

Gender Justice & Equality before the Law in the Arab States Region



Empowered lives
Resilient nations

		Algeria	Bahrain	Djibouti	Egypt	Iraq*	Jordan	Lebanon	Libya	Morocco	Oman	Palestine, State of	Qatar	Saudi Arabia	Somalia	Sudan	Syria	Tunisia	Yemen		
CONSTITUTION	Constitution refers to gender equality or non-discrimination	Green	Green	Green	Green	Green	Yellow	Yellow	Green	Green	Green	Green	Green	Yellow	Green	Green	Green	Green	Green	Yellow	
	CEDAW	Yellow	Yellow	Green	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Green	Yellow	Yellow	Red	Red	Yellow	Green	Green	Green	
NATIONALITY LAW	Equal rights to pass nationality to child	Green	Red	Green	Green	Green	Red	Red	Red	Green	Red	Grey	Red	Yellow	Red	Yellow	Red	Red	Green	Green	
	Equal rights to pass nationality to spouse	Green	Red	Green	Red	Red	Red	Red	Red	Red	Red	Grey	Red	Red	Red	Red	Red	Red	Red	Red	
PENAL CODE	Domestic violence legislation exists (stand-alone)	Yellow	Green	Red	Red	Red	Green	Green	Red	Yellow	Red	Red	Red	Green	Red	Red	Red	Green	Red	Red	
	Rape is criminalized (except marital rape)	Green	Yellow	Green	Green	Yellow	Green	Green	Green	Green	Green	Green	Yellow	Yellow	Green	Yellow	Yellow	Green	Green	Green	
	Marital rape is criminalized	Red	Yellow	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Yellow	Red	Red
	Law does not allow mitigating circumstances for femicide	Red	Grey	Green	Red	Red	Yellow	Green	Red	Red	Green	Red	Red	Red	Green	Red	Green	Red	Green	Red	Red
	Law does not include exoneration if offender marries his victim	Yellow	Red	Green	Green	Red	Green	Yellow	Red	Red	Green	Green	Green	Green	Yellow	Yellow	Yellow	Yellow	Green	Green	Green
	Abortion is legal or not criminalized in the case of rape	Yellow	Red	Red	Yellow	Red	Red	Red	Red	Red	Red	Red	Yellow	Red	Red	Red	Green	Green	Green	Red	Red
	Sexual harassment is criminalized	Green	Green	Yellow	Green	Green	Yellow	Yellow	Green	Green	Yellow	Green	Green	Green	Green	Green	Green	Yellow	Green	Green	Yellow
	Adultery is not criminalized	Red	Red	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
	Comprehensive provisions (punitive, protective and preventive) on human trafficking	Yellow	Green	Green	Green	Green	Green	Yellow	Yellow	Green	Green	Yellow	Green	Green	Green	Yellow	Green	Green	Green	Green	Red
	Laws on FGM/C (if known to be practiced)	Grey	Green	Green	Green	Red	Grey	Grey	Grey	Grey	Yellow	Grey	Grey	Grey	Grey	Yellow	Yellow	Grey	Green	Yellow	Yellow
	Sex work is not criminalized	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Yellow	Red	Red
	Consensual same-sex sexual conduct is not criminalized	Red	Yellow	Grey	Grey	Grey	Grey	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Grey	Grey	Red	Red	Red
	PERSONAL STATUS / FAMILY LAW	Minimum age of marriage at 18 (with no exception for marriage below 16)	Yellow	Red	Yellow	Yellow	Yellow	Yellow	Red	Yellow	Yellow	Yellow	Yellow	Red	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Red
No requirement for male marriage guardian for adult women		Yellow	Yellow	Yellow	Yellow	Green	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Green	Yellow	Yellow
Polygamy is prohibited		Red	Red	Red	Red	Red	Red	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Red	Red
Equal rights in marriage and divorce		Yellow	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Yellow	Green	Red
Equal rights to guardianship of children		Yellow	Yellow	Red	Yellow	Red	Red	Red	Red	Grey	Red	Red	Red	Red	Yellow	Red	Red	Red	Yellow	Red	Red
Equal rights to custody of children		Yellow	Yellow	Red	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Yellow	Red	Red
Equal rights to inheritance		Red	Red	Red	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
LABOUR LAW	Women have the right to equal pay for the same work as men	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
	Women have the right to equal pay for work of equal value	Green	Red	Green	Red	Green	Red	Red	Red	Red	Red	Red	Red	Red	Green	Red	Red	Red	Red	Red	Red
	Unlawful to dismiss worker based on her pregnancy or taking maternity leave	Green	Green	Green	Green	Yellow	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Yellow	Green	Green	Green	Green
	Maternity leave meets the ILO standard of 14 weeks	Green	Yellow	Green	Yellow	Green	Yellow	Yellow	Green	Green	Yellow	Yellow	Yellow	Yellow	Yellow	Green	Yellow	Yellow	Green	Yellow	Yellow
	Legal protections for domestic workers	Green	Yellow	Grey	Red	Green	Yellow	Red	Green	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Red	Yellow	Yellow	Yellow	Yellow	Red
	No gender-specific restrictions on women's work	Red	Grey	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red

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DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

- Green YES**
The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.
- Yellow Partly**
Some gender justice aspects of the law have been addressed, but important gender inequalities remain.
- Red NO**
The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.
- Grey**
No available data or inadequate information.

* Some laws in "Kurdistan Region of Iraq" are different to Iraq's and they are reflected in the Country Assessment and the 2 page summary.

Gender Justice Assessment: Explanation of Categories

Laws were categorized using a simple colour code system that compares the laws identified in the country profiles with international human rights standards and the recommendations of the UN Committee on the Elimination of Violence against Women. The objective is to highlight examples so that countries can learn from each other and to assist discussion about the legislative models that support the achievement of gender justice.

CONSTITUTIONAL PROVISIONS

Constitution

- GREEN** Articles of the Constitution refer directly to gender equality or sex/gender discrimination.
- AMBER** There is some express or implied reference in the Constitution to gender or sex, but it provides limited or weak equality rights to women.
- RED** Articles of the Constitution do not address gender equality or sex/gender discrimination.

CEDAW

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

- GREEN** Ratified with no reservations.
- AMBER** Ratified with reservations.
- RED** Not ratified.

NATIONALITY LAWS

Right to pass nationality to children

- GREEN** Women have the same rights as men to pass their nationality to a child.
- AMBER** Women have the same rights as men to pass their nationality to a child under Constitutional provisions, with legislation pending; children acquire some residency rights from their mother.
- RED** Women do not have the same rights as men to pass their nationality to a child.

Right to pass nationality to foreign spouse

- GREEN** Women have the same rights as men to pass their nationality to a foreign spouse.
- RED** Women do not have the same rights as men to pass their nationality to a foreign spouse.

CRIMINAL LAWS

Domestic violence

- GREEN** There is a law on domestic violence that enables women to obtain protection orders from a court and that criminalizes domestic violence.
- AMBER** There is a domestic violence law, but either it does not enable women to obtain protection orders from a court or it does not criminalize domestic violence.
- RED** There is no domestic violence law.

Rape (except marital rape)

- GREEN** Rape is criminalized. Penalties for aggravated rape do not include capital punishment.
- AMBER** Rape is criminalized. Penalties for aggravated rape include capital punishment.
- RED** Rape is not criminalized.

Marital rape

- GREEN** Marital rape is expressly addressed by penal law and criminalized.
- AMBER** Marital rape is sometimes prosecuted under rape or other laws.
- RED** The legal definition of rape in the Penal Code/Sharia is interpreted by the legal system as excluding marital rape.

Femicide: Mitigation of penalty

- GREEN** There is no provision allowing for the reduction of penalty for femicide including so called “honour” crimes.
- AMBER** Some provisions allowing for reduction of penalty for femicide have been repealed, but loopholes remain.
- RED** A provision allows for the reduction of penalty for femicide or so called “honour” crimes.

Exoneration by marriage

- GREEN** The Penal Code does not include a provision exonerating an offender for rape, abduction, or other crimes if he marries the victim.
- AMBER** Exoneration of offenders upon marriage occurs in limited circumstances, e.g., as a result of enforcement of customary law or loopholes in penal codes allowing for exoneration where the victim is a girl below a prescribed age.
- RED** The Penal Code includes provisions exonerating an offender for rape, abduction, or other crimes if he marries the victim.

Abortion for rape survivors

- GREEN** Abortion for rape survivors is legal or not prohibited.
- AMBER** Abortion for rape survivors may be permitted in some cases.
- RED** Abortion for rape survivors is prohibited.

Sexual harassment

- GREEN** Sexual harassment is defined in legislation and is prohibited by the Penal Code or Labour Code.
- AMBER** Sexual harassment is not defined in legislation, but offences in criminal or labour laws provide some protections.
- RED** There is minimal or no protection from sexual harassment in criminal or labour laws.

Adultery

- GREEN** Adultery is not criminalized.
- AMBER** Adultery is not criminalized in the Penal Code, but Sharia penalties apply.
- RED** Adultery is criminalized.

Human trafficking

- GREEN** There are comprehensive anti-trafficking laws with punitive, protective, and preventive measures.
- AMBER** Some distinct forms of trafficking are criminalized, e.g., sex trafficking, but the law does not require protective and preventive measures.
- RED** There are minimal or no anti-trafficking offences in criminal law.

Female Genital Mutilation / Cutting

- GREEN** FGM/C is prohibited / criminalized.
- AMBER** FGM/C is subject to regulation, but is not criminalized.
- RED** FGM/C is practised and is not prohibited.
- GREY** There are no documented cases. There is no legal prohibition

Sex work and anti-prostitution laws

- GREEN** People who sell sex / sex workers are not criminalized.
- AMBER** Sex work is criminalized, subject to exceptions that permit sex work in some areas under regulatory supervision.
- RED** Anti-prostitution laws criminalize people who sell sex / sex workers.

Same-sex sexual conduct

- GREEN** Consensual homosexual conduct between adults is not criminalized. Police do not enforce criminal laws (e.g. debauchery, indecency, immoral conduct) for consensual same-sex conduct or expression of sexual orientation.
- AMBER** There are conflicting judicial interpretations of the criminal law relating to homosexual conduct. Police enforce criminal laws (e.g. debauchery, indecency, immoral conduct) to penalize consensual same-sex conduct or expression of sexual orientation.
- RED** Homosexual conduct is criminalized.
- GREY** The topic was not addressed by the country assessment.

PERSONAL STATUS LAWS

Minimum age of marriage

- GREEN** Minimum age of marriage is 18 years or older for women and men. Marriage at a younger age is only permitted if the minimum age is not below 16 years; the grounds for obtaining permission are strictly defined by law; and the law requires the full, free, and informed consent of the child, who must appear in person before the court.
- AMBER** The legal age for girls to marry is 18 years or older. Marriage at a younger age is permitted subject to judicial discretion.
- RED** The legal age for girls to marry is less than 18 years or there is no minimum age of marriage. Early marriage is not prohibited.

Male (marriage) guardianship over women

- GREEN** No legal requirement for a marriage guardian. Male guardianship over adult women does not exist in law.
- AMBER** The law requires a male guardian to consent to a woman’s marriage, but includes limitations such as requiring the woman’s consent, not forcing a woman to marry against her will, and/or the right to challenge a guardian’s refusal of consent in court.
- RED** Consent of the male guardian to marriage is an essential requirement. There is a lack of legislative protection to prevent forced or early marriage for women and girls subject to guardianship. The role of the male marriage guardian is maintained with weak legal protections for women and girls.

Marriage and divorce

- GREEN** Women enjoy equal rights in marriage and divorce.
- AMBER** Women enjoy equal rights in some aspects of marriage and divorce, but significant legal inequalities remain.
- RED** Women do not enjoy equal rights in all or most aspects of marriage and divorce.

Polygamy

- GREEN** Polygamy is prohibited.
- AMBER** Polygamy is permitted under strict conditions and requires court approval.
- RED** Polygamy is permitted without strict conditions.

Guardianship of children

- GREEN** Women and men have equal legal rights to guardianship of children, including after divorce.
- AMBER** Women have some legal guardianship rights in important areas, such as decisions regarding education, health, and travel.
- RED** Women have no or minimal rights to guardianship of children.

Custody of children

- GREEN** Women and men have equal rights to custody of children, including after divorce. Consideration of the best interest of the child is a legal requirement.
- AMBER** Women have rights to custody of children up to a certain age, but women’s rights are restricted in some cases, e.g., loss of custody upon remarriage.
- RED** Women have no or minimal rights to custody of children, and consideration of the best interest of the child is not a legal requirement.

Inheritance

- GREEN** Women and men have equal rights under inheritance laws.
- AMBER** A substantial religious minority (e.g., Christians) of women enjoy equal rights under inheritance laws.
- RED** Women do not enjoy equal rights under inheritance laws.

LABOUR LAWS

Right to equal pay for the same work as men

- GREEN** The labour code provides women with the right to equal pay for the same work as men.
- RED** The labour code does not provide women with the right to equal pay for the same work as men.

Right to equal pay for work of equal value (even if women’s work is different from men’s work)

- GREEN** The labour code provides women with the right to equal pay for work of the same value as men.
- RED** The labour code does not provide women with the right to equal pay for work of the same value as men.

Dismissal for pregnancy

- GREEN** The labour code prohibits employers from dismissing women because of pregnancy.
- AMBER** Although the labour code does not include a specific prohibition on dismissing women because of pregnancy, such conduct may be illegal under other provisions, e.g., unlawful discrimination.
- RED** Dismissing women because of pregnancy is not prohibited.

Maternity leave meets the ILO standard of 14 weeks

- GREEN** Women have a legal right to paid maternity leave at the ILO standard of 14 weeks.
- AMBER** Women have a legal right to paid maternity leave at less than the ILO standard of 14 weeks
- RED** Women do not have a legal right to paid maternity leave.

Gender-specific restrictions on women’s work

- GREEN** No gender-specific legal restrictions on night work, arduous work, or specific occupations.
- RED** Gender-specific legal restrictions on women’s participation in night work, arduous work, or specific occupations.

Domestic workers

- GREEN** Domestic workers are covered by the labour code and have substantial legal protections from exploitation and abuse.
- AMBER** Domestic workers have some legal rights to protection from exploitation and abuse, but do not have the same or similar labour law protections that other workers in formal employment enjoy.
- RED** Domestic workers have minimal or no legal rights to protection from exploitation and abuse.

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