistance of the National Human Rights Society (NHRS) to intervene in child marriage. In 2009, the NHRS intervened to stop the marriage of an 11-year-old girl and a 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</p>	<p>females and males was 24.9 and 28.0 in 2007, respectively.⁴² 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.⁴³</p>
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³⁴ 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/>

³⁵ 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/#.VFaqXfi97IU.

³⁶ United Nations Treaty Collection Website: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsq_no=IV-11&chapter=4&lang=en#EndDec

³⁷ 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/>

³⁸ 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/>

³⁹ 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>

⁴² United Nations Population Division, "World Marriage Data 2015", <https://esa.un.org/ffps/Index.html#/maritalStatusData>

⁴³ Information obtained from Saudi advocate, January 2017

	<p>-Marriage contract is accepted only through the court, and the judge verifies the approval by explicit acknowledgment. The mother's opinion is taken.</p> <p>-A medical report is required to prove physical and mental completeness (compatibility), and a psychological and social report to prove parity between them." Therefore, the minimum age is theoretically 18 years old for both men and women, but the court exception makes it easily abused.</p> <p>Does the minimum age of marriage match the age of majority?</p> <p>The age of majority according to the PSL, in the introduction, under number 2: it says that what 'majority age' used in this document means 'completing the age of eighteen until the approval of the law of civil codes?' نظام المعاملات المدنية³²</p> <p>This definition echoes the Law of Child Protection issued in 2014 which defines a child as a person under 18 years old.³³</p>			<p>child marriage despite the experiences of the girl's elder sister who was in child marriage and who was divorced by 20.⁴⁰</p>	
Women's consent to marriage	Regardless of their age, both		In April 2005, the	It is incumbent upon	According to

³² Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

³³ Child Protection Law, Royal Decree No. M/14, 2014 (EN) <https://laws.boe.gov.sa/Files/Download/?attId=600a853e-815e-4aa8-90f7-adbb01203704>

⁴⁰ Abdul Rahman Shaheen, "Human rights body intervenes to stop child marriage in Saudi Arabia", *Gulf News*, 8 July 2009, <http://gulfnnews.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><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>prospective brides and grooms must consent to the marriage.⁴⁴ Marriage can only take place with the free and full consent of the couple. Forced marriage is prohibited under the Islamic Sharia.⁴⁵ And forbidden under Saudi laws. Article 12 of PSL specifies that "the pillars of a marriage contract are: 1- the couple, man and woman. 2- the offer and <u>acceptance</u>".⁴⁶ A marriage contract sample does not exist but there has been a circular in which to enforce the implementation of brides' provisions when signing the contract. The enforcement and responsibility are laid upon the <i>ma'zoun</i>⁴⁷.</p>		<p>Grand Mufti Sheikh 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 ...</p>	<p>the groom and the 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.⁴⁹ In 2016, the Justice Ministry issued a directive stating that women must be provided a copy of</p>	<p>academic research, reports by civil society reports 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.⁵³ For instance:</p> <ul style="list-style-type: none"> • The consent of the male guardian is
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⁴⁴ 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>; Tahirih Justice Centre, "Saudi Arabia", *Forced Marriages Overseas*, <http://preventforcedmarriage.org/forced-marriage-overseas-saudi-arabia/>

⁴⁵ 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>

⁴⁶ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

⁴⁷ Ministry of Justice Circular no. 13/T/3477 at 20/10/1429H (20/10/2008). For history sake, it is important to know how marriage laws were drafted and followed. Before the PSL was issued in 2022, legal guidance regarding marriage and family affairs were found in two bodies of laws, on the Ministry of Justice website, the law that governs the practice of the registers of marriage (*ma'zoun*) called: لائحة مأذوني الأئحة The law of marriage *ma'zouns* <https://www.moj.gov.sa/ar/Ministry/Departments/MarriageOfficial/Documents/Rules.pdf> . <https://www.moj.gov.sa/Documents/Regulations/pdf/44.pdf> And the second is the CIVIL AFFAIRS LAW, where many articles related to marriage and divorce are found, making part of the citizen's civil status. The latter law had many amendments in the past three years for the advantage of women (30 Jul 2019, 2 Aug 2019).

⁴⁹ 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>

⁵³ 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; 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://gulfnnews.com/news/gulf/saudi-ara>

	<p>Regarding registering the marriage, the law says that both the man and woman can register the marriage at court, (which used to be limited to the man) (article 47b). There is no need to register if the contract was connected electronically to the court. Therefore, registration is mandatory. Article 8 of PSL emphasizes registering the marriage contract.</p>		<p>to marry against her will is disobeying God and His prophet (Mohammed) under Islamic law."⁴⁸</p>	<p>the marriage contract.⁵⁰ There is a standardized marriage contract. It is a simple form that:⁵¹</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 as the man. <p>Registration of the</p>	<p>often deemed sufficient proof of a bride's acceptance.</p> <ul style="list-style-type: none"> • The <i>imam</i> rarely asks a woman to show her face or compare it with her ID. This makes it easy for any woman to consent to answer on her behalf;⁵⁴ <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</p>
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Information received from Saudi advocate, February 2018 [bia/human-rights/body-intervenues-to-stop-child-marriage-in-saudi-arabia-1.500470](https://www.bia/human-rights/body-intervenues-to-stop-child-marriage-in-saudi-arabia-1.500470)
⁴⁸ 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
⁵⁰ 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;
⁵¹ 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
⁵⁴ Information received from Saudi advocate, February 2018.

				marriage is mandatory following which, a new ID is issued for the family. ⁵²	husband to consummate the marriage. ⁵⁵ Under-age marriage can be difficult to annul in the absence of media or other public interventions ⁵⁶ .
<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</i></p>	<p>R.4. 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 by (<i>adel</i>عادل), the woman can file a case in court whereby the judge may authorize the marriage after determining the suitability of the man (article 20).⁵⁷ Article 13 of PSL specifies the conditions for a marriage</p>	<p><i>Adel</i> cases are often resolved in favor of the guardian as judges often respect a guardian's decision regarding the suitability of a marriage suit.⁶² In 2010, in the case of <i>Samar Badawi</i>, the judge not only ruled</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).⁶⁵</p>	<p>Both the wife and husband can negotiate their marriage rights before marriage.⁶⁶</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</p>

⁵² Website of the Ministry of Interior: <https://qoo.gl/W8TZhZ>; Information obtained from Saudi advocate, January 2017

⁵⁵ 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

⁵⁶ 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>

⁵⁷ 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>

⁶² 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>

⁶⁵ Information obtained from Saudi advocate, January 2017

⁶⁶ 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

<p><i>negotiate her marital rights prior to marriage 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> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>contract's validity as 1- designation of the couple. 2- Consent of the couple. 3- the acceptance of the <i>wali</i>. 4- two witnesses. 5- that the woman is not forbidden to marry the man in a temporary or eternal prohibition. As we can see the 13/3/ item is problematic as the role of the <i>wali/guardian</i> is prominent in the validity of the marriage contract. The <i>wali</i> does not have the right to marry the woman without her consent. This is repeated in article 17/3 where it says: "The <i>wali</i> even if it were the father, does not have the right to marry his daughter without her consent and has to show in the contract what proves her consent".⁵⁸</p> <p>Article 17 emphasizes the order of the <i>walis</i> in marriage, starting from the father then his deputy, then the paternal grandfather and above, then the son, then his son and below, then the brother, then the half-brother, then the nephew,</p>	<p>in favor of the father but also accused Samar of parental disobedience ('<i>uquq</i> عقوق) and sent her to prison.⁶³</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 court, Fatimah and Mansour already</p>			<p>ground:⁶⁷</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 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. • The common
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⁵⁸ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

⁶³ 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/>

⁶⁷ 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>

	<p>then the nephew from a half-brother and below, then paternal uncle, then the father's paternal uncle, then their children below then the nearest in <i>'isbah</i> العصبية according to the inheritance order, then the judge.</p> <p>If the <i>walis</i> were on the same level, the woman chooses from them, and if she didn't, any of them will do.</p> <p>This item answers the question: <i>can a woman choose her wali?</i> This is the way a woman chose a <i>wali</i> for her marriage.</p> <p>Article 14 brings back a condition of the marriage that dated to pre-Islamic times, it says: 14/1. "A man's competence/parity for a woman is a condition for the marriage contract, not for its validity. (للزوم العقد لا لصحته)." 14/2. The lesson is in a man's compatibility at the time of the contract with the righteousness of his religion, and all that is based on custom. 14/3. Every interested relative - up to the third degree - who is affected by incompatibility; has</p>	<p>had a daughter and a son, the court ruled in favor of the half-brothers. Fatimah and Mansour lost their appeal. Fatimah was imprisoned (in a social shelter) 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 by the king. Their case set a precedent for other similar court cases i.e. where relatives contested a marriage on the grounds of the pre-Islamic practice of non-compatible genealogy.⁶⁴ The</p>			<p>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;</p> <ul style="list-style-type: none"> • The common stipulations a husband inserts into the marriage contract include forbidding the wife from leaving the house within his permission (main stipulation), requiring 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.
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⁶⁴ 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>

	<p>the right to object to the marriage contract, the court will decide accordingly". As seen above, this very controversial custom⁵⁹, although removed from the Ministry of Justice's website⁶⁰, has come back via the PSL from its main gate. Any male relative of a woman has the right to petition the court to revoke a marriage on the ground that the marriage is unfit, which is based mainly on genealogical incompatibility.</p> <p>Marriage rights can be negotiated as part of the marriage contract conditions theoretically, but they are hard to enforce after marriage as there is no mechanism for doing that⁶¹. However, the situation seems to have better clauses in the new PSL. Three articles in the new PSL organize the writing of the</p>	<p>pardon did not annul the law. It just gave this couple exceptional leverage but other couples continued to have the same ruling officially until 2016.</p>		<p>Although the Ministry of Justice has removed divorce for lack of genealogical compatibility from its website, the practice of male relatives seeking to revoke a marriage on that ground and the court procedure of dealing with such cases continues. It is also not uncommon for husbands to be rightly or wrongly accused of deceit regarding their genealogy in these cases before the conclusion of the marriage.⁶⁸ Unfortunately, this</p>
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⁵⁹ 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>

⁶⁰ This rule did not change, but the court became shy of it and had deleted the justification of unsuitable genealogy, for a divorce lawsuit from its electronic website (9 April 2016) (Al-Turky, Bandar, 10/April/2016, "al-'adl tuzeel da'awi al-talaq li'adam jakafu' al-nasab tafadian liitanaqudh", *AlWatan*, 297581, <https://www.alwatan.com.sa/article/297581>). Unfortunately, it has come back with the new PSL article 14.

⁶¹ See the review by Loujayn al-Huqayl of this allowance in *Huna Saotak* commentary, "haq al-mar'ah al- su'udiyah fi al-ishтираq qabl 'aqd al-zawaj", 29/12/2014, <https://hunasotak.com/article/14291>

⁶⁸ Mohammed al-Sulaymi, "Fraud, Deceit about Lineage Prompts Court Ruling Forcing Wife to Divorce Husband", *Arab News*, 11 October 2016, <http://www.arabnews.com/node/996551/saudi-arabia>

	<p>negotiated marriage contract conditions (27-29) Article 27/1: “The couple are at their conditions</p> <p>27/2. The condition cannot be stated as an option to annul the marriage contract unless it was emphasized in writing in the marriage contract, or the couple acknowledged it. لا يكون الشرط مثبتاً لخيار فسخ عقد الزواج إلا إذا نص على الشرط كتابة في وثيقة عقد الزواج أو أقر به الزوجان</p> <p>27/3. the couple is in their condition (Means they are abided by it)”</p> <p>Article 28: “if one of the parties did not fulfill the condition towards the other as article 27 stated in this law, the person who made the condition has the right to ask for the annulment of the marriage contract whenever he/she wishes unless he/she withdrew clearly his/her right. If the unfulfillment was from the husband part, the annulment is without compensation, but if it was from the wife, it should be with</p>				<p>condition became a rule in the new PSL article 14 which institutionalized the rules of divorcing a woman based on genealogical incompatibility of the husband, however limiting it to 3rd degrees only.⁶⁹</p>
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⁶⁹ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

	compensation that does not exceed the dowry				
<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 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>R 5. A Saudi man may marry up to four wives at one time without any restrictions e.g. no requirement to seek the 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.⁷⁰ But even this condition, is not enforced automatically by laws unless the affected wife filed a complaint. Temporary marriages such as (misyar ميسيار), which means the wife waiving her rights of maintenance, accommodation, and cohabitation with the husband, are legal and common.⁷¹ However, it was not mentioned in the PSL. So, no</p>		<p>In 2001, the Grand Mufti issued a religious ruling (fatwa) 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.⁷²</p> <p>In 2006, the International Islamic Fiqh Council, at the Islamic League, مجمع الفقه الإسلامي</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:⁷⁴</p> <ul style="list-style-type: none"> • She is divorced if her husband takes on an additional wife; • The polygamous husband pays her a certain amount 	<p>Available data suggest that polygamy is common in Saudi Arabia. In 2016:⁷⁵</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;⁷⁶ • Around 73,000 men aged 25-49 engaged in polygamous relationships; men aged 50-54

⁷⁰ 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>, see also the PSL, article 44: "The husband has to provide in *maarouf*, and to equal between his wives in their share of sleeping and the required provision"

⁷¹ 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, <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/>

⁷² IBP Inc., "Saudi Arabia Criminal Laws, Regulations and Procedures", (USA: IBP Inc., 2015), p. 97,

⁷⁴ L.L Wynn, "Marriage Contracts and Women's Rights in Saudi Arabia: *Mahr, Shurut*, and Knowledge Distribution", 2008, <https://www.researchgate.net/publication/275644031>

⁷⁵ 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>

⁷⁶ According to the General Authority for Statistics, there were about 10.2 million Saudi men in 2016, <https://www.stats.gov.sa/en/5305>

<p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>	<p>mention of registering or not, but the law is that for marriages to be recognized they need to fulfill the pillars and stipulations of marriage. Waiving rights is a way to go around the rules, but it openly contradicts article 6. Article 8 emphasizes registering the marriage contract. It has been debated whether stipulating not to remarry is considered a legal condition. Some scholars argued that no stipulation is allowed that is prohibiting a permitted <i>/halal</i> right.</p> <p>Article 29 says 29/1." if what was stipulated in the marriage contract contradicts its continuation or the contract was made in return for another marriage contract, it is void.</p> <p>29/2. in consideration for what was in part (1) of this article, the marriage contract is valid, and the condition is void if it was</p>		<p>issued a <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.⁷³</p>	<p>of money; and</p> <p>She and her children be given a separate house to live in with their children.</p>	<p>came in second place and more than 16,000 men aged 60-64 were married to at least three women at a time.</p> <p>According to academic research, women are often reluctant to insert polygamy-related stipulations into their marriage contracts because society (including women) deems such demands shameful.⁷⁷ In addition, the enforcement of such stipulations is difficult.⁷⁸</p> <p>According to academic research, media reports, and information on the</p>
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⁷³ 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, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

⁷⁷ L.L. Wynn, "Marriage Contracts and Women's Rights in Saudi Arabia: *Mahr*, *Shurut*, and Knowledge Distribution", 2008, <https://www.researchgate.net/publication/275644031>

⁷⁸ Information obtained from Saudi advocate, January 2017

	<p>contradicting the essence of the contract.” So, it is possible to use this article against such a stipulation, but not necessary.</p>			<p>ground, several women engage in polygamous unions as they prefer to be married and enjoy a more ‘respectable’ social status. Marriage may give a woman more freedom to pursue her 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.⁷⁹ According to a media report, <i>misyar</i> marriages are on the rise in Saudi Arabia due to</p>
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⁷⁹ 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>

					unaffordable living expenses. ⁸⁰ In 2017 the hashtag “we-demand-that-polygamy-becomes-compulsory” was trending on Saudi Twitter, indicating popular support for the practice of polygamy which could further discourage women who do not wish to participate in polygamous marriages. ⁸¹
<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>R6. 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 a divorce.</p> <p>There are five different mechanisms for divorce:</p> <p>1.Unilateral divorce (talaq)</p> <p>Under this, a husband has the right to unilateral divorce through repudiation (talaq) without</p>	<p>In 2009, a court in the Red Sea city of Jeddah finalized the divorce of a woman whose husband unilaterally divorced her through a text message he sent while he was in Iraq informing her that she was no longer his wife. The husband followed</p>	<p>On 21/2/2018, the decision of the Council of Ministers was issued to cancel Article 75 of the implementation system, which states (that the judgment issued against the wife to return to the marital home forcibly shall not be</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.⁹¹</p> <p>According to the Civil Status Code, it is mandatory to register a divorce</p>	<p>Saudi Arabia has a relatively high rate of divorce which has exponentially increased in recent years. The number of divorce cases handled by courts reached 53, 675 in 2017 i.e. 149 cases each day. Further, the actual figure could be much</p>

⁸⁰ 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/>

⁸¹ 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>.

⁹¹ Information obtained from Saudi advocate, January 2017

<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 contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>restrictions and in the presence of the wife. Divorce is initiated by the will of the husband (PSL article 77).⁸² The divorce is effective immediately. No need for witnesses. The former husband can go to the court at a later date and obtain a document of his decision and send a copy to the former wife. An amendment to this type of divorce was issued by enforcing the documentation and electronic documentation of marriage and divorce so that a divorced woman will know immediately of the decision when taken to court. The divorce might not be valid outside the court. The former husband has 15 days to go to court to</p>	<p>up with a telephone call to two of his friends that had witnessed his marriage. The court finalized 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.⁸⁶ In 2016, local media</p>	<p>implemented), after the Ministry of Justice deleted the case for subjugating the wife from its electronic portal and the courts finally stopped issuing rulings forcing the wife to return to the marital home⁹⁰.</p>	<p>within two months of its occurrence.⁹² Additionally, only a man may register a divorce – primarily the husband or, in his absence, a male relative.⁹³</p>	<p>higher than the officially reported number.⁹⁴ According to a media report, Saudi women started a campaign in 2008 aimed at showing the mishaps and injustices that affect women concerning their divorce rights. The 73 points demands of the Saudi women were sent to the <i>Shura</i> Council in vain.⁹⁵ Based on academic research, civil</p>
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⁸² Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

⁸⁶ Reuters, "Saudi man divorces wife by text message", *Al Arabiya*, 9 April 2009, <https://www.alarabiya.net/articles/2009/04/09/70302.html>

⁹⁰ F. Al-Dubais, 21/2/2018, "'ilgha' bayt al-ta'ah yada' al-zawjain bayn khayarain la thalith lahum", (The annulment of Bayt al-Ta'ah (i.e. forcing the wife to return to the marital house) will give the couple only two options", *Okaz*, 21-2-2018, <https://www.okaz.com.sa/local/na/1617211>

⁹² 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/c152dd004d4bb7bd8debd7ca8368/AR_civil_affairs_system.pdf?MOD=AJPERES&CACHEID=c152dd004d4bb7bd8debd7ca8368, article 46.

⁹³ 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/c152dd004d4bb7bd8debd7ca8368/AR_civil_affairs_system.pdf?MOD=AJPERES&CACHEID=c152dd004d4bb7bd8debd7ca8368, article 47.

⁹⁴ 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>

⁹⁵ 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>document the divorce for it to be valid (PSL article 90).⁸³ A husband may delegate his unilateral right to divorce his wife (isma) through a stipulation in the marriage contract. But it is very hard to have this stipulation in the contract. However, articles 90 and 91 made it hard for the husband not to document his divorce, and therefore, the wife will be informed automatically. Registering for divorce became mandatory.</p> <p>2. Judicial divorce (faskh) This is a fault-based divorce, and a wife may seek judicial divorce if she can prove at least one of the few available grounds for divorce, which include her husband's desertion, refrain from maintenance, impotence, loathsome disease, and proven mistreatment. (PSL Articles 107,</p>	<p>reported a few <i>khul'</i> cases in which:</p> <ul style="list-style-type: none"> - 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 SAR55,000.⁸⁷ - 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 			<p>society reports, and information on the ground, the following are some of the challenges that women face concerning their divorce rights:⁹⁶</p> <p>Unilateral Divorce:</p> <ul style="list-style-type: none"> • While the right to the 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
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⁸³ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/Boelaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>
Strangest Khul' Case of a Saudi Woman in Jeddah, Almwaten.net, February 13, 2016, <https://www.almowaten.net/2016/02/اغريبحالةتخلعلمواطنةسعوديتمن-زوجهاب/>

⁸⁷ 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;

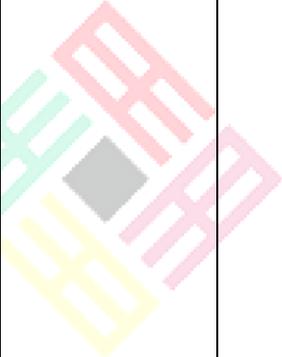
⁹⁶ Esther van Eijk, "Sharia and National Law in Saudi Arabia", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 163-164, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>; 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://qoo.gl/AeQSDU>; Saudi Gazette, "Personal Status Court improves performance", *Saudi Gazette*, 28 November 2016, <http://saudiqazette.com.sa/saudi-arabia/personal-status-court-improves-performance/>

	<p>108)⁸⁴ To obtain this divorce, women are required to undergo a mandatory mediation process which is usually headed by two or more male religious officials. called <i>lajnat Islah dhat al-bayn</i> إصلاح ذات البين. However, in the new PSL, some articles detailed the procedure and referred it to the known verses in alNisaa surat (4:35). Article 109 Says: "If the damage that makes it impossible for the couple to continue living together was established, the division between the spouses continues, and the possibility of reconciliation is not established; each spouse must choose a judgment from his or her family within the term specified by the court, otherwise the court will appoint two of their eligibility judgments if possible, otherwise they will not be eligible for repair, and they will have an arbitration period of not more than (60) days from the date of their appointment". In articles 110 and 111, the procedure continues until they agree Article 111: "If the two referees</p>	<p>reasons.⁸⁸ - a judge rejected a khul' 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 wife to a mediation process⁸⁹</p>			<p>addition, many marriage officers refuse to include it in the marriage contract despite the bride's request, on the justification that they consider such a condition as 'un-Islamic.' Consequently, without a firm law allowing women to request 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</p>
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⁸⁴ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/Boelaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

⁸⁸ A Saudi Woman Fails to Obtain Khul', Rotana, May 5, 2016, <http://rotana.net/السعودية:تفشل في خلع بن زوجها بقرار من القاض>

⁸⁹ Strangest case of khul' of a Saudi woman, Almowaten, 2 February, 2013 (Arabic) <https://www.almowaten.net/2016/02/أغرب حالة خلع لمواطنة سعودية ممن زوجها ب/02>

	<p>were unable to reconcile the spouses, they need to decide whether the reconciliation between them should be with or without compensation. In any case, the compensation paid by the woman must not exceed the dowry, and the referees should submit to the court a report containing all their effort for reform between the spouses, and the opinion they have concluded.” The court can also initiate a juridical divorce according to the woman’s request in two situations related to the man’s absence for more than four months, or if he refused to have intercourse with her for four months without an excuse, or if he made an oath of not having intercourse for her and it lasted more than four months (article 13). Being abused is also one of the reasons for <i>faskh</i> divorce, but it needs proof.</p> <p>3. Redemptive divorce (<i>khul'</i>) 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. The <i>khul'</i> is initiated by the wife and is conditioned on the</p>				<p>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. <p><u>Judicial divorce:</u></p> <ul style="list-style-type: none"> • While women may initiate divorce without their husband’s approval, it is not always possible for them to access the courts
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	<p>husband's approval in exchange for the mentioned compensation (PSL article 95). The <i>khul'</i> does not need a juridical order if the couple agrees (PSL article 96). However, a <i>khul'</i> compensation should not be by overthrowing any right of the children or their custody (PSL article 97). A special fund has been allocated by the government to help women who cannot pay to leave their husbands. <i>Khul'</i> has been abused in many cases by the court by reserving it when the woman is being abused and mistreated.</p> <p>4. by the death of one of the spouses.</p> <p>5. by <i>li'an</i>, (PSL article 76), which is to swear before court that the wife was unfaithful. There is a process in this situation of suspicion of unfaithfulness in both cases that is clear in the Quran (24:6-10). The result of this exchange of swears or oaths is an eternal divorce. The child under dispute will be named after his/her mother.⁸⁵</p>				<p>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. Court staff are male-dominated, and lawyers were only allowed to appear in court beginning in 2013;</p> <ul style="list-style-type: none"> • 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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⁸⁵ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

					<p>regarding the available grounds for granting a 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> 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
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					<p>to minimize women's grievances and simply advise them to be patient and obedient.</p> <p><u>Redemptive Divorce:</u></p> <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.⁹⁷ 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. ,
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⁹⁷ Information received from Saudi advocates, February 2018

				<ul style="list-style-type: none"> • In practice, lawyers might refuse to bring <i>khul'</i> cases if they find a wife's reasons to be trivial.⁹⁸ • 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.⁹⁹ <p>In November 2016, the Saudi Gazette reported that the Family court in Riyadh displayed a significant improvement in performance by</p>
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⁹⁸ Information received from Saudi advocates, February 2018

⁹⁹ 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.

					handling 75% of the backlog in a matter of 20 working days. ¹⁰⁰
<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 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</i></p>	<p>R7. There is no legal concept of matrimonial assets. The man is required to provide for the family in most of the articles of the PSL. He provides for the wife if she submits to him sexually, lives in the house, and travels with him if she didn’t have a serious deterrent (Article 51).¹⁰¹</p> <p>The only reference to money sharing is when the couple buys a shared property such as a house. In this case, she is entitled to her share, which is different from the matrimonial asset.</p> <p>Upon divorce, a woman is entitled to financial maintenance during the waiting period after the divorce (iddah) unless she has forfeited her financial rights (article 53/1). The iddah period is usually three months.¹⁰²</p> <p>A pregnant woman’s</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 maintenance by asking the judge for a letter directed to the Saudi Monetary Authority requesting a bank statement of</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 enforcement¹⁰⁸ for reasons that include: (i) lack of awareness among women of their rights; and (ii) the procedure to enforce court-ordered maintenance is lengthy.</p> <p>The lack of a financial support system or division of</p>

¹⁰⁰ 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/

¹⁰¹ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

¹⁰² 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

¹⁰⁸ 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 [

<p><i>who and on what basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<p>maintenance is until she gives birth to a child (article 53/2). A woman may request a consolatory gift or compensation (<i>mu'tah</i>). However, this is rarely granted.¹⁰³</p> <p>Article 40 specifies that the divorcee is entitled to half the amount of dowry (40/3).</p> <p>Saudi Arabia has issued an 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.¹⁰⁴</p> <p>A fund for nafaqa/alimony was established on 7/8/ 2017. in which it pays the divorcee woman and her children from the man's</p>			<p>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 confirm and carry out the payment within five days.¹⁰⁷</p>	<p>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.¹⁰⁹</p>
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¹⁰³ Information obtained from Saudi advocate, January 2017

¹⁰⁴ 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

¹⁰⁷ Information obtained from Saudi advocate, January 2017

¹⁰⁹ Information received from Saudi advocates, February 2018.

	<p>salary directly¹⁰⁵. There is no legal concept of matrimonial assets. Following a divorce, a father is responsible for the financial maintenance of his children. If the mother is the custodian, he is obligated to pay her maintenance to cover the expense of his children.¹⁰⁶</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 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> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>R. 8 Parents do not have equal rights over the custody of the child. The father is the main custodian. Things change after divorce according to the children's age, the mother's marital status, and the juridical assessment of the best interest of the child. Some amendments to this article were issued by the Ministry of Justice in 2017.</p> <p>And on 14 Feb 2018¹¹⁰ more were added by the civil affairs, and then more clarity happened with the issuance of the PSL which was published in March</p>	<p>Custody decisions vary according to the judge's personal views. While some judges do decide custody cases based on the best interest of the child, in many instances, the primary concern of judges is that the child is raised by the Islamic faith. In this regard, a judge may just base his ruling on which of the two parents appear</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: ¹¹⁸</p> <ul style="list-style-type: none"> Judges lack training in social and family welfare. This has led to cases whereby unfit fathers have been awarded

¹⁰⁵ See the legislations of this fund in <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/856b8992-cf28-422a-96a8-a9ec0127f6e7/1>

¹⁰⁶ 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

¹¹⁰ Ministry of Justice's Twitter account, <https://twitter.com/MojKsa/status/963732848237785088/photo/1> (check the infographic at the bottom of this document)

¹¹⁸ 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>

	<p>2022. I'll cite the new changes chronologically starting with the old laws: The situation up to 2016: 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.¹¹¹ A mother may have custody over her daughter after the age of seven if she has not remarried but the father has.¹¹² The state has issued Order No. 27808 of 16 Jumada II A.H. 1438 (15 March 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 custody e.g. instructing the Supreme Court to promulgate judicial principles to decide on the most suitable party for custody; providing adequate support to Judges hearing cases</p>	<p>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.¹¹⁷</p>			<p>custody or judges recognize paternal grandparents' claim to the child over the mother's. Also, sometimes the mere appearance of a woman (how 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
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¹¹¹ 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

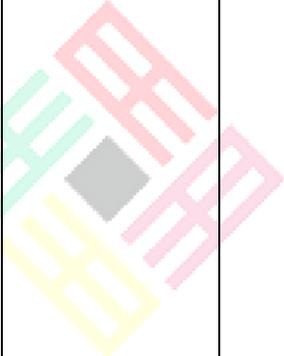
¹¹² Information obtained from Saudi advocate, January 2017

¹¹⁷ For more, see the 30 volume court cases published by the Ministry of Justice, https://www.moi.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: 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>

	<p>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 the procedure in cases of custody, among others.¹¹³</p> <p>On 14 Feb 2018, a bundle of decisions was issued by the Supreme Court to grant women more rights in case of divorce¹¹⁴. Changes were made to the custody age and conditions in the new PSL which granted the mother the right of custody immediately after divorce. That is if the children were of the age of custody, without the need to file a lawsuit against her divorcee. She was also granted the following:</p> <ol style="list-style-type: none"> 1- A copy of the marriage contract is to be given to the wife to guarantee her right to custody and divorce. 2- The right to enter the official legal buildings without a guardian. Her identity can be verified by fingerprint. 				<p>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.</p> <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. •
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¹¹³ 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.

¹¹⁴ Ministry of Justice, <https://www.moj.gov.sa/ar/MediaCenter/News/Pages/NewsDetails.aspx?itemId=462>

	<p>3- The right to have guardianship over her custodian child. She has been given this right to facilitate maintaining her child's rights in the circles of civil affairs, passports, embassies, education, schools, and other administrations and ministries.</p> <p>4- An automatic custody for the mother over her child without the need for filing a case, except in cases where there is a dispute with the father.</p> <p>5- The Maintenance Fund project for divorcees and children was established to guarantee the spending of the maintenance to the wife and children without delay or procrastination during divorce or trial.</p> <p>6- The immediate implementation of the provisions of alimony/maintenance or seeing the young child or handing him over to his custodian: The provisions of alimony and the judgments of the urgent judiciary are implemented by seeing the young child and handing him over to his custodian (mother) directly without the procedures of Article No. 34 of the implementation system, and the implementation of custody and visitation cases in the country of custody or visitation stipulated in the</p>				
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	<p>executive document. More was added on the issue of providing awareness services, conciliation services, and general awareness of women's rights that are related to the program of the 2020-30 national vision to spread the culture of legality and rights.</p> <p>In March 2022, the publication of PSL and its implementation document اللائحة التنفيذية specified the following in case of child custody:¹¹⁵</p> <p>Article 126/1: If the custodian was a woman, she needs to be unmarried to a strange man to the child in custody, unless the child's interest requires otherwise.</p> <p>126/2: If the custodian was a man, he must have a forbidden kinship to the child in custody if the child is a female. In this case, a woman who is suitable for custody must reside with the custodian.</p> <p>Article 127 states that in case of divorce, the custody is for the mother, then the order will be accordingly: the father, the maternal grandmother, the paternal grandmother, then the court will decide the best for the child in custody.</p>				
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¹¹⁵ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

	<p>Article 135 specifies the age of the child in custody. It says: 135/1: "If the child under custody has completed (15) years of age (no gender is specified), he may choose to reside with one of his parents, unless the child's interests require otherwise. 135/2. Custody ends if the child under custody has completed eighteen years".¹¹⁶</p> <p>Therefore, the court decision is based on the best interest of the child. Mothers lose custody upon remarriage automatically, however in reality this has been disputed.</p> <p>Women's disobedience is not mentioned in the new family law except as a stipulation for alimony and maintenance. Then as we have seen from article 135, at 15 the child is asked to choose.</p>				
<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><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f)</p>	<p>R. 9 The father is the sole guardian of the children or whom the court might assign (article 137/1).</p> <p>In case of the father's death, the guardianship is given to a male guardian called <i>wasi</i> وصي chosen by the father (article 137/2). The mother may request the right to guardianship, but this would take prolonged court hearings and</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</p>

¹¹⁶ Hazim Al-Madani Law Firm, "Features -Overview- of Personal Status Law", <https://almadanilaw.com/features-overview-of-personal-status-law/>

<p>Paras. 19-20 GR21</p>	<p>such requests are rarely granted.¹¹⁹ She might use the court's right to assign a guardian. It is noted that article 137 of the guardian and <i>wasi</i> after the father, is not limited to one gender. Therefore, the mother can request to be a guardian and <i>wasi</i>.</p> <p>While the laws of travel and passports have been amended in 2019 to remove the power of guardian off any mature person regardless of gender. Article 129 was a new addition to the family relations. It organizes the rules of traveling with the person under custody.¹²⁰ It says:</p> <p>129/1: "The custodian parent may not travel with the child under custody outside the Kingdom for more than (ninety) days per year, except with the consent of the other parent, and the guardian in the event of the father's death". This means the mother can travel with her child outside the kingdom for three months without consent from the father. She will need his</p>				<p>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 authorization to travel will only be valid for one exit.¹²⁵</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
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¹¹⁹ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

¹²⁰ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

¹²⁵ 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>

	<p>consent if the travel is for more than three months.</p> <p>According to the regulations of the Saudi Arabian Monetary Agency (SAMA), a woman was not allowed to open a bank account in the name of her children except with the father's consent, nor is she allowed to carry any transactions on her child's behalf even if it she is the one making the deposit.¹²¹ This procedure has been amended by SAMA on 2 June 2021, when the Agency gave the green light to banks to allow women to open accounts for their minor children¹²².</p> <p>In 2014, the Supreme Judicial Council ruled that mothers who have custody of their children after divorce can obtain documents and conduct</p>				<p>names of his wives and children, and dependents.¹²⁶</p> <ul style="list-style-type: none"> Over 21% of families registered for government social assistance were headed by women as the main providers. Yet, women are treated as heads of the family-like men. According to the Civil Status Law, a woman may be considered the
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¹²¹ 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://saudiqazette.com.sa/article/527209/Opinion/Local-Viewpoint/Why-SAMA-prevents-women-to-open-accounts-for-children>.

¹²² Said Al-Zahrani, 2-6-2021, "al-samah lil'ummahat bifath hisabat bankiyah li'abna'ihinna wabanatihinna al-qussar" (Allowing women to open bank accounts for their minor sons and daughters), *Al-Madina*, <https://www.al-madina.com/article/734148/%D9%85%D8%AD%D9%84%D9%8A%D8%A7%D8%AA%D8%A7%D9%84%D8%B3%D9%85%D8%A7%D8%AD-%D9%84%D9%84%D8%A3%D9%85%D9%87%D8%A7%D8%AA-%D8%A8%D9%81%D8%AA%D8%AD-%D8%AD%D8%B3%D8%A7%D8%A8%D8%A7%D8%AA-%D8%A8%D9%86%D9%83%D9%8A%D8%A9-%D9%84%D8%A3%D8%A8%D9%86%D8%A7%D8%A6%D9%87%D9%86-%D9%88%D8%A8%D9%86%D8%A7%D8%AA%D9%87%D9%86-%D8%A7%D9%84%D9%82%D8%B5%D8%B1>

¹²⁶ Information received from Saudi advocate, February 2018

	<p>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.¹²³</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 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 the procedure in cases of guardianship of children, among others.¹²⁴</p>				<p>head of the household only if her husband dies.¹²⁷</p>
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¹²³ 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

¹²⁴ 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.

¹²⁷ 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/c152dd004d4bb7bd8debdbed7ca8368/AR_civil_affairs_system.pdf?MOD=AJPERES&CACHEID=c152dd004d4bb7bd8debdbed7ca8368, article 91

<p>Family Planning</p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p>	<p>R. 10. Women do not require the consent of their husbands to practice family planning, including abortions and sterilization in law. According to the new bill of rights issued by the Ministry of Health¹²⁸, women are granted equality in rights to men and have the right to decide on their reproduction matters including sterilization without the consent of their husbands or anybody else.</p> <p>Starting from 2021, most of these amendments and laws started to appear. Saudi Arabia has created a special page for women empowerment on its national portal site in which a good part was dedicated to women's health, reproductive and sexual healthcare¹²⁹. We cannot say much about what happens in practice, but since the state is taking good care of this matter it will be difficult to have different practices in lived realities. The change is quick and dramatic after so many rights were given to</p>		<p>In 2014, the Shura Council rejected a population control policy document prepared by the Ministry of Economic and Planning Family and submitted the planning document to the Saudi king for his opinion.¹³⁰</p>		<p>According to World Bank data, the total fertility rate decreased from 7.2 children per woman in 1960 to 2.7 in 2015.¹³¹</p> <p>According to the UN Population Division's 2015 Trends in Contraceptive Use Worldwide:¹³²</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;
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¹²⁸ Ministry of Health, "Patient Bill of Rights", <https://www.moh.gov.sa/en/HealthAwareness/EducationalContent/HealthTips/Documents/Patient-Bill-of-Rights-and-Responsibilities.pdf>

¹²⁹ Government of Saudi Arabia, Women Empowerment Section https://www.my.gov.sa/wps/portal/snp/careaboutyou/womenempowering#header2_4

¹³⁰ Information obtained from Saudi advocate, January 2017

¹³¹ The World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

¹³² 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>

	men, then suddenly they were stripped of them.				and <ul style="list-style-type: none"> • 50% of married women aged 15-49 had their demands for family planning satisfied by modern methods of contraception.
<p>Personal rights of spouses</p> <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>R11. Women were barred from driving, making Saudi Arabia the only country in the world that does not allow women to drive,¹³³ until the Royal decree that allowed women to obtain driving licenses similar to men on 26/9/2017¹³⁴ by 10/10/1438 i.e. 24/6/2018.</p> <p>Since 2018, women were allowed to drive without any limitation except for enforcing a system of expensive training that is not required for male drivers. Allowing</p>		<p>Article 3(a) of the Ministry of Health Manual for 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."¹⁴⁶</p>		<p>According to World Bank data, female labor force participation increased from 14% in 1990 to 20% in 2016.¹⁴⁷ During the same period, male labor force participation was stable at 79%.¹⁴⁸</p> <p>According to the 2016 UNDP Human</p>

¹³³ 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>

¹³⁴ (Saudi Press Agency (SPA), 26-9-2017, <https://www.spa.gov.sa/1671323>; King Salman issues decree allowing women to drive in Saudi Arabia, Arabnews, 27/9/2017, [https://www.arabnews.com/node/1167916/saudi-arabia#:~:text=JEDDAH%3A%20Saudi%20Arabia%20on%20Tuesday,Saudi%20Press%20Agency%20\(SPA\)](https://www.arabnews.com/node/1167916/saudi-arabia#:~:text=JEDDAH%3A%20Saudi%20Arabia%20on%20Tuesday,Saudi%20Press%20Agency%20(SPA)) .

¹⁴⁶ 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

¹⁴⁷ 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>

¹⁴⁸ 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>

<p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>businesses to exploit this opportunity without any control. Women must pay 6 times more than men for driving lessons. Despite opposing the decision, the driving schools are continuing their same policy. The argument was to introduce a high standard of car-driving education, however, nothing has changed with male training to elevate it to the required standard. Their schools are still poor in driving education¹³⁵.</p> <p>Another problem with driving comes from women living in small cities or towns where such facilities are not provided and therefore, they have to either travel to take lessons and licenses or drive illegally and receive fines. Some women are considering this as discrimination against the peripheries that are denied equal opportunity vis-à-vis cities of the kingdom.</p> <p>On another front, Saudi Arabia used to have the practices of a male guardianship system whereby all women must have a male guardian who controls</p>				<p>Development Report:¹⁴⁹</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 can read and write a short simple sentences. • 79% of women are satisfied with their freedom of choice as compared to 84% of men. <p>Some women are prevented from leaving their homes without their guardian's permission and</p>
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¹³⁵ Hatoun Al-Fassi, 'Indama yusbih al-samah biqiyadat al-sayyarah fursah istighlaliyyah', (When the permit for women to drive cars becomes an exploitation opportunity", al-Riyadh, 2/5/2018, <https://www.alriyadh.com/1678785>

¹⁴⁹ 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

	<p>women's access to school, travel, work, enter restaurants, and hotels, have an operation, apply for a passport, etc.¹³⁶ The guardian was not always the husband. Moreover, it was not uncommon for a widowed mother to seek the permission of her son to travel.¹³⁷</p> <p>But on Aug 2nd, 2019, the Kingdom announced dropping off the male guardianship system by allowing women to issue their passports and therefore travel without the need for their male guardians' permission. The royal decree on that date issued also changed the legislations of the CIVIL AFFAIRS LAW to give women more rights in the household and their custody¹³⁸. However, the guardianship laws are not fully dropped yet, and women are still calling for the</p>				<p>guardians can bring legal claims requesting that judges order a female dependent to return to the family home.¹⁵⁰</p> <p>Even though not mandated by law, in practice women need a guardian's permission to receive identity documents, access courts, healthcare, and education. For instance:</p> <ul style="list-style-type: none"> • Several universities continue to require a guardian's signature before
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¹³⁶ 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/>

¹³⁷ 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

¹³⁸ Um al-Qura official newspaper, 4790, 2/8/2019.
الموافقة على تعديل نظام وثائق السفر والأحوال المدنية ونظام العمل والتأمينات الاجتماعية

¹⁵⁰ 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>dropping of the #REMAINING OF GUARDIANSHIP LAWS¹³⁹. Women retain their birth-name upon marriage. This was never an issue in Saudi Arabia. In 2012, the Ministry of Health approved a regulation to allow female patients above 18 years old to sign their admission and release forms without a male guardian.¹⁴⁰ But the practice continued to give the guardians rights they did not ask for especially in private hospitals where the clerks needed to secure the payment of women's operations.</p> <p>However, this situation became more spelled out with the international pressure to answer to discrimination. The Labour Code does not require a guardian's permission for a woman to work.¹⁴¹ A guardian's permission is not required by law for a woman to enroll in a school or higher</p>				<p>a woman can be enrolled.¹⁵¹</p> <ul style="list-style-type: none"> • Many employers in the private and public sectors continue to require guardians' 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 case of a married
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¹³⁹ See wiki-gender which documents for the Saudi women's campaign to drop the remaining of guardianship rules, https://genderivya.xyz/wiki/%D8%A5%D8%B3%D9%82%D8%A7%D8%B7_%D8%A8%D9%82%D8%A7%D9%8A%D8%A7_%D8%A7%D9%84%D9%88%D9%84%D8%A7%D9%8A%D8%A9

¹⁴⁰ Hala Aldosari, "The Effect of Gender Norms on Women's Health in Saudi Arabia", May 2, 2017, p.6 http://www.aqsiw.org/wp-content/uploads/2017/05/Aldosari_Womens-Health_Online-1.pdf.

¹⁴¹ 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/نظام%20المعمل_3.pdf

¹⁵¹ Information obtained from Saudi advocates, January 2018.

	<p>education institution. However, some schools and universities still ask female students to fill out forms with a guardian's consent if they are applying for university hostels (for students under 21 i.e. all university students)¹⁴².</p> <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 to apply.¹⁴³</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.¹⁴⁴</p> <p>What is still missing in the guardianship system is the application of some legal rights</p>				<p>woman.¹⁵²</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.¹⁵³ Further, guardians can and often do demand that women be treated only by same-sex health professionals thus hampering
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¹⁴² Example from Princess Nora bint Abdulrahman University (PNU), <https://www.pnu.edu.sa/ar/Faculties/Designs/Documents/GENERALdaliaal.pdf#search=%D8%B4%D8%B1%D9%88%D9%83%20%D8%A7%D9%84%D8%A7%D9%84%D8%A%D8%AD%D8%A7%D9%82%20%D8%A8%D8%A7%D9%84%D8%B3%D9%83%D9%86%20%D8%A7%D9%84%D8%AC%D8%A7%D9%85%D8%B9%D9%8A>

¹⁴³ 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>

¹⁴⁴ 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

¹⁵² 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

¹⁵³ 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.

	<p>related to keeping women in prison or delinquency centers after they finish their sentence if a guardian refuses to receive them. When he refuses, the woman stays in another type of hostel that continues to control her freedom. Many voices cried out to help this group of women who are still under the mercy of the guardian system and the rejection of their families. They are demanding to be provided with a home and job to maintain themselves¹⁴⁵. Another missing right is the protection from domestic violence, stopping the criminalization of absence and disappearance, and stopping the criminalization of parental disobedience, which in practice are used against women in states of domestic or sexual violence.</p>				<p>women's access to healthcare.¹⁵⁴</p> <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.¹⁵⁵ Further, a married woman is required to present a family card to receive a national identity card which is issued to the husband except
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¹⁴⁵ This is one of the demands of the campaign to end the remaining of guardianship system, by @EndGuardianship, <https://twitter.com/EndGuardianship/status/1251511062349873153>, English version: <https://twitter.com/EndGuardianship/status/1379150279363420169>

¹⁵⁴ Hala Aldosaria, *The Effect of Gender Norms on Women's Health in Saudi Arabia*, May 2, 2017, pp.6-7, http://www.aqsiw.org/wp-content/uploads/2017/05/Aldosari_Womens-Health_Online-1.pdf

¹⁵⁵ 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_Sj9CPyKssy0xPLMnMz0vMAfIjo8ziDTxNTDwMTYy8LUwC3AwcA428nB2dPY3cfc31qxOL9L30c_ArApgSmVvYGOWoH5Wcn1eSWIGiH5GcWZaZo5CYlpaYwVSSaoDGLU4tKstMTi1WMNQvyHYPBwB0wHxz/

					<p>for widowed or divorced women.</p> <p>Some courts continue to require a woman to bring forth two males to identify her.¹⁵⁶ 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).¹⁵⁷</p>
<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.</i></p>	<p>R. 12 Generally, inheritance rights between women and men are unequal. Inheritance is based on <i>Shari’ah</i>. And the law of <i>mawareeth</i>. It has been itemized in the new PSL in articles from 197-245. In many instances, such as in the cases of widows and widowers and siblings, a woman is entitled to half the share of a</p>		<p>According to the state, there are some cases in which a woman might inherit more than a man or have an equal share. Additionally, the unequal shares are justified by the State</p>	<p>The judicial procedure requires the presence of the woman in the division of inheritance cases.¹⁶²</p>	<ul style="list-style-type: none"> • According to a commentary, women are often prevented from obtaining their inheritance because of cultural norms and tribal

¹⁵⁶ 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

¹⁵⁷ Information obtained from Saudi advocates, January 2018

¹⁶² 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

<p><i>can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo their inheritance in favour of their mother upon the death of their father?</i></p> <p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21 Paras. 49-53 GR29</p>	<p>man.¹⁵⁸ For instance, concerning the daughter's share, it is one-half of her brother's share.¹⁵⁹ This is still the case, and nothing has changed. However, there is a problem that some women face in tribal communities and remoter areas where women are compensated with cash or just allowed to live on the family's premises, withdraw their right to the inheritance, or do not ever get any money for it as long as she is unmarried. The justification is that her brothers provide for her, and when she got married, it is her husband's task to provide for her. It is difficult for women to reach a right of inheritance in such societies, where going to court is shameful, and could be useless¹⁶⁰.</p>		<p>on the ground that men are also required to provide for women's financial maintenance which is not required for women.¹⁶¹</p>		<p>practices.¹⁶³</p>
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¹⁵⁸ 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>.

¹⁵⁹ 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.

¹⁶⁰ See the Saudi Commission for Human Rights response to a report about some customs prevent women from getting their right to inheritance, AbuShararah, Ghala, alWatan, 23/10/2020, <https://www.alwatan.com.sa/article/1059272>, and a symposium on "Women's Islamic rights to their Inheritance" that was reported by SPA, <https://www.spa.gov.sa/2153617>

¹⁶¹ 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.

¹⁶³ 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>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 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>R13. Yes, the Law of Protection from Abuse criminalizes several acts of domestic violence. Article 1 of the Law defines abuse as physical, psychological, or sexual abuse.¹⁶⁴ However, it does not name women or children.</p> <p>The Ministry of Labour and Social Affairs which became the Ministry of Human Resources and Social Development on 17/1/2020 issued the Executive Regulations of the Law of Protection from Abuse on 10/3/2014.</p> <p>The problem with this addition to the law is in article 8/7: A, which it refers that when dealing with a report, the Police should check whether there are any other reports against the victim, such as reports of "absence" or "escape". These two types of charges usually are used by the guardians against women when they want to hide a domestic violence issue at home. These actions were considered felonies for which</p>		<p>The Government of Saudi Arabia has increasingly recognized violence against women as a public policy issue. Several measures have been undertaken to address this issue. This includes the following:¹⁷²</p> <ul style="list-style-type: none"> • Enactment of the Law of Protection from Abuse. This includes the establishment of: • Establishment of a center specifically tasked with receiving and responding to reports of family violence and a corresponding hotline (1919); 		<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 their basic rights to education, health care, or personal identification documents.¹⁷³</p> <p>According to information on the ground, in the past,</p>
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¹⁶⁴ Article 1 of Law of Protection from Abuse (2013), <https://qoo.gl/xJBRdg>

¹⁷² 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/saudi-arabia0716web.pdf; Majed al-Kasabi, "Center for Violence and Abused Reports Launched", *Saudi Gazette*, 22 March 2016, <http://saudiqazette.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>

¹⁷³ 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/saudi-arabia0716web.pdf

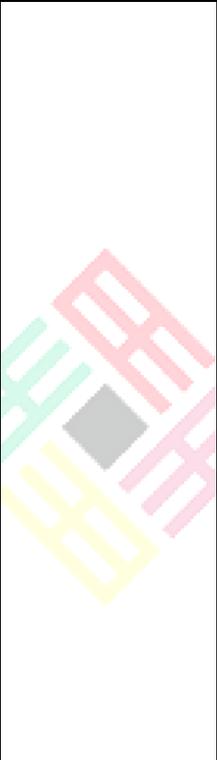
	<p>women, no matter how old they were, would be taken to prison if a guardian reported that to the police. The demand to drop off the charges of women's escape or absence if women were adults and decided to live on their own, was one of the main requests in the campaign to "end guardianship" which started in 2017 and continued today with what is called "end the remains of the guardianship" matter which started on March 2020. In response to violence against women which is still problematic in Saudi Arabia women are asking for the following:</p> <ol style="list-style-type: none"> 1- Ask the Ministry of Interior to establish separate units in police stations dealing with domestic violence and ensure that policewomen are employed in every center. 2- Issuing guidelines for the police on dealing with domestic violence including imposing penalties on officers who a) prevent women from 		<p>Building more shelters for abused victims.</p>		<p>women struggle to report the incidence of domestic violence. However, today, with the law and the implementation measures, there have been some improvements. Cases that reach the media or social media tend to be taken more seriously by the authorities. Nevertheless, challenges remain.¹⁷⁴ Based on media and civil society reports, these challenges include:¹⁷⁵</p> <ul style="list-style-type: none"> • Many in Saudi Arabia, including some social workers, believe that a guardian has the right to
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¹⁷⁴ Information obtained from Saudi advocate, January 2017

¹⁷⁵ 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/saudi-arabia0716web.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>pressing charges. B) refuse to break into private property without the male's consent despite receiving an emergency domestic violence report...c) Not referring the cases to the Ministry of Labor and Human Development, d) Revealing the cases to the male guardian/perpetrator in a way that breaches confidentiality and endangers the safety of the victim.</p> <p>3- Issuing explicit directives that allow the release of women from prisons and Juvenile Detention Centers (JDC) without the presence of a male guardian.</p> <p>4- Abolish the laws that allow cases of murder and violence to be dismissed of having reduced sentences in an event where the family waived their "private right" a right that treats murder and domestic violence cases as a private matter and not a public welfare case.</p> <p>5- Criminalization of marital rape.¹⁶⁵</p> <p>Officially there is nothing to allow a man to discipline his wife,</p>				<p>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
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¹⁶⁵ Demands of the campaign of the remains of Guardianship rule, #EndGuardianship, April 5, 2021, <https://twitter.com/EndGuardianship/status/1379150279363420169/photo/2>

	<p>however, it could be tolerated. The Arab nobleness and the elderly in families do not accept women's abuse and stories are many, however, today with the nuclear family system and their distant homes from the extended family and the elderly, abuse is common. There are many studies on abuse in Saudi Arabia and demands to improve the laws of protection but there is always something missing and patriarchal rules come back from the back door. One of the main organizations that campaigned against violence against women and children was the 'National Family Safety Program' which was established in 2005 by a civil society group when it was adopted by the state and recognized the issue of violence and issued its establishment by a royal decree¹⁶⁶.</p> <p>Saudi Arabia has no Penal Code.¹⁶⁷ However, in Feb 2021 it announced that within its juridic reforms, a Penal Code is to be</p>				<p>with women fleeing the Kingdom or escaping from their husbands while traveling;</p> <ul style="list-style-type: none"> • Trying to convince a judge that a guardian is abusive is a very lengthy and culturally difficult situation for a woman. A 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; • The Law of Protection from
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¹⁶⁶ National Family Safety Program's website, p. 2:
<https://nfsp.org.sa/ar/awareness/DocLib/english%20nfsp%20summary.pdf>

¹⁶⁷ 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>

	<p>declared soon¹⁶⁸. The laws that govern the penal issues are the <i>sharia's</i> which is not coded yet, therefore, they are left to a lot of improvisation and personal interpretation.</p> <p>The Law of Protection from Abuse does not criminalize marital rape. See above the demands of Saudi women directed to the Ministry of Interior and Ministry of Justice¹⁶⁹.</p> <p>There is no official law that allows a perpetrator to marry his alleged abused victim to avoid punishment.</p> <p>The support services for women and victims of violence are inscribed by the law of protection from abuse. The Ministry of Human Resources and Social Development oversees building shelters all over the country. However, shelter is temporary, but the first choice is usually to arrange a family member's house to accommodate her, which is not always helpful. In many cases the woman is returned to her</p>				<p>Abuse and its implementing measures steps in the right direction to address the issue of domestic violence. However, it has been critiqued to be too general.</p>
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¹⁶⁸ See SPA's report on the four laws announced by MBS in 2021: <https://www.spa.gov.sa/2187777>

¹⁶⁹ Demands of the campaign of the remains of Guardianship rule, #EndGuardianship, April 5, 2021, <https://twitter.com/EndGuardianship/status/1379150279363420169/photo/2>

	<p>husband's house if the ministry clerks decide that the perpetrator is not dangerous, then they will take his allegiance to abide by the rules and allow the ministry members to check on the woman at any time. In many cases, this arrangement does not work. Stories of abuse until women were killed are common in the Saudi media¹⁷⁰.</p> <p>An amendment to the Law of Protection from Abuse was issued on 17/3/2022¹⁷¹. It increased the fines and penalties on breachers of the law with an additional penalty if the victims were children, special needs, or those who are under a person's custody and protection.</p>				
<p>Nationality rights</p> <p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the</i></p>	<p>R. 14. A Saudi man may pass his nationality to his non-Saudi wife provided she meets various</p>		<p>Saudi Arabia has made a reservation through which it does not consider itself bound by</p>		<p>According to information on the ground, only sons whose mother is Saudi and whose</p>

¹⁷⁰ See alarabia net for the story of the man who killed his wife and her child with acid, 3/4/2022, <https://www.alarabiya.net/saudi-today/2022/04/03/%D8%A7%D9%84%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9-%D8%A3%D8%AC%D9%87%D8%B2%D8%A9-%D8%A7%D9%84%D8%A3%D9%85%D9%86-%D8%AA%D9%84%D9%82%D9%8A-%D8%A7%D9%84%D9%82%D8%A8%D8%B6-%D8%B9%D9%84%D9%89-%D9%82%D8%A7%D8%AA%D9%84-%D8%B2%D9%88%D8%AC%D8%AA%D9%87-%D8%A8%D8%A7%D9%84%D8%A3%D8%B3%D9%8A%D8%AF>

¹⁷¹ Said al-Zahrani, 2022, "500,000 Riyals gharamah limukhalafat nizam al-himayah min al-'idha" (500,000 Riyals fine for breaking the law of Protection from Abuse", *al-Madina*, 17/3/2022, <https://www.al-madina.com/article/779658/%D9%85%D8%AD%D9%84%D9%8A%D8%A7%D8%AA%D9%86%D8%B2%D8%B9-%D8%AD%D8%B6%D8%A7%D9%86%D8%A9-%D8%A7%D9%84%D8%A3%D9%85-%D8%A8%D8%AD%D9%83%D9%85-%D9%82%D8%B6%D8%A7%D8%A6%D9%8A>

<p><i>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> Article 9 Para. 6 GR21</p>	<p>conditions.¹⁷⁶ The Saudi Arabian Citizenship System/Law does not provide for a Saudi woman to confer her nationality to her foreign husband.</p> <p>A Saudi woman risks losing her Saudi nationality if she marries a non-Saudi and adopts her husband's nationality.¹⁷⁷ Saudi Arabia does not accept dual citizenship.</p> <p>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.¹⁷⁸</p> <p>A child born in Saudi Arabia whose mother is Saudi and father a non-Saudi may be granted Saudi citizenship through a decision of the Minister of Interior</p>		<p>paragraph 2 of Article 9 of CEDAW which provides women equal rights with men concerning the nationality of their children.¹⁸⁵</p> <p>Saudi Arabia stated that about ensuring the effective implementation of the Cabinet Decision (November 2012) granting privileged services and facilities to the children of Saudi women, the concerned authorities oversee its implementation and monitor</p>		<p>fathers a non-Saudi may apply for Saudi citizenship. Daughters born in such marriages cannot be conferred Saudi nationality unless they marry a Saudi.¹⁸⁷</p> <p>Many children of Saudi mothers and foreign fathers 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.¹⁸⁸</p>
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¹⁷⁶ Article 16 of the Saudi Arabian Citizenship System, https://www.moi.gov.sa/wps/wcm/connect/121c03004d4bb7c98e2cdfbed7ca8368/EN_saudi_nationality_system.pdf?MOD=AJPERES

¹⁷⁷ Article 12 of the Saudi Arabian Citizenship System, https://www.moi.gov.sa/wps/wcm/connect/121c03004d4bb7c98e2cdfbed7ca8368/EN_saudi_nationality_system.pdf?MOD=AJPERES

¹⁷⁸ Article 7 of the Saudi Arabian Citizenship System, https://www.moi.gov.sa/wps/wcm/connect/121c03004d4bb7c98e2cdfbed7ca8368/EN_saudi_nationality_system.pdf?MOD=AJPERES

¹⁸⁵ United Nations Treaty Collection, "Convention on the Elimination of All Forms of Discrimination Against Women", https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsq_no=IV-8&chapter=4&lang=en.

¹⁸⁷ Information obtained from Saudi advocate, January 2017

¹⁸⁸ Information received from Saudi advocate, February 2018

	<p>provided certain conditions are met such as, the child has reached 18 and has a permanent resident permit.¹⁷⁹ Article 9 of the 2005 law of nationality, gives a long list of conditions to apply for nationality known as the points system of 33 points maximum and a minimum of 23 points, that an applicant needs to collect to be eligible to have his/her application looked at by the Minister. These points included living in the country for 10 consecutive years and academic qualifications that start from Ph.D. in medicine or engineering which equals 13 points. The applicant gets 3 points if his/her father is Saudi and 2 points if only his/her mother is Saudi.¹⁸⁰ In 2013 more conditions were added to article 8 considered to be off-limit, such as: if the mother's father and her paternal grandfather were Saudis, the applicant will get 6 points, but</p>		<p>compliance. Under its Statute, the Human Rights Commission follows up on 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.¹⁸⁶</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 a Saudi mother can't designate her foreign son as her agent or representative.¹⁸⁹</p> <p>If the Saudi mother dies, her children cannot inherit real estate property (they may sell it and receive its value), and must then find another sponsor to</p>
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¹⁷⁹ Article 8 of the Saudi Arabian Citizenship System, https://www.moi.gov.sa/wps/wcm/connect/121c03004d4bb7c98e2cdfbed7ca8368/EN_saudi_nationality_system.pdf?MOD=AJPERES

¹⁸⁰ 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.

¹⁸⁶ 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.

¹⁸⁹ *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

	<p>if only her father was Saudi, he/she will get 2points only. Such conditions that could date back to the pre-Saudi time sound incapacitating¹⁸¹.</p> <p>In 2012, the Saudi cabinet ordered special privileges for non-citizen children of Saudi women, including the 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.¹⁸²</p> <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.¹⁸³ Provided that the marriage is recognized and approved by the Saudi officials,</p>				<p>remain in Saudi Arabia.¹⁹⁰</p>
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¹⁸¹ See the full analysis of this law in Hatoon al-Fassi, 2021, "Citizenship of Saudi Women between the Legal and the Lived Reality: *The Moment of Marrying a Non-national*", in *Journal of the Gulf and Peninsula Studies*: 181: 404ff.

¹⁸² 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. note that education is limited to specific fields and does not include governmental scholarships, see Al-Fassi, 2021, 408.

¹⁸³ 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>

¹⁹⁰ 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_جنسية2.pdf, article 8.

	<p>i.e. the Ministry of Interior.</p> <p>The last development was in 2017 when the children of a Saudi mother were allowed to work in the jobs assigned specifically to Saudis¹⁸⁴.</p>				
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¹⁸⁴ SPA (Saudi Press Agency). (2017, Oct 23). Allowing the mothers of citizens and the sons of female citizens to work in the jobs of Saudis (in Arabic). Al-Riyadh. Retrieved Jan 2, 2021 from <http://www.alriyadh.com/1631911>

ACCESS TO JUSTICE (please include sources to information as much as possible)

SYSTEM	PROCEDURES	CHALLENGES FOR WOMEN	GOOD PRACTICES IN COURT SYSTEM
<p><i>How are Muslim family law (i.e. marriage and family-related) cases administered in your country? (E.g. Do you have a Qazi/Kadhi court system, family courts, or civil courts?)</i></p> <p>Saudi Arabia has had family courts since 1428/2008. However, all qadis are male. Women are newly admitted into the workspace of courts since 1439/14/11/2017, as notary clerks and lawyers. Four areas of work were opened in 2017: social researcher, forensic researcher, legal researcher, and administrative assistant¹⁹¹. The number is increasing positively. Female lawyers were given a working license only in 2013¹⁹².</p> <p><i>How many courthouses/courtrooms around</i></p>	<p><i>Are the procedures about family matters (e.g. divorce, maintenance, etc) defined in the family law, and/or are there guidelines/policies available for judges/Kadhis?</i></p> <p>The PSL is new as I mentioned in Saudi Arabia, similarly, is the procedure. The law will be in effect in June 2022.¹⁹⁷</p> <p><i>In general practice do judges/Kadhis follow procedures?</i></p> <p>There are the main legal procedures that the judges</p>	<p><i>What are some key challenges that Muslim women face in accessing justice on family law matters?</i></p> <p>The main problem is women's lack of economic independence, if not working. Depending on the husband, he makes her access to justice limited. Similarly, is access to lawyers. They are expensive and sometimes can exploit women.</p> <p>As the PSL is not in effect yet, women have been under the mercy of the judges' discretion and personal judgment which could be siding with the men.</p> <p>The problem of residence is always a</p>	<p><i>Are there any good practices, procedures, or policies that you would like to share about how courts in your country deal with family law cases?</i></p> <p><i>(E.g. prioritizing certain types of cases, timely delivery of decisions, clear procedure, etc)</i></p> <p>Civil society organizations such as Mawaddah help a lot in these cases²⁰¹.</p> <p>A new initiative is taking shape in the civil society field. A training and legal support regarding against domestic violence by one of the Saudi Legal firms (Majed</p>

¹⁹¹ Ibrahim Al-Hussein, 14/11/2017, "4 waza'if 'adliyyah lilnisaa' li'awal marrah fi al-su'udiyah", (4 jobs at the ministry of Justice for women for the first time in Saudi Arabia), al-Arabiyah. Net, <https://www.alarabiya.net/amp/saudi-today/2017/11/14/4-%D9%88%D8%B8%D8%A7%D8%A6%D9%81-%D8%B9%D8%AF%D9%84%D9%8A%D8%A9-%D9%84%D9%84%D9%86%D8%B3%D8%A7%D8%A1-%D9%84%D8%A3%D9%88%D9%84-%D9%85%D8%B1%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9>

¹⁹² Al-Madina Newspaper, 7/10/2013, "wazarat al-'adl tusallim 'awal 'imra'ah su'udiyah rukhsat muhamah", (Ministry of Justice gives women lawyer's license for the first time in Saudi Arabia), <https://www.al-madina.com/article/257945/%D9%88%D8%B2%D8%A7%D8%B1%D8%A9-%D8%A7%D9%84%D8%B9%D8%AF%D9%84-%D8%AA%D8%B3%D9%84%D9%85-%D8%A3%D9%88%D9%84-%D8%A7%D9%85%D8%B1%D8%A3%D8%A9-%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9-%D8%B1%D8%AE%D8%B5%D8%A9-%D9%85%D8%AD%D8%A7%D9%85%D8%A7%D8%A9>

¹⁹⁷ Saudi Arabia Personal Status Law, 2022 (Arabic) <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d72d829-947b-45d5-b9b5-ae5800d6bac2/1>

²⁰¹ <https://www.mawaddah.org.sa/> established in 5/5/2009.

<p><i>the country administer Muslim family law cases?</i></p> <p>Ministry of Justice¹⁹³ says that there is a court for PSL in every governate and region in Saudi Arabia, i.e. 13 courthouses at a minimum</p> <p><i>If civil or Kadhi courts - what cases are handled by what courts?</i></p> <p>Cases of family, marriage, divorce, maintenance, alimony, custody, inheritance, and lineage are dealt with in the family courts.</p>	<p>have to follow called in English: Law of Civil Procedures, dated after 25/11/2013¹⁹⁸. In Arabic it has a different name, it is translated into the law of Shari'a litigations¹⁹⁹.</p> <p><i>How much judicial discretion do judges/Kadhis have over marriage and family matters?</i></p> <p>They used to have a lot of judicial discretion until the PSL</p>	<p>big issue in divorce. Men claim the house after Iddah even if the mother is having custody, pretending they don't have another accommodation. Nothing in the new PSL implies the woman's right to the house after divorce or after the <i>iddah</i>, even as a widow, she should leave the house after the <i>iddah</i>. Looking for alternatives at her old parental house or living with her children if adults with families are very hard options for a woman who seeks her independence.²⁰⁰</p>	<p>Garoub Training Center²⁰²)its ambition is to train the whole population of Saudi Arabia (30 M) in 4 years to protect the family and women from harm. This initiative is in the process of raising funds and working on preparing training units to train judges, police officers, officials, etc in how to deal with abused; women, children, elderly, following the rules and articles of the Saudi laws of abuse (without naming women)²⁰³, child²⁰⁴, elderly²⁰⁵ protection, which were</p>
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¹⁹³ Ministry of Justice Saudi Arabia www.moj.gov.sa

¹⁹⁸ <https://www.moj.gov.sa/Documents/Regulations/pdf/En/50.pdf>

¹⁹⁹ <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/f0eaae46-9f84-40ee-815e-a9a700f268b3/1#:~:text=%D9%8A%D9%82%D8%B1%D8%B1%20%D9%85%D8%A7%20%D9%8A%D9%84%D9%8A%3A,%D8%A7%D9%84%D9%85%D8%B1%D9%81%D9%88%D8%B9%D8%A9%20%D9%82%D8%A8%D9%84%20%D9%86%D9%81%D8%A7%D8%B0%20%D9%87%D8%B0%D8%A7%20%D8%A7%D9%84%D9%86%D8%B8%D8%A7%D9%85>

²⁰⁰ Women's juridical rights, published on the website of the Ministry of Justice with reference to the law in question.

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²⁰³ Law of Protection from Abuse, 21/9/2013, <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/83f450eb-7985-461f-b053-a9a700f272bd/1#:~:text=1%20%2D%20%D8%B6%D9%85%D8%A7%D9%86%20%D8%AA%D9%88%D9%81%D9%8A%D8%B1%20%D8%A7%D9%84%D8%AD%D9%85%D8%A7%D9%8A%D8%A9%20%D9%85%D9%86,%D9%85%D9%81%D9%87%D9%88%D9%85%20%D8%A7%D9%84%D8%A5%D9%8A%D8%B0%D8%A7%D8%A1%D8%8C%20%D9%88%D8%A7%D9%84%D8%A2%D8%AB%D8%A7%D8%B1%20%D8%A7%D9%84%D9%85%D8%AA%D8%B1%D8%AA%D8%A8%D8%A9%20%D8%B9%D9%84%D9%8A%D9%87>

²⁰⁴ Child Protection Law, 25/11/2014, <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/2d3cb83a-0379-4cde-8e0b-a9a700f272bd/1#:~:text=%D9%8A%D9%87%D8%AF%D9%81%20%D9%87%D8%B0%D8%A7%20%D8%A7%D9%84%D9%86%D8%B8%D8%A7%D9%85%20%D8%A5%D9%84%D9%89%20%D9%85%D8%A7,%D9%85%D9%83%D9%84%20%D8%A3%D8%B4%D9%83%D8%A7%D9%84%20%D8%A7%D9%84%D8%A5%D9%8A%D8%B0%D8%A7%D8%A1%20%D9%88%D8%A7%D9%84%D8%A5%D9%87%D9%85%D8%A7%D9%84>

²⁰⁵ Elderly Protection Law, 6/1/2022, <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/3c63e654-4046-468d-93fd-ae1a00de13be/1#:~:text=%D8%AD%D9%82%D9%88%D9%82%20%D9%83%D8%A8%D9%8A%D8%B1%20%D8%A7%D9%84%D8%B3%D9%86%3A%20%D9%8>

<p><i>How many Muslim family law-related judges? Are there women working within the court system as judges/marriage registrars e.t.c?</i></p> <p>Saudi Arabia suffers from a shortage in the number of judges who are all male judges. It was 2585 judges in 350 courts in 2019¹⁹⁴. No women judges are appointed yet, but a discussion has been going on for some years in the Shura council. The positions that women have secured in the Ministry of Justice are the following: Women's departments in courts and notaries, reception and guidance units, case sheets management and appointments, reconciliation and family guidance units in personal status courts and departments specialized in receiving and following up on complaints from beneficiaries. However, the number of women in more areas of professions is increasing. The number of female lawyers reached 280 licenses in three years.¹⁹⁵</p> <p><i>Do lawyers represent clients?</i></p>	<p>is issued. Theoretically, the new law will not give them this discretion. It has been pointed out by the Crown Prince that we are not going to allow such arbitral judging to rule anymore.</p> <p><i>Are there appeal processes?</i></p> <p>Yes, the appeal is available within 30 days from the verdict. There is also another level of judgment used called Petition. They go to different higher courts.</p>	<p><i>(E.g. lack of accessibility, costly, bad procedures, delayed processes, gender-insensitive judges, etc?)</i></p>	<p>issued starting from 2013, 2014, 2022.</p>
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[3%D9%84%20%D9%85%D8%A7.%D9%83%D8%A8%D9%8A%D8%B1%20%D8%A7%D9%84%D8%B3%D9%86%20%D8%A7%D9%84%D9%85%D8%AD%D8%A%D8%A7%D8%AC%20%D9%88%D8%AD%D9%81%D8%B8%20%D8%AD%D9%82%D9%88%D9%82%D9%87.](#)

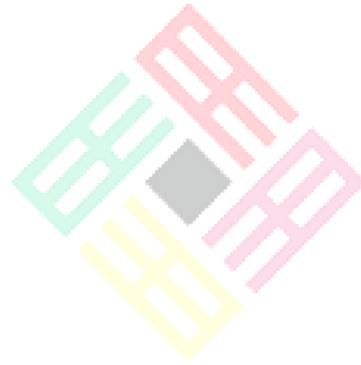
¹⁹⁴ Adnan Al-Shabrawi, 2019, "Masadir li-Okaz: 2585 qadi fi 350 mahkamah darajah 'ula ", (Sources to Okaz: 2585 judges in 350 first level courts), Okaz, 11/3/2019, <https://www.okaz.com.sa/local/na/1711521>

¹⁹⁵ Ibrahim al-Hussain, 2018, "5 majalat jadidah lilmar'ah al-su'udiyah fi al-manzoomah al-qada'yyah", (Five new job areas for Saudi women in the Juridical structure), al-Arabiya.net, 27/6/2018, <https://www.alarabiya.net/saudi-today/2018/06/27/5-%D9%85%D8%AC%D8%A7%D9%84%D8%A7%D8%AA-%D8%AC%D8%AF%D9%8A%D8%AF%D8%A9-%D9%84%D9%84%D9%85%D8%B1%D8%A3%D8%A9-%D8%A7%D9%84%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D9%85%D9%86%D8%B8%D9%88%D9%85%D8%A9-%D8%A7%D9%84%D9%82%D8%B6%D8%A7%D8%A6%D9%8A%D8%A9>



This document is work-in-progress.
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Yes, male and female lawyers represent clients. There are also family services desks available in many courts to advise women. Such desks are organized in collaboration with civil society organizations such as Mawaddah ¹⁹⁶ .			
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¹⁹⁶ <https://www.mawaddah.org.sa/>