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Trapped

How Male Guardianship Policies Restrict Women's Travel and Mobility in the Middle East and North Africa



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**How Male Guardianship Policies Restrict Women's Travel and
Mobility in the Middle East and North Africa**

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Glossary

Custody (*hadana* in Arabic)—a legal term used in personal status laws across the region entailing the physical residence as well as care of a child until the child no longer requires it. When a marriage is terminated, most personal status laws in the region determine the conditions around who provides care to the child. Custody differs from guardianship of children, which relates to legal authority to make decisions over matters such as the child’s education, finance, health, and travel. The term ‘custody’ is discouraged in international human rights law as it can imply ‘ownership’ of the child by one or both of the parents, or deny the child’s distinct agency or the primacy of the best interests of the child.

Disobedience or recalcitrance (*nushuz* in Arabic)—A wife can be found disobedient or legally recalcitrant under many personal status laws in the region. A court’s finding of disobedience or recalcitrance means she can lose her right to spousal maintenance from her husband (see below), and may also hinder her access to divorce, financial rights, and access to her children.

Guardian (*wali* in Arabic)—A person in a position of legal authority over a child or any person not deemed qualified to act in legal matters on their own behalf. In many contexts, authorities only allow males to act as guardians—typically the father, brother, paternal uncle, paternal grandfather, or even son. When a woman is married, authorities may deem her husband to be her guardian.

Mahram—An Arabic term meaning a woman or a girl’s close male relative whom it would be legally unacceptable for them to marry. The term mahram, however, is widely used to mean both close male relatives as well as their husbands, if married, when discussing situations in which a woman is expected to have a mahram accompany her such as during travel.

Spousal maintenance (*nafaqa* in Arabic)—relates to the obligation on husbands to provide their wife with spousal maintenance (food, clothing, shelter, and other living expenses) during marriage. Spousal maintenance is distinct from child maintenance or support.

Summary

In September 2020, airport officials in Qatar stopped a 30-year-old mother of five children, demanding to contact her male guardian to confirm she had obtained his permission to travel. She told officials that her husband had dropped her at the airport, “but they wouldn’t accept that. They said ‘no, we have to call your father,’” a relative of the woman told Human Rights Watch. The officials “treated her like a minor, like a child... she is not property,” the relative said.

Women across the Middle East and North Africa region face varying restrictions preventing them from moving freely in their own country and from traveling abroad without the permission of their male guardians—typically their fathers or brothers, and when married, their husbands. The following report examines 20 countries in the Middle East and North African region and describes the different country requirements imposed on women to get their male guardians’ permission for their mobility within their country, to obtain a passport, and to travel abroad. It also examines whether women can travel abroad with their children as guardians on an equal basis with men.

Those who defend such patriarchal rules in the Middle East and North Africa often claim it is for women’s own protection but these rules are inherently demeaning and in fact expose them to domestic violence. Women have pointed to how men have used such rules to extort, exploit, punish or degrade them, and harm their rights.

These travel and mobility restrictions on women contradict many states’ own laws and constitutions which guarantee women’s equality and the freedom to reside in and leave one’s own country. They also violate international human rights law which guarantees equality and non-discrimination and freedom of movement for everyone, including to enter one’s own country, and to leave any country, including their own. Any restrictions on freedom of movement must be necessary in a democratic society, clearly provided by law, proportionate to protect the rights and freedoms of others, and consistent with all other rights such as equality and non-discrimination. Discriminatory movement restrictions also breach women’s right to equality before the law as well as their related rights including to work, study, marry, access health care, provide care to their children in their child’s best interests on an equal basis with men, and be free of violence. Almost all states in the

Middle East and North Africa are states parties to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

This report provides governments, policymakers, and civil society including women's rights activists and organizations a resource outlining the current status of women's freedom of movement including male guardianship requirements in each state.

Women's Mobility within the Country

Women's mobility is restricted in several countries. The mapping below shows countries in which women can face sanction if they leave the home without male guardian permission.

In positive news, some countries such as **Algeria, Morocco, and Tunisia** have removed language around women's obedience to their husbands which led to restrictions on their movements. However, **15 countries** in the region still apply personal status or family laws that require women to either "obey" their husbands or live with them, and/or deem women disobedient if they leave the marital home or work or travel without their husbands'



permission. Courts can order them to return to their marital home; if they do not, they can lose their right to spousal maintenance from their husbands. In March 2022, **Saudi Arabia** issued its first written Personal Status Law which codified the practice of requiring women to obey their husbands in a “reasonable manner” and that they can lose their right to spousal maintenance from their husbands if, for instance, they refuse to move into or stay in the marital home “without a legitimate excuse.”

Courts may also use women’s “disobedience” to restrict women’s access to divorce and deny them financial rights or custody of their children. This can trap women contemplating filing for divorce from leaving the home. For example, two Lebanese women, Cyntia and Mireille, told Human Rights Watch in 2013 that they were advised by their local parish bishops in Lebanon not to leave their marital homes despite their husbands’ physical and emotional abuse against them, as the Maronite Court would consider their leaving as an act of recalcitrance which in turn could lead to their children being removed from their care.

In **Jordan, Kuwait, Qatar, and Saudi Arabia**, male guardians and other family members can also report women to the police for being “absent” from their homes, which can lead to their arrest and forcible return home or administrative detention. In June 2021, Saudi Arabia made changes to a law that court orders on obedience requirements for women to be returned home are no longer required to be immediately enforced, but it is unclear if this will translate into practice by the police.

In countries experiencing conflict, some armed groups have imposed guardianship restrictions in areas under their control. In parts of **Syria** under the control of some armed groups, women in public spaces are required to be accompanied by a *mahram* (husband or close male relative she cannot marry). In areas under their control in **Yemen**, Houthi authorities have increasingly required women to travel with a mahram or to provide evidence of their male guardians’ written approval. Yemeni women reported to local media that bus drivers refused to take them because they did not have a mahram, or had to pay more money to travel since they must pay for their mahram’s ticket. Such rules have also forced many Yemeni women to leave their jobs at local and international non-governmental organizations, and UN agencies, because they do not have a mahram who can accompany them on their crucial work travel, losing much-needed income for their families, and cutting off Yemeni women and girls from receiving humanitarian aid.

Moreover, some countries enforce or allow other discriminatory mobility restrictions that women continue to campaign against. Women in **Iran**, for instance, have had a decades-long fight against the mandatory hijab, which remains a central feature of the nationwide “women, life, freedom” protests that erupted after the death in custody of Mahsa (Jina) Amini in September 2022 following her arrest for “improper” hijab.

In **Saudi Arabia** and **Yemen**, women are not allowed to leave prison after completion of their sentences without a male guardian to accompany them upon release. Some state universities including in **Bahrain, Iran, Kuwait, Oman, Qatar, Saudi Arabia**, and the **United Arab Emirates** require women to show they have male guardian permission before they can go on field trips, or stay at or leave campus accommodations or grounds.

Social custom in many countries dictates that single women should not live on their own. Women may face discrimination in practice when trying to rent apartments where they are not married or without a male guardians’ permission such as in **Algeria, Egypt, Iraq, Kuwait, Qatar, Saudi Arabia**, and in **Gaza (Palestine)**. Hotels, in countries like **Egypt, Iraq, Kuwait, Morocco, Qatar, and Yemen**, either because of state policy or in practice, prevent some women from renting a hotel room without a male guardian. **Egyptian** and **Moroccan** authorities have denied that they have issued instructions to hotels after some women reported being prevented from staying in a hotel room unaccompanied by a male relative. In February 2023, **Egyptian** authorities issued regulations to its 2022 Hotel and Tourism Establishments Law obliging tourist establishments and hotels to allow people to enter or reside in the establishment without discrimination including on the basis of sex.

Women’s rights activists have made some gains after campaigning. In 2018, **Saudi Arabia** allowed women to drive and **Oman** allowed women to drive taxis. In 2020, **Qatar** stopped requiring women to show male guardian permission in order to obtain driving licenses. Women have filed and won several lawsuits in **Israel** against gender exclusion or segregation in public spaces that disproportionately impact them. In recent years, **Saudi Arabia** also eased up on strict gender exclusion and segregation rules including allowing women to attend sports stadiums to watch events. **Iran** allowed a small number of women to attend specific matches but continued its general ban on female spectators at stadiums.

Women's Ability to Obtain Passports

The mapping below shows countries in which women are required to show male guardian permission in order to obtain their own passports.

In a positive advance, most countries in the region allow women to obtain passports without requiring guardian permission. Many governments previously had laws requiring women to show their husband's permission, or even their guardians' permission, to obtain passports, but changed them following campaigning by women's rights activists. States that allow women to obtain their own passport without showing guardian permission include Bahrain (since 2005), Egypt (since 2000), Iraq (since 2014), Israel, Jordan (since 2013), Lebanon, Libya, Mauritania, Morocco (since 2004), Oman (since 2010), Palestine (since 1996), Qatar (since 2007), Syria, Tunisia, and the United Arab Emirates (since 2017).



Iran's law requires married women to show their husbands' permission to obtain a passport. **Yemen** requires as a matter of policy, but not law, that women of all ages need to show permission from their male guardian in order to obtain a passport. In 2021, a local media outlet reported how a Yemeni woman sought to obtain her passport to join her husband who lives abroad. However, when she went to the Passports Office with her father the officials refused to process it on the basis that as a married woman her guardian is her husband. She had to find a senior officer to act as a guarantor for her to obtain her passport.

Algeria allows women, like men, to obtain passports from age 19 without guardian permission, while **Kuwait** and **Saudi Arabia** allow men and women from age 21 to obtain passports without guardian permission. In practice, however, women from age 18 but under the legal age limits of 19 or 21 years old are more likely to face situations in which their guardians may not approve their passport applications to travel than men under 21. **Saudi Arabia** adopted this rule in August 2019—previously, they had required women of all ages to show permission from their male guardians to obtain their passports. **Kuwait** made the change in 2009 when it allowed married women to obtain passports without their husbands' permission.

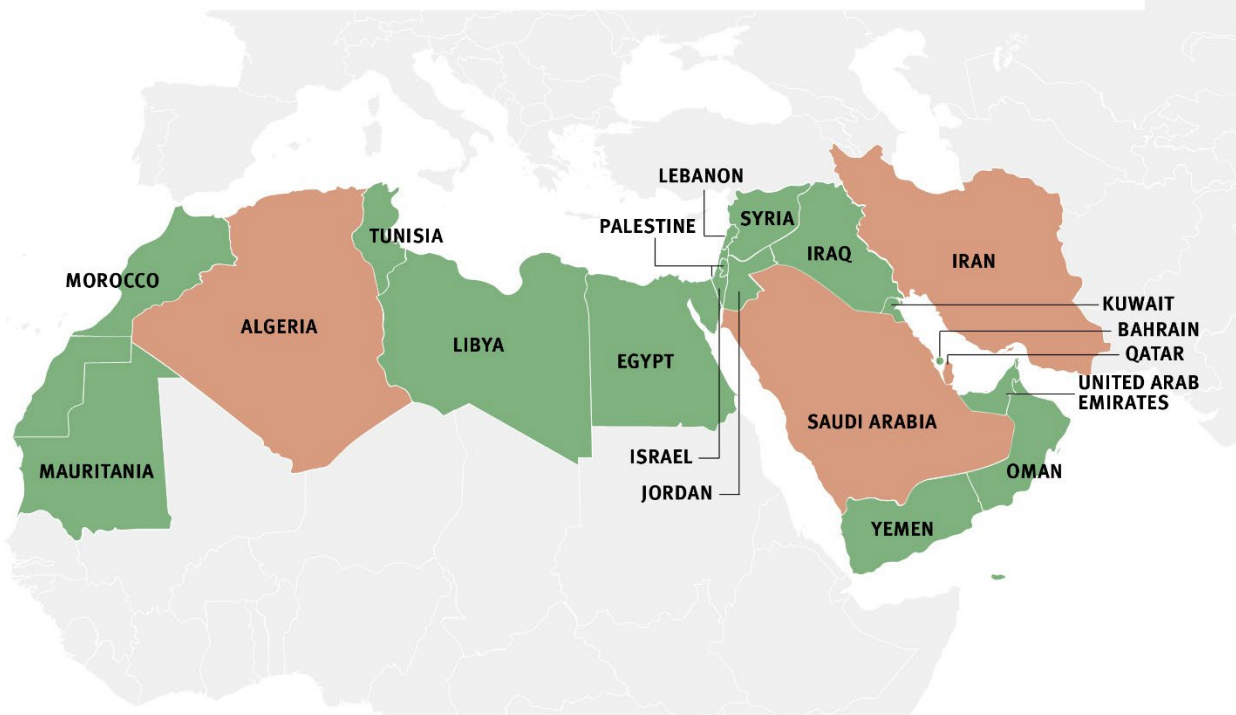
Women's Travel Abroad

The mapping on the following page shows countries in which women are required to show male guardian permission before they are allowed to leave their country or where a male guardian can obtain a court order to prevent a woman from traveling abroad.

Most countries in the region do not require women to have guardian permission *before* they travel. Until August 2019, women in **Saudi Arabia** could not travel abroad at any age without male guardian permission in the form of an exit permit which could be provided via a mobile app or website. After much campaigning by women's rights activists and following outrage over Saudi authorities forcibly returning, or attempting to return, Saudi women who fled abroad, the authorities amended this rule, so that women aged 21 and above, like men, no longer need to show such guardian permission to travel. There are some exceptions allowing those under age 21 to travel without a parent's permission including if they are married, have a government scholarship to study abroad, or are employees participating in official trips abroad. While parental permission applies to both men and women under 21 years old, in practice, women may be more likely to be denied permission to travel than men.

Can women travel abroad without prior guardian permission?

Yes No



Can women travel without threat of a travel ban by their male guardian?

Yes No



Currently, **Iran** and **Qatar** remain outliers for having official policies requiring exit permits for women to leave their own country. **Iran's** law provides that married women must show their husbands' permission to obtain passports and that their husbands must indicate whether they can travel for single or multiple trips. Even if a husband grants such permission, he can always change his mind and notify the government to prevent her from traveling abroad. Women have reported how men abuse this power including as retaliation or a bargaining tool to force women into giving up their financial or other rights during their marriage or when finalizing divorce. In May 2017, two-time Iranian Paralympic gold medalist Zahra Nemati was banned from leaving Iran to travel abroad by her husband after she filed for divorce.

Qatar's interior ministry rules, but not law, require unmarried Qatari women under age 25 to show permission from their male guardian (in person or an exit permit) to travel abroad while allowing Qatari men to travel without such permission from age 18. Guardians can issue this exit permit, usually one-year-long, via a government mobile app. In 2020, Qatari airport officials stopped some women under 25 years old who had valid exit permits, as well as women over 25, who should not require such permission under current rules, and demanded to call their male guardian to prove that they were not “escaping.”

In several places, including **Gaza, Iran, Qatar, Saudi Arabia,** and **Yemen**, authorities allow male guardians to obtain court orders or simply notify the authorities to issue travel bans on women. Men can do so at any time even when they may have agreed to the travel in the first place and this power acts as an ever-present threat over women. In **Qatar**, male guardians including husbands are allowed to apply to a court for travel bans against their female relatives or wives. Women are not notified of their travel ban and may find out only when they are at the airport when seeking to travel abroad.

Some authorities have imposed new restrictions leading to outcries by civil society. In February 2021, **Gaza's** Supreme Judicial Council, a body run by Hamas authorities, issued a notice allowing a male guardian to apply to a court to prevent an unmarried woman from traveling if they assess the travel will cause “absolute harm.” A woman, even if able to leave Gaza amid sweeping Israeli and Egyptian movement restrictions, can be prevented from traveling as soon as her guardian applies for a court-ordered ban, before a court ruling. In September 2021, Palestinian border officials at the Rafah Crossing between Gaza

and Egypt blocked Afaf al-Najar, a 19-year-old woman in Gaza, from traveling abroad to study for her bachelor's degree after her father applied for a judicial travel ban.

In **Yemen**, the Houthi's Land Transport Regulatory Authority expanded restrictions in August 2022, requiring that women no longer be permitted to travel anywhere within Houthi-controlled areas, to areas controlled by the Yemeni government, or outside the country without a mahram.

In May 2023, **Libya's** Internal Security Agency, a body linked with the Tripoli Prime Ministry, began requiring Libyan women traveling without a male escort, to complete a form declaring reasons for traveling, and why they are traveling solo, and giving details of past travels.

Even in countries where such restrictions may not be official policy, in practice some women reported that officials insisted on guardian permission such as in **Iraq**. In **Jordan**, authorities sometimes comply with requests from guardians to bar their daughters, wives, and children from leaving the country.

As noted above, some countries maintain family laws that consider women leaving the home, including traveling abroad, without their husbands' permission as "disobedience," and based on these laws they can lose their right to spousal maintenance from their husbands, and potentially can also impact their access to divorce and decisions relating to their children's residence.

Women's Travel Abroad with Their Children

This mapping shows situations in which women either cannot apply for their children's passports or cannot travel abroad with their child, on an equal basis with men.

Can women apply for their children's passports on an equal basis with men?

Yes No



Can women travel with their child on an equal basis with men?

Yes No



In many countries in the region, authorities deem men as the natural guardians of children and deny women the authority of guardianship over their own children. Whether a woman is married, divorced, or widowed, she can face sometimes insurmountable restrictions on traveling abroad with her children. International law provides that women should not face discrimination in relation to decisions concerning children, and that domestic laws and policies must ensure that the best interests of the child are assessed and prioritized on a case-by-case basis.

Fourteen states in the region do not allow women to obtain passports for their own children on an equal basis with men. Only **Egypt, Israel, Lebanon, Libya, Saudi Arabia,** and **Tunisia** allow women the same rights as men to apply for their children's passports. In March 2018, the Palestinian Authority, which manages affairs in parts of the West Bank (Palestine), changed its rules to allow either parent to apply for their child's passport. However, Hamas, the de facto authority in Gaza, continues to require male guardians to apply for their child's passport.

In addition, **Iran, Iraq, Jordan, Oman, Palestine, Qatar, Syria,** the **United Arab Emirates,** and **Yemen**, officially or in practice, require women to obtain permission from the child's father to travel abroad with their children, while there is no similar requirement imposed on men. A few countries also allow for men, but not women, to obtain court orders to prevent their child's travel.

Women have reported that such rules are used by men to punish women for divorcing them, to harass them, or as a negotiating tool. One Qatari woman told Human Rights Watch that her husband threatened to ban their children from traveling abroad if she divorced him. When she left him, she was granted temporary custody of their children and sought to travel for a summer holiday with them in 2019. She obtained a single exit permit from the court, with specified dates, and another court order for their child's father to return their passports for their travel but, he refused to give them back. She then got a court order to issue new passports for her children. However, despite having permission to travel from the court, he obtained court-ordered travel bans, which they only found out about upon arrival at the airport and could not get lifted in time to go on a planned summer holiday in 2019.

Recommendations

Male guardianship policies deprive women of their legal status to make decisions about their own lives and can cause deep harm. Discriminatory restrictions on women's mobility within their country and to travel abroad violate women's rights to freedom of movement, work, study, access health care, and marry. Discriminatory laws and policies against women making decisions concerning their children also harm both women and children.

Governments in the Middle East and North Africa should remove all remaining discriminatory restrictions, both in law and practice, on women's freedom to move about within their own country, to obtain a passport, and to travel abroad, including with their children.

Recommendations

Authorities in the Middle East and North Africa should:

- Repeal any and all discriminatory restrictions on women's movements within their respective countries including male guardianship requirements on women. This should include repealing:
 - laws or policies that restrict women's movements including legislative provisions that require women to "obey" their husbands and sanction women if they leave the home without their husbands' permission;
 - policies or practices that allow authorities to arrest women for being "absent" from the home;
 - policies that require women at university to show they have the permission of a male guardian before they can go on field trips, stay at or leave campus accommodation or grounds;
 - policies that require women to show proof of marital status, or permission of a male guardian, in order to check into a hotel, rent an apartment, access utilities e.g. water or electricity, or visit factories or other worksites;
 - policies that require women in public spaces or moving around the country to be accompanied by a *mahram* (husband or close male relative she cannot marry), or that prohibit women from specific public spaces such as stadiums and events.
- Repeal any and all discriminatory requirements on women's ability to exit any country, including their own, and travel abroad, such as male guardianship requirements. This should include repealing:
 - laws, policies, and practices requiring women over 18 years old to show their husbands, male guardians' or parental permission to obtain their individual passports, to exit the country, and any sanctions such as 'disobedience' if they do travel against their so-called guardian or husband's wishes;
- Issue or amend regulations to provide for the right of all women, like men, to enter their own country and for anyone in the country to leave, and prohibit the imposition of travel bans by male guardians. Ensure that any restrictions on travel are only in exceptional circumstances that are necessary and proportionate to protect the rights and freedoms of others, clearly provided by law using precise

- criteria for application of such restrictions, and consistent with all other rights including equality and non-discrimination—and that individuals are informed of the travel ban, the reasons and legal basis for it, and that they can appeal it.
- Allow women to register births and obtain ID cards and passports for their own children on an equal basis with men. Repeal policies that require only men's authorization for their children's travel abroad, but not women's, and ensure that both men and women can make decisions relating to their children's travel abroad on an equal basis. All decisions relating to children should be primarily on the basis of the best interests of the child in line with international standards and without discriminating against women.
 - Issue an anti-discrimination law that prohibits discrimination on the basis of sex and gender, ensures effective remedies for those who experience discrimination, and provides a positive obligation on the state to take steps to eliminate gender-based discrimination.

Methodology

Between January 2020 and July 2023 Human Rights Watch conducted research on laws and policies in the Middle East and North Africa relating to male guardianship and other discriminatory restrictions on women's freedom of movement within their own country and to travel abroad.

The research presented in this report does not cover all issues that can impact women's freedom of movement. It does not cover discriminatory nationality laws whereby women in many countries in the region cannot pass on their nationality to their children on an equal basis with men, which impacts the freedom of movement of women and their children.¹ It also does not cover issues of immigration and citizenship policies which can impact non-citizen women's freedom of movement.

Human Rights Watch analyzed dozens of laws covering personal status matters, passport and travel documents, and crime prevention laws, as well as regulations, government and private companies' websites, policies, forms, and relevant mobile phone applications.

This report includes research published in other Human Rights Watch reports and documentation including *Unequal and Unprotected: Women's Rights under Lebanese Personal Status Laws*; *Boxed In: Women and Saudi Arabia's Male Guardianship System*; and *"Everything I Have to Do is Tied to a Man": Women and Qatar's Male Guardianship Rules*.²

Human Rights Watch sought information from 44 lawyers, activists, and women from across the region through interviews and written communications in Arabic, English, and French, to verify our research findings. All participants were informed of the purpose of the

¹ See Global Campaign for Equal Nationality Rights, "Middle East and North Africa," <https://equalnationalityrights.org/countries/middle-east-north-africa> (accessed July 7, 2023).

² See Human Rights Watch, *Unequal and Unprotected: Women's Rights under Lebanese Personal Status Laws*, January 2015, <https://www.hrw.org/report/2015/01/19/unequal-and-unprotected/womens-rights-under-lebanese-personal-status-laws>; Human Rights Watch, *Boxed In: Women and Saudi Arabia's Male Guardianship System*, July 2016, <https://www.hrw.org/report/2016/07/16/boxed/women-and-saudi-arabias-male-guardianship-system>; and Human Rights Watch, *"Everything I Have to Do is Tied to a Man": Women and Qatar's Male Guardianship Rules*, March 2021, <https://www.hrw.org/report/2021/03/29/everything-i-have-do-tied-man/women-and-qatars-male-guardianship-rules>.

interview or information requested, its voluntary nature, and the ways in which the data would be used. The report in some cases uses pseudonyms—indicated in quotation marks—for interviewees at their request and withholds other identifying information to protect their privacy and their security. None of the interviewees received monetary or other incentives for speaking with Human Rights Watch.

Human Rights Watch requested information from official sources through letters, sent between June 8-21, 2023, to governments or authorities in 20 countries including ministries of interior and foreign affairs of Algeria, Bahrain, Egypt, Iran, Iraq (including Kurdistan Regional Government), Israel, Palestine (West Bank and Gaza), Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, and Yemen,

Human Rights Watch received responses from Israel and the United Arab Emirates. Relevant information from these responses is reflected in the report. The Israeli government did not substantively reply to questions Human Rights Watch asked or provide feedback on the text provided. The Israeli Foreign Affairs Ministry instead wrote to Human Rights Watch on June 21 that “Israel is a modern democracy and therefore the questions are not relevant at all regarding it and its population.” A copy of the two-sentence reply can be found in the appendix. The UAE Ministry of Foreign Affairs responded to most questions from Human Rights Watch, some of which are reflected in this report, and provided information about women in the UAE that did not relate to this report. A copy of their responses to Human Rights Watch’s questions is included in the appendix.

Human Rights Watch has included responses it received from the Qatari authorities in March 2021, in relation to the Human Rights Watch report *“Everything I Have to Do is Tied to a Man”*.³

³ Human Rights Watch, *“Everything I Have to Do is Tied to a Man”: Women and Qatar’s Male Guardianship Rules*, March 2021.

Background

Women across the Middle East and North Africa region face varying restrictions preventing them from moving freely in their own country and from traveling abroad without the permission of their male guardians—typically their fathers or brothers, and when married, their husbands.

Male guardianship policies and restrictions on women’s mobility are closely related to the seclusion or segregation of women from a male-dominated patrilineal society that often invokes tradition to control women’s sexuality and strictly limit their autonomy. For example, women have told Human Rights Watch that their male guardians and other family members refused them permission to travel, work, or study where they wished because they were intent on ensuring that they do not end up in a relationship with a man against their family’s wishes, acquire a reputation for being viewed as sexually active or breaking social taboos, or to otherwise “protect” them from male society.⁴

Those who defend such patriarchal rules in the region often claim it is for women’s own protection, but women have pointed out how the rules are inherently discriminatory, denying women equal treatment under the law to make their own choices, and reinforcing the stereotype of women in need of protection. Moreover, such rules are inherently violent, allowing men to commit domestic violence by controlling and restricting women’s lives and movement, and fostering further violence against women. Women have reported to Human Rights Watch and more widely how men have used such rules to extort, exploit, punish, or degrade them.

Laws, policies, and practices that restrict women’s freedom of movement in the Middle East and North Africa are the result of different, and even opposing developments. Colonial rule, the creation of nation-states, authoritarian rule, and rulers that sought to appease patriarchal factions have all played a part in the development of laws and policies that impact women’s freedom of movement in the Middle East and North Africa.⁵ The development of the use of modern passports, for instance, over the course of the 20th

⁴ Human Rights Watch, *“Everything I Have to Do is Tied to a Man”: Women and Qatar’s Male Guardianship Rules*, March 2021.

⁵ Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate*, 1992, Yale University Press; Elizabeth Thompson, “Public and Private in Middle Eastern Women’s History,” *Journal of Women’s History*, vol 15, pp. 52-69.

century led to new forms of discrimination. Around the world, women had to fight for the right to have independent passports separate from their husbands.⁶

Many states and religious bodies in the Middle East and North Africa region—including Islamic (both Shia and Sunni), Druze, Christian, and Jewish—have codified the obedience-maintenance framework into their personal status laws. Under this framework, husbands are obligated to provide their wives with spousal maintenance (food, clothing, shelter, and other living expenses during marriage) and in return, women are required to remain in the marital home, obey their husbands, and request their permission to leave the home or travel.⁷ If they are “disobedient” or seek to leave the marital home altogether, they can lose their entitlement to spousal maintenance.

Islamic scholars, for instance, who support male guardianship including the obedience-maintenance framework do so based principally on a Quranic verse which other scholars see as ambiguous. The verse (Quran 4:34) is translated as, “Men are *qawammun* [protectors and maintainers] in relation to women, according to what God has favored some over others, and according to what they spend from their wealth.”⁸ Other Islamic law experts have argued that male guardianship, as interpreted by jurists and states that impose it, misinterprets fundamental Quranic precepts and that male scholars have elevated guardianship over Quranic concepts such as equality and respect between the sexes.⁹ Scholars of Islam argue that this was one of the many ways in which Islamic scholars and jurists imposed patriarchal concepts of their time and society into their interpretations of Islamic law.¹⁰ For instance, some interpreted *hadiths* (sayings and

⁶ See for example, Sandra Kinsley, “The 1920s Women Who Fought For the Right to Travel Under Their Own Names”, March 27, 2017, <https://www.atlasobscura.com/articles/us-passport-history-women> (accessed July 6, 2023).

⁷ Human Rights Watch, *Unequal and Unprotected: Women’s Rights Under Lebanese Personal Status Laws*, 2015, <https://www.hrw.org/report/2015/01/19/unequal-and-unprotected/womens-rights-under-lebanese-personal-status-laws>; Ruth Roded, “Islamic and Jewish Religious Feminists Tackle Islamic and Jewish Oral Law: Maintenance and Rebellion of Wives”, *Comparative Islamic Studies*, 11(1) (2017), pp. 35–63. <https://doi.org/10.1558/cis.31497> (accessed July 6, 2023).

⁸ See the reflection on the verse and interpretations on the wording in Ziba Mir-Hosseini, Mulki Al-Sharmani and Jana Rumminger, eds., *Men in Charge: Rethinking Authority in Muslim Legal Tradition*, (London: One World Publications, 2015), p.15. See also A. Yusuf Ali, *The Holy Qur’an: Text, Translation and Commentary*, (Maryland: Amana Corp., 1983), p. 190.

⁹ Ziba Mir-Hosseini, Mulki Al-Sharmani and Jana Rumminger, eds., *Men in Charge, Rethinking Authority in Muslim Legal Tradition*, (London: One World Publications 2015); Musawah, “Musawah Vision for the Family,” 2016, https://www.musawah.org/wp-content/uploads/2018/11/MusawahVisionFortheFamily_En.pdf (accessed July 6, 2023).

¹⁰ Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate*, 1992, Yale University Press¹¹ Siti Fatimah Salleh et al, “The Influence Of Social Changes On The Islamic Legal Ruling Concerning Travelling Women,” *International Journal of Academic Research in Business and Social Sciences*, vol. 7, No. 8, ISSN: 2222-6990,

actions attributed to the Prophet Mohammed) to claim that in certain situations women are prohibited from traveling unless they are accompanied by their husbands or *mahram* (a male relative they are prohibited from marrying).¹¹ Yet, other Islamic scholars have pointed to hadiths and historical context that allow for women's freedom of movement without the need for their husbands or mahram to permit or accompany them.¹²

Male guardianship policies are not unique to the region, but exist in, and are influenced by, a broader history and context across other laws and traditions around the world that give men control over women's lives or deny women legal capacity equal to men.¹³ For instance, well into the 19th century, married women in some European legal traditions, and in some European colonies and former colonies of Australia, Canada, and the United States of America, were expected to obey their husbands who were deemed their protectors and lost part of their legal personhood upon marriage, including their property becoming the property of their husbands.¹⁴

[https://hrmars.com/index.php/IJARBSS/article/view/3260/The-Influence-Of-Social-Changes-On-The-Islamic-Legal-Ruling-Concerning-Travelling-](https://hrmars.com/index.php/IJARBSS/article/view/3260/The-Influence-Of-Social-Changes-On-The-Islamic-Legal-Ruling-Concerning-Travelling-Women)

¹¹ Siti Fatimah Salleh et al, "The Influence Of Social Changes On The Islamic Legal Ruling Concerning Travelling Women," *International Journal of Academic Research in Business and Social Sciences*, vol. 7, No. 8, ISSN: 2222-6990, [https://hrmars.com/index.php/IJARBSS/article/view/3260/The-Influence-Of-Social-Changes-On-The-Islamic-Legal-Ruling-Concerning-Travelling-](https://hrmars.com/index.php/IJARBSS/article/view/3260/The-Influence-Of-Social-Changes-On-The-Islamic-Legal-Ruling-Concerning-Travelling-Women) Women (accessed July 6, 2023).

¹² Ibid., Siti Fatimah Salleh et al, "The Influence Of Social Changes On The Islamic Legal Ruling Concerning Travelling Women," *International Journal of Academic Research in Business and Social Sciences*, vol. 7, No. 8, ISSN: 2222-6990.

¹³ See Uri Yiftach and Michele Faraguna, eds., *Ancient Guardianship: Legal Incapacities in the Ancient World*, Legal Documents in Ancient Societies VI, Jerusalem, 3-5.11.2013, (Trieste: EUT Edizioni Università di Trieste, 2017); Suzanne McGee and Heide Moore, "Women's rights and their money: a timeline from Cleopatra to Lilly Ledbetter," *The Guardian*, August 11, 2014, <https://www.theguardian.com/money/us-money-blog/2014/aug/11/women-rights-money-timeline-history> (accessed July 6, 2023); Ann Elizabeth Mayer, "Reform of Personal Status Laws in North Africa: A Problem of Islamic or Mediterranean Laws?" *Middle East Journal*, vol. 49, no. 3, 1995, pp. 432–46. JSTOR, <http://www.jstor.org/stable/4328833> (accessed July 6, 2023).¹⁴ See William Blackstone, *"Of husband and wife" Commentaries on the Laws of England* (1765–1769), (Lonang Institute, 1769); Ursula Vogel, "Under Permanent Guardianship: Women's Condition under Modern Civil Law," in *The Political Interests of Gender, Developing Theory and Research with a Feminist Face*, ed. Kathleen B. Jones and Anna G. Jónasdóttir, (SAGE, 1988); Karen Offen, *The Woman Question in France, 1400–1870*, (Cambridge: Cambridge UP, 2017 Print, New Studies in European History); and Tim Stretton and Krista J. Kesselring, *Married Women and the Law: Coverture in England and the Common Law World*, Montreal & Kingston: McGill-Queen's University Press; Constance B. Backhouse, "Married Women's Property Law in Nineteenth-Century Canada," *Law and History Review*, 6 (2), 1988, pp. 211–257.

¹⁴ See William Blackstone, *"Of husband and wife" Commentaries on the Laws of England* (1765–1769), (Lonang Institute, 1769); Ursula Vogel, "Under Permanent Guardianship: Women's Condition under Modern Civil Law," in *The Political Interests of Gender, Developing Theory and Research with a Feminist Face*, ed. Kathleen B. Jones and Anna G. Jónasdóttir, (SAGE, 1988); Karen Offen, *The Woman Question in France, 1400–1870*, (Cambridge: Cambridge UP, 2017 Print, New Studies in European History); and Tim Stretton and Krista J. Kesselring, *Married Women and the Law: Coverture in England and the*

Constitutional Protections and International Human Rights Law

These travel and mobility restrictions on women contradict some states' own laws and constitutions which guarantee women's equality with men before the law and the freedom to reside and leave one's own country. This discrimination also violates international human rights law including the International Covenant on Civil and Political Rights (ICCPR) to which most states in the Middle East and North Africa are a party to. The ICCPR obligates states to respect and protect the equal right of men and women to enjoy their civil and political rights including under article 12, the right to liberty of movement and freedom to choose one's own residence, enter one's own country, and to leave any country, including their own.¹⁵ The Human Rights Committee has stated that the right to leave any country includes the right to obtain the necessary travel documents, such as a passport by their own state. Any restrictions must be clearly provided by law, necessary in a democratic society, and proportionate to protect national security, public order, public health, morals, or the rights and freedoms of others, and consistent with all other rights in the Covenant (e.g. equality and non-discrimination). For any limitations to be permissible they cannot negate the essence of the right.¹⁶

The Human Rights Committee has said that restrictions based on distinctions of any kind, such as sex, including "measures preventing women from moving freely or leaving the country by requiring them to have the consent or the escort of a male person," are a clear violation of article 12.¹⁷ States are also obligated to protect this right from private interference including by ensuring that in practice a woman's right to move freely and to choose her residence is not made subject "to the decision of another person, including a relative."¹⁸

Common Law World, Montreal & Kingston: McGill-Queen's University Press; Constance B. Backhouse, "Married Women's Property Law in Nineteenth-Century Canada," *Law and History Review*, 6 (2), 1988, pp. 211–257.

¹⁵ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, arts. 2.1, and 12.

¹⁶ General Comments adopted by the Human Rights Committee under article 40, paragraph 4, of the International Covenant on Civil and Political Rights, para.9, <https://bit.ly/3W5HWGh> (accessed July 7, 2023).

¹⁷ *Ibid.*, para.18.

¹⁸ *Ibid.*, para.6.

The travel and mobility restrictions on women also breach the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which almost all states in the Middle East and North Africa are party. It provides for women's equality before the law as well as the same rights as men with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.¹⁹

Discriminatory movement restrictions imposed on women also breach regional human rights treaties including the African Charter on Human and Peoples' Rights, and the Arab Charter on Human Rights, which obligate states to ensure nondiscrimination including on the right of freedom of movement, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the "Maputo" Protocol), which requires states to combat all forms of discrimination against women.²⁰

The discrimination against women's right to freedom of movement also impairs and, in some cases, nullifies women's exercise of a host of other human rights including equality before the law and women's equal right with men to work, study, access health care, and marry without discrimination in breach of the ICCPR, CEDAW, the International Covenant on Economic and Social Rights (ICESCR), the Arab Charter on Human Rights, the African Charter on Human and Peoples' Rights, and the Maputo Protocol.

CEDAW also requires states parties to "take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations" including to ensure women's equal rights with men with regard to guardianship of children.²¹ States are obliged to base all decisions about children on the best interests of the child "as a primary consideration."²²

¹⁹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, art. 15(1) and 15(4).

²⁰ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986; League of Arab States, Arab Charter for Human Rights, adopted May 22, 2004, entered into force March 15, 2008. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, September 13, 2000, CAB/LEG/66.6, entered into force November 25, 2005.

²¹ CEDAW, art. 16(1).

²² Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 3. UN Committee on the Rights of the Child, "General Comment No. 14 on the right of the child to have his or her best interest taken as a primary consideration,"

Jordan

Women's mobility within the country

Under Jordan's 2019 Personal Status Law, a woman who disobeys her husband loses her entitlement to spousal maintenance (*nafaqa*) from her husband.¹⁸⁹ Women are required to obey their husbands "in permissible matters" (i.e. matters that are not prohibited such as under religion) and a husband must not prevent his wife from visiting her family on a reasonable basis.¹⁹⁰ She can be deemed disobedient if she leaves the marital home "without a legitimate reason" (such as her husband harming or mistreating her) or prevents her husband from entering the home before she asks to move to another home.¹⁹¹ A woman who works can still receive spousal maintenance but only if her work is deemed legitimate and her husband agreed to her work explicitly or implicitly.¹⁹² The husband may not withdraw his consent to his wife working except for a "legitimate reason" and without causing her harm.¹⁹³ Non-Muslims of recognized religious groups can have their own tribunals apply their religious personal status laws to them.¹⁹⁴ Christian communities under their canon law in Jordan also apply the framework of women's obedience in return for spousal maintenance from their husbands.¹⁹⁵

Authorities have arrested and administratively detained women because their male guardian complained that they sought to move out of, or left the family home without

¹⁸⁹ Personal Status Law No. 15 of 2019, June 2, 2019, <https://www.refworld.org/docid/5ffdc84.html> (accessed July 7, 2023). Art. 59 provides that the husband is obligated to provide spousal maintenance to his wife which includes food, clothing, housing, medical treatment to the extent known, and a domestic worker where other women like her have someone.

¹⁹⁰ Personal Status Law No. 15 of 2019, art. 78.

¹⁹¹ Personal Status Law No. 15 of 2019, art. 62.

¹⁹² Personal Status Law No. 15 of 2019, art. 61.

¹⁹³ Personal Status Law No. 15 of 2019, art. 61(b).

¹⁹⁴ Permanent Constitution of the Hashemite Kingdom of Jordan, arts. 108 and 109 https://www.constituteproject.org/constitution/Jordan_2011.pdf (accessed July 7, 2023).

¹⁹⁵ Information and Research Center – King Hussein Foundation, *Gender Discrimination in Jordan*, 2019, https://jordan.unwomen.org/sites/default/files/Field%20Office%20Jordan/Images/publications/2019/IRCKHF/IRCKHF_Gender%20Discrimination%20JO_Report_EN%20FINAL.pdf (accessed July 7, 2023); "Christian leaders unanimously approve bill granting gender equality in inheritance procedures," *The Jordan Times*, May 9, 2023, <https://jordantimes.com/news/local/christian-leaders-unanimously-approve-bill-granting-gender-equality-inheritance> (accessed July 7, 2023).

permission (often referred to as “absence”).¹⁹⁶ Arrests for “absence,” which is not a criminal charge, are carried out under the Crime Prevention Law which allows the authorities broad powers to detain individuals without charge or trial, often for long periods of time.¹⁹⁷ Authorities typically send women back to their families, but may detain them longer if they refuse to go back, if their families refuse to take them back, if there is a perceived threat from the family, or if authorities demand a male relative provide the guarantee instead of a willing female relative.¹⁹⁸ Human Rights Watch documented cases where women remained confined in detention for more than 10 years.¹⁹⁹ Amnesty International reported how government officials comments suggested arrests and administrative detention were designed to bring women back under their guardians’ control, with women not allowed to live independently from their male relatives.²⁰⁰

Women’s Ability to Obtain a Passport

The Jordanian Civil Status and Passport website instructions allows “for a wife to obtain her passport without her husband’s permission.”²⁰¹ In 2013, the authorities passed Law No. 11 of 2013 enabling women to obtain passports without needing to show guardian or husband consent.²⁰² Article 12 of the previous 1969 law had required married women to obtain their husbands’ consent and for minor children their guardians’ consent.²⁰³ The 2003 Provisional Passports Law allowed a woman to obtain a passport without such consent but in 2012, parliament abolished the 2003 law, following which officials required

¹⁹⁶ See Equal Rights Trust and Mizan for Law, *Shouting through the walls: Discriminatory torture and ill-treatment in Jordan*, 2017, https://www.equalrightstrust.org/ertdocumentbank/Jordan%20report_ENG_o.pdf (accessed July 7, 2023), pp. 93 and 96; and Amnesty International, *Imprisoned Women, Stolen Children: Policing Sex, Marriage, and Pregnancy in Jordan*, 2019, <https://www.amnesty.org/download/Documents/MDE1608312019ENGLISH.PDF> (accessed July 7, 2023); Human Rights Watch, *Guests of the Governor: Administrative Detention Undermines the Rule of Law in Jordan*, May 26, 2009, <https://www.hrw.org/report/2009/05/26/guests-governor/administrative-detention-undermines-rule-law-jordan>.

¹⁹⁷ Crime Prevention Law No.7 of 1954. Human Rights Watch, *Guests of the Governor*, May 26, 2009.

¹⁹⁸ Amnesty International, *Imprisoned Women, Stolen Children: Policing Sex, Marriage, and Pregnancy in Jordan*, 2019.

¹⁹⁹ Human Rights Watch, *Guests of the Governor*, May 26, 2009.

²⁰⁰ Amnesty International, *Imprisoned Women, Stolen Children: Policing Sex, Marriage, and Pregnancy in Jordan*, 2019.

²⁰¹ Jordan Civil Status and Passports Department, “Passport (ordinary) for the first time,” <https://bit.ly/3ZWE7Uo> (accessed April 11, 2023).

²⁰² Law No. 11 of 2013 amending the Passports Law, <http://site.eastlaws.com/GeneralSearch/Home/ArticlesTDetails?MasterID=1743559&related> (accessed July 7, 2023), art. 9.

²⁰³ Passports Law, Law No. 2 of 1969, <https://bit.ly/3mpeXAo> (accessed April 11, 2023), art. 12.

women to show their guardians' or husbands' consent again.²⁰⁴ The requirement was then finally removed by the 2013 law.

Women's Travel Abroad

Jordanian law does not restrict women's travel abroad such as requiring written consent from her guardian.²⁰⁵ However, social restrictions lead to many families prohibiting women from travel abroad.²⁰⁶ Prior to travel, women may risk arrest for leaving their home without their male guardian's permission (see above).

Women's Travel Abroad with Children

The Passports Department website instructions provide that either the mother or father can apply for passports for their children under 18 years old. However, divorced or widowed women need to show that a court has granted them temporary guardianship over their children to make such applications.²⁰⁷ This is because under Jordan's Personal Status Law, only a man can act as a child's legal guardian, the default being the father.²⁰⁸ The Personal Status Law also prohibits a woman from traveling outside the country with her child or from residing outside Jordan with her child without her child's male guardian's approval.²⁰⁹ A woman who wishes to travel for short trips abroad with her child against her child's guardian's wishes has to secure a sponsor to guarantee to the court that she will return to Jordan with her child, and if she fails to do so, her sponsor could face imprisonment.²¹⁰

²⁰⁴ See Rana Husseini, "Jordan," in *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010), https://freedomhouse.org/sites/default/files/inline_images/Jordan.pdf (accessed July 7, 2023). "Qateishat: The Passport Law of year 69 is not appropriate for our time," *Zad Jordan News*, June 5, 2012 <https://www.jordanzad.com/index.php?page=article&id=84721> (accessed July 7, 2023); Notice of the temporary invalidity of the Temporary Passports Law No. 5 of 2003 and Amendment No. 42 of 2003, issued February 29, 2012.

²⁰⁵ "Girls dreaming of traveling, legal permissibility undermined by social restrictions," *Al Ghad*, March 1, 2021, <https://bit.ly/3i67znZ> (accessed July 7, 2023).

²⁰⁶ *Ibid.*

²⁰⁷ The Official Site of the Jordanian E-Government, "Issuing Ordinary Passport for the First Time," <https://bit.ly/4oQ7GrT> (accessed April 11, 2023).

²⁰⁸ Personal Status Law No. 15 of 2019, art. 223.

²⁰⁹ Personal Status Law No. 15 of 2019, arts. 176 and 177; "Jordan: End Child Marriage in Status Talks," Human Rights Watch, April 3, 2019, <https://www.hrw.org/news/2019/04/03/jordan-end-child-marriage-status-talks>

²¹⁰ Personal Status Law No. 15 of 2019, art. 177.

Male guardians can apply for a court order to prevent their children from traveling abroad.²¹¹

Constitutional Freedom and International Human Rights Obligations

Jordan's constitution provides for equality before the law without discrimination, guarantees personal freedom, and provides that no Jordanian may be prevented from or compelled to reside in any specified place except in circumstances prescribed by law."²¹²

Jordan is a state party to the Convention on the Elimination of All Forms of Discrimination Against Women, the International Covenant on Civil and Political Rights, and the Arab Charter on Human Rights which obligate states to ensure freedom of movement and nondiscrimination.²¹³

²¹¹ UK Foreign Commonwealth and Development Office, "Information on child abduction in Jordan," updated on March 23, 2021, <https://www.gov.uk/government/publications/jordan-child-abduction/information-on-child-abduction-in-jordan> (accessed July 7, 2023); Hussein, "Jordan."

²¹² Permanent Constitution of the Hashemite Kingdom of Jordan, arts. 6, 7 and 9.

²¹³ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Jordan on July 1, 1992; International Covenant on Civil and Political Rights (ICCPR), ratified by Jordan on May 28, 1975; League of Arab States, Arab Charter for Human Rights, ratified by Jordan on October 28, 2004.