Dead-Letter Reforms:
Saudi Women’s Rights Still at Risk

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Introduction

For more than five years, the Kingdom of Saudi Arabia has undergone a major decline in public rights and freedoms, especially after King Salman bin Abdulaziz assumed office on January 23, 2015, following the death of his 90-year-old brother, Abdullah bin Abdulaziz Al Saud.

Administrative authorities in the monarchy have violated both domestic and international laws, putting all citizens in general, and women in particular, under a repressive regime. Females, especially those who spoke out as human rights defenders, have been arrested and abused for expressing their opinions or participating in peaceful assembly—such arrests often end in torture and long-term, arbitrary detention.

Saudi Arabia observers were optimistic that change was coming when Muhammad bin Salman was appointed crown prince in June 2017. The following September, he issued a royal decree lifting the ban imposed on driving for women. In addition, women were allowed into football matches and King Salman pledged to permit females to work in a broader variety of positions and earn salaries equal to those received by men.

However, those pledges of reform have failed to match reality. All those who criticize government policy have been targeted, including jurists, academics, businesspeople, intellectuals and clerics. Those who publicly demanded the additional freedoms they had been promised were arrested and tortured, as well as defamed in the media.

In 2019, the World Economic Forum’s Global Report on Gender Disparities rank Saudi Arabia 146th among 153 countries in assessing women’s freedom. Another report on the status of women’s rights in Arab and European countries, issued by the World Bank, gave Saudi Arabia zero points for freedom to travel and earn a suitable wage. According to that report, women workers in Saudi Arabia are paid 56% less than men.
In this report, the Euro-Mediterranean Human Rights Monitor exposes the current reality of women in the Kingdom of Saudi Arabia, the legal ramifications of such reality, and possible measures to promote women's rights in the Kingdom.

Restrictions on basic rights

For decades, Saudi authorities have imposed restrictions on women, including the rights to drive, obtain a passport, travel, work, receive an adequate wage, choose their own husband, obtain health care or leave prison and foster care.
Right to drive

Saudi women first began challenging the restrictions on driving on November 6, 1990, when 47 females protested by driving 13 cars in the city of Riyadh, the kingdom's capital. Saudi authorities arrested these women, prevented them from traveling for a year and fired them from their jobs for 32 months. Their families were forced to pledge they would not allow said women to repeat this act again.

That campaign was followed by others. In 2011, two Saudi women launched a campaign on Facebook called “I will drive my car myself.” Before they could carry out this pledge, they were arrested.

In 2013, yet another campaign was launched, called “The Right to Drive.” Predictably, it was followed by the detention of all participants by Saudi authorities.

Similar campaigns continued until King Salman issued a royal decree in September 2017, allowing women to drive inside the kingdom. However, few weeks before the decision went into effect the following year, Saudi authorities arrested a group of women demanding the right to drive and the abolition of the male-guardianship system. The government accused them of communicating with opposition parties, as well as of advocating for women’s right to drive and other privileges. Question: Why would the Saudi authorities arrest women for claiming these rights when the state clearly recognizes them?
Accordingly, those who demanded women’s right to drive and called for the abolition of male guardianship either remain in prison (e.g. Lujain Al-Hathloul, Nouf Abdul Aziz, Samar Badawi and Nassima Al-Sada) or were released temporarily but still face criminal charges (e.g. Iman Al-Nafjan, Aziza Yousef, Amal Al-Harbi And Hatoon Al-Fassi, Shaddan Al-Anazi, Abeer Namankani, Maysaa Al-Mana and Mia Al-Zahrani—all arrested before and after the driving ban was lifted on the basis of freedom of opinion and expression.)
Right to obtain a passport and travel

In 2015, Saudi authorities launched an electronic platform called Absher ("Be Optimistic"), through which users can access the Ministry of Interior to obtain or renew passports, pay fines..., etc. If an applicant is a female, the platform allows her male guardian to track and control her travel. Many employers refuse to hire women for jobs involving travel, fearing their guardians may prevent them from fulfilling their responsibilities.

In fact, traditionally, Saudi women haven’t even been permitted to leave their homes without their guardians’ consent. If they do, the men can obtain a court order forcing those women to return. As a result, some Saudi women have attempted to escape the kingdom, seeking freedom elsewhere.

On July 31, 2019, the Saudi Council of Ministers pledged to allow women over the age of 21 to obtain a passport and travel without a guardian’s permission.

However, Euro-Med Monitor researchers in the field found little has changed in reality. The Absher platform still prevents women from obtaining a passport or traveling without prior permission from their guardians because its database was not updated by the Saudi Ministry of Interior. In fact, while about 1,000 Saudi women traveled abroad since Aug. 19 without permission from their parents, many others complained on Twitter about the web portal. The portal, they said, was not connected to the online application; in addition, it still allows male guardians to monitor women’s movements, inconsistent with their right to privacy.
The Saudi Passports Administration responded, saying that women over the age of 21 can apply in person. In addition, it is about to update the Absher application so that women can travel and obtain a passport.

In this regard, Mr. Joe Cannataci, special rapporteur on privacy and head of the U.N. Working Group on Discrimination against Women and Girls, expressed deep concern about the efficacy of electronic tools, especially if they are related to rights and freedoms. “I am particularly concerned about the use of the Absher’s mobile phone app that allows male ‘guardians’ to monitor, restrict and control women’s whereabouts and freedom of movement in ways that are incompatible with their human right to privacy. I expect that this type of functionality will be immediately abolished in order to be compliant with both the spirit and the letter of the new law,” he said.

On the other hand, the decision to allow Saudi women to travel abroad without guardian approval is not applicable to everyone. The ruling does not address divorced women with children or those females under the legal age of 21. A Saudi woman, a dentist holding a PhD from Britain, said, “I have a 16-year-old daughter and my husband divorced me months after she was born. Because of my work I travel a lot to participate in scientific conferences, and every time I want to take my daughter with me, my husband refuses. I cannot do anything because the laws prevent me from accompanying my daughter since she is under 21.”

“I have always wished a decision could be issued to deal with those like me. I tried to approach the authorities since my child was 2 years old, trying to make them look at the humanitarian condition of divorced girls, but they did not agree. That led me to appoint a lawyer more than once so that we, my daughter and I, could travel. However, it was eight months until a decision affecting my career and my daughter’s academic performance was reached. I always wondered how my ex-husband, who is not obligated to pay the children’s expenses, could enjoy a stable life while preventing us from travelling. Now, we will have to wait another five years.”
The right to leave prison and care homes

Saudi prisons do not allow the release of female prisoner even after the end of her legal sentence but require the consent and the signature of the guardian, where he must receive them. If the guardian refused to release her or her family refused to receive her after the end of her prison period, a woman remains in prison or is transferred to a care home where she may spend the rest of her life. At the same time imprisoned man can leave the prison unconditionally when their sentence end.

Most of female prisoners’ ages range from 16 to 40 years old. The majority of whom have middle school education, unemployed or divorced women, who have been subjected to domestic violence or suffer from mental illness. Women sometimes turn to prison as a safe haven by their decision, due to sexual assault by a member of her family, or because they were subjected to intimidation by a family member. A woman would be imprisoned based on an absentee lawsuit brought against her by her family, for crimes she committed, or for disobedience lawsuit brought by her guardian because she refused to get married, for example.

As for the care homes that female prisoners are transferred to after their prison sentence ends and their families refuse to receive them, we find that they receive females from seven to thirty years old. In the care home, a woman remains waiting indefinitely for her guardian’s approval so that she can get out of it.
In an interview with a victim of a care home, she said under the condition of anonymity, “I was imprisoned because I went out of my family’s house to report violence I experienced. They sent me to prison for absenteeism. After I finished my sentence, my family refused to receive me where I was taken to a care home. In fact, there is not much difference between the care home and the prison. The difference is only in the name. In care homes, there are cameras everywhere, even in the bathrooms”.

She added, “we are subjected to horrific physical searches and horrendous treatment every day, in addition to the supervisors threatening us with solitary confinement, which is a bed in the bathroom, or depriving us of food. I assure you that we are exposed to many ugly things inside this ‘prison’”.

In another interview with one of the detainees in the care homes, she said, under the condition of anonymity, “I am a mother of four children. I stayed in prison for two years, because of a report from my husband, in which he accused me of having an unlawful relationship during our marriage. At the end of my sentence, the authorities asked my family to receive me. However, my uncle refused to receive me, so I stayed for another nine months in prison, then I was transferred to the care home because my family refused to receive me until this moment”.

“I am a victim of a family that imprisoned me, and still refuses to receive me from the care home. I am waiting for my family to be kind to me and to release me so that I can return to life and live normally.”

According to the information collected by Euro-Med Monitor team, it was found that marriage of women prisoners is the only way to get out detention in care homes, where women in this case are married by intermediaries or charitable marriage societies. These women are also used in Misyar marriage (a kind of marriage in which the wife agrees to give up their rights such as housing and alimony)

A source, asked to be unnamed, told Euro-Med Monitor, “many womens’ families refuse to receive them from prisons, or they may disown them with written consent. So, they find no solution other than to get married so that they can leave the care home”.

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“A woman in a care home is not allowed to get married unless after making sure that her family does not want her to receive it,” the source added. “The men who propose to these women are often extremists or ostracized or have precedents. They want to marry these girls because of the low dowry that does not exceed $800 or less. Once a woman marries, she can leave the care home, while if she gets divorced from her husband, she will be sent back to the care home, and she can only leave if she got married again, and so on”.

Right to choose who and when to marry

Saudi women are subjected to what is called the “male guardianship system.” It deprives women of decision-making authority in many matters of daily life. The system prevents women from making any decision or doing many types of work without their guardians' approval. A guardian may be a father, husband, brother or even son.

Under the system, women are not allowed to marry a man without their guardians' approval. In contrast, men can freely choose who to wed.

Divorce proceedings are even more difficult. A woman’s male relatives can force her to divorce her husband if they decide he is not suitable; they can simply submit a petition to the court. The woman herself, however, cannot make such a decision on her own. She only can ask for khula, a form of separation. In return, the man can demand return of the full dowry he paid.

Euro-Med Monitor’s team documented some cases of Saudi girls who were forcibly married. In an interview, one of the victims said, under the condition of anonymity, “My family agreed I would marry one of my relatives, although I did not agree. I tried to cope but I could not adapt to living with him. My marriage continued for two years, and I experienced real suffering. After two years, we resorted to divorce as a final solution.”
Another victim of forced marriage said, “My family forced me to marry someone I did not want. My marriage lasted four years. I gave birth to a son and daughter despite the many differences we had, and despite the fact that I didn’t believe in the marriage. The victims of this marriage were my children, whom we could not provide with a suitable family environment.”

Right to medical care

Although Saudi rules don’t require women to obtain their guardians’ approval to receive health care, some hospitals demand it anyways. If they do, no punishment is imposed. Government hospitals, in particular, demand a guardian’s approval when a woman needs surgery or other serious medical procedures. In contrast, private hospitals do not impose such mandates.

Manar Al-Jassem is a clear example of the violations of the right to health care. She is a Saudi teacher whose husband refused to approve an urgent Caesarean section. Her husband only approved the operation after he was persuaded and warned of the seriousness of the situation. Manar confirmed that the hospital administration refused to conduct the operation without the signature of her guardian.

On this incident, Manar said: “I went through a very bad situation as a result of this incident, which prompted me to search more about a woman’s right to make decisions in the operating room. I found out that I know nothing about my basic right to health care. The law allows those who have reached 18 to decide whether to access health care, including surgical operations. Although this right is ours, hospital administrations still require a guardian’s approval.”

Moreover, if a female student’s life or health is at risk inside a university, ambulances are not allowed to enter without permission from her guardian, since crew members are usually males.
In October 2019, a student at Saudi Jazan University suffocated due to a blood allergy. She became unconscious and couldn't breathe. Her parents asked the Red Crescent to send an ambulance crew immediately, but the undersecretary of the College of Pharmacy prevented the paramedics from entering because they were male. This delayed the patient’s aid and caused her health to deteriorate. When the patient’s father arrived, he entered the college with security guards and paramedics, and they managed to transfer her to hospital.

In July 2019, student Fatima Al-Shammari died in one of the halls of the University of Hail, after experiencing cramping and loss of consciousness. When the ambulance crew arrived, security forces prevented the male crew from entering and demanded that a group of women check on the girl. She died as a result of delaying the ambulance crew.
Case studies: Women subjected to detention and torture

Many Saudi women have suffered various forms of abuse following Mohammed bin Salman’s ascendance to the crown. Saudi authorities have persecuted human rights activists and journalists who were pioneers in the campaign for women’s rights. These women were arrested, imprisoned and tortured, in violation of international law.

Saudi authorities not only arrested female human rights activists to deny them their basic rights, but also physically and psychologically tortured them.

In its report, Euro-Med Monitor describes several representative cases of arrested and tortured Saudi women. Our team received this information from local activists, the detainees themselves, their relatives and others.

Iman El-Nafjan

On May 15, 2018, Saudi state security forces arrested human rights activist Iman El-Nafjan, accusing her of undermining the kingdom’s security and stability, as well as having “suspicious contacts with outsiders.” The activist was detained incommunicado and deprived of a lawyer’s counsel.

El-Nafjan’s detention continued for 10 months, until she was released March 28, 2019. She was subjected to many types of torture during her detention. She was electrocuted, flogged on the feet and legs, and held in solitary confinement for several months. Moreover, she was sexually harassed.
Lujain Al-Hathloul

On May 15, 2018, Saudi authorities arrested women’s rights activist Lujain Al-Hathloul on charges of violating religious and national norms, in addition to “supporting suspicious external parties.” The authorities took her to an unknown place and denied her the right to defend herself, including appointing a lawyer.

According to relatives of Al-Hathloul, she was subjected to severe torture. She was threatened with rape and murder, thrown into the sewage system, electrocuted, stripped and photographed, and held in solitary confinement. The authorities also attempted to force-feed her during the Islamic month of fasting, Ramadan.

Al-Hathloul’s family stated that the authorities offered to release her if she filmed a video in which she stated she had never been subjected to any kind of torture. However, Al-Hathloul refused and she remains in detention until this date.

Reem Suleiman

In September 2018, an armed group raided the house of writer Reem Suleiman and took her to an unknown place in the city of Riyadh. She was interrogated about articles and tweets she published and shared.

Suleiman recounted the story of her arrest via Twitter upon her release. She said: “A black car took me to an unknown place, and when we arrived, they pulled me out of the car and threw me in detention, where the smell was very stinky. I remained on the ground blindfolded and handcuffed. Hours later, they removed the handcuffs and began interrogating me about the articles I wrote about the kingdom’s policies. The investigation was full of insults, cursing and psychological torture, and this continued for two days.”

She added, “I remained in this condition until they told me that they would release me, but only on condition that I do not speak to anyone about the torture I suffered, and providing that I stop writing after leaving prison. I agreed to this for fear of being subjected to rape and enforced disappearance, as happened to many of the detainees. I fled and sought asylum in the Netherlands after my release, in search of safety and freedom.”
Dr. Aziza Al-Youssef

In May 2018, forces belonging to state security arrested Dr. Aziza Al-Youssef, a prominent activist who campaigned for the right of women to drive as well as against the male guardianship system. She was detained in the headquarters of the State Security Agency in Jeddah. During her detention, she was subjected to many forms of torture and verbal abuse, such as cursing, electrocution, whipping and solitary confinement.

Dr. Youssef’s detention continued for 10 months; she was released on March 28, 2019, on bail and is still waiting for trial as of this day.

Khadija Al-Harbi

In April 2019, the Saudi author, Khadija Al Harbi, was arrested while she was in her last months of pregnancy. Saudi authorities have not disclose her place of detention or even the charges under which she was arrested. Al-Harbi gave birth in prison, and the authorities did not release her despite her circumstances.

Dr. Sheikha Al-Arf

In April 2019, Saudi authorities arrested the doctor and academic researcher Shaikha Al-Arf and her husband, lawyer Abdullah Al-Shehri, without explaining the reasons. They are still in detention until today.

Asayel al-Bishi

In February 2020, Saudi authorities detained the Saudi artist, Asayel Al-Bishi, on the background of her release of the song “Bint Makkah”. The Governor of the Mecca province, Khaled Al-Faisal, ordered the arrest all those involved in the production of the song, on the pretext that it “offends the customs and traditions of the people of Mecca and contradicts the identity and high traditions of its sons ”. The authorities arrested Al-Bishi under Article 6 of the Cyber Crime System, before releasing her shortly after.
Legal background

The Euro-Med Monitor concludes that Saudi authorities have clearly and grossly violated the provisions and charters of international human rights laws.

Torture is a crime prohibited by international law in all its forms, and there is no justification for it in any way and under any circumstances. The prohibition of torture is based on Article 5 of the Universal Declaration of Human Rights, which states that, “No one shall be subjected to torture, penalties, or cruel or degrading punishment or treatment.”

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, which Saudi Arabia ratified in 1997, stipulates in Article 1 that the definition of “torture” is “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

In 2009, Saudi authorities ratified the Arab Charter on Human Rights, which was approved by the League of Arab States in 1994, affirming all basic principles stipulated in the Universal Declaration of Human Rights and the United Nations Charter, The Charter emphasizes the criminalization and absolute prohibition of torture.

The Arab Charter stipulates in Article 8 that:

1. No one shall be subjected to physical or psychological torture or to cruel, degrading, humiliating or inhuman treatment.

2. Each state party shall protect every individual subject to its jurisdiction from such practices and shall take effective measures to prevent them. The commission of, or par-
ticipation in, such acts shall be regarded as crimes that are punishable by law and not subject to any statute of limitations. Each state party shall guarantee in its legal system redress for any victim of torture and the right to rehabilitation and compensation.

3. Each state party in its legal system shall guarantee the fair trial of those who are subjected to torture and shall give them the right to rehabilitation or reimbursement. The Universal Declaration of Human Rights (UDHR) also prohibits arbitrary detention. Article 9 stipulates that, “No person shall be subject to arbitrary arrest, detention or exile.”

International conventions have also prohibited the crime of enforced disappearance. The first paragraph of Article 1 of the International Convention for the Protection of All Persons from Enforced Disappearance states that “no person may be subjected to enforced disappearance, whether during a state of war and internal political instability or as a threat of war or for any other reason.”

Likewise, according to Article 5 of the same convention, the practice of general or systematic enforced disappearance is a crime against humanity. This is stipulated in the Rome Statute regulating the International Criminal Court.

As for the violations of the fundamental rights of Saudi women, the Universal Declaration of Human Rights states that all people are equal in the enjoyment of rights and freedoms. Article 2 stipulates, “Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion, political or another opinion, national or social origin, property, birth or another status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”

The declaration also guarantees the right to travel. Article 13 states in the second paragraph that, “Everyone has the right to leave any country, including his own, and to return to his country.”
The right to work and receive a fair wage is protected in the declaration as well. Article 23 says: “1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. 2. Everyone, without any discrimination, has the right to equal pay for equal work.”

As for the guardianship system, it clearly contravenes international conventions, especially the Convention on the Elimination of All Forms of Discrimination against Women, which the Kingdom of Saudi Arabia joined in 2000. Article 2 condemns “all forms of discrimination against women and states agree to adopt, by all appropriate means and without delay, a policy aimed at eliminating discrimination against women, and to that end, they undertake to do the following:

A) Incorporate the principle of equality between men and women in their national constitutions or other appropriate legislation, if this principle has not been incorporated into it yet, and to ensure the practical realization of this principle through legislation and other appropriate means.

B) Take appropriate legislative and other measures, including appropriate sanctions, to prohibit all discrimination against women.

C) Enforce legal protection of women’s rights on an equal basis with men, and ensure effective protection of women, through the competent courts and other public institutions of the country, from any discriminatory action.

D) Refrain from engaging in any act or practice of discrimination against women and ensure that public authorities and institutions act in accordance with this obligation.

E) Take all appropriate measures to eliminate discrimination against women by any person, organization or institution.

F) Take all appropriate measures, including legislation, to alter or nullify existing laws, regulations, customs and practices that constitute discrimination against women.

J) Repeal all national penal provisions that constitute discrimination against women.”
## List of arbitrarily detained women in prisons and detention centers

<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Date of Arrest</th>
<th>Legal Status</th>
<th>Place of Detention</th>
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<tr>
<td>1.</td>
<td>Asayel al-Bishi</td>
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<td>2.</td>
<td>Khadija Al-Harbi</td>
<td>2019/04/04</td>
<td>Pending trial</td>
<td>Al-Hayer Prison/ Riyadh</td>
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<td>3.</td>
<td>Sheikha Al-Arf</td>
<td>2019/04/13</td>
<td>awaiting trial</td>
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<td>4.</td>
<td>Abeer Abdullah Al-Namankani</td>
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<td>6.</td>
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<td>7.</td>
<td>Htun El-Fassi</td>
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<td>Shaddan Al-Anzi</td>
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<td>Aziza Al-Youssef</td>
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<td>2018/15/05</td>
<td>Release</td>
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<td>2018/30/07</td>
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<td>2018/15/05</td>
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<td>Reem Suleiman</td>
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<td>Ruqaya Muhareb</td>
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<td>Aida Al-Ghamdi</td>
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<td>Dina Ali</td>
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<td>24</td>
<td>Maryam Al-Otaibi</td>
<td>2016/18/04</td>
<td>Release</td>
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</table>
Recommendations

Within the framework of its international obligations, Saudi authorities must abide by all human rights standards in all legislative, executive and judicial procedures.

This requires Saudi authorities to implement the following recommendations:

1. Immediately release the women detainees, drop all charges based on legitimate activities and compensate them fairly.

2. Ensure the fair trial for all detainees and allow them access to legal counsel.

3. Initiate real reform to empower Saudi women and protect their basic rights.

4. Cease all forms of torture, abide by international agreements signed, especially the Convention against Torture, and ensure that perpetrators are held to account.

5. Lift all restrictions on the basic freedoms of Saudi women, such as the choice of who and when to marry and the ability to study abroad and travel.

6. Amend the legal system pertaining to women to protect them from all forms of violence and abuse.

7. Conduct an immediate, thorough and impartial investigation into all allegations of torture and other degrading treatment and bring the accused to justice.