

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 40TH SESSION SAUDI ARABIA, COMBINED INITIAL & 2ND REPORT 17 JANUARY 2008

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Information submitted to the Committee

The Committee on the Elimination of All Forms of Discrimination against Women (the Committee) considered Saudi Arabia's combined initial and second periodic report on 17 January 2008.¹ Saudi Arabia ratified the Convention on the Elimination of All Forms of Discrimination Against Women (the Convention) on 7 September 2000 with a general reservation² that the State is not under obligation to observe themes of the Convention that are contradictory to the norms of Islamic law. In addition, two Article-specific reservations were made³: the State does not consider itself bound by Article 9(2) regarding the nationality of children, nor by Article 29(1) of the Convention which concerns the issue of referring disputes between countries to the International Court of Justice.

¹ CEDAW/C/SAU/2, 29 March 2007, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

² General reservation 1, available at <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>

³ General reservation 2, available at <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>

Saudi Arabia submitted its State report to the Committee on 29 March 2007. The 48-page report systematically addresses the State's compliance with each of the first sixteen Articles of the Convention. In general, the report asserts that there has been a 'change in the traditional view of women' in Saudi Arabia, and that women are now assured legal protection, and participation in political, social and economic activity. Access to health care and family planning services is reported as widespread, and progress has been noted in improvement of access to education, implementation of domestic violence programmes and various programmes in rural areas. Of note, under Article 16, the report states that women in Saudi Arabia have the freedom to marry, choose a husband, and instigate divorce, and that marriage does not affect a woman's independent legal capacity or financial status.

On 16 August 2007 the Committee produced a list of thirty-two issues and questions relating to a wide variety of issues.⁴ From a political and legal perspective, the Committee requested clarification on the scope and necessity of the general reservation to the Convention; the involvement of government bodies and NGOs in preparation of the State report; the incorporation of international treaties such as CEDAW in State legislation; the issue of discrimination between the sexes and women's avenues for redress; and women's representation in the decision-making processes of the legal system and Ministries. They also requested further information pertaining to cultural and social problems including: stereotypical attitudes and cultural practices; violence against women; female education and illiteracy rates; women's labour, social security, benefits and maternity leave; rights concerning marriage; and the health status of women, particularly in rural areas. The State submitted its responses on 18 December 2007.⁵

Supplementary documentation to the Committee included the concluding observations from the 41st session of the Committee on the Rights of the Child⁶ and summaries from UNESCO⁷ and the International Labour Organisation.⁸

Four non-Governmental Organisations made submissions to the Committee. A report was submitted by Women for Reform in Saudi Arabia and an independent representative read a short statement on their behalf at the informal meeting with non-governmental organisations on 14 January 2008.⁹ The authors of the report wished to remain anonymous citing fear of serious repercussions in Saudi Arabia. The report describes numerous violations of women's rights in law, discriminatory cultural practices and norms such as male guardianship, prohibition of women driving, and highlights the absence of representative organisations to protect women's rights in Saudi Arabia. Human Rights Watch made an oral presentation at two informal meetings with the Committee, in particular listing the findings of their first State visit organised by the Human Rights Commission of Saudi Arabia last year. Issues raised included the segregation of men and women specifically in employment and education establishments, the role of the 'Committee to promote virtue and prevent vice', and the impact of male guardianship particularly on restriction of freedom of movement, decisions regarding marriage and the custody of children.

The Committee heard an oral submission by UN Watch, who drew the attention of the Committee members to three cases of human rights violations in Saudi Arabia since the submission of the State report in March, including the highly publicised 19 year old "Qatif girl" who was raped by seven men and sentenced to ninety lashes in 2006; a sentence which was later revoked by the King in response to International pressure. The Global Initiative to End All Corporal Punishment of Children report¹⁰ cited Saudi Arabia among countries

⁴ CEDAW/C/SAU/Q/2, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

⁵ CEDAW/C/SAU/Q/2/Add.1, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

⁶ CRC/C/SAU/CO/2, 17 March 2006, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

⁷ CEDAW/C/2008/I/3/Add.3, 2 November 2007, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

⁸ CEDAW/C/2008/I/3/Add.4, 29 November 2007, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

⁹ 'The Shadow Report for CEDAW Prepared by 'Women for Reform' Saudi Arabia', January 2008, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

¹⁰ 'Briefing from Global Initiative to End All Corporate Punishment of Children', January 2008, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

that condone practices of corporal punishment in the family and in the penal code, and appealed to the Committee to pursue this issue.

Themes and Issues

The very large Saudi Arabian delegation was headed by Dr Zeid bin Abdul Muhsin Al Hussein, Vice-President of the Human Rights Commission of Saudi Arabia. Other members of the delegation included representatives from the Ministries of Education, Health, Social Affairs, Foreign Affairs, Justice, the Interior, and Labour, the Committee of Experts of the Council of Ministers, the Public Investigation and Prosecution Department, the Institute for Public Administration, the Family Security Programme, the Prince Sultan bin Abdul Aziz Fund to Support Women's Small Enterprises, the Riyadh University for Girls, King Saud University, Imam Muhammad bin Saud Islamic University, the Research Centre of King Faisal Specialist Hospital, and the Saudi National Society for Human Rights, many of whom contributed information and comments during the dialogue with the Committee.

In his opening remarks, Dr Zeid Al Hussein echoed the introduction of the State report,¹¹ emphasising that the Basic Laws of Governance in the Kingdom of Saudi Arabia are derived from the Holy Koran which 'prohibits discrimination on the grounds of race, colour or gender...desiring that women enjoy the same rights and duties on the basis of equality'. He elaborated that this law stipulates that the state shall protect human rights in accordance with Islamic *sharia*, which affords natural rights to every man and woman and rejects all forms of disparity, distinction or discrimination. Thus, although the ascension of Saudi Arabia to human rights treaties is fairly recent, he wished to emphasise that all the human rights enshrined in international treaties and conventions have been accepted in Saudi Arabia for a long time.

Dr Zeid Al Hussein cautioned that there are 'no shortcuts in evolution' and asked for recognition of Saudi Arabia's considerable achievement in making significant progress regarding the rights of women over the past 30 years. He stressed that in accordance with the principles of UNESCO it must be recognised that every culture should be afforded a dignity and value that must be respected and maintained, and cautioned that the work of the Committee hinged upon its objectivity. He said that it was very difficult to devise precepts and cultural visions and impose them on societies without considering the different values and principles among societies. Dr Zeid Al Hussein concluded his remarks by reaffirming the commitment of Saudi Arabia to upholding the Articles of the Convention.

Subsequently, members of the State delegation gave a presentation using PowerPoint slides to convey key facts and figures relating to population growth, literacy rates, the enrolment of women in education and employment, positive trends in major health indices, female appointments to government, amendments to civil laws and recent legislative review of family affairs, trafficking and domestic violence. A second presentation focussed solely on the issue of domestic violence and provided a comprehensive insight into the State's evolving plan to tackle this problem at a community-wide level.

Saudi Arabia's General Reservation to CEDAW

The first issue addressed under Articles 1 and 2 was the persistence of the State's general reservation to the Convention. Committee member Flinterman questioned the necessity of this so-called 'precautionary measure' by the State. He asked whether any of the 25 General Comments adopted by the Committee over the past 25 years had contradicted any of the State's laws. Committee Chairperson Šimonović joined him in expressing the hope that the State would consider withdrawing the reservation.

¹¹ CEDAW/C/SAU/2, 29 March 2007, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

In reply to the Committee's written request to clarify the scope of the general reservation and describe the impact it has on the practical realization of the principle of equality of men and women, the State emphasised that the reservation does not affect Saudi Arabia's core obligations to the Convention and that Islamic *sharia* is compatible with the general principles of CEDAW. The delegation also confirmed that the State remained cautious of future interpretations of human rights statements developing within the international arena and reaffirmed the State's belief that the reservation remains a legitimate safeguard against possible interpretations of the Convention that might contradict the *sharia*. The Committee as a whole reiterates Committee member Flinterman's concern in the concluding observations submitted on 1 February 2008,¹² and urges the State once more, to reconsider withdrawal of the general reservation.

The Human Rights Commission of Saudi Arabia

In considering Articles 3 and 4, concerning all efforts to ensure the enjoyment of rights, including through legislation and the use of special measures, the Committee requested information regarding the independence of the Human Rights Commission of Saudi Arabia. Dr Zeid Al Hussein, Vice President of the Human Rights Commission, informed the Committee that it works in an 'independent manner' but is directly accountable to the King and State. He explained that the Commission was established to promote the identification and cessation of human rights violations, and is also responsible for raising awareness of human rights and implementing the international treaties to which Saudi Arabia is a party. Dr Zeid Al Hussein stressed that in its first year of operation, the Commission is currently elaborating on a programme of work to implement women's rights.

The State also pointed to the existence of several neutral, non-governmental national human rights associations including the National Human Rights Society, an independent body which operates in accordance with the UN Paris Principles.¹³ The delegation explained that the society is composed of a research committee, family committee and committee for receiving human rights complaints, and pointed out that one quarter of the complaints submitted to date have been from women. Of the 40 members of the society, ten are women and of these, three women are elected to the Executive Council of the Society. The Society has participated in the Asia Pacific Forum for National Institutions, produced its first national report on human rights in Saudi Arabia last year, and intends to provide parallel reports for treaty bodies in the future. The Committee was grateful for this clarification and Committee Chairperson Šimonović encouraged the submission of a separate independent report from the Society at the next session.

Status of the Convention in domestic law

In reviewing Article 5,¹⁴ the Committee asked the delegation to address the question of how State laws incorporate the provisions of the Convention. Committee Member Patten enquired as to how the Convention is invoked in legal proceedings and how international treaties would be represented in the State's pending judicial reform. She also sought clarification as to the State's intention to train the judiciary and law enforcement on the scope and substantive provisions of the Convention.

One delegate, a Professor of Law, responded that the Basic Law should be implemented taking into account international conventions and that Royal decree demands that all amendments must consider international treaties. He also stated that this year, all judgments would be collated to provide a summary of all judicial

¹² CEDAW/C/SAU/CO/2 (Advance unedited version), 1 February 2008, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

¹³ General Assembly *Resolution 48/134* – National institutions for the promotion and protection of human rights, 4 March 1994, available at <http://www.un.org/documents/ga/res/48/a48r134.htm>

¹⁴ Article 5 refers to the States obligation to take all appropriate measures 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' and the common responsibility of men and women in the upbringing of children.

decisions taken. In addition, he asserted that there would be special training sessions introduced to train judiciary officials with respect to the commitment of Saudi Arabia to international treaties. The Committee referred to this issue in the concluding observations, calling upon the State party to ‘amend legislation to confirm international treaties have precedence over domestic laws’ and ensure the Convention becomes an integral part of legal education in Saudi Arabia.

In the concluding observations, the Committee ‘notes with concern’ that the State provided no information on cases where the Convention had been invoked in Court, and that that the principle of equality is not evident in the Constitution or other legislation. The Committee encourages the State to enact a gender equality law, and to take ‘steps to implement formal and substantive equality’.

Committee member Pimentel requested further information regarding the current structural reform of the judicial system and asked how this would change the access of women to justice. She recommended that the State consider utilising General Recommendation 19 of the Committee on violence against women¹⁵ in the planned forthcoming codification of laws. Committee member Neubauer also requested further information on the role of women in higher committees specialising in women's affairs. She queried how the National Action Plan for development is being monitored for implementation from the gender perspective. No further information was provided by the delegation pertaining to these topics during the 40th session.

The concluding observations include a section devoted to the lack of an action plan for the promotion of gender equality, and encourage the State to seek the technical support of the UN in developing, elaborating and implementing such a plan. Reference is also made to the ‘national machinery’ for the advancement of women in Saudi Arabia, particularly in the areas of decision making and enforcement, which the Committee felt was unclear. The concluding observations call upon the State to provide the necessary power and co-ordination to effectively fulfil its mandate in promoting gender equality.

Gender Equality & Male Guardianship

One of the fundamental concerns of the Committee was that women in Saudi Arabia are not free to enjoy all of their rights under the Convention. Madame Schöpp-Schilling was concerned by the use of phrases in the opening remarks and throughout the State report and written replies, which identified women’s rights as ‘similar’ to those of men, and the suggestion of a ‘complementarity’ between men and women: she stressed that CEDAW is about equality, not similarity, and requested an explanation of this contradiction in terms.

The issue of male guardianship (*mehrem*) was an over-arching topic which dominated the meeting, recurring through consideration of all of the Articles in the Convention, selected for special mention in Committee Chairperson Šimonović’s concluding remarks, and strongly criticised in the concluding observations. The Committee noted that the State report omitted the issue of male guardianship and its restrictions over women’s basic freedoms. All members of the Committee expressed their grave concerns that women of all ages required the permission of a male guardian to access all basic human rights of education, employment, freedom of movement, entrepreneurship and marriage.

The dissatisfaction from the Committee was most notably exemplified in the contribution from Committee member Schöpp-Schilling, who commented that the common practice of male guardianship represented an ‘impediment to the development of women under Article 3 of the Convention’. Committee member Shin went on to enquire if there was a need to maintain this practice in the 21st century and was concerned that permission from a male guardian would prevent women from reporting instances of abuse perpetrated by their male guardians. Committee member Tavares da Silva memorably contended that women are only able to enjoy all of their human rights when free to make essential decisions in all aspects of their lives. Madame

¹⁵ General Recommendation 19, available at <http://www2.ohchr.org/english/bodies/cedaw/comments.htm>

Shin went so far as to ask if the State party could not see the obvious conflict between this practice of male guardianship and the Convention.

In response, the head of the delegation submitted that there was a problem with implementing women's rights on the ground. He stated that in the community, the moral obligation to protect the family appeared to contradict the legal obligations of equality. Dr Zeid Al Hussein reiterated on several occasions that there was no provision in Islamic law that allowed for discrimination against women and no legal basis for the requirement of permission from a male guardian. He argued that customs and traditions could impose some restrictions, even on the Government, and that it is hard to change such attitudes and beliefs. Dr Zeid Al Hussein also advocated that education was the key to changing discriminatory customs and traditions, and would provide women with a guarantee for access to human rights. He was optimistic that change in Saudi Arabia is occurring gradually. Another member of the delegation added that she anticipated significant change would be evident in the next State report from Saudi Arabia.

Despite the frank nature of this assessment, the Committee desired further commitment from the delegation as to how the State proposed to reduce discriminatory customs and traditions and reform stereotypical pejorative attitudes towards women. Dr Zeid Al Hussein stated that Saudi Arabia was working on changing the perceptions and beliefs surrounding stereotypes of women. However, his comments alluding to policies and programmes in each ministry focussed on changing negative stereotyping of women, were vague and unsatisfactory. In the concluding observations, the Committee reiterates its concern about these 'discriminatory cultural practices and stereotypes' and the limited efforts of the State to address them. The Committee urges the State to define a clear strategy without delay to remedy this and requests that the next periodic report include information relating to the concept of male guardianship and its impact on the Convention.

Freedom of movement

Committee members expressed concerns during discussion of Articles 1, 2, 6, 11, 15 and 16 that women in Saudi Arabia do not enjoy freedom of movement. The Committee requested the State to respond to reports that women require the permission of a male guardian to travel to and from a place of employment, educational institution or public facility such as a police station or health centre. Women also require the permission of a male guardian to travel abroad: Committee member Halperin-Kaddari specifically quoted the Saudi Arabian Ministry of the Interior who state on their website that travel visas for women require the approval of a family guardian. The Saudi Arabian delegation failed to respond to these statements in their replies.

One issue that the Committee members returned to was questioning the rationale for forbidding women to drive in Saudi Arabia. The head of the delegation drew a parallel with the era of the early scriptures and stated that women used to ride camels and donkeys and participated in 'all walks of life'. Since Islamic law does not refer to cars or other vehicles, there is no legal precedent forbidding it. However he contended that given the dangers of the roads, women are forbidden to drive in Saudi Arabia for their own safety and protection, and society is reluctant to change this practice. He remained optimistic that gradually attitudes were becoming more permissive in the State and that the rights of women to drive cars would evolve to be acceptable in Saudi Arabian culture in the future.

Political participation of women

Regarding political participation and representation of women, enshrined in Articles 7 and 8, Committee member Neubauer referred to the frank statement in the State report that women did not participate in the 2004 municipal elections, and other sources of information made available to the Committee that suggested that several potential women candidates were discouraged from running for office. She highlighted her

concern at the lack of participation of women in decision-making processes in Saudi Arabia. Committee member Belmihoub-Zerdani also expressed her hope to see women assume senior posts in the judiciary. The delegation insisted that there are female members of the *Shura* Council and spoke of a growing tendency to appoint women to leading and senior posts including ambassadorial roles, although the post of Minister has not yet been held by a woman.

Committee Chairperson Šimonović and Committee member Gabr requested that the State consider employing the Committee's General Recommendation on temporary special measures¹⁶ to accelerate the representation of women in society and the decision-making process. The delegation made no comment regarding this matter. The concluding observations include encouragement from the Committee to take sustained measures to 'accelerate participation and representation of women.... in all areas and levels of public and political life'.

Nationality

The Committee remained disappointed at the State's insistence on maintaining a reservation against Article 9(2) regarding the nationality of citizens. Committee member Flinterman queried Saudi Arabia's policy to refuse dual nationality and to ask a child of a non-Saudi parent to choose one nationality at the age of 18. The stance of the State appeared immovable on this point. Further, Committee member Coker-Appiah commented that it is discriminatory to women to allow a Saudi man married to a non-Saudi woman to pass his Saudi nationality to children of the marriage, but to prevent a Saudi woman from doing so if her husband is non-Saudi. No response was offered by the State delegation. In the concluding observations, the Committee re-emphasises these concerns, and requests the State party amend the Nationality code and withdraw the reservation to Article 9(2).

Equality in education

The State party was proud of the significant achievement Saudi Arabia has made in increasing access to education for all women. The delegation also clarified for Committee member Xiaoqiao that non-Saudi children are also entitled to full education and social services. Members of the delegation pointed out that education for girls was only introduced in 1960, more than 30 years after boys' schools were established. Since then, the budget for female education has increased and in the past 3-4 years has exceeded the budget for boys' education. The State contends that rates of illiteracy for women remain significantly larger than men (29.8% versus 11.7%) because of this historical development. Committee member Xiaoqiao also noted that illiteracy in rural areas is very high. The delegation submitted that this reflected old practices and adult illiteracy, since education is now compulsory for all children in Saudi Arabia. Furthermore, the State indicated that these statistics have caused a redoubling of the Ministry of Education's effort to reduce illiteracy, doubling the number of schools for girls and devoting a larger part of the education budget to rural areas, including the development of 31 mobile educational stations. The Committee's concluding observations identify the high illiteracy rate, particularly in rural areas, as a persistent cause for concern, and call upon the State to make every effort to continue to improve this.

With respect to gender equality, the State declared that the school curriculum for girls is being revised to be equivalent to the boys'. The delegation acknowledged that some fields of study, such as geology, remain prohibited for women. Reports submitted to the Committee by NGOs contradicted the State party's declaration that previously prohibited fields of study such as engineering and law are now open to women, and the Committee's concluding observations recommend the State ensure equal access for women to all levels and fields of education.

¹⁶ General Recommendation 25, available at <http://www2.ohchr.org/english/bodies/cedaw/comments.htm>

Provision of health services & family planning

The State delegation estimated that 99% of the population have access to health services. There are equal proportions of male and female practitioners available for consultation: women who wish to be under the care of a female health care professional are able to request this. Saudi Arabia also has 99% coverage for childhood immunisation, since issuance of a birth certificate is dependent upon the child receiving a full course of immunisations.

Dr Khawla Al-Kurei, a female doctor and member of the State delegation, dismissed NGO reports that a woman is not able to provide consent for herself, citing them as ‘misconceptions’. She did concede that the only area in which a woman cannot provide autonomous consent is in relation to issues of fertility and reproduction, which also requires the consent of her husband. She maintained that medical education teaches students that a woman does not require consent from a male guardian for all medical procedures or examinations and that this is also stipulated on the Saudi Council for Health Specialities website for all medical professionals.

The Committee, during the dialogue and again in its concluding observations, commends Saudi Arabia’s efforts to improve health infrastructure but feel that the State report lacked data relating to health problems unrelated to maternity. Committee member Dairiam requested further information in the next report relating to statistics and measures to address gender disparities in risk factors for chronic health problems, such as diabetes and cardiovascular disease. The delegation also accepted Committee member Arocha Dominguez’s suggestions that more studies were needed to obtain disaggregated data on maternal mortality by region, and the concluding observations emphasise the necessity for special attention to the health needs of women from rural areas and non-Saudi nationalities.

At the request of Committee member Coker-Appiah, the delegation clarified that non-Saudi citizens receive the same free access to HIV/AIDS treatment programmes and anti-retroviral drugs as Saudi citizens. The State delegation also addressed the matter of sources of transmission of HIV, stating that blood products were a source of transmission in earlier years but that screening of blood products began in the early 1980s. There has not been a source of blood product transmission of HIV in Saudi Arabia since 1985.

With regards to questions on the availability of reproduction, family planning and sex education posed by Committee member Pimentel, the State advised the Committee that contraception can be bought cheaply from health centres and family planning information is available. One delegate cited a study that reported that 80% of the population were aware of different forms of contraception, and approximately 30% utilised a method of contraception. Another female doctor from the delegation stated that contraception is not offered routinely to women who had not given birth to a child, as the State feels it is desirable to increase the population and encourage procreation. However, she went on to clarify that women can seek family planning services if they desire and these are routinely offered to a couple after the birth of their first child. The delegation elucidated that sex education is not part of the school curriculum, although the structure of the human body is taught in biology classes.

Finally, in response to a question from the Committee, the State delegation stated that abortion is only legal in Saudi Arabia if there is a legitimate medical contraindication to the pregnancy. Dr Zeid Al Hussein commented that this reflected the State’s desire to ‘protect the foetus, in the same way that other countries protect the right of the woman’.

Women in Rural Areas

Several Committee members addressed the accessibility of rural women to education, employment and health throughout the session. In particular, under consideration of Article 14, relating to rural women, the Committee enquired about the rights to land ownership for women. The delegation responded that traditional attitudes have led to predominantly male ownership but that these trends were gradually changing through Government initiatives to promote land-ownership by women. The State report and written replies detail the ‘Rural Women Pioneer project’, referred to during the dialogue with the Committee. The Committee suggested that further information regarding the advancement of women and the success of the programme would be informative, and expressed hope that programmes and changes in stereotypical attitudes towards women would reach rural areas of Saudi Arabia.

Labour rights of women

The State report and oral submissions from the delegation suggest that women in Saudi Arabia are achieving greater representation in commerce. One member of the delegation drew attention to the success of women who have ascended to the Board of Directors in several companies and pointed out that the contribution of women to the private sector stems from the basic Islamic principle whereby women have an independent financial status and men cannot interfere with her wealth. The main response to questions from the Committee pertaining to equal participation of women in all sectors, not just traditional ones, was to refer to recent efforts to open up centres and institutes for technical training for women. One delegate also suggested that the national dialogue was focussing on various matters, which included the need to employ women in various specialties.

Contradictory to reports submitted to the Committee by NGOs, the State delegation maintained that women were free to set up commercial enterprises and a number of female entrepreneurs were supported. They also stated that women are free to set up charitable organisations, although they clarified that these organisations must be registered with the Ministry of Social Affairs, and are not entitled to work outside of the country.

It appears that men and women remain segregated in working environments, and the delegation stated that separate working areas were being created to accommodate women in Government institutions. The issue of childcare for working mothers was raised under Article 11, and the State delegation explained that nursery facilities were required if an organisation employed more than 50 women. The Committee’s concluding observations highlight its concern over this level of discrimination in the labour force. It feels that the State should take ‘immediate and more targeted steps to increase women’s participation in the workforce’, and urges the State to reform its maternity leave policy, to ensure adequate childcare facilities, and to abolish segregation of women and men in the workplace.

Migrant workers

The Committee drew the attention of the State to the detrimental working and living conditions for some migrant workers in Saudi Arabia, particularly the treatment of female domestic workers. Committee member Simms noted that the Labour Code in the State does not cover domestic workers. She also suggested that the State gather information and statistics to identify the extent of human rights violations against migrant workers and provide essential services to afford such persons the dignity and protection to which they are entitled.

The delegation reported that reform of the Labour Code for domestic help is in process and should be in effect shortly. Overall, the delegation disputed suggestions of ill-treatment of migrant workers, stating that ‘there had never been major problems in this regard’, that Saudi Arabia was a ‘compassionate country’ and treated domestic workers as ‘members of the family’. A member of the delegation from the Ministry of Labour cited executive regulations which address any potential problems, such as Decree 738 which states that those who violate their legal obligations or who treat people in an inhumane manner will be punished severely. The

delegation assured the Committee that male or female domestic workers were entitled to submit complaints and obtain the service of a lawyer, and apply to the Board of Grievances petitioning any maltreatment. The delegation also claimed that the Ministry of Labour issued brochures to migrant workers explaining their rights and the legal proceedings required if they wished to return to their countries of origin.

The delegation stated in response to a question from Committee member Begum, that Saudi Arabia has bilateral agreements with Bangladesh, Sri Lanka, and the Philippines, and is in the process of negotiating an agreement with Myanmar regarding migrant workers. Committee member Tan also drew the attention of the State to the Protocol to Prevent, Suppress and Punish Trafficking¹⁷ and enquired about the State's National Plan against Trafficking. The delegation highlighted Saudi Arabia's accession to the Protocol on trafficking and assured the Committee that the State took its obligations towards preventing trafficking of both men and women seriously, in adherence with international treaties.

In the concluding observations, the Committee recognises the State's commitment to combat trafficking but is concerned about the exploitation and mistreatment of young migrant girls employed as domestic servants. The Committee also returns to the issue of awareness amongst the general public regarding the rights of female domestic workers to legal protection, their omission from the labour code, and expresses concern over the rights of their children in relation to residency, and access to health care and education. Consequently, the concluding observations include a call for the State to grant the rights in the Convention to female domestic migrant workers and to 'speedily enact specific and comprehensive national legislation' on trafficking.

Marriage and family relations

In reference to Articles 15 and 16, concerning marriage and family relations, Committee members presented the State delegation with numerous questions and outstanding concerns about equal rights for women relevant to marriage and the family, which had not been clarified during the course of the previous dialogue. It was noted that the head of the delegation was absent from the room for most of these questions.

In their oral replies at this final stage, the delegation mainly addressed questions relating to marriage and did not attempt to revisit contentions relating to male guardianship and permission. In contrast to reports from NGOs, the State maintained that women have the right to choose their own husband and can initiate divorce. They also confirmed that in the case of divorce or becoming a widow, a woman is only able to retain legal custody of her children until the ages of 9 for boys and 7 for girls, and thereafter custody returns to their father or nearest male guardian. No comments were made regarding changing this discriminatory law. Committee member Maiolo also asked the delegation to explain discriminatory inheritance laws that allow men to receive twice the amount received by a woman. The delegation responded that men are required to support a wife and family and that the distribution of assets reflect this. The delegation confirmed information from the State report and written replies that there is no legal minimum age of marriage in Saudi Arabia. In the concluding observations, the Committee urges the State to prescribe and enforce a minimum age of marriage of 18 years for both women and men, in accordance with Article 16(2) and the Convention on the Rights of the Child,¹⁸ and to introduce 'legislative reform to provide women with equal rights in marriage, divorce, the custody of children and inheritance'.

A male member of the delegation also responded to a question from Committee member Tan regarding the legality of polygamy in Saudi Arabia. He stated that Islamic law allows a husband to take more than one wife if he meets two prerequisites: that he can treat each wife fairly and financially support both wives and their children. He stated that in cases where a husband's libido exceeded his wife's, polygamy helped to reduce the incidence of extra-marital sexual relations. The head of the delegation added that this was a practice dating

¹⁷ *Protocol to Prevent, Suppress and Punish Trafficking*, available at <http://www2.ohchr.org/english/law/protocoltraffic.htm>

¹⁸ *Convention on the Rights of the Child*, available at <http://www2.ohchr.org/english/law/crc.htm>

back for many years, arising from a historical era and he contended that in reality, men are rarely able to fulfil these prerequisites and so this practice is uncommon in Saudi society. The delegation gave no indication that the State intended to ban the practice of polygamous marriage in the near future: the concluding observations call for Saudi Arabia to do so in accordance with General Recommendation 21.¹⁹

Domestic violence

In response to the Committee's written request for further information relating to trends in violence against women, the State presented a comprehensive and candid report on domestic violence research and policy. The delegation's report cited a lack of recognition of domestic violence as a problem in Saudi Arabia until 2000. The presentation stated that in 2004 the Ministry of Social Affairs established a Social Protection Committee to examine the causes of the problem and implement appropriate intervention methods in each of the 13 provinces of Saudi Arabia. Each province also established family protection centres linked to health centres. In addition, in 2005 the State established a programme to increase awareness and train professionals including prosecutors, lawyers, police, doctors and social workers to deal with violence against women. Finally, the delegation highlighted the creation of the Family Court in 2007 and mandatory reporting of all cases of domestic violence by all health care professionals in Saudi Arabia.

The Committee remained concerned about the problem of women being denied permission by a male guardian to make a legal complaint or visit a police station, when the guardian may also be the perpetrator of domestic violence. The Committee members encouraged the State to respond to this fundamental barrier to women's rights but the delegation did not acknowledge this as a problem. They maintained that a woman has complete freedom to make a full complaint against her guardian and that the right to litigation for men and women is enshrined in the Basic Law.

The concluding observations highlight the Committee's concerns about the absence of specific laws governing violence against women, and the lack of prosecution and punishment of its perpetrators. The Committee requests that the State remedy this and take measures such as implementing educational and awareness-raising campaign for all multidisciplinary personnel and the general public. In order to achieve this, the Committee's concluding observations also encourage the State to utilise the Committee's General Recommendation 19,²⁰ and the in-depth study by the Secretary-General.²¹

Dissemination of information in the Convention

With respect to Articles 3 and 4 of the Convention, Dr Zeid Al Hussein freely acknowledged that women were not currently fully aware of their rights and how to access them but that measures were being taken to improve this. He cited the introduction of an educational campaign and a special television channel designed to raise awareness. A representative for the Ministry of Social Affairs stated that programmes and school curricula teach women of their rights, roles in Islamic culture and about international organisations and treaties. A member of the delegation also pointed out that Saudi Arabia has enjoyed free discussion of issues in the press for the past seven years, which represented a radical change in debate and dialogue within the country.

The Committee heard that the State report in its present form was not submitted to the Advisory Council or *Shura* Council, but that both institutions participated in preparing the report and were represented in the delegation. Dr Zeid Al Hussein also reassured the Committee that the results of the session and concluding observations would be circulated amongst the *Shura* Council and other departments 'concerned with women's

¹⁹ General Recommendation 21, available at <http://www2.ohchr.org/english/bodies/cedaw/comments.htm>

²⁰ General Recommendation 19, available at <http://www2.ohchr.org/english/bodies/cedaw/comments.htm>

²¹ In depth-study on all forms of violence against women, Report of the Secretary-General, A/61/122 & Add. 1& Add.1/Corr.1, available at <http://www.un.org/womenwatch/daw/documents/ga61.htm>

affairs'. Committee member Chutikul requested that in the next report the State include information pertaining to dissemination of the report, and detail cases in which CEDAW has been implemented such as legal cases and complaints filed by women to access their rights under the Convention. Dr Zeid Al Hussein also responded positively to this, promising to pay more attention to the collation of such statistics and reports related to this and to draw this issue to the attention of the appropriate State bodies. The Committee calls upon Saudi Arabia to ensure the submission of its concluding observations to the *Shura* Council, all ministries, Judiciary, Public Institutions and disseminate the findings to the general population.

Conclusions and next steps

Committee Chairperson Šimonović concluded the session by conveying the Committee's appreciation for the open and frank responses from the State and Committee members acknowledged the tremendous challenges evident in fulfilling the State's commitment to equal rights for women. Overall, despite the substantial unresolved problems of male guardianship and discriminatory customs and practices, in the concluding observations,²² the Committee commended Saudi Arabia for its 'high standard of social services', especially health care and education services, and also for the new institutional mechanisms to address violence against women, such as the higher national committee specialising in women's affairs and the 13 social protection committees. Throughout the dialogue, the Committee also recognised that the State report did demonstrate progress in emancipating women in Saudi Arabia, particularly in terms of increasing education for women, reducing illiteracy and implementing fledgling policies to integrate women into decision-making or influential roles.

In summary, the concluding observations emphasise the need for a gender perspective and reflection upon the provisions of the Convention, particularly in all efforts to achieve the Millennium Development Goals.²³ The Committee concludes its observations by encouraging collaboration and coordination between the State and civil society organisations to strengthen implementation of the Convention and the realisation of equality for women in Saudi Arabia. It requests more detailed information in the next report, including disaggregated data by sex, age and rural/urban area; analysis of the situation of women; and the impact of measures taken to implement the Convention.

The Committee suggests that the State party utilise the Beijing Declaration and Platform for Action,²⁴ which reinforces the provisions of the Convention. To ensure the fundamental freedoms and enjoyment of human rights of women, the Committee also urges the State to consider ratifying the treaties to which it is not yet a party; the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and political Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Convention on the Rights of Persons with Disabilities.

Last revised and updated: 3 March 2008.

²² CEDAW/C/SAU/CO/2, 1 February 2008, available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

²³ Millennium Development Goals, available at <http://www.un.org/millenniumgoals/>

²⁴ The Beijing Declaration and Platform for Action, available at <http://www.un.org/womenwatch/daw/beijing/platform/>

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The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the six treaty bodies (all but the Committee on the Rights of the Child) and provides an overview of every treaty body session. It is currently an online publication that can be found at <http://www.ishr.ch/hrm>.

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