YEMEN

The Penal Code, Personal Status Act, Citizenship Act and Criminal Code all contain provisions that discriminate against women. In addition, the mix of statutory law, sharia, traditional tribal practices and customary law leave women vulnerable to violence and discrimination. Yemen’s overall poverty also contributes to the difficult situation of women, as does the fact that the majority of the population live in scattered, rural settlements. Women have limited access to health care, economic opportunities and education; early marriage remains prevalent. According to the World Bank, just over 25% of Yemeni women are economically active; the majority of women who do work are employed in the agricultural sector.

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The Yemeni Constitution proclaims equality between women and men in article 41, but also refers to women as ‘men’s sisters’ who have rights and obligations as determined by Sharia law, which forms the basis of all legislation. Yemen ratified the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) in 1984 (maintaining reservation to Art. 29 relating to the settlement of disputes concerning the application and interpretation of the convention), but has not yet ratified the Optional Protocol. A National Strategy for Women’s Development (2006-2015) is currently in place; its principal aims are to increase women’s participation in economic and educational activities, and increase their access to healthcare.

1. Discriminatory family code

In accordance with Yemen’s constitution, Sharia (Islamic law) is the source of all legislation. More specifically, the 1992 Personal Status Law governs issues such as marriage, divorce and inheritance. The Personal Status law does not, however, specify a minimum legal age of marriage. Steps have been taken to set a minimum age, most recently during a national conference of Yemeni political, social and religious groups, in which proposals were issued for a new constitution. The proposals under the subheading “child marriage” put forth a minimum age for both genders of 18. Early marriage is considered to be a particularly serious issue in Yemen, where according to the most recent data available, 12% of women were married by the age of 15, 32% before the age

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1 JICA (2009) p.6
2 Idem, p.22
3 World Bank (n.d.) Data: Labor participation rate, female
4 Freedom House (2013)
5 UNICEF (2011) p.1
7 JICA (2009) p.8
8 UNICEF (2011) p.1; World Bank (2013)
of 18; 17.2% of 15-19 year old women were married or in a union.\textsuperscript{11} Recent survey data collected in 2010 shows higher percentages, with 54% of the female respondents reporting they were married at the age of 16 or younger, compared to male respondents, 67% of whom reported being married at age 20 or older.\textsuperscript{12} As of early 2014, a Demographic and Household Survey (DHS) was on going, which should provide additional information on this and other related matters, once results are available.

Early marriages are typically arranged as alliances between families or as financial transactions in which the bride’s family is compensated with a bride price. Women do not have a voice in the marriage contract, but rather the agreement is made between the woman’s guardian (father or a male relative) and the groom.\textsuperscript{13} Women who marry against their parents’ will risk subsequently being charged with adultery and imprisoned.\textsuperscript{14} Muslim women are not allowed to marry non-Muslim men unless they convert, while Muslim men are allowed to marry Jewish and Christian women.\textsuperscript{15} In a recent survey conducted for the Status of Women in the Middle East and North Africa Project, a sizable proportion of women (60%) and men (57%) felt that parents should choose their daughter’s marriage partner, as they have their children’s best interests at heart.\textsuperscript{16}

Under article 40 of the Personal Status Code wives are obliged to obey their husbands, who are legally considered to be the head of the household (Law 23, Art. 49).\textsuperscript{17} In terms of \textit{parental authority}, fathers are the guardians of their children, while mothers are considered children’s physical custodians, but have no legal rights.\textsuperscript{18} In the event of \textit{divorce}, mothers may be granted custody of young children (9 for boys, 12 for girls), who then pass their father or father’s family, as they grow older.\textsuperscript{19}

Sharia law provides for detailed and complex calculations of \textit{inheritance} shares. A woman may inherit from her father, mother, husband or children, and under certain conditions, from other family members. However, her share is generally smaller than a man’s entitlement. A daughter, for example, inherits half as much as a son.\textsuperscript{20} In rural areas, women are often denied their inheritance rights.\textsuperscript{21} In other cases, women may renounce their inheritance rights voluntarily in favour of the nearest male relative.\textsuperscript{22} Women who marry into a different tribe may also be prevented from inheriting property, so as to keep the latter under tribal ownership.\textsuperscript{23} In an attempt to protect family assets, wealthy families sometimes forbid their daughters to marry outside the family.\textsuperscript{24}

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\textsuperscript{12} SWMENA Project, Yemen: Opinions on Early Marriage and Gender Quotas Topic Brief (2011) p.4
\textsuperscript{13} Idem
\textsuperscript{14} Human Rights Watch (2010); Manea (2010) p.554
\textsuperscript{15} Manea (2010) p.554; UNICEF (2011) p.2
\textsuperscript{16} SWMENA Project, Yemen: Social Attitudes Toward Women Topic Brief (2011) p.11
\textsuperscript{17} World Bank (2013)
\textsuperscript{18} Kte’pi (2013) p.1296
\textsuperscript{19} Idem; UNICEF (2011) p.2
\textsuperscript{20} World Bank (2013)
\textsuperscript{21} JICA (2009) p.24
\textsuperscript{22} UNICEF (2011) p.2; JICA (2009) p.24
\textsuperscript{24} Manea (2010) p.558
Polygamy is legal following provisions in Sharia law, which allows Muslim men to take as many as four wives provided that they can support them financially.\textsuperscript{25} The consent of wives is not required nor does a first wife need to be informed at the time of the marriage that the husband intends to marry more wives latter.\textsuperscript{26} Recent data on the prevalence of polygamy is not available.

Men are able to repudiate (divorce unilaterally) their wives, while women can only obtain a divorce under a limited range of circumstances (e.g. desertion, impotence, failing to meet his financial obligations).\textsuperscript{27} Either spouse may divorce the other for a mental or physical defect, inequality of social status or apostasy.\textsuperscript{28} A woman can also obtain a ‘khula’ divorce, although in this case, has to refund her dowry.\textsuperscript{29}

In Yemen, the adolescent birth rate is 80 births per 1,000 girls as 15-19.\textsuperscript{30}

Recent survey data on decision-making reveals that although relatively few Yemeni women report working for wages (7%), those who do feel completely free (64%) or somewhat free (22%) decide how their earnings are used.\textsuperscript{31} However, when it comes to making decisions about daily household purchases, women report that their husband (48%) or other family members such as parents, children or other relatives (31%) primarily make such decisions.\textsuperscript{32} The same is true of decisions regarding large household purchases: 53% primarily the husband and 29% other family members.\textsuperscript{33}

2. Restricted physical integrity

There is no legislation in place in Yemen addressing domestic violence.\textsuperscript{34} That latter is believed to be very common in Yemen, but accurate figures as to prevalence rates are not available.\textsuperscript{35} Few women report abuse, due to lack of confidence in the police and judicial processes, but also because such violence is generally considered a family affair.\textsuperscript{36} In some cases, women who report domestic violence to the police are themselves incarcerated, and can only be released if a male relative comes to collect them.\textsuperscript{37} Although a new policy allows female relatives to collect women under such circumstances, it is not consistently enforced.\textsuperscript{38} However, a recent survey conducted for the Status of Women in the Middle East and North Africa (SWMENA) project suggests that Yemeni men and women find domestic violence largely unacceptable, with the majority of respondents (men and women) stating that a husband beating his wife is never justified.\textsuperscript{39} That said, 38% of women felt husbands

\begin{itemize}
\item 25 Kte’pi (2013) p.1295
\item 26 Idem
\item 27 Kte’pi (2013) p.1296; Manea (2010) p.553
\item 28 Kte’pi (2013) p.1296
\item 29 Kte’pi (2013) p.1296; Manea (2010) p.553
\item 31 SWMENA Project, Yemen: Control of Financial Assets Topic Brief (2011) p.10
\item 32 Idem, p.12
\item 33 Idem, p.13
\item 34 World Bank (2013); UNICEF (2011) p.2
\item 35 US State Department (2012)
\item 36 Idem
\item 37 Human Rights Watch (2010)
\item 38 Idem
\item 39 SWMENA Project, Yemen: Women’s Freedom of Movement &Freedom from Harassment and Violence Topic Brief (2011) pp.8-11
\end{itemize}
were always or sometimes justified in beating their wives if she was disobedient or did not follow his orders, 28% felt the same if she neglected the children, and 37% if she went out without telling her husband.\textsuperscript{40}

\textbf{Rape} is a criminal offence, but the law does not recognise the concept of spousal rape.\textsuperscript{41} As with domestic violence, it is impossible to ascertain how many women are affected by sexual violence in Yemen, as few women report attacks to the police due to a fear of social repercussions and stigma, including a fear of shaming the family, incurring violent relations, or being prosecuted themselves on charges of fornication. According to the law, without a confession, the victim must provide at least four male witnesses to the crime.\textsuperscript{42}

There are no specific laws addressing sexual harassment, although Articles 270–274 of the Criminal Code stipulate that anyone who commits an offending act in public can be sentenced to up to six months in prison or fines. The punishment rises to up to one year in prison and fines for forcing a female to behave immorally. However, there must be a witness to the harassment in order for the punishment to be applicable and the law is rarely enforced.\textsuperscript{43} In addition, although Article 273 criminalises “shameful” or “immoral” acts, this leaves women vulnerable to arrest for reasons such as being alone with a man who is not her relative.\textsuperscript{44} Sexual harassment in public spaces is reportedly a significant issue in Yemen. According to a recent study conducted by the National Center for Women’s Rights and the United Nations Population Fund (UNFPA), 90 per cent of women faced sexual harassment in the streets.\textsuperscript{45} Additional survey data similarly suggests a relatively high prevalence of sexual harassment, with 75% of respondents in urban areas and 68% of those in rural areas reporting that they have heard that women experience harassment in public or at work; in the same survey 14% of women under 50 reported that they experience harassment most times or every time they are in public spaces.\textsuperscript{46}

\textbf{Female genital mutilation} (FGM) is not illegal in Yemen, although a ministerial decree prohibits FGM/C from being carried out in health facilities.\textsuperscript{47} The practice continues, however, to be carried out in private clinics.\textsuperscript{48} An attempt to introduce a law criminalising the practice in 2008 was rejected by the parliament.\textsuperscript{49} Data from 2003 shows that 40% of women aged 15–49 had undergone some form of FGM.\textsuperscript{50} It is believed to be most prevalent in urban areas and along the coast, where women’s rights groups report that prevalence may be as high as 90%, influenced by cultural patterns in the Horn of Africa, such as Mahara and Hodeidah.\textsuperscript{51} The government and women’s rights organisations have been involved in raising awareness of the issue, and its health impacts.\textsuperscript{52}

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So-called honour crimes do occur in Yemen, although they are rarely reported so prevalence data is not available.\textsuperscript{53} The law reduces penalties for crimes committed in rage following an unlawful act by the victim,
including husbands murdering their wives if they discover that they have been unfaithful. Conversely, women can be imprisoned for socialising with men who are not their relatives.

In Yemen, abortion is only permitted to save a woman’s life.

Women have the right to use contraception in Yemen, although few women in Yemen are aware of this right, and fewer still are in a position to make free and independent choices concerning their reproductive health. In addition, women often need permission from their husbands in order to obtain contraception. A recent survey conducted for the Status of Women in the Middle East and North Africa (SWMENA) Project, shows that the majority of female respondents (71%) are required to be accompanied by somebody to visit a healthcare provider and nearly half of the women interviewed (44%) had never visited a gynaecologist or obstetrician. According to the 2006 MICS3, 19.2% of women questioned reported using a modern form of contraception. In rural areas, the provision of healthcare tends to be very poor, which in turn has an impact on women’s access to reproductive health services.

3. Son bias

The male/female sex ratio for the working age population (15-64) 2013 was 1.03 while the sex ratio at birth was 1.05. Analysis of sex ratio data across age groups indicates that Yemen is a country of low concern in relation to missing women, although there has been improvement in recent years.

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Under-five mortality rates are higher for boys than for girls, while disaggregated data on immunisation rates show approximately the same coverage for boys and girls. Data on malnutrition and growth by sex is not available.

There are discrepancies in gross enrolment ratios at both the primary and secondary levels. According to a 2014 report by UNICEF, gross primary school enrolment ratios (females as a % of males) were 82% at the primary level and 63% at the secondary level. Girls’ enrolment rates in rural areas are particularly low and very few women go on to attend university: the gross enrolment rate for women at the tertiary level is 5%. Overall, education attainment in Yemen is also low; according to a survey carried out by the Status of Women in the Middle East and North Africa (SWMENA) Project, 86% of women and 60% of men report that they have less than a

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54 Idem; UNICEF (2011) p.2  
55 JICA (2009) p.9  
56 United Nations Department of Economic and Social Affairs (2013)  
57 Idem, p.568  
58 Idem  
59 SWMENA Project, Yemen: Health Care Access Topic Brief (2011) p.10  
60 Idem, p.11  
63 CIA (2013)  
64 UNICEF (2014) p.34  
65 MICS3 (2006) p.75  
66 UNICEF (2014) p.76  
secondary-level education. That said only 29% of women 18-24 have no formal education, compared to 98% of women 65 or older.  

The relatively widespread practice of early marriage is one of the reasons some girls fail to start or finish schooling.  According to a 2009 USAID report, investment in girls’ educations is seen as wasteful by many parents, given that they are expected to marry and join another household. However, according to the SWMENA Project, the majority (over 75%) of respondents to a survey on social attitudes towards women stated that they would allow a daughter to complete secondary school or university if they so chose, although higher percentages of men and women support a son completing both levels of education compared to those who would support a daughter. In rural areas, school attendance (or the lack thereof) is exacerbated by inadequate provision of acceptable educational facilities and the long distances that children have to travel to attend school.

4. Restricted resources and assets

Women have the legal right to own land and non-land assets. In addition, within marriage, women retain ownership and control over their own property and assets, which are not considered to be under joint ownership (the default marital property regime is separation of property). But poverty, illiteracy, unawareness of economic rights and discriminatory practices limit the ability of women to exercise these rights; in most cases, women hand over the administration of their property and positions to their husband or male relatives. In addition, it is considered socially unacceptable for women to register land in their own names in rural areas. This, and the high fees charged for land registrations serve as further de facto limitations on women’s access to land. Survey data from the Status of Women in the Middle East and North Africa (SWMENA) project shows that only 4% of women owned and controlled either land or a house (an additional 3% owned land or a house but had no control over the asset); 17 per cent of women owned some item of high value (e.g. a car or jewellery), 14% of whom exercise full control over the asset.

Similarly, there are no legal restrictions on women’s right to access financial services, including entering into business contracts and activities, and no legal restrictions on women’s opening a bank account or accessing bank loans and credit; yet, women encounter limitations in this area. According to SWMENA project survey data, only 5% of currently or formerly married Yemeni women reported that they can obtain bank loans or other credit without help from a spouse or parent, although this percentage increases among women with higher levels of education and employment. The common view in Yemeni society is that a woman’s place is in the

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69 Freij (2009) p.1
70 Idem
71 SWMENA Project, Yemen: Social Attitudes Toward Women Topic Brief (2011) p.10
72 JICA (2009) p.15
73 World Bank (2013)
74 Idem
76 JICA (2009) p.24
78 World Bank (2013)
home and husbands should manage financial matters. 80 Only one in twenty Yemeni women have any financial savings, and among those that do, only 4% reported they can use them as they please. 81 Women do, however make up the bulk of recipients of micro-credit 82 and providing loans to women to start small businesses has been part of the government’s recent development plans and efforts to increase women’s economic participation. 83

5. Restricted civil liberties

Women’s freedom of movement and access to public space is subject to numerous legal and social limitations. Women are legally obliged to obey their husbands, who make the decision about where the family will reside (Art 40, Personal Status Law). 84 Women must also ask their husband’s (or guardian’s) permission to leave the family home and married women must provide their husband’s name, nationality, birthdate and birth place when applying for a passport. 85 Authorities will also often require the woman to have the authorization of a male guardian for both passports and national IDs, although there is no such specification under the law. 86 Although women have the right to pursue education and seek employment, some guardians also restrict these activities. 87

According to the Status of Women in the Middle East and North Africa (SWMENA) project survey data, 20% of women feel either somewhat (9%) or completely (11%) restricted in associating with persons of their own choosing. 88 Almost half of the women interviewed felt somewhat (12%) or completely (30%) restricted to move about as they pleased in public areas without fear or pressure from others; similarly, approximately half of women felt either completely restricted (47%) from leaving their house without permission, or somewhat restricted (15%). 89 As mentioned above, a significant proportion of women (37%) also felt that it is always or sometimes justified for a man to beat his wife if she leaves the house without permission. 90 Finally, the majority of men and women surveyed believe a good wife should obey her husband even if she disagrees (87% and 83% respectively) 91 and the majorities of both men and women strongly/somewhat oppose women traveling without a mahram (98% and 91% respectively). 92

The law provides for both freedom of assembly and association, although these are not always respected in practice. 93 Mounting protests since 2011 against alleged corruption and abuse of power, the marginalization of southern political system, and pressing social and economic concerns have often met with brutal violence, although many demonstration and spontaneous marches were not suppressed. 94 A number of NGOs work in

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80 Manea (2010) p.558
81 SWMENA Project, Yemen: Paid Work and Control of Earnings & Assets Topic Brief (2011) p.15
82 JICA (2009) p.28
83 UNICEF (2011) p.3
84 World Bank (2013)
85 World Bank (2013); UNICEF (2011) p.2
86 UNICEF (2011) p.2
87 World Bank (2013)
89 Idem, p.3
90 Idem, p.11
91 SWMENA Project, Yemen: Social Attitudes Toward Women Topic Brief (2011) p.14
92 Idem, p.7
93 Freedom House (2013); US Department of State (2012)
94 Idem, Idem
Yemen, and yet their ability to operate is in practice restricted by the government. There are however some very active women’s rights organisations in Yemen, whose members operate in a sometimes difficult and hostile environment. Women’s rights NGOs have been active in drawing attention to the lack of legal minimum age of marriage, raising awareness of domestic violence and FGM, as well as calling for changes to discriminatory laws. Women’s rights organisations do, however, face considerable opposition from an influential religious lobby, which limits the extent to which they can advocate on behalf of women’s rights. In addition, according to survey results from the SWMENA project, only 2% of Yemeni women report having taken part in a protest, march or demonstration, and no more than 2% of Yemeni women report being members of organizations such as religious groups, women’s organizations, trade unions, cooperatives, NGOs, and artist or scientist unions.

Freedom of expression is not respected in Yemen, and Article 103 of the Press and Publications Law bans direction personal criticism of the head of the state or publication of material that “might spread a spirit of dissent and division among the people” or that “leads to the spread of ideas contrary to the principles of the Yemeni Revolution, [is] prejudicial to national unity or [distorts] the image of the Yemeni, Arab, or Islamic heritage.” The government maintains a monopoly over television and radio and dissenting newspapers have been forcibly closed. In addition, the media has been used to attack and vilify women’s rights activists, while also serving to uphold traditional gender roles in its representation of women.

An attempt in 2008 to introduce a 15% quota for women in parliament was abandoned after intervention from a hastily convened ‘Meeting for Protecting Virtue and Fighting Vice’, made up of Islamic clerics and prominent tribal chiefs, who decreed that ‘a women’s place is in the home’. Women hold 0.3% of the seats in the national parliament (1 woman out of a total of 301 seats), female representation on local government councils is similarly limited with women occupying less than 1% of seats. The original 6-year mandate of the current parliament expired in 2009, but elections were postponed amid the 2011 turmoil. According to survey data from the SWMENA Project, only 5% of Yemeni women say they are members of political parties (compared to 47% of men). There is a fair amount of support for women becoming involved in politics as candidates for office: 64% of men and women each strongly/somewhat support women as political candidates. Although men and women seem to support the idea of female involvement in various political roles, the same survey also revealed that men are viewed as better political leaders (88% of men and 85% of women strongly/somewhat agree) and business executives (87% of men and 81% of women) than women.

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95 Idem, Idem
96 Manea (2010) p.569
97 Idem, pp.546, 556, 569
98 Manea (2010) p.556
100 Freedom House (2013)
101 Idem, p.570
102 JICA (2009) p.7; SWMENA Project, Yemen: Opinions on Early Marriage and Gender Quotas Topic Brief (2011)
103 Freedom House (2013); UN Statistics Division (2013)
104 SWMENA Project, Yemen: Opinions on Early Marriage and Gender Quotas Topic Brief (2011) p.9
105 CIA (2013); Freedom House (2013)
106 SWMENA Project, Yemen: Social Attitudes Toward Women Topic Brief (2011) p.2
107 Idem, p.9
Discrimination on the basis of gender is banned under the 1995 Labour Law. However, the majority of women who work outside the home do so as agricultural labourers, either receiving payment on a day-by-day basis, or receiving no payment at all. As a result, they are not protected by employment legislation. Women and girls’ lack of access to education inevitably impacts negatively on their capacity to enter the workforce, and their earning capacity, but also on their career aspirations: according to the SWMENA project, 74% of young women questioned who had completed secondary school intended to pursue a career, compared to 41% with primary education, and 24% who had no formal schooling. Of those who did not intend to pursue a career, 31% stated that it was because their husband or family would not allow it. Despite the government’s goal to increase women’s economic participation, the labour force participation rate of women in Yemen remains relatively low at 25%. Pregnant women are entitled to 70 days of maternity leave, to be financed by the employer.

Women must apply for permission to marry a male foreigner from the Ministry of Interior, and they may confer their citizenship to children born to a non-Yemeni father only if the father is unknown or has no nationality.

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108 ILO (2011)
109 JICA (2009) pp.23, 26
111 Idem, p.6
112 World Bank (n.d.) Data: Labor participation rate, female; UNICEF (2011) p.3
113 World Bank (2013)
114 ILO (2013)
115 World Bank (2013); UNICEF (2011) p.2
Sources


