

The 2007 Saudi Report to the CEDAW Committee: How Confronting Women's International Human Rights Has Affected Official Representations of Women's Rights in Islamic Law

Background and documents for presentation by Ann Elizabeth Mayer

I/ RELEVANT INTERNATIONAL HUMAN RIGHTS DOCUMENTS

A/ International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)

B/ Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1965

C/ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979

II/ A SAMPLING OF RECENT INCIDENTS INVOLVING VIOLATIONS OF WOMEN'S HUMAN RIGHTS IN SAUDI ARABIA

A/ Qatif girl gang rape case – rape victim treated like a criminal, her sentence more than doubled to punish her for appealing

B/ Coerced termination of marriage at behest of a woman's half brothers

C/ Woman sentenced to death for witchcraft after grossly unfair proceedings

D/ Women challenge ban on women driving

E/ Repression directed at Saudi women's rights activist

F/ Woman strip searched, imprisoned for being caught drinking coffee with a male colleague at Starbucks

G/ Saudi women's sports activities severely restricted, Saudi women barred from participating in the Beijing Olympics

H/ Human Rights Watch criticisms of discriminatory Saudi laws

I/ Saudi Interior Minister dismisses idea of women on Shura Council

J/ Eight-year-old girl freed from 50-year-old husband

K/ Woman effectively imprisoned as a result of her father's untrammelled patriarchal authority

III/ SAUDI RESERVATIONS TO CEDAW

A/ The most important of the Saudi CEDAW reservations

B/ The Saudi CEDAW report asserts that this reservation is permissible under treaty law

C/ CEDAW policy statement against reservations that violate Article 19 (c) of the Vienna Convention on the Law of Treaties

D/ Objections to the Saudi reservations by other parties

IV/ HOW THE SAUDI CEDAW REPORT REPRESENTS SAUDI LAW

A/ A sample statement in the Saudi CEDAW report about the centrality of Islamic law

B/ The report describes the Saudi judiciary

C/ Excerpts from the 1992 Saudi Basic Law, presented as a document prohibiting discrimination against women

D/ Saudi claims about how the Basic Law and Islamic law support women's equality

E/ The report describes how Islam upholds the complementarity thesis

F/ The report claims that the Western tradition divides the private and public spheres

G/ In response to CEDAW Article 2, the report describes Saudi laws affecting the family

H/ Sample Saudi responses to questions posed by the CEDAW Committee

V/ ARTICLE: SAUDIS PRESSURED TO GRANT WOMEN RIGHTS

I/ RELEVANT INTERNATIONAL HUMAN RIGHTS DOCUMENTS

A/ International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)

Article II

For the purpose of the present Convention, the term "the crime of apartheid", which shall include similar policies and practices of racial segregation and discrimination as practised in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them:

- (a) Denial to a member or members of a racial group or groups of the right to life and liberty of person:
 - (i) By murder of members of a racial group or groups;
 - (ii) By the infliction upon the members of a racial group or groups of serious bodily or mental harm, by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;
 - (iii) By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;
- (b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;
- (c) Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;
- d) Any measures including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;
- (e) Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;
- (f) Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.

B/ Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1965

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

C/ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979

Article 1

“For the purposes of the present Convention, the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, regardless of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

Article 2

“States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.”

Article 5

“States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

II/ A SAMPLING OF RECENT INCIDENTS INVOLVING VIOLATIONS OF WOMEN'S HUMAN RIGHTS IN SAUDI ARABIA

A/ Qatif girl gang rape case -- rape victim treated like a criminal, her sentence more than doubled to punish her for appealing

http://hrw.org/english/docs/2007/11/16/saudia17363_txt.htm

Saudi Arabia: Rape Victim Punished for Speaking Out

Court Doubles Sentence for Victim, Bans Her Lawyer From the Case

(New York, November 17, 2007) – A court in Saudi Arabia doubled its sentence of lashings for a rape victim who had spoken out in public about her case and her efforts to seek justice, Human Rights Watch said today. The court also harassed her lawyer, banning him from the case and confiscating his professional license.

An official at the General Court of Qatif, which handed down the sentence on November 14, said the court had increased the woman's sentence because of "her attempt to aggravate and influence the judiciary through the media." The court sentenced the rape victim to six months in prison and 200 lashes, more than double its October 2006 sentence after its earlier verdict was reviewed by Saudi Arabia's highest court, the Supreme Council of the Judiciary.

Human Rights Watch called on King Abdullah to immediately void the verdict and drop all charges against the rape victim and to order the court to end its harassment of her lawyer.

"A courageous young woman faces lashing and prison for speaking out about her efforts to find justice," said Farida Deif, researcher in the women's rights division of Human Rights Watch. "This verdict not only sends victims of sexual violence the message that they should not press charges, but in effect offers protection and impunity to the perpetrators."

The young woman, who is married, said she had met with a male acquaintance who had promised to give her back an old photograph of herself. After she met her acquaintance in his car in Qatif, a gang of seven men then attacked and raped both of them, multiple times. Despite the prosecution's requests for the maximum penalty for the rapists, the Qatif court sentenced four of them to between one and five years in prison and between

80 and 1,000 lashes. They were convicted of kidnapping, apparently because prosecutors could not prove rape. The judges reportedly ignored evidence from a mobile phone video in which the attackers recorded the assault.

Moreover, the court in October 2006 also sentenced both the woman and man who had been raped to 90 lashes each for what it termed “illegal mingling.” Human Rights Watch is particularly concerned that the criminalization of any contact between unmarried individuals of the opposite sex in Saudi Arabia severely impedes the ability of rape victims to seek justice. A court may view a woman’s charge of rape as an admission of extramarital sexual relations (or “illegal mingling”) unless she can prove, by strict evidentiary standards, that this contact was legal and the intercourse was nonconsensual.

In an interview in December, the rape victim described to Human Rights Watch her treatment in court:

“At the first session, [the judges] said to me, ‘what kind of relationship did you have with this individual? Why did you leave the house? Do you know these men?’ They asked me to describe the situation. They used to yell at me. They were insulting. The judge refused to allow my husband in the room with me. One judge told me I was a liar because I didn’t remember the dates well. They kept saying, ‘Why did you leave the house? Why didn’t you tell your husband [where you were going]?’”

“Victims of sexual violence in Saudi Arabia face enormous obstacles in the criminal justice system,” said Deif. “Their interrogations and court hearings are more likely to compound the trauma of the original assault than provide justice.”

During the recent hearings, Judge al-Muhanna of the Qatif court also banned the woman’s lawyer, Abd al-Rahman al-Lahim, from the courtroom and from any future representations of her, without apparent reason. He also confiscated his lawyer’s identification card, which the Ministry of Justice issues. Al-Lahim faces a disciplinary hearing at the Ministry of Justice on December 5, where sanctions can include suspension for three years and disbarment.

Al-Lahim, who is Saudi Arabia’s best-known human rights lawyer, earlier this year had planned to take legal action against the Ministry of Justice for failing to provide him with a copy of the verdict against his client so that he could prepare an appeal. Despite numerous representations to the court and the ministry, he was not given a copy of the case file or the verdict.

“The decision to ban the rape victim’s lawyer from the case shows what little respect Saudi authorities have for the legal profession or the law in general,” said Sarah Leah Whitson, Middle East director at Human Rights Watch.

On October 3, King Abdullah announced a judicial reform, promising new specialized courts and training for judges and lawyers. There is currently no rule of law in Saudi Arabia, which does not have a written penal code. Judges do not follow procedural rules and issue arbitrary sentences that vary widely. Often, judges do not provide written verdicts, even in death penalty cases. Judges sometimes deny individuals their right to legal representation. In May 2006, a judge in Jeddah had thrown a lawyer out of his courtroom in a civil suit on the sole basis that he is of the Isma’ili faith, a branch of Shiism. Trials remain closed to the public.

<http://www.reuters.com/article/latestCrisis/idUSL17256636>

Saudi king pardons rape victim, Andrew Hammond , Reuters Dec 17, 2007

Saudi Arabia's King Abdullah has pardoned the victim of a gang-rape whose sentencing to 200 lashes caused an international outcry, a Saudi newspaper said on Monday. The daily al-Jazirah cited Justice Minister Abdullah bin Mohammad al-Sheikh as saying the king alone had the right to issue pardons if it was in the public interest. . .

The 19-year-old Shi'ite woman was abducted and raped along with a male companion by seven men last year in a case that has drawn criticism from around the world. Ruling according to Saudi Arabia's strict reading of Islamic law, a court sentenced the woman to 90 lashes for being alone with an unrelated man and the rapists to prison terms of up to five years.

The Supreme Judicial Council last month increased the sentence to 200 lashes and six months in prison and ordered the rapists to serve between two years and nine years in prison. . .

Clerics of Wahhabi Islam dominate the justice system which King Abdullah said in October he wanted to reform. The rape case has become a national embarrassment to Saudi Arabia, provoking soul-searching among columnists in the press about the country's international image.

U.S. President George W. Bush said earlier this month that King Abdullah "knows our position loud and clear" on the case, and Saudi Foreign Minister Saud al-Faisal said last month he hoped the ruling would be changed.

Fawziya al-Oyouni, a women's rights activist, welcomed the report but said it was not enough. She said the family of the victim had not been informed officially of any pardon.

"We don't want to rely simply on pardons. We need harsher sentences for the guilty parties and we want to feel safe," she said, citing another rape case in the Eastern Province this month. (Writing by Andrew Hammond; Editing by Janet Lawrence)

B/ Coerced termination of marriage at behest of a woman's half brothers

<http://www.arabnews.com/?page=1§ion=0&article=91520&d=29&m=1&y=2007>

Appeals Court Upholds Ruling in Controversial Fatima Divorce Case

Ebtihal Mubarak, Arab News

JEDDAH, 29 January 2007 — An appeals court yesterday upheld the decision of a judge in the northern city of Al-Jouf in October to divorce a couple in absentia at the request of the wife's half brothers.

The 34-year-old woman, Fatima, mother of two children by her marriage to Mansour Al-Timani, 37, has been in a prison in Dammam since October with her youngest child,

Suleiman, a year old. She has steadily refused to return to the custody of her family since she was arrested in Jeddah for living with the man she legally married with her father's consent more than three years ago. . . . Prison officials have prevented Mansour from talking to Fatima since her interview with this newspaper in November. He told Arab News yesterday that he would continue to fight the ruling even though the judiciary has given its final verdict.

Fatima's lawyer, Abdul Rahman Al-Lahem, issued a statement yesterday, saying the ruling "contradicts both Islamic principles and (secular) laws and also abrogates a very basic human right: the wife's wish to stay by her husband's side."

Fatima's half-brother contends that Mansour misled the family about his tribal background to win the family's consent for marrying his sister. Shariah law (Islamic law) does not prohibit a woman from marrying a man based on tribal background; therefore Islamic law, which is the law of the Kingdom, does not prohibit such a marriage.

Mansour has repeatedly denied that he lied about his tribal background. "They (Fatima's male relatives) asked about me and even came to visit me at my work in Al-Jouf where I lived at the time," he said in a previous interview with Arab News. Fatima's father has since passed away, leaving his sons with power of attorney which they used to ask for the divorce. Al-Lahem said that the decision of the appeals court, known in Saudi Arabia as the Court of Cassation, is final.

In an interview with Arab News in November, Fatima said she was remaining in prison by her own choice; she refused to return to the custody of her family. (Women of any age in Saudi Arabia require a legal male guardian, or mahram, who could be either their husbands or other male relatives.) "I'm leaving this place on one condition only: That I go back to my husband," she told Arab News.

Al-Lahem says Fatima's case is an affront to women's rights under Islamic law as well as international human rights agreements to which Saudi Arabia is a signatory. "The Shariah law can rely on the normal custom of society in the absence of a clear Islamic law," Al-Lahem said, and added that the judge placed Saudi tribal traditions over Islamic law in this case and that Islamic law would have prohibited such an intervention by the wife's family. . . .

Mansour said that even if Fatima were to leave prison, the couple would not be able to remarry because she would be in the custody of her half-brothers — her mahram — who sought the divorce in the first place. . . .

For the time being, the ruling is final and Fatima is still in an Eastern Province prison with her baby son. Mansour says he feels lost. "What can I do? There is absolutely nothing that I can do?" he said. "Our country is against us and I can't fight the whole country."

<http://www.arabnews.com/?page=1§ion=0&article=108217&d=25&m=3&y=2008&pix=kingdom.jpg&category=Kingdom>

Fatima Starts Hunger Strike Despite HRC's Reunion Assurances Ebtihal Mubarak, Arab News — 25 March 2008

JEDDAH, 25 March 2008 — A Saudi woman, who was forcibly divorced from her husband by a court in 2005 at the request of her half brothers, yesterday began the first

day of a hunger strike despite officials saying that the couple would soon be reunited. “I won’t believe it till I see it... I’ll remain stuck in this shelter like an outcaste. Everyone asks me to be patient and wait,” said the woman known as Fatima.

“Three years have passed now. I’m human at the end of the day and there is a limit to what I can put up with,” she told Arab News in a phone conversation, adding that no one understands what she was going through. Meanwhile, a spokesman for the government-run Human Rights Commission (HRC) gave assurances that the couple would be reunited. “The couple will soon be reunited,” said Zuhair Al-Harithy, HRC spokesman, without giving a timeframe.

“Fatima and Mansour’s case is a HRC priority and gets the special attention of HRC President Turki Al-Sudairi,” he said, adding that Al-Sudairi has been in conversation about the issue with high-ranking government officials. Al-Harithy did not clarify whether the case reached the Supreme Judicial Council, the Kingdom’s highest judicial authority, for a second review. The only legal way to end the couple’s misery is for Custodian of the Two Holy Mosques King Abdullah to intervene by asking the Supreme Judicial Council to again look at the case.

“We coordinate with all official establishments concerned with the case. However, we don’t interfere with judicial rulings. We do express our point of view to the Cabinet, which is responsible for the work we do,” said Al-Harithy. He added that they are now sure that the divorce was given due to social reasons and not for religious reasons. “We’re not only working on solving the case. We want to make sure things like this don’t happen again,” he added.

The couple’s ordeal started when Fatima’s half-brothers asked a court to annul the marriage citing her husband’s low tribal background. The judge agreed, even though the couple had been married for over two years and had two children. Following the ruling, the couple was arrested in Jeddah after coming there to seek official help. Fatima and her children spent nine months in a women’s prison in Dammam after refusing to go back to her family.

In January 2007, Riyadh’s Appeals Court upheld a judge’s decision to divorce the couple, and Fatima was moved to a women’s shelter in the city, where she has been living ever since with her two -year-old son, Suliman. Her other child, four-year-old Noha, lives with her husband, Mansour Al-Timani. Al-Timani has been living close to the HRC office in Riyadh for the past several months to keep a check on the case. He told Arab News that he was overwhelmed with frustration and that his wife was determined to keep fighting. “I still consider her my wife and I’m sure that justice will prevail,” said Al-Timani.

C/ Woman sentenced to death for witchcraft after grossly unfair proceedings

Human Rights Watch Letter to HRH King Abdullah bin Abd al-’Aziz Al Saud on "Witchcraft" Case, February 13, 2008
<http://hrw.org/english/docs/2008/02/13/saudia18046.htm>

Your Royal Highness,

Human Rights Watch urges you to immediately halt the execution of Fawza Falih Muhammad Ali, currently imprisoned in Quraiyat Prison. . . . The court in Quraiyat, on April 2, 2006 (3/3/1427), sentenced her to death by beheading for the alleged crimes of ““witchcraft, recourse to jinn [supernatural beings], and slaughter” of animals.

Your Highness, the conviction of Fawza Falih for “witchcraft” is a travesty of justice and reveals severe shortcomings in Saudi Arabia’s justice system. The crime of “witchcraft” is not defined by law; judges breached safeguards for a fair trial in existing Saudi law; and there were significant procedural flaws throughout the trial which effectively eradicated her ability to defend herself against the ill-defined charges against her.

We remain convinced that Fawza Falih has not committed any crime at all. First, it is not clear what the actual elements if any of the crime of “witchcraft” are, and the offence is not defined in Saudi law. As you know, Saudi Arabia does not have a written penal code that spells out the elements of a given crime. The accusation of witchcraft appears to have been based upon a broad, vague concept, which cannot be said to constitute “law”. Under international human rights law, persons suspected of crimes may only be charged with offenses as established by law, and which are sufficiently clear so that everyone has the possibility to understand clearly what behavior it is that will cause them to violate that law.

Furthermore, in addition to the lack of a clear definition of “witchcraft” in Saudi law and the absence of a written penal code in which to search for such a definition, the judges in the court of Quraiyat did not define the meaning of “witchcraft”, but instead cited a variety of alleged actions, stated intentions, and “tools” for “witchcraft” in a weak attempt to suggest that “witchcraft” had indeed taken place. The court cited one instance in which a man allegedly became impotent after being “bewitched.” In another, a divorced woman reportedly returned to her ex-husband during the month predicted by the witch said to have cast the spell. The court failed to probe alternative explanations for these developments which appear to be ordinary phenomena. Indeed drawing on the illustrations cited by the courts, it is evident that the practice of “witchcraft”, if it exists, is by its nature impossible to prove, since it involves the alleged use of supernatural powers. . . .

Judges of the court appear to have both disregarded established laws and made up new law as the trial proceeded. Their first verdict sentenced Fawza Falih to death for “witchcraft” as an “offense against God” (hadd) with a prescribed punishment of death. The legal basis for this decision includes the statement that witches “are not given the opportunity to repent, because witchcraft is not eradicable by penitence.” . . .

Other aspects of the arrest, treatment and trial of Fawza Falih are also deeply worrying. Fawza Falih spent 35 days in detention at the Commission for the Promotion of Virtue and Prevention of Vice (CPVPV) after her arrest on May 4, 2005 (25/3/1426). Her detention there violated a 1981 royal decree prohibiting the CPVPV from holding and

interrogating suspects at their centers. She asserted in her appeal that she was beaten during her interrogation, naming one official of the governorate. Her appeal states that she lost consciousness during one beating and was treated at the hospital. She asserts that fellow female prisoners bandaged her wounds. . . The Saudi CEDAW report claims that both the Basic Law and Islamic law support women's equality

D/ Women challenge ban on women driving

Saudi Women Petition for Right to Drive: Challenge Poses Risks in Sole Country Where Only Men May Take the Wheel

Faiza Saleh Ambah, Washington Post Foreign Service September 24, 2007; A09
<http://www.washingtonpost.com/wp-dyn/content/article/2007/09/23/AR2007092300862.html>

After spreading the idea through text messages and e-mails, the group's leaders said they collected more than 1,100 signatures online and at shopping malls for a petition sent to King Abdullah on Sunday. "We don't expect an answer right away," said Wajeha al-Huwaider, 45, an education analyst who co-founded the group. "But we will not stop campaigning until we get the right to drive."

The kingdom follows one of the world's strictest interpretations of Islam. Women in Saudi Arabia, a deeply patriarchal society, cannot travel, marry or rent lodging without permission from a male guardian. Powerful clerics in Saudi Arabia, home to Islam's holiest shrines, say that allowing women to drive would lead to Western-style freedoms and an erosion of traditional values. The driving ban applies to all women, Saudi and foreign.

Public transportation is limited, and though taxis are common in major cities, women tend not to use them because riding with male strangers is deemed unsafe. Some women can afford to hire live-in drivers; others rely on male relatives to drive them.

Though live-in chauffeurs are all male, they are not viewed as a threat because they are foreigners, often from the Philippines or the Indian subcontinent, and are considered unlikely to develop relationships with the women. Many women reject this argument. "Women and their children are at the mercy of sexual harassment by these foreign drivers, and we know many incidents of this happening," said Fouzia al-Ayouni, a retired school administrator. "It is much safer, and more appropriate, for women to chauffeur themselves and their children around. . ."

The last time Saudi women lobbied for the right to drive was in 1990 during the Iraqi invasion of Kuwait. Forty-seven women were briefly detained for driving in a convoy of 15 cars in the capital, Riyadh.

Though no laws explicitly ban people from gathering signatures or circulating petitions, independent political or social activity is frowned upon in Saudi Arabia, and rights activists are routinely imprisoned. Ayouni, a 48-year-old mother of three, counted the possible consequences of agitating for change. "We could be detained, we could lose our

jobs, and we could be banned from traveling," she said. "But if we get the right to drive, it would be worth it. . ."

Huwaider, the group's co-founder, is no stranger to controversy. During last year's war in Lebanon, she stood on the bridge between Bahrain and Saudi Arabia, holding a placard addressed to King Abdullah. "Give Saudi Women Their Rights," it said. She was detained and interrogated, and had to sign a petition pledging not to demonstrate again. But the most humiliating part, she said, was waiting at the police station until her male guardian, her brother, could arrive to pick her up. . .

At a meeting at Huwaider's house last week, the women in the group, the Association for the Protection and Defense of Women's Rights in Saudi Arabia, went over their campaign. Ayouni, in black pants and a long black-and-gold top, paced back and forth in platform sandals as she spoke on her cellphone with a BBC reporter calling from the United Arab Emirates. "It's not a luxury, it's a necessity," she said. "Many women support their entire families and can't afford paying half their salary to a driver."

Ayouni said her group had at least "broken a barrier of fear that Saudi women had of asking for their rights." "That has been our major achievement. And we want the authorities to know that we're here, that we want to drive, and that many people feel the way we do," she said.

E/ Repression directed at Saudi women's rights activist

Center for Liberty in the Middle East -- Wajiha al-Huwaydar

<http://www.mideastliberty.org/tabid/314/AuthorID/136/Default.aspx>

While people were protesting in the Arab streets against the war in Lebanon, Wajiha al-Huwaydar was marching alone on Friday August 4, 2006, on the bridge connecting Bahrain and Saudi Arabia, waving to travelers with a board that said, "give woman her rights." Saudi authorities arrested al-Huwaydar for a short period of time, and then released her after promising that she would not repeat this act. Wajiha al-Huwaydar is a Saudi activist, known for her courageous positions and writings that defend Saudi and Arab women's rights, in addition to her criticism of radical Islam.

On International Women's Day on March 8, 2005, she stated, "today, March 8, is a day that does not have any meaning for the Arab governments and many of their citizens. International Women's Day comes and goes every year, and the Arabian woman in this ruinous region remains marginalized because of male views that regard her as Awrah—having to be covered in public— and divisive, sinful, and lacking in mind and faith." (Aman.org, Sep 2006)

She added, "Despite the fact that all the Arab regimes became members at the United Nations and ratified the Universal Declaration of Human Rights issued in 1948, which

explicitly calls for the equality of all citizens in duties and rights, the woman in our male-dominated states is still regarded as a man's possession."

Because of her bold writings, al-Huwaydar has faced criticism and threats from Islamists. In June 2004, she published an article on "Modern Discussion" revealing some of the threats she received via internet, for example — "Our hand reaches hypocrites like you ...remember this is a warning." (pcwesr.org, 7/6/2004)

On August 23, 2003, the Saudi ministry of the interior issued a decree banning her from writing in the Saudi newspaper, Alwatan. In response, the Committee to Protect Journalists (CPJ) issued a report in May 2006 which addressed the situation of the press in Saudi Arabia. The report states the following: "It has been almost three years since Wajiha al-Huwaydar last wrote in a Saudi newspaper. She wrote opinion articles for many years, but in 2003, the Saudi newspapers stopped publishing her articles without any stated reason." During an interview at Aramco's sprawling complex in Dahrán, in the country's oil-rich eastern province, al-Huwaydar said: "I learned about this incident during my vacation since one of my friends informed me that I was banned from writing." She confirmed that the editors of Alwatan and Arab News notified her that they received a fax from the ministry of information asking them to stop publishing her articles.

The report states that al-Huwaydar addressed sensitive issues in Saudi society such as women's rights, gender discrimination, and social illnesses, which caused great discontent in the conservative community. . .

F/ Woman strip searched, imprisoned for being caught drinking coffee with a male colleague at Starbucks

<http://www.arabnews.com/services/print/print.asp?artid=106499>

Coffee With Colleague Lands Woman in Trouble

Raid Qusti, Arab News —February 5, 2008

RIYADH, 5 February 2008 — A Saudi mother of three, who works as a business partner and financial consultant for a reputable company in Jeddah, didn't expect that a trip to the capital to open the company's new branch office would have her thrown behind bars by the Commission for the Promotion of Virtue and the Prevention of Vice.

Yara, a petite 40-year-old woman, was in tears yesterday after she narrated to Arab News her encounter with a commission member that ended in high drama.

Yara, who has been married for 27 years, said she spent several hours in the women's section of Riyadh's Malaz Prison, was strip-searched, ordered to sign a confession that she was in a state of "khulwa" (a state of seclusion with an unrelated man) and for hours prevented from contacting her husband in Jeddah.

Her crime? Having a cup of coffee with a colleague in a Starbucks.

Yara said she arrived in the capital yesterday morning from Jeddah to check on the company's new office. "The minute I came into the office my colleagues told me that we

have an issue with the electricity company and that we do not have power but that it would be back on in half an hour,” she said.

As they were waiting, they decided to go to the ground floor of the building to have a cup of coffee in the family section of Starbucks. Family sections are the only places where men and women can sit together in establishments in Saudi Arabia. Officially, these sections are for families only, but in practical terms these sections — usually in international chains like Starbucks — become the only places where unrelated men and women can be comfortable that they won’t be harassed by commission members. But yesterday Yara and her colleague found themselves in trouble with the commission. One moment they were sitting together discussing brand equity and sovereign wealth funds; the next moment she found herself in commission custody.

Shortly after they took their coffee and Yara opened her laptop, a member of the commission approached the two and demanded the man step outside.

“Then (the commission member) came to me and said: ‘You need to come with us. This man is not a relative,’” she said. When she told the commission member that she wanted to contact her husband by phone, he refused. . .

Inside the taxi, Yara said the commission member snatched her phone from her as she tried to call her husband. She told Arab News that even the cab driver felt uneasy but, knowing the power of the commission in Riyadh, refrained from interfering.

Eventually the cab approached a GMC Suburban, the vehicle of choice for the commission members, parked in front of one of the commission centers. Yara pleaded with the cab driver not to leave her.

“I was begging him to stay with me,” she said. But the taxi driver was ordered to move on and Yara found herself locked in the back of the GMC. Time passed, she said.

Commission members came and went. She said they preached to her about the grave sin she committed. “Your husband is no good,” she said, recounting the words of the commission members. “He should not have let you do this.”

She said she was admonished for traveling alone. The commission members told her that her colleague admitted that they always went out together. (Later, she learned that her colleague, a Syrian national, was also arrested. He still remains in detention.)

“I told (the commission member) that I am a good Muslim, a mother of three, and a God-fearing person who would never do shameful things,” she told Arab News in tears.

Last year, the Interior Ministry issued a ruling that the commission cannot detain people and must pass them on to the police.

Yara said that she was handed a confession. “He told me I needed to fingerprint this paper stating that I got my mobile phone and bag back,” she said. “When I told him my phone was still confiscated, he threatened me: ‘Just do it!’” She said that she fingerprinted the paper under duress. “I had no other choice ... I was scared for my life ... I was afraid that they would abuse me or do something to me,” she said, as she broke down in tears again. Then another person got into the GMC and switched on the engine. “The next thing I saw from the window was that we were approaching a place with a sign written on the outside: Malaz Prison,” she said. Inside the prison, Yara recounts being taken to a cell with a one-way mirror. On the other side was a sheikh.

“I could not see him because there was a dark window,” she said, adding that each time she paused he would reprimand her, telling her what she did was wrong. “He kept on telling me this is not allowed.” Yara told the sheikh that her husband knew where she was

and what she was doing. He then started writing a report. Another pre-written confession was fingerprinted, she said. She pleaded with prison authorities to contact her husband. "They would not let me contact my husband," she said. "I told them... please... my husband will have a heart attack if he does not know what has happened to me." She was not given a phone to call her husband. She was not given access to a lawyer. "They stripped me," she said. "They checked that I had nothing with me and threw me in the cell with all the others."

Meanwhile, Yara's husband Hatim, an executive director of a prominent company, was in Jeddah when he received a phone call. "My friend contacted me and told me that the commission had captured my wife," he said. He booked the next flight to Riyadh and, after some strings were pulled, Yara was out of jail.

"I look at this as if she had been kidnapped by thugs," said Hatim. "There's really nothing else to it ... I know this has nothing to do with the country, but these (people) are thugs. Unfortunately, they told her that they are 'the government' so she could not resist." The Syrian colleague was still in custody by the time Arab News went to press. He is a senior financial analyst, who is described by acquaintances as a devout Muslim whose mother teaches Qur'an recitation to children.

G/ Saudi women's sports activities severely restricted, Saudi women barred from participating in the Beijing Olympics

A Drive Toward the Goal Of Greater Freedom

Basketball Team Resists Saudi Restrictions on Female Athletes

By Faiza Saleh Ambah

Washington Post Foreign Service, April 15, 2008; A09

JIDDAH, [Saudi Arabia](#) -- The [Jeddah](#) United women's basketball team trickled onto the court, each player wrapped in a black abaya and head scarf. Within minutes, the women had shed their cloaks and were in uniform -- white pants and jerseys with their names in red -- practicing layups, passes and foul shots until they were wet with sweat. The team, made up mostly of Saudi students and housewives, is preparing for a local tournament this month. But what the women would really love to do, many said, is compete internationally and represent their country abroad, something [Saudi Arabia](#) does not permit. "We want to reach Olympic levels," said Shatha Bakhsh, 21, a law student. "We have a lot of potential, but not the chance to show it."

Saudi Arabia follows a strict version of Islam that bans men and women from mingling and does not allow women to drive or travel without a male guardian's permission. Powerful religious clerics also ban sports for girls in public schools, deeming it un-Islamic, and recently canceled two rare all-women's events, a soccer match and a marathon. Gyms for women were closed in the early 1990s and have been allowed to reopen, but only when affiliated with hospitals.

Saudi Arabia is one of the few countries competing in the Olympics without a female delegation. Though the kingdom has come under increasing pressure from the [International Olympic Committee](#) to include women on its team, many in this deeply patriarchal and traditional society agree with the restrictions, believing that allowing

female athletes could lead to Western-style independence for women and an erosion of established culture.

But Lina al-Maena, Jeddah United's founder and team captain, said women's sports are a positive force and should be an integral part of every young woman's life.

"When parents say that sports is sinful for girls, it really upsets me, because they're depriving their daughters of something that's very good for them," said Maena, who has two young daughters.

There are more than a dozen women's basketball teams in this [Red Sea](#) city, the country's most liberal, involving several hundred players. Some operate legally but quietly under the umbrella of women's charitable societies or as part of private high schools and colleges, but others operate without a government permit, as in the case of Jeddah United. Many of the teams maintain a low profile, refusing photos and interviews for fear of drawing attention to themselves and being forced to shut down. But some, like Jeddah United, are seeking to make public appearances and are pushing for change.

The phenomenon has prompted sharp words from the conservative clergy. In a recent posting on the Web site <http://www.islamlight.net>, prominent Saudi sheiks Abdul-Rahman al-Barrak, Abdullah al-Jibreen and Abdul-Aziz al-Rajhi issued a fatwa, or religious decree, banning women's sports centers in the kingdom.

"Opening these centers is one of the main reasons and the biggest doors leading to the spread of decadence," the decree states. "And it is known that the only women who will frequent these centers are those with little or no manners."

It concludes: "Banning the opening of these sports centers is not a ban on sports. A woman can practice sports at home, and there are many ways to do that, or she can race her husband in a deserted area, like the prophet Muhammad -- peace be upon him -- who raced with his wife Aisha twice."

In March, the women of Jeddah United were angling for a chance to play in a regional tournament in [Kuwait](#). But Kuwaiti officials said they needed approval from the Saudi Arabian Olympic Committee. Maena said that she asked Saudi officials for a permit but that they refused to issue one, saying only that the women did not have clearance. Maena said she is convinced the government is not against the idea, pointing out that the teams have been allowed to organize tournaments and that articles and photos about the proliferating women's teams have started appearing in the local press.

But without permits or official sanction, teams have little chance of receiving funding and sponsorship, she said. Televising games and allowing women's teams to represent the kingdom abroad would give women's sports a big boost, she said, and would help pay for training and accreditation for female coaches and referees, of whom there are only a handful.

"The idea of Saudi women playing sports is socially unacceptable to some people," Maena said. "That's the barrier we're trying to break."

Maena's club has grown from six members to more than 100 since it started in 2006 with divisions for children, teenagers and adults. The club has won four local tournaments in the past two years.

One of the most gratifying experiences for Maena has been seeing young girls blossom after they take up basketball, she said. "You see them developing self-confidence, attitude, personality. It gives them a sense of empowerment," she said. "They arrive shy, and in a very short period they are outgoing, energetic, motivated. . ."

H/ Human Rights Watch criticisms of discriminatory Saudi laws

Saudi Arabia: Male Guardianship Policies Harm Women Sex Segregation Keeps Women Out of Public Life

(London, April 21, 2008) - Saudi Arabia's male guardianship of women and policies of sex segregation stop women from enjoying their basic rights, Human Rights Watch said in a report released today. Saudi women often must obtain permission from a guardian (a father, husband, or even a son) to work, travel, study, marry, or even access healthcare.

In a 50-page report, "Perpetual Minors: Human Rights Abuses Stemming from Male Guardianship and Sex Segregation in Saudi Arabia," Human Rights Watch draws on more than 100 interviews with Saudi women to document the effects of these discriminatory policies on woman's most basic rights.

"The Saudi government sacrifices basic human rights to maintain male control over women," said Farida Deif, women's rights researcher for the Middle East at Human Rights Watch. "Saudi women won't make any progress until the government ends the abuses that stem from these misguided policies."

The authorities essentially treat adult women like legal minors who are not entitled to authority over their lives and well-being. Saudi women are similarly denied the legal right to make even trivial decisions for their children. Women cannot open bank accounts for children, enroll them in school, obtain school files, or travel with their children without written permission from the child's father.

Saudi women are prevented from accessing government agencies that have not established female sections unless they have a male representative. The need to establish separate office spaces for women is a disincentive to hiring female employees, and female students are often relegated to unequal facilities with unequal academic opportunities.

Male guardianship over adult women also contributes to their risk of confronting family violence, making it difficult for survivors of violence to avail themselves of protection or redress. Social workers, physicians, and lawyers told Human Rights Watch about the near impossibility of removing guardianship even from male guardians who are abusive.

And even where permission from a male guardian is not mandatory or stipulated under government guidelines, some officials will ask for it. Despite national regulations to the contrary, some hospitals require a guardian's permission to allow women to be admitted, agree to medical procedures for themselves or their children, or be discharged.

Officials do not always follow limitations on the power of guardians imposed recently by the government. Despite an Interior Ministry decision allowing women over 45 to travel without permission, airport officials continue to ask all women for written proof their

guardian has allowed them to travel. Travel restrictions can also be humiliating for many women.

Fatma A., a 40-year-old Saudi woman living in Riyadh, cannot board a plane without written permission from her son, her legal guardian. "My son is 23 years old and has to come all the way from the Eastern Province to give me permission to leave the country," she told Human Rights Watch.

A Saudi woman's access to justice is also severely constrained. Women continue to have trouble filing a court case or even being heard in court without a legal guardian. Women are required to wear a full-face veil (niqab) in court and be accompanied by a male relative able to verify their identity. Saudi Arabia has established no minimum age of criminal responsibility for girls, while the authorities generally decree puberty as the threshold for treating children as adults.

"It's astonishing that the Saudi government denies adult women the right to make decisions for themselves but holds them criminally responsible for their actions at puberty," said Deif. "For Saudi women, reaching adulthood brings no rights, only responsibilities."

By failing to eliminate these discriminatory practices, the Saudi government is failing in its commitment to guarantee women and girls their rights to education, employment, freedom of movement, health, and equality in marriage. In doing so, the Saudi government ignores not only international law but even elements of the Islamic legal tradition that support equality and full legal capacity for women.

Human Rights Watch calls on Saudi Arabia to take immediate action to address the human rights abuses resulting from male guardianship policies.

The Saudi government should abide by its international obligations and dismantle this grossly discriminatory system. The king should establish an oversight mechanism to ensure that government agencies no longer request permission from a guardian to allow adult women to work, travel, study, marry, receive health care, or access any public service. The authorities should establish female sections or other accommodations in every government office and courtroom in order to ensure women have equal access to every level of government.

The Human Rights Watch report, "Perpetual Minors: Human Rights Abuses Stemming from Male Guardianship and Sex Segregation in Saudi Arabia," is available at:

<http://hrw.org/reports/2008/saudiArabia0408/>

I/ Saudi Interior Minister dismisses idea of women on Shura Council

Women MPs and elections not needed in Saudi: prince

<http://www.reuters.com/article/lifestyleMolt/idUSTRE52O21720090325>

Reuters, Mar. 25, 2009

RIYADH (Reuters) - Islamic Saudi Arabia, the world's biggest oil exporter, has no need for women members of parliament or elections, a senior prince said in remarks published on Wednesday.

There are no political parties in Saudi Arabia but reform activists hope the advisory Shura Council -- an all-male body appointed by the king -- will be transformed into an elected legislature one day.

"Appointing the members always ensures that the best are selected," Interior Minister Prince Nayef said in comments carried by al-Jazirah daily. "If it was to happen through elections, the members would not have had been this competent."

Asked if that could include women, he said: "I don't see the need for that."

Diplomats say the inner circle of powerful Saudi royals are divided over political reforms. Prince Nayef, half-brother to King Abdullah, is seen as a hawk opposed to changes.

Saudi men were allowed to vote for some seats on municipal councils in 2005.

The king has promoted cautious reforms as part of an effort to combat radicalism that was launched after the September 11 attacks of 2001.

The attacks, in which 15 of the 19 perpetrators were from Saudi Arabia, focused international attention on the influence of the hard-line Wahhabi Islam that dominates in Saudi Arabia.

Last month, the king broke with tradition to appoint a woman as deputy education minister.

The royal family rules in alliance with powerful clerics who oversee the application of Islamic sharia law. They say women should cover their faces in public and try to prevent them mixing with unrelated men. Women are barred from driving.

J/ Eight-year-old girl freed from 50-year-old husband

Private divorce agreed to after court refused to intervene to save the child

<http://www.thetimes.co.za/PrintEdition/Article.aspx?id=1050406>

The Times, Aug. 15, 2009

An eight-year-old girl in Saudi Arabia has won a divorce from her 50-year-old husband — at the third attempt.

The girl, who has been living with her mother in the city of Onaiza, was given to the older man in marriage by her father, to pay off a debt.

Neither his wife nor the child were told that the marriage had taken place.

After a judge twice refused to annul the marriage, a lawyer acting for the child and her mother managed to reach an out-of-court settlement for the divorce to go ahead.

The judge, Sheikh Habib al-Habib, had dismissed the case, he said, because the girl's mother did not have the right to file for divorce on her behalf.

He said he would look again at the case when the girl reached puberty, and ordered that the marriage should not be consummated until the girl reached puberty.

The case has reopened the debate in Saudi Arabia on whether a minimum age for marriage should be introduced.

Saudi newspaper columnist Amal al-Zahid wrote that the “trafficking of child brides — a most reactionary practice that takes us back to the days of concubines and slave girls” should be outlawed.

She said that, by condoning the practice, the country incurred “behavioural abnormalities and problems of which only Allah knows”.

The divorce rate in Saudi Arabia has risen from 25% to 60% in the past two decades.

Ann Veneman, director of the United Nations’ children’s rights arm, Unicef, said:

“Unicef joins many in voicing concern that child marriage contravenes accepted international standards of human rights.”

The Saudi Justice ministry is reported to be considering reforms to impose a minimum age for marriage and to end abuses of the system by fathers of girls.

In February, the country’s King Abdullah appointed Norah al-Fayez as the deputy minister for women’s education, the first female minister in the kingdom.

It has also signed up to the UN Convention on the Rights of the Child.

However, the country’s highest religious authority, Grand Mufti Sheikh Abdul Aziz al-Shaikh, has said that it is not against Islamic law to marry girls under the age of 15. —

©The Times, London

K/ Woman effectively imprisoned as a result of her father’s untrammelled patriarchal authority

Saudi woman's abuse case reflects deference to custom

Abeer Allam in Riyadh , August 25 2009 , <http://www.ft.com/cms/s/0/50fcb956-910e-11de-bc99-00144feabdc0.html>

When Lulwah Abdul Rahman protested against her father's rejection of all would-be husbands because they were from outside her tribe, her life and career in Saudi Arabia were shattered. He locked her in the family home, revoked her right to work and beat her. When she filed a case to lift her father's guardianship, he consigned her to a mental institution to "discipline" her.

"The laws and the society confer absolute power on the father and brother, regardless of how cruel or incompetent they are," says Ms Abdul Rahman, 28, who has fled her home and currently lives in a shelter for abused women. "No laws are codified, so your destiny depends on the judge's mood and background. He could send me home, even knowing that I might be killed."

Ms Abdul Rahman is stuck. While Islam grants women legal and financial independence, Saudi customs permit men to deny basic opportunities to women. Without the permission of a male guardian, women have no access to work, education, travel, marriage or even medical treatment. Some women marry simply to escape abusive fathers, only to find even more oppressive husbands. Others are permitted to work only if they give their wages to male relatives, activists say.

Violence against women is not unique to Saudi Arabia - United Nations statistics suggest one in three women worldwide is subjected to physical or sexual abuse at some point in her life. But in Saudi Arabia, because of the stigma attached to women who sue family members, numbers are hard to find.

Government-run programmes have recorded sexual or physical abuse against women and children in more than 50 cases since 2007, half of which involved abusive husbands or guardians. But most abused women suffer in silence or commit suicide, especially in remote rural areas.

The Saudi government is seeking to address the issue. King Abdullah issued a royal decree in 2005 establishing the national family safety programme, while Princess Adela bint Abdullah, one of his daughters, has publicly urged women to report abuse. A family court was launched in 2007 in some cities, and the social affairs ministry operates several shelters.

However, women's rights activists say conservative judges dismiss cases brought by women against fathers or male guardians.

In Ms Abdul Rahman's case, a judge agreed to lift her father's guardianship status, but he appealed. The judge in the appeal court called her a "hussy" and asked her what kind of woman sues her own father. He ordered her to return to the family home, a decision against which she is appealing.

Since ratifying the UN convention on eliminating all forms of discrimination against women in 2001, the Saudi government has removed some hindrances. For example, Saudi women have the right to carry their own national identity cards and can stay in hotels without a guardian. However, men still often refuse to accept women's ID cards, either out of personal belief or out of fear of their male relatives.

"The Saudi government . . . needs to stop requiring adult women to seek permission from men, not just pretend to stop it," Sarah Leah Whitson, Middle East director of Human Rights Watch, said in a statement last month.

Saudi women started a campaign last month to remove the guardianship requirement. However, in reaction, a group of women has since set up a counter campaign called "My guardian knows best". Amal Khalifa, a former psychologist in Jeddah, says many doctors do not record the causes of injuries that result from domestic violence out of fear of reprisal. She says that judges then dismiss cases for lack of evidence. "Many girls flee their homes because of deprivation. They feel worthless and trapped," says Ms Khalifa. "Men tell women that 'we know what is best for you here'." Two years ago Ms Khalifa denounced the conduct of a shelter that refused to admit two teenage girls who had been abused by their father and who, after going back to his house, were killed by him. Ms Khalifa was demoted to administrative work at the hospital where she practised.

Ms Abdul Rahman is still waiting for the verdict of her appeal, but she is not optimistic. She lists her options. "I have no money, no credit cards, and my father said even if I commit suicide they'll change the record."

III/ SAUDI RESERVATIONS TO CEDAW

A/ The most important of the Saudi CEDAW reservations

1. In case of contradiction between any term of the Convention and the norms of Islamic law [sic], the Kingdom is not under obligation to observe the contradictory terms of the Convention.

B/ The Saudi CEDAW report asserts that this reservation is permissible under treaty law

The Kingdom's ratification of the Convention is based on the fact that its general content is consistent with the country's approach to safeguarding the rights of women. Ratification underlines the Kingdom's desire to be bound by the provisions of the Convention and indicates its determination to assume its responsibilities of care for the human rights of women in the country, while taking into account the reservations it has expressed thereto. These reservations are consistent with articles 19-23 of the Vienna Conventions on the Law of Treaties, concerning reservations, especially as they accord with the subject (sic) of the Convention and are not incompatible with its purpose. This will become clear in the course of this report.

C/ CEDAW policy statement against reservations that violate Article 19 (c) of the Vienna Convention on the Law of Treaties

Impermissible reservations

Article 28, paragraph 2, of the Convention adopts the impermissibility principle contained in the Vienna Convention on the Law of Treaties. It states that a reservation incompatible with the object and purpose of the present Convention shall not be permitted. . .

Neither traditional, religious or cultural practice nor incompatible domestic laws and policies can justify violations of the Convention.

<http://www.un.org/womenwatch/daw/cedaw/reservations.htm>

D/ Objections to the Saudi reservations by other parties

CEDAW parties Austria, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain, Sweden, and the U.K. entered objections to the Saudi reservation. For the text of these objections, see:

<http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>

The French objection:

26 June 2001

With regard to reservations made by Saudi Arabia upon ratification:

The Government of the French Republic has examined the reservations made by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination against Women, adopted in New York on 18 December 1979. By stating that in case of contradiction between any term of the Convention and the norms of Islamic law, it is not under obligation to observe the terms of the Convention, the Kingdom of Saudi Arabia formulates a reservation of general, indeterminate scope that gives the other States parties absolutely no idea which provisions of the Convention are affected or might be affected in future. The Government of the French Republic believes that the reservation could make the provisions of the Convention completely ineffective and therefore objects to it.[emphasis added] The second reservation, concerning article 9, paragraph 2, rules out equality of rights between men and women with respect to the nationality of their children and the Government of the French Republic therefore objects to it.

These objections do not preclude the Convention's entry into force between Saudi Arabia and France. The reservation rejecting the means of dispute settlement provided for in article 29, paragraph 1, of the Convention is in conformity with the provisions of article 29, paragraph 2.

IV/ HOW THE SAUDI CEDAW REPORT REPRESENTS SAUDI LAW

A/ A sample statement in the Saudi CEDAW report about the centrality of Islamic law

To talk about the philosophy of domestic and international law and the application thereof in the Kingdom of Saudi Arabia in isolation from the Islamic Shariah is inconceivable. Lawmaking in an Islamic state proceeds from the Islamic Shariah and this is the case in the Kingdom, where the article 1 of the Basic Law of Governance stipulates: "The Kingdom of Saudi Arabia is a fully sovereign Arab Islamic State. Its religion shall be Islam and its constitution shall be the Book of God and the Sunna of His Messenger ...". As such, the country's laws cannot transgress the framework of the Islamic Shariah and, consequently, may not be changed or developed by the legislative authority in the Kingdom in a manner which would lead to the creation of new principles, inconsistent with the bases of the Islamic Shariah, in letter and spirit. What should be stressed here is that the distinction which exists in many countries between church and state has no existence in the theory of Islamic law, since there is no separation between the Islamic Shariah and the state with its various laws. Accordingly, the legislative authority in the

Kingdom is obliged to adhere to the totality of the sources of the Islamic Shariah: “The regulatory authority shall have the jurisdiction of formulating laws and rules conducive to the realization of the well-being or warding off harm to State affairs in accordance with the principles of the Islamic Shariah...” (article 67 of the Basic Law of Governance). This is what is made clear, albeit in condensed form, by the Kingdom’s explanatory reservation to the provisions of the Convention, being a reservation relating to the application of the Convention within a framework which does not conflict with the principles of the Islamic Shariah.

B/ How the report describes the Saudi judiciary

The Saudi judiciary is a just and balanced judiciary and, according to article 46 of the Basic Law of Governance, there is no authority over judges in their judicial function other than that of the Islamic Shariah. Article 46 likewise makes clear that the judiciary is an independent authority and this principle has subsequently been affirmed by the Statutes of the Judiciary.

C/ Excerpts from the 1992 Saudi Basic Law, presented as a document prohibiting discrimination against women

Chapter 1 General Principles

Article 1

The Kingdom of Saudi Arabia is a sovereign Arab Islamic state with Islam as its religion; God's Book and the Sunnah of His Prophet, God's prayers and peace be upon him, are its constitution, Arabic is its language and Riyadh is its capital.

Chapter 2 [Monarchy]

Article 5

- (a) The system of government in the Kingdom of Saudi Arabia is that of a monarchy.
- (b) Rule passes to the sons of the founding King, Abd al-Aziz Bin Abd al-Rahman al-Faysal Al Sa'ud, and to their children's children. The most upright among them is to receive allegiance in accordance with the principles of the Holy Koran and the Tradition of the Venerable Prophet.
- (c) The King chooses the Heir Apparent and relieves him of his duties by Royal order.
- (d) The Heir Apparent is to devote his time to his duties as an Heir Apparent and to whatever missions the King entrusts him with.
- (e) The Heir Apparent takes over the powers of the King on the latter's death until the act of allegiance has been carried out.

Article 6

Citizens are to pay allegiance to the King in accordance with the holy Koran and the tradition of the Prophet, in submission and obedience, in times of ease and difficulty, fortune and adversity.

Article 7

Government in Saudi Arabia derives power from the Holy Koran and the Prophet's tradition.

Article 8 [Government Principles]

Government in the Kingdom of Saudi Arabia is based on the premise of justice, consultation, and equality in accordance with the Islamic Shari'ah.

Chapter 3 Features of the Saudi Family

Article 9

The family is the kernel of Saudi society, and its members shall be brought up on the basis of the Islamic faith, and loyalty and obedience to God, His Messenger, and to guardians; respect for and implementation of the law, and love of and pride in the homeland and its glorious history as the Islamic faith stipulates.

Article 10

The state will aspire to strengthen family ties, maintain its Arab and Islamic values and care for all its members, and to provide the right conditions for the growth of their resources and capabilities.

Article 11

Saudi society will be based on the principle of adherence to God's command, on mutual cooperation in good deeds and piety and mutual support and inseparability.

Article 12

The consolidation of national unity is a duty, and the state will prevent anything that may lead to disunity, sedition and separation.

Article 13

Education will aim at instilling the Islamic faith in the younger generation, providing its members with knowledge and skills and preparing them to become useful members in the building of their society, members who love their homeland and are proud of its history.

Chapter 5 Rights and Duties

Article 23 [Islam]

The state protects Islam; it implements its Shari'ah; it orders people to do right and shun evil; it fulfills the duty regarding God's call.

Article 24 [Holy Places]

The state works to construct and serve the Holy Places; it provides security and care for those who come to perform the pilgrimage and minor pilgrimage in them through the provision of facilities and peace.

Article 26 [Human Rights]

The state protects human rights in accordance with the Islamic Shari'ah.

Article 27 [Welfare Rights]

The state guarantees the rights of the citizen and his family in cases of emergency, illness and disability, and in old age; it supports the system of social security and encourages institutions and individuals to contribute in acts of charity.

Article 28 [Work]

The state provides job opportunities for who-ever is capable of working; it enacts laws that protect the employee and employer.

Article 38 [Punishment, nulla poena]

Penalties shall be personal and there shall be no crime or penalty except in accordance with the Shari'ah or organizational law. There shall be no punishment except for acts committed subsequent to the coming into force of the organizational law.

Article 47

The right to litigation is guaranteed to citizens and residents of the Kingdom on an equal basis. The law defines the required procedures for this.

Article 48

The courts will apply the rules of the Islamic Shari'ah in the cases that are brought before them, in accordance with what is indicated in the Book and the Sunnah, and statutes decreed by the Ruler which do not contradict the Book or the Sunnah.

Article 81

The implementation of this law will not prejudice the treaties and agreements signed by the Kingdom of Saudi Arabia with international bodies and organizations.

D/ Saudi claims about how the Basic Law and Islamic law support women's equality

The aforementioned articles of the Basic Law of Governance, as well as recently promulgated laws to be mentioned below, show the extent of the State's commitment to achieving gender equality in respect of public rights and duties, in a manner consistent with the Islamic Shariah which has provided women with full rights for more than 1,400 years. . .

The Holy Koran and Immaculate Sunna contain many stipulations prohibiting discrimination on the grounds of race, colour or gender, or other forms of discrimination. They contain unequivocal rulings in favour of non-discrimination between men and women, desiring that women enjoy the same rights and duties on a basis of equality. . .

The Basic Law of Governance addresses the protection of human rights in a general manner. Article 26 stipulates: “The State shall protect human rights in accordance with the Islamic Shariah.” This includes the prohibition of discrimination against women.

The Basic Law of Governance provides for the principle of equality before the law. Article 47 stipulates: “The right of litigation shall be guaranteed equally for both citizens and residents in the Kingdom. The law shall set forth the procedures required thereof.” The Basic Law of Governance likewise guarantees that litigation before all courts and judicial bodies shall be free of charge.

Under the rubric of “The social and economic framework,” the report makes the claim that since its founding in 1932, Saudi state has been concerned with “the social and economic aspects” of women:

Since its foundation, the Kingdom of Saudi Arabia has devoted attention to the social and economic aspects of the family in general and of women in particular, in the belief that women have a special role to play in the destiny of peoples and that no nation can have a radiant future without the conscious involvement of mothers.

Under the rubric “Means of redress available to women” the report makes general claims about the Saudi system without acknowledging the special needs of women or the problems that they face in the judicial system, which were illustrated by the incidents described at the outset of this assessment:

The laws of the Kingdom, which derive from the Koran and Sunna, require redress for a woman if she is subject to discrimination or injustice. The appropriate agencies of state are obliged to apply the principle of equality in the exercise of their authorized competence and not to discriminate in respect of the rights stipulated under articles 26, 27, 28, 30, 31, 35, 36, 37 and 38 of the Basic Law of Governance. . .

The Basic Law of Governance in the Kingdom, derived from the Holy Koran and Sunna of the Messenger, holds the principle of equality and non-discrimination to be among the fundamental imperatives of Saudi society. It is stipulated in all the relevant articles of the Basic Law of Governance for the reason that no suspicion of discrimination has any existence in the Islamic religion.

Other claims in the Saudi CEDAW report about how the Basic Law supports women’s equality:

In the political sphere:

- In accordance with article 6 of the Basic Law of Governance, women join with men in pledging allegiance to whoever is chosen king;

In the economic sphere:

- Article 28 stipulates that the State shall facilitate the provision of job opportunities to every able person, and shall enact laws to protect the worker and the employer;
- Article 59 stipulates that the law shall set forth the provisions for civil service, including “salaries, stipends, compensation, fringe benefits, and pensions”, pursuant to which the Civil Service Law does not discriminate between men and women;

In the social sphere:

- Article 10 stipulates that the State shall endeavour to strengthen family bonds, care for all its members and provide conditions conducive to the development of their talents and abilities;
- Article 27 stipulates that the State shall guarantee the right of the citizen and his family in emergencies, sickness, disability and old age, shall support the social security system and encourage institutions and individuals to participate in charitable work;
- Article 30 stipulates that the State shall provide public education and be committed to combating illiteracy;
- Article 31 stipulates that the State shall be responsible for public health and provide health care to every citizen.

E/ The report describes how Islam upholds the complementarity thesis

Islam’s view of woman derives from her shared humanity with man: they are equal in respect of a basic humanity which is unaffected by division into sex. It views both woman and man in a social framework governed by relations of reciprocal rights, exemplified in practice by human morality, mutual understanding and love, not by confrontation and disruption. However, proceeding from a basis of realism, Islam holds that full likeness between men and women is contrary to the reality of their being, to which the facts attest (it is the woman who conceives, gives birth and nurses, not the man). Scientific studies attest to the physiological difference between them and the Convention acknowledges this in article 4, considering the protection of maternity to be a woman’s right and not discriminatory. The Islamic Shariah respects these natural differences and accords woman a privileged position in order to achieve justice for her. . .

Islam views the relationship between man and woman as a complementary one, with each forming the complement of the other. Our Prophet Muhammad said: “Women are the sisters of men.” By this complementariness, the social structure is given a human face through a cooperative blending which proceeds from intimacy, amity and mutual respect, with each playing the part he/she can in the absence of the strife and self-containment which are incompatible with the nature of being. It is by means of the complementary relationship between man and woman that the family, which represents the basic building

block of Muslim society and civilization as a whole, is built. Accordingly, Islam affirms many values which promote the family, which is not limited to husband and wife but extends to include children, siblings, parents and relatives. These values include filial piety, the bond of kinship and the raising of children.

F/ The report claims that the Western tradition divides the private and public spheres

There is an ancient view, traceable to the Hellenic age, which posits a distinction in society between the private and public domains. The private is the family and the public is society in its public structure – essentially, politics. With Locke, modern liberalism adopted this division, making a distinction between the two whereby the public (the political domain) has a contractual character based on the practice of individual freedom, while the private (the family) is based on natural relations whereby the strongest (here, the man) dominates and subjugates the weaker (the woman) who remains confined to the private sphere. This has had subsequent implications in the form of the antithetical attitudes of women’s movements, calling for the dissolution of the family, protection of women from subjugation and the advancement of women toward the public domain to occupy the position previously monopolized by men.

In Islam, a woman is not, in principle, confined to the private domain. Like a man, she moves in both domains together, in accordance with the requirements of her own, her family’s or society’s interests. Furthermore, the values governing the public domain are those which govern the private. Thus justice, counsel and the reciprocal fulfilment of rights are ordained in both domains, and men and women together have responsibility in respect of both.

G/ In response to CEDAW Article 2, the report describes Saudi laws affecting the family

The Kingdom of Saudi Arabia accords special importance to the family, being concerned for its security and stability. The Islamic Shariah is the legal framework for the social laws and, accordingly, a woman has the right to choose a husband and to enter into marriage only with her consent. The laws in force in the Kingdom stipulate that the woman’s consent must be ascertained by whoever concludes a contract of marriage. By Decree no. 109 (5 Jumada I 1391 AH), the Supreme Judicial Council (the Supreme Council of the Judiciary) issued a circular to the courts and registrars of marriage on the need to ascertain a woman’s consent to her marriage.

In 2002, the average age of marriage for women was 21.6 years and for men, 24.8 years. It should be noted that, after concluding the marriage contract, a woman has the right to a dowry and a home. Her husband is obliged to support her adequately and, by law, she has the right to demand payment in the event that her husband refuses to support her adequately.

Marriage does not affect a woman’s legal capacity or her financial status,

which remains independent from that of her husband. A woman has complete freedom to administer her property and assets. She retains her own family name, profession and occupation. As for a woman's right to divorce or to dissolution of the marriage contract, the law gives her the right to apply for separation on grounds of hurt. If the husband is absent without good cause, the wife may apply for divorce, if she suffers hurt because of his absence. The same applies if the husband is sentenced to imprisonment or refuses to support her adequately. The wife also has the right to divorce at her instance by resort to law.

I/ Sample Saudi responses to questions posed by the CEDAW Committee

Committee on the Elimination of Discrimination against Women Pre-session working group Fortieth session 14 January-1 February 2008. Responses to the list of issues and questions contained in document number CEDAW/C/SAU/Q/2, A.H. 1428 (A.D. 2007) [Excerpts]

2. Please clarify the precise scope of Saudi Arabia's general reservation to the Convention on the basis of the norms of Islamic Law, and describe the impact of this reservation on the practical realization of the principle of equality between women and men as required under article 2 (a) of the Convention.

The Kingdom made this reservation on the basis of its conviction that the Islamic sharia is compatible with the obligations contained in the general principles of the Convention, even if there is a small disparity with regard to some of the implementing provisions. Judgements about whether or not such a disparity exists are made on the basis of the texts of the Islamic sharia and the relevant provisions of the Convention on a case-by-case basis. This demonstrates the extent to which the Government of the Kingdom is seriously committed to fulfilling its obligations under the Convention and ensuring women's rights. Legal interpretation of the provisions of the Convention is left to the judicial authorities, which take their decisions based on the facts in each case.

The general reservation made by the Kingdom does not affect the core of the Convention or detract from its legal force before the judicial and executive authorities. It is merely a precautionary measure at a time when human rights concepts are developing rapidly as a result of interpretations following the entry into force of international human rights instruments such as the Convention. Not only might these interpretations sometimes go beyond the literal content of the provisions, but the interpretation might, itself, become a core principle in the opinion of some of the subcommittee's experts. The reservation is thus primarily a precautionary measure against possible interpretations of the Convention that might contradict legal provisions in force in the Kingdom.

In any case, the Government does not believe that the wording of its reservation interferes with its obligations under the Convention. This is clear from the Kingdom's report, which lays out the sharia and legal provisions relating to women and shows clearly that there is no contradiction between the main provisions that form the basis of the Convention and Islamic sharia principles relating to women's rights.

7. The report is silent on the ban on driving by women. It also does not discuss prevailing dress codes for women, their legal or other basis, and enforcement mechanisms, and the compatibility of these measures with the Convention. Please elaborate.

There is no legal provision banning women from driving cars. However, this matter is the subject of study and requires time for implementation.

There do exist, however, sharia provisions mandating modest and chaste dress codes for women. Moreover, a variety of local customs and traditions exist in different parts of the Kingdom.

16. The report states that women did not participate in the first municipal elections in Saudi Arabia, but that the Municipal Elections Law contains the word "citizen" which covers women and men equally, and that officials have made statements regarding women's participation in the forthcoming elections. Please clarify whether women are ensured the same rights as men to vote and to be eligible for election at all levels, and indicate the legislative basis of these rights. Please also describe the concrete steps the Government has taken to ensure that women are able to fully participate in the forthcoming elections as voters and candidates.

Women have the same political rights as men and are ensured the same right as men to participate in the decision-making process. The law does not prohibit women from participating in elections, although, in practice, that participation is not completely possible. Women also have the right to participate in elections of the council of chambers of commerce and have won seats in a number of those councils.

V/ SAUDIS PRESSURED TO GRANT WOMEN RIGHTS

http://www.metimes.com/International/2008/02/07/saudis_pressured_to_grant_women_rights/9955/

By FEDERICA NARANCIO (Middle East Times) February 07, 2008

The U.N. and human rights organizations are voicing concern over the lack of progress in women's rights in Saudi Arabia as mounting pressure on the kingdom fails to stem violence against women.

Some rights activists believe that international exposure of abuses against women would be the most effective way to coerce Riyadh into introducing changes. Others caution that such international scrutiny could backfire and that deeply-rooted traditions within Saudi society need to be weighed when introducing progressive reforms.

Professor of Middle Eastern issues at the American University Kristin Diwan said the ultra-conservative kingdom, in which the strict Wahabi school of Islam is practiced, "is one of the least favorable [of Islamic countries] to women's rights. . ."

"We have seen a few changes with the king. This week there has been talk that they might allow women to drive in Saudi Arabia, which would be a historical change," she said, adding, "It looks like the current government is hoping to move things that way. Yet they have always been very cautious, since they have to wait for society to be ready for this as well."

A driving ban on women highly restricts their movement as Saudi Arabia has no public transportation, according to a U.N. report published last December. Lifting this restriction would be one way of giving women more independence, the report recommended.

A U.N. committee on women's rights has offered other recommendations to the Saudi kingdom. They, too, are still pending.

On Jan. 17 the U.N. committee met in Geneva with a delegation of Saudi officials headed by Zeid Bin Abdul Muhsin al-Hussein, vice president of the Human Rights Commission of Saudi Arabia. A report drafted after the meeting said that one of their many concerns was that "neither the [Saudi] constitution, nor other legislation, embodies the principle of equality between women and men. . ." (emphasis added)

It also pointed out that the government had made "limited efforts" to end cultural and stereotyped traditions that were discriminatory, such as the concept of male guardianship.

Under this practice, which according to Saudi officials has no legal basis, women have to be accompanied or authorized by a man to perform any task beyond her home. According to the report a women's, "education, work, public activity, and movement are all relying on her male guardian, or mahram," which they are dependent on throughout their lives.

The United Nations also recommended that the government authorities should ban the practice of polygamy, introduce a minimum age for marriage, improve women's literary rate, and fight against domestic violence that is prevalent in the country.

The Middle East Times tried to reach Saudi officials at the embassy of Washington, D.C. to comment on the U.N. evaluation, but no one was available for comments.

Following the report, Yakin Erturk, a U.N. special rapporteur on violence against women, flew to Saudi Arabia to interview government officials, human rights' experts and women victims of violence, AFP has reported.

The international exposure of women's issues in Saudi Arabia is seen positively by Ali Alyami, Washington, D.C.-based director of the Center for Democracy and Human rights in Saudi Arabia.

Alyami, who consistently denounces human rights' violations in his country, said that women would impose change whether the king liked it or not.

"They are talking loudly, they are writing, and becoming educated. It is difficult for the king and his family to silence them without being targeted," Alyami said. "They know how sensitive women's issues are globally and that everyone will demonstrate and protest if they do something. I believe that now they are paying more attention to the international community."

According to Alyami, the Saudis will have to adapt to advances in the region and to global demands.

Diwan also said that there were economical and social changes in the Middle East that Riyadh would have to adapt to. Abdullah was attempting to adapt economic models from other regions, such as Asia, to liberalize his country, but without surrendering political power, she said. These changes might usher in reforms in the area of women's rights. . .

