

(Translated from Arabic)

Permanent Mission of the Kingdom of Saudi Arabia to the United Nations Office at Geneva

Ref. AL SAU 9/2020

Reply of the Kingdom of Saudi Arabia to the letter dated 19 June 2020 from the Chair-Rapporteur of the Working Group on discrimination against women and girls concerning Ms. Bethany Alhaidari

After considering the matter and examining the reply of the competent authorities, it is clear that these allegations and claims are inaccurate and based entirely on unfounded and unsubstantiated information from a source. As is borne out by the information below, the Kingdom is looking into these allegations and clarifying all the surrounding facts in line with its policy of cooperation with international human rights mechanisms.

1. Concerning the request to provide any additional information and/or comment(s) on the above-mentioned allegations

The letter states that, during the divorce proceedings, as Ms. Alhaidari's guardian, Mr. Alhaidari allowed for the expiration of her residency authorization due to lack of action on her behalf, meaning that she was unable to access her bank accounts.

Ms. Alhaidari was holding a residency card as the spouse of a citizen. On expiration of the card, she could have applied to the competent authority for a renewal, which is an option available to any resident under the Residency Act.

The letter states that the Personal Status Court in Riyadh had previously granted Ms. Alhaidari custody of the child and granted her ex-husband visitation rights. It also states that Mr. Alhaidari then filed an appeal to have his own mother, the child's grandmother, assigned as a legal guardian by the Court and that, under the Saudi guardianship system, Mr. Alhaidari is his mother's legal guardian.

These statements are untrue. After the divorce ruling, the father of the child Zaina Ghassan Alhaidari, who was living with her mother, filed proceedings in the Personal Status Court in Riyadh in order to seek visitation rights in respect of his daughter. The outcome was that the Court confirmed his right to visit and see his daughter for a period mutually agreed with his wife, who then brought child custody proceedings against him in the same Court. His mother was therefore joined in the proceedings in order to seek custody of the child, in accordance with article 79 of the Code of Sharia Procedure, which provides that: "A litigant may apply to the court to join in the proceedings any person who would rightfully have been a litigant when the proceedings were filed. In making him or her a litigant, the normal summons procedures shall be followed. The court shall, whenever possible, rule on the merits of the joinder application and the original proceedings in the same judgement and otherwise on the merits of the joinder application after adjudging the original proceedings."

The claim that, under the Saudi guardianship system, Mr. Alhaidari is his mother's legal guardian is untrue. Men and women have equal rights and duties and the Kingdom's laws make no distinctions, exclusions or restrictions that dilute or thwart the recognition of women's human rights and fundamental freedoms in any sphere. On the contrary, its laws strengthen human rights principles in general and in no way undermine the personal independence of women in terms of their legal capacity to exercise their rights.

2. Concerning the request to provide information on the type of action taken, if any, to investigate the claims of domestic violence against Ms. Alhaidari and to prevent further acts of violence against her and her daughter

The court heard several cases brought by Ms. Alhaidari (which, as already indicated in reply No.1, ended in settlement) and in none of them was it stated that she and her daughter had been subjected to domestic violence by Mr. Alhaidari. An investigation into the matter found that she had not reported any such violence to the Domestic Violence Centre.



Reports of domestic violence can be made to the Domestic Violence Centre 24 hours a day by calling 1919. Such reports are handled by family protection units working with the relevant authorities, in accordance with the Abuse Protection Act and its implementing regulation. Ms. Alhaidari similarly made no complaint of domestic violence to the Human Rights Commission, even though she visited its main office in July 2019 in search of legal advice concerning her ongoing case at the time with her divorced husband over the custody of their child. The Commission's specialists advised her on case procedures in the Personal Status Court and on means of appeal against judicial decisions. They also provided her with guidance on available legal solutions in such cases. Ms. Alhaidari made no allegations of having been subjected to violence by her divorced husband or anyone else.

The Abuse Protection Act and its implementing regulation, together with the implementing measures contained in both, undoubtedly contribute towards protecting women from violence in all its forms. Encompassing provisions aimed at addressing behavioural attitudes and preventing an enabling environment for abuse, the Act requires all persons to report any abuse that they come across without delay. It also specifically requires civil servants, military personnel and non-governmental employees to inform their employer of any abuse that they come across by virtue of their work as soon as they learn of it. For its part, the employer must report the abuse to the competent authority or police as soon as it is brought to its attention. It is also prohibited under the Act to disclose the identity of a person who reports abuse without that person's consent. The Act's implementing regulation includes a number of mechanisms for implementing the provisions of the Act. In particular:

- All public and private entities are required to report any abuse that they come across to the Ministry of Labour and Social Development or the police as soon as the abuse is brought to their attention or reported to them;
- A new dedicated centre receives all reports of domestic abuse through its 24-hour line, which can be accessed by calling 1919, and protection teams have been set up in all regions and governorates for the same purpose;
- Reports are immediately dealt with by communicating with the victim, making a risk evaluation, carrying out a medical assessment where necessary and taking all requisite and appropriate measures to address the situation;
- Police departments and other competent security authorities are required to respond immediately to any request from a social protection unit for them to enter any premises and provide full protection for the unit's specialists and the victim.

Health practitioners are required under article 11 of the Health Practitioners Act to report any injury that may have resulted from a criminal assault. A regulation on violence and abuse in health facilities was issued and circulated to all health directorates attached to the Kingdom's Ministry of Health. Within that framework, committees and task forces were formed to address violence in such facilities, in particular by intervening medically as soon as a victim of violence or abuse is admitted and by developing treatment plans and appropriate rehabilitation programmes. They are required to report cases of domestic violence to a social protection committee within 48 hours. A unit was also established to combat violence and abuse in health facilities, with key functions that include monitoring the performance of the committees and task forces already mentioned, monitoring and studying statistics on violence, developing training plans, and promoting the Child Helpline agreement concluded between the Ministry of Health and the Supervisory Board of Child Helpline in the Kingdom.

The Ministry of Human Resources and Social Development lists on its website the agencies and mechanisms that receive reports (direct and indirect remedies), which include the General Directorate of Social Protection, social protection committees in the regions and provinces, the Human Rights Commission, the National Society for Human Rights, the National Family Safety Programme, government and private hospitals, police departments, educational institutions, and charitable associations. Reports of violence and other forms of discrimination against women may also be submitted through the Ministry of the Interior's electronic portal.

3. Concerning the request to provide information on how the allegations of domestic violence were taken into account during the court proceedings on divorce, child custody and child support and, if they were not, to explain why, and how this is consistent with the Kingdom's international human rights obligations

The cases presented to the judiciary by Ms. Alhaidari included no allegations of violence. Ms. Alhaidari has lawyers and representatives, and those examining her case had the assistance of interpreters during the court proceedings. When allegations of violence or abuse are made at any stage in proceedings, the requisite measures are taken in accordance with the Abuse Protection Act, which is an important national framework for addressing forms of abuse that various groups in society might encounter. The Act guarantees protection from abuse of all types and the provision of assistance, treatment, shelter, and psychosocial and health care. It also ensures that the necessary legal steps are taken to hold accountable and punish perpetrators and to raise public awareness of abuse and its impact. Article 4 of the Act provides that: "1. The Ministry and the police shall receive reports of abuse, whether directly from the abused person, through government agencies, including security agencies and health authorities, or through non-governmental agencies or a person privy to the abuse; 2. On receiving a report of abuse, the police shall take such measures as are within their power in addition to forwarding the report directly to the Ministry." Article 7 of the Act provides that: "On receiving a report of abuse, the Ministry shall, after documenting the report and assessing the situation, undertake the following measures: 1. Take steps to ensure that the abused person is provided with necessary medical care and undergoes a medical assessment, if required; 2. Take steps to prevent continuation or recurrence of the abuse; 3. Provide access to guidance and family and social counselling for the involved parties if, in its estimation, the situation can be addressed in the family setting; 4. Summon any of the involved parties or any of their relatives or connections in order to hear and document their statements and take steps to ensure that the abused person is adequately protected; 5. Ensure that the involved parties receive any necessary psychotherapy or attend rehabilitation programmes appropriate to their respective situations." Article 8 provides that: "Without prejudice to the provisions of article 7 of this Act, if the report demonstrates that the situation is serious or poses a danger to the life, safety or health of the victim, the Ministry shall take all necessary measures to address the situation accordingly, including by reporting it to the administrative governor or the relevant security authorities so that they can take requisite action within their respective areas of competence. It shall also coordinate with those authorities to ensure the safety of the abused person, including by moving him or her or the abuser, if necessary, to an appropriate place of shelter until the danger no longer exists." Article 9 provides that: "If it becomes evident to the Ministry that the situation is such as to necessitate urgent intervention or entry to the place where the incident of abuse occurred, it may seek the assistance of the competent security authorities, which must respond promptly to the request in accordance with the nature and gravity of the situation." Article 11 provides that: "If the Ministry considers the incident to constitute an offence, it is required by law to report it to the competent investigative authority so that necessary statutory measures can be taken." The Public Prosecution Service institutes proceedings and investigates such cases in accordance with article 17 of the Code of Criminal Procedure, which provides that: "In offences giving rise to a private right of action, no criminal proceedings or investigation may be initiated other than on the basis of a complaint filed by the victim or his or her representative or heirs, except if the Public Prosecution Service considers it to be in the public interest to institute proceedings and investigate those offences." Anyone who commits an offence that constitutes an act of abuse is liable to a number of penalties under article 13 of the Abuse Protection Act, which provides that: "Without prejudice to any more severe penalty prescribed by sharia or statutory law, anyone who commits an act constituting any of the offences of abuse set out in article 1 of this Act shall be liable to imprisonment for a term of not less than 1 month and not more than 1 year and/or a fine of not less than 5,000 and not more than 15,000 Saudi riyals. If the offence is repeated, the penalty shall be doubled and the competent court may give a non-custodial sentence as an alternative punishment."

If proven, allegations of domestic violence are taken into account in divorce and custody proceedings and have a significant impact on the decisions of the court in such cases. In child support proceedings, the judge exercises discretion in the light of the needs of the

child, the family situation and the defendant's circumstances. These measures are consistent with the Kingdom's international human rights obligations.

4. Concerning the request to provide information on the allegations of the forced reconciliation of Ms. Alhaidari with her abuser and how this is consistent with the Kingdom's international human rights obligations

This allegation is untrue. The court is not involved as a party in reconciliation but documents any agreement or settlement reached among the parties. None of the parties to a reconciliation may be forced to accept a settlement, in accordance with article 16 (4) of the Rules of Procedure for Reconciliation Offices. In this particular case, the parties to the proceedings agreed to settle out of court and to end their disputes and all proceedings and claims. They drafted the terms of a settlement agreement and sought confirmation of the agreement from the Personal Status Court in Riyadh. In its ruling, the Court confirmed the agreement and bound the parties to abide fully by its terms, a requirement to which they consented in the presence of their legal representatives, in accordance with article 70 of the Code of Sharia Procedure, which provides that: "Litigants may, at any juncture in the proceedings, request the court to enter in the record of the proceedings any acknowledgement, settlement or other form of agreement among them and the court shall issue a deed to that effect." The parties approved the agreement after it had been recorded and read out to them; Ms. Alhaidari was not forced into reconciling. On 23 Rabi' I A.H. 1441 (20 November A.D. 2019), the Embassy of the United States of America in Riyadh was informed of this settlement and advised that the parties were no longer engaged in any proceedings or in dispute. These measures are consistent with the Kingdom's international human rights obligations.

5. Concerning the request to provide information on the outcome of Ms. Alhaidari's appeal made in 2019

The objection to the decision delivered in the child custody proceedings was terminated by the ruling confirming the settlement concluded among all parties, which became definitive in accordance with article 70 (3) of the implementing regulation to the Code of Sharia Procedure: "Litigants may not object to an acknowledgement, settlement or other form of agreement among them by seeking to appeal the same, by way of a submission or a request for scrutiny, after it has been approved by signature in the record of the proceedings." The settlement agreement ended the disputes and all proceedings and claims among the parties.

6. Concerning the request to provide information on the allegation that Ms. Alhaidari's testimony was not considered by the court as having the same legal standing as Mr. Alhaidari's

This allegation is untrue. As previously explained in reply No. 3, in the event of an allegation of domestic violence, measures are taken in accordance with the Abuse Protection Act, which does not discriminate or differentiate between men and women when it comes to dealing with reports of domestic violence or any other matter.

7. Concerning the request to provide information on any steps taken by the authorities to abolish the "guardianship" system and any legal and other measures taken to eliminate discrimination against women

The Kingdom has no "guardianship" system. The terms "sponsor" and "sponsored" were abolished pursuant to Council of Ministers' Decision No. 166 of A.H. 1421, which replaced them with the terms "work" and "worker", reorganized the relationship between employers and migrant workers, and eased some of the restrictions previously governing that relationship. The Labour Code followed on from that decision.

The Kingdom's laws – and above all the Basic Law of Governance – guarantee the equality of men and women and, furthermore, discriminate positively in favour of women with regard to certain rights. In both sharia and statutory law, there are numerous provisions criminalizing the abuse or oppression of women and requiring protection of their rights and respect for their status as partners with men in achieving development, regeneration, prosperity and the advancement of civilization. There is nothing in the Kingdom's laws that can be construed as discriminating against women or as making an unfair distinction between

men and women. Through their achievements, Saudi women have attained great heights and been empowered as a result to participate in all areas of development both at home and abroad. Within the Kingdom itself, there are women holding senior leadership positions and women members of the Shura Council, the Human Rights Commission and scientific councils and bodies. Women also serve as top officials and participate as voters and candidates in municipal elections. Various chambers of commerce have women members and a woman serves as ambassador of the Custodian of the Two Holy Mosques to the United States of America, while another serves as the Kingdom's Permanent Representative to the United Nations Educational, Scientific and Cultural Organization. Women have also previously occupied senior international posts, such as Executive Director of the United Nations Population Fund, and they continue to participate in United Nations committees and activities and in other local, regional and international events. The Kingdom constantly works to support and further society and its members, without discrimination, to ensure the equal and fair enjoyment of rights by all.

The Human Rights Commission monitors and addresses all human rights violations in accordance with its Statute, which affirms in article 5 that the Commission shall ascertain the implementation of existing human rights laws and regulations by the relevant government authorities, uncover any infringement of the laws applicable in the Kingdom that constitutes a violation of human rights, such as gender inequality, and take necessary legal measures in that respect. The Commission also monitors government entities to ascertain that they are taking the necessary measures within their respective areas of competence to implement the international human rights instruments to which the Kingdom has acceded, including the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Labour Organization (ILO) Convention No. 100 on equal remuneration for men and women for work of equal value, and the ILO Convention No. 111 concerning discrimination in respect of employment and occupation. The Commission carries out checks to ensure that those entities are taking requisite steps to implement such instruments, receives and verifies human rights complaints, and takes corresponding statutory measures. The National Society for Human Rights, which is a civil society organization, also undertakes such tasks in accordance with the functions set out in article 3 of its Statute.

The reports already submitted by the Kingdom in compliance with its international obligations notably include its report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, which is published on the website of the Office of the United Nations High Commissioner for Human Rights and provides details of the legislative and non-legislative measures in place for empowering women and protecting their rights in the Kingdom.

The promotion and protection of women's rights, together with women's empowerment, have been a major focus of recent reforms and developments, as is confirmed by the number and type of measures taken in that context. These include in particular the promulgation of Royal Decree No. M/134 of 27 Dhu al-Qa'dah A.H. 1440 approving the amendment of several laws with the aim of promoting women's rights in numerous spheres, examples of which are as follows:

- The Travel Documents Act was amended to make men and women subject to the same requirements for obtaining passports;
- The Labour Code was amended to ensure that men and women have equal rights, duties and terms of service. Article 3 of the Code affirms that all citizens have the right to work, that there can be no discrimination on grounds of sex and that the retirement age of 60 applies equally to men and women. As a result of the amendments, it is also prohibited to dismiss or to issue a warning of dismissal to female workers during their pregnancy or maternity leave, which includes any period of illness associated with either;
- Article 38 of the Social Insurance Act was amended to make the retirement age of 60 equally applicable to men and women;
- The proportion of women working in the legal profession as, for instance, court attorneys, public prosecutors and lawyers has increased. Under directives issued by

the Attorney General, female lawyers must be treated in the same way as their male counterparts, in accordance with article 70 of the Code of Criminal Procedure, and must be granted a certification license giving them some of the same powers as a notary public;

- Several initiatives have been launched to empower women economically throughout the Kingdom, including the Qurrah programme, which subsidizes child-care services for working women; the Wusul programme, which subsidizes transport for working women; a programme that subsidizes freelance employment in order to widen the opportunities available for women to increase their income using their skills; and two programmes – one for part-time work and the other for remote work – that enable women caring for family members to achieve a work-family balance;
- The creation of the Family Affairs Council, which has assigned responsibility for women's affairs to one committee and for family protection to another, is a significant development of the institutional framework to protect and promote the rights of women and the family. The Women's Affairs Committee has begun holding consultation workshops to review key laws relating to women. The Council has also approved a mechanism for formulating a national strategy for women.

It is evident, therefore, from the foregoing that the allegations and claims contained in this letter are untrue. The measures taken with respect to Ms. Alhaidari have been explained and are consistent and compatible with international human rights standards.

The Kingdom reminds the Chair-Rapporteur of the Working Group on discrimination against women and girls who presented this letter of the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council adopted by resolution 5/2 on 18 June 2007, in particular the following:

1. While discharging their mandate in accordance with article 6 (a) of the Code of Conduct, mandate-holders must give due consideration to the information provided on the situation;
2. The information provided by the Kingdom on the situation must be taken fully into account in accordance with article 6 (b) of the Code of Conduct;
3. All information, especially allegations and claims concerning the situation that are provided by sources to thematic mandate-holders, must be evaluated, in accordance with article 6 (c) of the Code of Conduct, in the light of internationally recognized human rights standards relevant to their mandate, and of international conventions to which the State concerned is a party;
4. Communications submitted on the situation should not be manifestly unfounded or politically motivated, in accordance with article 9 (a) of the Code of Conduct;
5. Communications should be submitted by a person or group of persons acting in good faith in accordance with principles of human rights, and free from politically motivated stands or contrary to the provisions of the Charter of the United Nations, and claiming to have direct or reliable knowledge of those violations substantiated by clear information, in accordance with article 9 (d) of the Code of Conduct;
6. Communications submitted on the situation should not be exclusively based on reports disseminated by mass media, in accordance with article 9 (e) of the Code of Conduct;
7. Mandate-holders must bear in mind the need to ensure that their personal political opinions are without prejudice to the execution of their mission, and base their conclusions and recommendations on objective assessments of human rights situations, in accordance with article 12 (a) of the Code of Conduct;
8. In implementing their mandate, therefore, mandate-holders must show restraint, moderation and discretion so as not to undermine the recognition of the independent nature of their mandate or the environment necessary to properly discharge the said mandate, in accordance with article 12 (b) of the Code of Conduct;
9. It is important to comply with article 13 (a) of the Code of Conduct by indicating fairly what responses were given by the Kingdom, without any improper summarizing.

10. Mandate-holders must ensure that their declarations on the human rights situation in the country are at all times compatible with their mandate and the integrity, independence and impartiality which their status requires, and which is likely to promote a constructive dialogue among stakeholders, as well as cooperation for the promotion and protection of human rights, in accordance with article 13 *(b)* of the Code of Conduct.
