



## Submission to the Working Group on the issue of discrimination against women in law and in practice for the Thematic Report on Women Deprived of Liberty

### Country Focus: Saudi Arabia

#### Submitting Organization:

Americans for Democracy & Human Rights in Bahrain (ADHRB) is a non-profit organization that fosters awareness of and support for democracy and human rights in Bahrain, Saudi Arabia and the broader Gulf region.

#### Questionnaire:

##### **I. Justice System**

*1. What are the main causes for women coming into conflict with the law and facing the associated deprivation of liberty, including pre-trial detention? Which are the groups of women who are most vulnerable and why? Please list the type of offenses for which women, or any particular group of women, are typically charged with, including administrative offenses.*

In Saudi Arabia, the main causes for women coming into conflict with the law include criticism of the government, often over social media or in blogs; participation in, or organization of, protests; and prominent activism.

The government heavily targets prominent women's rights activists and human rights defenders – such as those who campaigned for women's right to drive and the lifting of the male guardianship system. These women are most at risk because they face the double-blind situation of being critical of the government and being women and facing guardianship restrictions. The government criminalizes criticism of itself and the religious establishment, so anyone who does this is at risk of arrest, and the government also targets women who are particularly outspoken, so the combination increases the risk.

Saudi women human rights defenders and activists face a variety of arbitrary charges, usually relating to national security, including “suspicious contacts with foreign entities,” “offering financial support to enemies overseas,” “undermining the state,” and “disrupting the social fabric.” In May 2018, Saudi authorities arrested 10 women's rights activists, including Eman al-Nafjan, Loujain al-Hathloul, Aziza al-Yousef, Aisha al-Manea, Ibrahim Modeimigh and Mohammed al-Rabea. Seven of them were arrested under the above charges of “suspicious contacts with foreign entities” and “offering financial support to enemies overseas.”

Women in Saudi Arabia also face conflicts with the law for not abiding by the strict regulations of the guardianship system. For example, in 2017, Maryam al-Otaibi was arrested and detained for leaving her father and abusive brothers to live alone in Riyadh. She requested that authorities protect her from domestic violence, and in return her father filed a disobedience (uqouq) case against her which led to her 19 April 2017 arrest and detention in a women's prison.



*2. Please indicate if there are cases of women facing detention in relation to civil law suits and identify the particular groups of women mostly affected.*

Civil cases against women in Saudi Arabia usually revolve around disobeying male members of the family or going against the guardianship system, like running away from home without permission. In Saudi Arabia, a guardian can sue a woman for "disobedience against her guardian" or similar 'crimes'. In this case, the woman is typically sent to a "women's center" or "women's shelter", and is held without her direct consent to be there.

Additionally, a woman who does not heed her guardian can be arrested on charges of "disobedience," and if a woman is detained for any reason, the police will not release her unless her guardian comes to pick her up — even if she faces no criminal charges.

*3. What are the main challenges for women's access to justice, including, for example, the availability and quality of legal representation, the ability to pay for bail, and the existence of gender stereotyping and bias in judicial proceedings?*

Imprisoned Saudi women have been prevented access to lawyers after their arrest. Israa al-Ghomgham is an important example of this. She has been detained since her 2015 arrest for her role in peaceful anti-government protests in the wake of the 2011 Arab Spring. During her imprisonment, al-Ghomgham was denied access to a lawyer for 32 months. Recently it was announced that she faces the death penalty, which no Saudi Arabian woman has been sentenced to before.

If a woman is convicted of a state security crime, the nature of the case prevents access to justice for the woman. Legal representation may be circumscribed by secret trials and hearings, and bail may not be allowed. The woman may also be held in arbitrary detention without being able to call a lawyer or her family.

More broadly, women in Saudi Arabia are not guaranteed a fair trial. Their witness statements carry half the weight of a man's.

*4. What have been the main drivers for the increasing or decreasing of the female prison population in your country in the past decade? To what extent are non-custodial measures used, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)?*

Unfortunately, prison statistics in Saudi Arabia are not clearly available. The kingdom does not appear to "collect, maintain, analyze and publish, as appropriate, specific data on women in prison and women offenders" as the Bangkok Rules recommended of States. It can be hypothesized that an increased crackdown by the Saudi government would lead to an increase in the female prison population because women human rights defenders and activists are targeted.

## **II. Other Institutions**

*1. What other institutions outside the justice system exist in your country wherein women and girls are institutionalized on grounds such as care, correction, protection and prevention against potential harms, etc.? Please list the groups of women and girls who are most concerned in each situation.*



Saudi Arabia has facilities similar to detention centers where women are held if they have disobeyed their guardians. In order to exit one of these facilities, a woman needs to be released into the care of her guardian – which can pose problems. Often, the guardian may be the reason a woman is in the center, and thus she is at further risk of being abused if she leaves. There are also domestic violence shelters in big cities around the kingdom, where women can go to escape domestic violence, although there are no additional remedies or solutions to the problem of domestic violence, so these shelters do not address more structural problems. These situations don't apply to only certain groups of women in the kingdom, they apply to all women in Saudi Arabia.

*2. Please explain the decision-making process for the institutionalization of women and girls in each situation, including the role of women and girls themselves in the decision on institutionalization. Please highlight any good practices in terms of enabling women to exercise agency within institutional systems, with due respect to their rights?*

There is a lot of societal and cultural pressure in Saudi Arabia for women to stay with their families and respect the wishes of their guardians. Generally, they are expected to work out family disputes privately. It is unclear how much of a say women have in the decision to be institutionalized, but it is likely they don't have much agency in the situation – especially since their release from a center is contingent upon permission of their guardian.

### **III. Forced Confinement in Private Contexts**

*1. What forms of forced confinement of women and girls exist in a private or social context sanctioned by family, community or group of individuals such as abduction, servitude, guardianship and “honor” practices, trafficking, home detention, “witch camps”, widowhood rites, etc.?*

Saudi Arabia has a strict guardianship system that heavily restricts the freedom of movement for women in the kingdom. Women's detention centers are sanctioned by society, community, family and the guardianship system. But at the same time, it is preferable for families and women to work out the problems between themselves.

*2. Please identify the groups of women and girls who are most affected by these situations.*

The poorest women and girls are more affected by this situation as are those who belong to the most conservative families. Richer, more liberal families and women typically have more progressive views towards women's rights and the guardianship system.

*3. What is the role of law and policy (including customary law and authorities) in your country concerning these types of confinement?*

There is no concrete legislation in Saudi Arabia explicitly addressing women's rights and detention. The practice is rather a matter of tradition and custom, stemming from the unwritten guardianship system. This is part of the problem: that the guardianship system remains uncoded and that the practice sits outside of the law and in custom.

### **IV. Migration and Crisis Situations**



*1. What are the specific risks of detention and confinement encountered by women on the move in the context of asylum seeking, internal displacement and migratory processes?*

In Saudi Arabia, women migrants are at risk of detention and further abuse. Saudi Arabia has mass deportation camps where migrants can be held prior to mass deportations. Women in these camps are at risk of harassment and rape by Saudi guards and policemen, and the conditions of the camp are extremely poor. Undocumented foreign women workers are also at risk of arrest, despite being potential trafficking victims. Trafficked women, as defined by Saudi law, are sent to “shelters” that can resemble detention centers.

*2. What is the policy relating to the administrative detention of women migrants including pregnant women and women with children?*

In Saudi Arabia there is no clear policy regarding the detention of migrant women, including those who are pregnant or with children.