

**Mandate of the Working Group on discrimination against women and girls**

REFERENCE:  
AL SAU 9/2020

19 June 2020

Excellency,

I have the honour to address you in my capacity as Chair-Rapporteur of the Working Group on discrimination against women and girls, pursuant to Human Rights Council resolution 41/6.

In this connection, I would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged lack of investigations on reports of domestic violence and failure to consider them in divorce and child custody proceedings, as well as reports of forced reconciliation by women victims of domestic violence with their abusers.**

According to the information received:

On January 2011, Ms. Bethany Alhaidari, a citizen of the United States of America, moved to Saudi Arabia to work as a teacher at a women's university. On November 2013, she married Mr. Ghassan Abdulrahman Alhaidari, a Saudi citizen.

On December 2014, Ms. Alhaidari gave birth to a daughter, Zaina Alhaidari. During the pregnancy, Mr. Alhaidari became violent towards Ms. Alhaidari, abusing her verbally and threatening to kill her repeatedly. The abuse continued over the following years, leading Ms. Alhaidari to ask her husband for a divorce on September 2017, which he denied her for over a year.

On May 2018, Ms. Alhaidari moved out of their home with her daughter. On November 2018, she filed for divorce. She also requested custody of their daughter, Zaina, as well as child support. In her petition, Ms. Alhaidari presented the allegations of domestic violence and requested the Personal Status Court in Riyadh to consider these allegations in order to make a decision on the custody of the child. During the divorce proceedings, Mr. Alhaidari denied the allegations of domestic violence and claimed that he had already consented to the divorce and given it to her on May 2018. His testimony was considered true by the Court and no investigation of the allegation of domestic violence made by Ms. Alhaidari was conducted, as her testimony is reportedly not considered to have the same legal standing as her husband's under Saudi Arabia's legislation.

During the divorce proceedings, as Ms. Alhaidari's guardian, Mr. Alhaidari allowed for the expiration of her residency authorisation due to lack of action on her behalf. She was also blocked from accessing her bank accounts.

The Court issued its ruling granting the divorce on January 2019. On March 2019, the Personal Status Court in Riyadh granted Ms. Alhaidari custody of the child and granted her ex-husband visitation rights. On April 2019, Mr. Alhaidari filed an appeal to have his own mother, the child's grandmother, assigned as a legal guardian by the Court. It should be noted that, under Saudi Arabia's guardianship system, Mr. Alhaidari is his mother's legal guardian.

On July 2019, the Personal Status Court in Riyadh granted Mr. Alhaidari's request and gave custody of the child to his mother, the child's grandmother. Ms. Alhaidari appealed the decision on August 2019 but never received a formal ruling on it. She was then coerced by the Court authorities to reach an agreement on custody with her ex-husband, through which the parents would share custody of the child. During these procedures, Ms. Alhaidari was further subjected to sexual and psychological violence from the perpetrator. The agreement was signed and validated by the Personal Status Court in Riyadh on November 2019. The allegations of domestic violence were not duly considered in any moment of the divorce or child custody proceedings.

After that, Ms. Alhaidari was allowed to travel outside the country with the child. Since December 2019, Ms. Alhaidari and her child are in the United States of America, where both are citizens. Ms. Alhaidari filed for custody of the child in the United States. The Superior Court of the State of Washington took Emergency Jurisdiction of the case, gave the mother full custody of the child and issued a restraining order against the father citing "abusive use of conflict" and prohibiting him from any type of physical contact with the child and mother. Mr. Alhaidari has filed appeals to these rulings.

Without prejudging the accuracy of these allegations, we express our concern at the reported failure by the authorities in Saudi Arabia to investigate allegations of domestic violence against women and to protect women and children from abuse, as well as at the allegations of women being forced to reconcile with their abusers. The allegations also highlight the discriminatory effect on women's enjoyment of many of their rights that results from the guardianship system in force. These allegations could amount to violations of Saudi Arabia's obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Rights of the Child, among other international instruments.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please 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.
3. Please provide information on how the allegations of domestic violence were taken into account during the Court proceedings on divorce, child custody and child support. If they were not, please explain why, and how this is consistent with Saudi Arabia's international human rights obligations.
4. Please provide information on the allegations of the forced reconciliation of Ms. Alhaidari with her abuser, and how this is consistent with Saudi Arabia's international human rights obligations.
5. Please provide information on the outcome of Ms. Alhaidari appeal made in August 2019.
6. Please 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.
7. Please 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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge all necessary measures be taken to prevent the reoccurrence of similar human rights violations and ensure the accountability of any person responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Elizabeth Broderick  
Chair-Rapporteur of the Working Group on discrimination against women and girls

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The Working Group on discrimination against women and girls would like to bring to Your Excellency's attention Article 1 of the United Nations Declaration on the Elimination of Violence against Women which provides that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Similarly, Article 2 provides that violence against women shall be understood to encompass, but not be limited to, the following:

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), updated by general recommendation No. 35 (2017), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency's Government in 2000), whether perpetrated by a State official or a private citizen, in public or private life.

We would also like to remind your Excellency's Government that the CEDAW General Recommendation No. 35 affirms that "perpetrators or alleged perpetrators' rights or claims during and after judicial proceedings, including with respect to property, privacy, child custody, access, contact and visitation, should be determined in the light of women's and children's human rights to life and physical, sexual and psychological integrity, and guided by the principle of the best interests of the child".

We would also like to bring to Your Excellency's attention Article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which

notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

We would like to remind Your Excellency that, during its most recent review of Saudi Arabia (CEDAW/C/SAU/CO/3-4), in 2018, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) expressed its concern about “the limited grounds available to a woman to seek a divorce, while a man may unilaterally divorce his wife for any reason;” as well as the “persistent discrimination against women and girls in inheritance law, custody matters, marriage and divorce”. The Committee also highlighted that the need for women and girls to obtain authorisation from a male guardian to file complaints represented a barrier to their access to justice; and that “the maintenance of the guardianship system underscores the subordination of women to a male guardian and undermines the rights and capacity of women and girls to develop their personal abilities and make free choices about their lives and life plans”. Finally, the CEDAW Committee recommended Saudi Arabia to “remove all current legal obstacles to access to justice, redress and reparation for women and girls who are victims of gender-based violence, including the requirement to obtain the authorization of a male guardian to lodge complaints, and allocate adequate human, technical and financial resources to the centre established to receive and investigate domestic violence complaints in order to ensure that it is fully operational”. We would also like to draw the attention of the Government to Article 19 of the International Convention on the Rights of the Child, ratified by Saudi Arabia in 1996, which provides that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

The issue of the due diligence obligation of States in cases of domestic violence involving custody disputes has been addressed by the Platform of Independent Expert Mechanisms on the Elimination of Discrimination and Violence against Women (EDVAW Platform). In a joint statement of 31 May 2019, the Platform called that, “in determination of custody and visitation rights of children, violence against women is taken into account in all custody cases and that perpetrators’ rights or claims during and after judicial proceedings, including with respect to property, privacy, child custody, access, contact and visitation, should be determined in the light of women’s and children’s human rights to life and physical, sexual and psychological integrity, and guided by the principle of the best interests of the child.”<sup>1</sup>

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<sup>1</sup> [https://www.ohchr.org/Documents/Issues/Women/SR/StatementVAW\\_Custody.pdf](https://www.ohchr.org/Documents/Issues/Women/SR/StatementVAW_Custody.pdf)

