

Yemen

1. Discrimination in the family

a) Overarching legal framework for marriage

Yemen's Personal Status Law contains provisions that discriminate against women in relation to marriage. Indeed, article 6 of the 1992 Personal Status Law defines marriage as "a commitment between spouses via a legal contract through which a man enjoys his woman lawfully". In addition, to enter into marriage, a woman or girl must have the permission and signature of a male guardian or, in his absence, a court judge, to marry (Decree Law No. (20) of 1992 Concerning Personal Status, Article 14). Concerning forced marriage, although the law states in Article 10 (Personal Status Law 1992) that any marriage contracted by force is void and requires in Article 23 the bride's consent to marry, Article 7 does not require the presence of the bride to seal a marriage contract. In addition, the fact that only the presence of the guardian authorizing the marriage is required, leads to cases in which women are married without even knowing it and must either accept the marriage or face intimidation from their male guardians and families (Elham Manea, 2010).

As for inter-religious marriages or marriages with a foreigner, some local interpretations of sharia prohibit a Muslim woman from marrying a non-Muslim man, others permit marrying a Christian or Jewish man. But all interpretations allow a Muslim man to marry a Christian or Jewish woman. Any citizen who wishes to marry a foreigner must obtain the permission of the Ministry of Interior. In addition to that requirement, a woman wishing to marry a foreigner must present proof of her parents' approval while a foreign woman who wishes to marry a male citizen must prove to the ministry that she is "of good conduct and behaviour" (US Department of State, 2016).

Under Islamic law, temporary marriages with Yemeni women are authorized. However, the government had to enact regulations to curtail and regulate it, as a significant number of foreigners (usually from the Gulf area) used to enter into temporary marriages with young Yemeni women and left the bride, frequently pregnant and without means of support, to return to their countries of origin (US Department of State, 2016).

b) Child marriage

Despite the fact that Yemen ratified the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages (Child Marriage Convention) on February 9, 1987 with no reservations, there is currently no legal age of marriage in Yemen.

The legal minimum age for marriage in Yemen was previously set at 15 but the Yemeni Parliament abolished this law in 1999 (Elizabeth Verner, 2015). More recently, in 2009, a proposed bill to set the minimum age of marriage at 17 was rejected (Girls Not Brides, 2016) and new attempts to set it at 18 collapsed with the 2015 outbreak (UNFPA, 2016). Lack of registration of marriages, particularly in rural areas, makes it difficult to gather accurate data on child marriage. However, according to data from UNFPA, child marriages remain widespread and have increased during the ongoing conflict (UNFPA,

2016). Furthermore, child brides are often exposed to violence in the homes of their new husbands (Elizabeth Verner, 2015) and doctors and the media have reported the deaths of child brides as young as age eight following their wedding night or childbirth. Although forced and child marriage is a common phenomenon in all social classes, poverty further hinders efforts to eradicate the practice as parents often marry off their daughters to be relieved of the cost of their care. Certain cases involving young girls demanding and obtaining divorces have garnered international attention, however, these cases appear to be very exceptional (Tahirih Center, n.d.).

c) Household responsibilities

While article 24 of the Constitution notes that “the state shall guarantee equal political, economic, social and cultural opportunities for all citizens” and article 41 that “All citizens are equal in public rights and duties”, those articles are undermined by Article 31 which stipulates that “women are the sisters of men. They have rights and duties, which are guaranteed and assigned by sharia and stipulated by law.” In the country’s context, being sisters of men indicates a status where women (if not married) are protected by their brothers, but are weaker in term of rights (Elham Manea, 2010).

As for married women, article 40 of the Personal Status Act No. 20 of 1992 mandates a wife’s obedience to her husband, including by restricting her movements outside the marital home. Also, a wife is obligated to reside with her husband at his residence (Yemen’s Personal Status Act, Article 40 & Gabriel Sawma, 2011).

In a couple, housework is generally left to women while men work outside and are considered the bread winners and contribute to the raising of children to a lesser degree than women (CEDAW, 2007).

After a divorce, the father generally remains the legal guardian of the children as financial child support is his responsibility (Article 158, Personal Status Act No. 20 of 1992; CEDAW, 2007). In terms of parental authority, Islamic law differentiates between custody as caring and nurturing (*hadanah*) and custody as guardianship (*wilayah*) (UNHCR, 2000). Fathers are the guardians of their children, while mothers are considered children’s physical custodians, but have no legal rights (UN Women 2015).

d) Divorce

Men are able to divorce unilaterally their wives, while women can only obtain a divorce under a limited range of circumstances. Section II of Yemen Personal Status Law, which is based on sharia, allows the husband to apply a form of unilateral divorce without justification (*talaq*) in which he has only to pronounce the sentence “I divorce you” three times. Article 58 of the Personal Status Law does not specify whether the husband should say the sentence to his wife directly, nor does it require a witness or notification of a court. It states that the divorce becomes valid once the husband pronounces the sentence with the intention of divorcing his wife (Elham Manea, 2010). The *talaq* is only revocable if it takes place without compensation after the consummation of marriage and if it has not already been pronounced two times (Büchler, 2017).

The husband can divorce his wife at any time without having to justify himself, whereas a woman must go to court in order to obtain a divorce and present adequate reasons in order to have the marriage contract nullified. Articles 47 to 55 of Yemen's Personal Status Law only allow a woman to seek the annulment of her marriage contract under certain conditions: if her husband has tuberculosis, leprosy or impotence (Gabriel Sawma, 2011) or if the husband has caused her harm. "Harm" includes the husband's mental sickness, alcoholism, his inability to provide for his family financially, his absence of the country for more than a year or his imprisonment for more than three years (Elham Manea, 2010). In all those cases, wives alone have no right to separate from their husbands, the court must always agree to the separation.

Alternatively, women can seek out a "*khu*" divorce also called a "non-fault divorce" (Personal Status Law, Article 72). It is a type of divorce allowing them to end their marriage with the consent of their husbands. However, in this specific case, they have to pay back their dowry and forego claims to the temporary financial support provided to women in other divorce cases. Therefore, this alternative is often not viable for women who are financially dependent on their husbands. In addition to those hurdles, their chances of securing a divorce often depends on the judge's sympathy—an arbitrary factor that cannot be guaranteed in every case (Elham Manea, 2010)

Regarding parental responsibilities, the law differentiates legal guardianship and custody. After divorce, the father automatically remains the legal guardian of the children and financial child support is his responsibility. However, in practice, some fathers often refrain from taking this responsibility (CEDAW, 2007). As for custody, article 141 of Yemen's Personal Status Act gives priority for custodianship to the mother as long as certain conditions are met such as maturity, sanity, faithfulness, moral and physical ability. But as the children grow older (age nine for boys and age 12 for girls), the father can take custody (Personal Status Act, Article 139). In addition, a court can find a mother unfit to have custody before the children reach that age (that condition is not applicable to men). In that case, a maternal grandmother living in Yemen or a paternal grandmother (if the maternal grandmother is not living in Yemen) will be given custody.

e) Inheritance

Under the personal status Code, which is based on sharia inheritance laws (which assume that women receive support from their male relatives), daughters receive half the inheritance awarded to their brothers (Personal Status Law, Article 309). A woman may also inherit from her husband or children or other members of the family, under certain conditions. However, her share is generally smaller than a man's entitlement (UN WOMEN, 2015). In general, a woman will receive half of the share that a man will receive if there is one female and one male heir with the same relationship to the deceased (UNICEF, 2011).

However, in practice, in some rural areas, girls are often deprived of their inheritance especially land and real estate, an act which is against the Islamic jurisprudence or national legislations (CEDAW, 2007). Indeed, women who marry outside of their respective tribe are often prevented to inherit in order to avoid the property being handed over to another family or tribe (Danish Center for Research and Information on Gender, n.d.).

Access to formal justice systems in cases of inheritance disputes is also an issue for women, as most

of them would rather seek advice from religious authorities instead of going to court. In 2013, HiIL surveyed randomly selected adult Yemeni men and women dealing with problems related to inheritance. The results of the study showed that half of the women interviewed with inheritance problems sought justice from sheikhs (especially in rural areas), while only 19% went to court. In urban areas, many women reported that they initiated some form of reconciliation process with the other party (HiIL, 2013).

2. Restricted Physical integrity

a) Violence against women

There is no comprehensive law specifically addressing gender-based violence. Article 234 of the Criminal Code states that authorities should execute a man if convicted of killing a woman. However, it still allows lenient punishment to men convicted of “honour” killings. Article 232 of the Penal Code provides that a man who murders or injures his wife, mother, daughter, or sister or her partner after finding them in the act of committing adultery should receive a maximum prison sentence of one year or a fine. According to the Yemen Organization for Defending Rights and Democratic Freedoms this provision fosters the practice of execution without trial, carried out with near-impunity (Yemen Organization for Defending Rights and Democratic Freedoms, 2013). The Criminal Code also includes discriminatory provisions potentially making women more vulnerable to violence. Indeed, article 273 of the Criminal Code criminalizes “shameful” or “immoral” acts, making women susceptible of being arrested for reasons such as being alone with a man who is not her relative (UNICEF, 2011).

Despite the lack of comprehensive framework addressing gender-based violence, several Government’s initiatives to reduce violence against women were established. In particular, the outdated National Strategy for Women Development 2006-2015 comprised six main objectives and one of those objectives was to combat violence against women.

Violence against women and more specifically honour killings, are widespread in Yemen and these problems have been magnified with the ongoing conflict (To Be For Rights and Freedoms, 2016). Because of the current political situation, it is complicated to obtain official statistics of the number of women who are killed under this label. Also, even before the outbreak, a large portion of crimes committed against women in the name of honour were not registered in the official records, and the victims of such crimes are often recorded as cases of natural death—even women who are murdered, strangled, or poisoned (Yemen Organization for Defending Rights and Democratic Freedoms, 2013).

b) Domestic violence

There is no legislation in place in Yemen specifically addressing domestic violence. The Criminal Law criminalizes physical harm, but does not mention domestic violence and does not cover psychological harm (Article 254). Women can file complaints based on the article addressing physical harm, but this article does not take into account the relationship existing between the victim and the perpetrator.

Women’s groups reported that physical, emotional, and sexual abuse within marriage is widespread in the country (US Department of State 2016). However, it is difficult to get data on domestic violence to assess the scale of the problem as it is usually not reported due to the social stigma and women’s fear of deteriorating the situation further if they dare to file a case against their relatives (husband,

father, brother) who caused them harm (United Nations, 2015). Access to justice is also problematic for women willing to report abuses, indeed, due to social pressures, authorities expected an abused woman to take her complaint to a male relative rather than to authorities, to intercede on her behalf or provide sanctuary as violence against women is seen as a private, family matter. Due to these social norms, trials in cases of domestic abuse were rare (US Department of State, 2016).

The National Strategy for Women Development 2006-2015 included specific provisions to combat and prevent domestic violence such as setting up hotlines to assist women victims of violence and setting up shelters and emergency services for women victims of violence. The Ministry of Public Health and Population and the Ministry of Human Rights is in charge of maintaining hotlines for women victims of violence, although they had little capacity to act on complaints. The Ministry of Human Rights referred callers to various civil society organizations or foundations for assistance. It also referred complainants to the nongovernmental National Women's Union for assistance which operates at least one shelter (US Department of State, 2016).

c) Rape

The Criminal Code addresses sexual violence (Criminal Code, Article 270) and criminalizes rape (Article 269). The definition of rape is based on lack of consent. The law also provides for increased penalties for aggravated forms of rape and sexual violence. Marital rape is not criminalised as it is indicated in the law that a woman may not refuse sexual relations with her husband (Personal Status Law, Article 40).

Despite the legislation, prosecution of perpetrators is an issue as women's presence in courts is highly stigmatised. According to Yemeni law, a woman's testimony is worth only half that of a man's and must be corroborated by a man. As a result, few women come forward to report rape and physical abuse (UNFPA, 2016). Furthermore, rape victims often are prosecuted on charges of fornication after the perpetrator was freed. In addition, DNA technology is not available in criminal rape cases, and without witnesses cases are often difficult to prosecute (US Department of State, 2010)

d) Sexual harassment

Sexual harassment is prohibited under the Criminal Code, which stipulates that anyone who commits an offending act in public can be sentenced to up to six months in prison or a fine (Articles 270-274). However, because the law fails to define what acts are reprehensible, interpretation is often left to judges (Gender Concerns International, n.d.). The definition of sexual harassment does not specifically cover the workplace, educational establishments, sporting establishments, public places nor cyber harassment. There have been several proposals to amend the Penal Code in recent years to make the crime of sexual harassment more explicit but without success so far (Ghaidaa al-Absi, 2012).

Sexual harassment in the streets is a major problem for women. A 2010 report by the Athar Foundation for Development, the most recent data available, found that 99% of women faced sexual harassment in the streets (US Department of State, 2016). According to the United Nations, in the workplace too, data collected suggest that women are subject to general maltreatment including blackmail and sexual harassment (United Nations, 2010). However, the extent of sexual harassment

is difficult to assess and data is not available since the start of the conflict (US Department of State, 2016).

In addition to the lack of legal protection, women face particular barriers to accessing the services that are available. Women interviewed in 2013 reported feeling scared to go to police stations due to cultural stigma and expectations of poor police treatment of complainants. As a result, women said that they often do not know where to go to report crimes, particularly harassment, rape, or physical and verbal abuse (Saferworld, 2013).

e) Female genital mutilation

The law does not prohibit female genital mutilation (FGM) although a 2001 ministerial directive banned the practice in government institutions and medical facilities (CEDAW, 2007). However, the decree did not impose penalties for violations. According to health officials, the decree has not been effective in stopping FGM due to the difficulty of monitoring its implementation in medical facilities (HRW, 2015).

Nationwide, 19% of all women and girls have undergone some form of FGM (UN WOMEN, 2010) and among the girls who have undergone the process, 85% of them experienced the practice within their first week of life (UNICEF, 2016). FGM is only practiced in certain coastal areas of the country. In many governorates, FGM is not practiced, but in some (influenced by cultural practices from the Horn of Africa) up to 84% of women and girls are cut (UN WOMEN, 2010). The practitioners are usually older women from local villages, who were taught the procedure by their mothers or grandmothers and continue to pass it down to their female relatives. Sometimes the procedure is also carried out by traditional birth attendants or relatives, almost always in the home of the baby. Some women, traditional FGM practitioners, government officials, and clerics interviewed by Human Rights Watch justified the practice based on tradition, religion, cleanliness, and on the need to curb promiscuity (HRW, 2015).

Although not currently criminalized, various initiatives were established by the government over the past decades in order to curtail the practice. More particularly, the Women's National Committee and the Ministry of Endowments and Religious Guidance provided a manual for religious leaders on women's health problems, including the negative health consequences of FGM (US Department of State, 2016).

f) Abortion

According to the Criminal Code, article 240, the performance of an abortion is illegal except when carried out to save the life of the pregnant woman. Only during the past decade have society and Islamic sheikhs started to accept abortion on this ground.

The average woman in Yemen has six children. However, this average is likely to have increased with the severe disruption of the health system and the lack of contraception methods' availability during the current crisis and unsafe abortions are one of the three leading causes of maternal death (Humanitarian Practice Network, 2014). Abortion is a taboo practice which most of the time takes place amid secrecy. Women performing abortion are highly stigmatized and women who

terminate their pregnancy without what Yemeni culture regards as “good reason” are criticized (International Campaign for Women's Right to Safe Abortion, 2017).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Women have the legal right to own land and non-land assets. Article 41 of the Constitution provides that “All citizens are equal in public rights and duties”. Furthermore, under Yemen’s personal status law, women have a legal right to own, buy, and sell land and non-land assets (Article 41, Personal Status Law). Within marriage, women retain ownership and control over their own property and assets as the default marital property regime is separation of property.

However, in practice, few women have ownership rights to land. They commonly hand back inherited land rights to male relatives. In addition, in certain rural areas, women must obtain the permission of their husbands to transact land, regardless of ownership (Land Governance, 2014). Those social norms highly impact the percentage of land that women own, particularly in remote areas. Before the crisis, data show that despite the fact that many women were involved in agricultural production they were owners of less than 1% of agricultural land (Care Nederland, 2016).

b) Secure access to formal financial resources

Yemeni women have access to bank loans and other forms of financial credit and do not need the consent of their husband or male guardians. Under Yemeni law, once a woman is of legal age, she is permitted to obtain loans and make financial transactions (Civil Law No. 14 of 2002, Art. 50).

Increasing women’s economic participation has been part of the government’s development plans in the last few decades in particular with the creation of the National Foundation for Micro Financing in accordance to the Public Associations Law No. (1) for 2001. The foundation was launched in 2003 as the first establishment specialised in micro credit providing services such as savings, credit and insurance only to women, and encourages them to establish income generating projects to empower them economically (CEDAW, 2007).

However, in practice, traditions and customs hinder women’s ability to access financial establishments, which are considered the realm of men and where women often feel they will not be taken seriously. Therefore, when it comes to credit, most women have a preference for the informal sector: the most common source of finance for women is the *‘jimaya’*, an informal rotating savings and credit association, whereby a group of women pool their money and take turns receiving the pot (OECD, n.d.).

c) Workplace rights

Yemen has ratified ILO Conventions 100, 111, 156, but not 183 or 189. The law mandates non-discrimination on the basis of sex in employment (Labour Code, Article 42) and specifically states that “Women shall be equal with men in relation to all conditions of employment and employment rights”. That provision is also applicable to promotions and trainings. However, it states that “the requirements of job or occupational specifications shall not be considered as discrimination”. In

addition, the law does not mandate equal remuneration for work of equal value and prohibits women from entering certain professions, such as “industries and occupations which are hazardous, arduous or harmful to their health or social standing” (Labour Code, Article 46). Furthermore, women cannot work at night except during the month of Ramadhan.

A woman's duty to be obedient (Personal Status Law, Article 40,) is linked to a man's right to deny his wife permission to work. However, the law has introduced restrictions in this context. The legislation explicitly states that a man is bound by an arrangement made at the time of marriage stating that the woman will take up employment. Nevertheless, having given his consent does not mean that a man can be forced to translate this into practice; ultimately, the woman has no option to force a man to comply (OECD, 2014). Yemeni law mandates paid maternity leave of 60 days (Labour Code, Article 45) and 100% of wages are covered by the employer. However, there is no paid paternity leave or parental leave.

Women are largely under-represented in the labour force, mainly because of discriminatory gender stereotypes limiting women’s responsibilities to domestic duties (OECD, 2014).

This is confirmed by an ILO-Gallup study conducted in 2017 as 53% of men and 45 % of men disagree with the statement “It is perfectly acceptable for any woman in your family to have a paid job outside the home if she wants one”. In addition, 53 % of women interviewed answered that they would prefer staying home instead of working at a paid job (19%). A similar proportion of men (53%) answered that they would prefer that the women in their family stay home instead of working at a paid job (27%) (ILO-Gallup, 2017). Other factors are related to high illiteracy rates among women and low skills and inadequate training. All those factors hinder women’s work and participation in the high management positions in the economic, social, cultures and political establishment (CEDAW, 2007).

4. Restricted Civil liberties

a) Citizenship rights

Married women do not have the same rights as married men to transmit their nationality. Indeed, according to article 11 on the Law No. 6 of 1990 on Yemeni Nationality, any foreign woman who marries a Yemeni can acquire the nationality upon certain conditions: she has to file a Ministerial application at least four years after the date of the marriage and obtain an approval from the Ministry. But those conditions are not applicable to men. However, married and unmarried women have the same rights as men to change and retain their nationality. According to article 3 of the Act No. 25 of 2010 on the Yemeni nationality, a Yemeni woman who has children with a non-Yemeni husband is allowed to transfer her citizenship to their children only if the foreign husband has died, the couple has divorced, or the woman has been abandoned by her foreign husband. The children of a Yemeni man, on the other hand, will automatically be Yemeni, regardless of the citizenship of their mother. However, married women have equal rights as married men to confer nationality to their spouse (Constitution, Article 44) and married and unmarried women have equal rights as men to register the birth of their children.

Nevertheless, according to 2014 data from the UNICEF, Yemen has the lowest birth registration rate in the Middle East and North Africa region and one of the lowest in the world. Specifically, the

percentage of children having their birth registered is as low as 10% in rural areas and rises to only 38% in urban areas. This has important legal consequences on the child's ability to go to school or apply for an ID card (UNICEF, 2014).

All Yemeni men and women have the right to obtain ordinary passports once they reach the age of 16 (OECD, 2014). A woman seeking a passport must have a male sponsor, as the Personal Status Law requires wives to yield to the authority of their husbands (Gabriel Sawma, 2011).

b) Voting

Yemen has been among the first of the Gulf States to grant full voting rights to women as well as giving women the ability to be nominated in elections. Indeed, the Constitution guarantees women and men equal rights to vote and participate in political life (Article 64). However, despite these efforts and attempts, the societal pressure and lack of education has limited women's access and voice in the political sphere (Nelson D. Gunter, 2012). Furthermore, many women do not have identification cards and are therefore unable to vote (Borgen Project, 2013).

c) Political voice

Women have the same rights as men to hold public and political office in the legislature and executive. Since 2007, women have been allowed to enrol in the High Judicial Institute, which allows them to pursue a career as a judge (UNICEF, 2011). However, there is currently no existing quota to promote women's political participation.

An attempt in 2008 to introduce a 15% quota for women in parliament was abandoned after an intervention from Islamic clerics and prominent tribal chiefs, who declared that "a women's place is in the home" (UN Women, 2015). These stereotypes about women hinder their abilities to run for office. According to a survey conducted by the Arab Women's Leadership Institute in December 2014, respondents mentioned tribal traditions and lack of education as the main challenges facing women's political participation in Yemen today. In addition, to the question "If two equally qualified candidates, one man and one woman, are running for parliamentary elections, who would you vote for?", only 11% of men and 30% of women said that they would vote for the woman's candidate. Also, when participants were asked: "Have you ever voted for a woman for elected office" 93% of men and women responded negatively (IRI, 2015).

d) Access to justice

The testimony of a woman must be supported by the testimony of a man in order to be valid (Evidence Law, Article 45). Article 45 (21) of the 1992 Evidence Law also forbids the testimony of women in cases of adultery, libel, theft or sodomy. A woman's testimony is partially accepted in cases involving financial rights issues.

In addition, women often avoid testifying in courts as the lack of female judges, prosecutors and lawyers discourage them from turning to the formal justice system (Elham Manea, 2010).

According to information from the US Department of State's Report on Human Rights, female parties in court trials, such as divorce and other family law cases, generally send male relatives to speak on their behalf, although they have the option to speak for themselves (US Department of State, 2016).

Alternatively, they turn to them to solve their problem rather than taking the matter to the judiciary. Similarly, women face other challenges in obtaining justice as police stations and courts—which are considered to be the helm of men—are commonly considered to be inappropriate places for “respected women.” Given the social discrimination experienced by women, they hesitate to approach male lawyers, particularly for issues such as abuse or rape (Elham Manea, 2010).

There are no specific measures in place to protect women from violence against political or human rights defenders despite widespread reports of harassment and people questioning women’s religion and attacking their honour (Saferworld, 2013). However, there are two specific bodies tasked with working on improving gender equality in the country. A Parliamentary committee dedicated to gender equality/women’s affairs focusses on preparing legislative proposals and examining policies and budgets in terms of their impacts on gender. In addition, it is tasked with supervising compliance with relevant national and international standards. The Supreme Council for Women supervises issues related to women’s rights (OECD, 2014).

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