

Violence Against Women Middle East and North Africa

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Gaps in Legal Framework

Many women in MENA states fear reporting violence because of the repercussions they may face from their families, communities and legal system upon doing so. An example is in the United Arab Emirates (UAE), women who report rape can be threatened with criminal charges instead.²⁰ In Libya, inadequate laws and services, coupled with Libya's conservative society deter women from reporting rapes or domestic violence as they fear stigma and additional dangers from reporting the crimes.²¹

In addition, some of the laws in place permit men to be violent with their wives and children. In the UAE, their penal code gives men the legal right to discipline their wives and children, including through the use of physical violence.²² Qatar's family laws include an article which states that it is a wife's responsibility to look after the household and to obey her husband.²³

Some MENA states like Kuwait currently have no laws prohibiting domestic violence, sexual harassment, or marital rape.²⁴ Or perhaps have a lack of legal protections like in Yemen that leaves women and girls exposed to domestic and sexual violence.²⁵ Libya's law describes violence against women to be a crime against women's norms or values not as victims or a violation of their bodily integrity.²⁶

Women's Right to Passing Nationality Denied

Although many Middle East and North Africa (MENA) states have ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), a majority of those who are parties to the treaty have local family laws that contradict CEDAW, especially Article 9, paragraph 2. Article 9, paragraph 2 requires state parties to grant women equal rights with men with respect to passing their nationality to their children.²⁷ This is problematic for women who are married to a foreign spouse. The

²⁰ Human Rights Watch, "United Arab Emirates," *Human Rights Watch Report, 2014*, <http://www.hrw.org/world-report/2014/country-chapters/united-arab-emirates?page=3>

²¹ Human Rights Watch, *A Revolution for All: Women's Rights in the New Libya* (2013), http://www.hrw.org/sites/default/files/reports/libya0513_brochure_LOWRES_0.pdf

²² Human Rights Watch, "United Arab Emirates"

²³ Human Rights Watch, "Qatar," *Human Rights Watch Report, 2014*, <http://www.hrw.org/world-report/2014/country-chapters/qatar?page=3>

²⁴ Human Rights Watch, "Kuwait," *Human Rights Watch Report, 2014*, <http://www.hrw.org/world-report/2014/country-chapters/kuwait?page=2>

²⁵ Human Rights Watch, "Yemen: Protect Women's Rights in Constitution," *hrw.org*, September 17, 2013, <http://www.hrw.org/news/2013/09/17/yemen-protect-women-s-rights-constitution>

²⁶ International Federation for Human Rights, "Libya: Parliament must support justice for rape victims," November 24, 2013, *fidh.org*, <http://www.fidh.org/en/north-africa-middle-east/libya/14290-libya-parliament-must-support-justice-for-rape-victims>

²⁷ CEDAW, Article 9, para. 2. <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article9>

rationale of these states is that the nationality of children is passed down by the father according to Shari'a (Islamic Law). Therefore, Article 9, paragraph 2 of CEDAW conflicts with a provision of Shari'a and across all MENA states Shari'a supersedes any other form of law, including CEDAW.

The prevention of the right for women to pass down their nationality promotes a patriarchal system that in turn can translate to creating violence against women norms in many of these MENA states. Through the prevention of women passing nationality to children, there is a creation of a feeling of inferiority that continues to pass down to future generations, and thus classifying men as the only individuals that are capable of maintaining power and unfortunately can often lead to abuse of power.

The following are MENA states that have made reservations to Article 9, paragraph 2: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Morocco, Oman, Syria, Saudi Arabia and United Arab Emirate.²⁸ In addition, states that are not parties to CEDAW have similar family laws that prevent a woman from passing down nationality to her children if she has a foreign born spouse.

Local Family Laws

In many MENA states there is discrimination in divorce and child custody proceedings. In Syria the husband has the right to divorce, but the wife can only petition under very restrictive conditions.²⁹ By making it difficult for women to proceed with a divorce, it also makes it more difficult for women to escape abusive relationships. In Jordan, a woman separated from a Muslim husband forfeits her custodial rights after the child reaches seven years old.³⁰ As far as nationality inequality exists, not only is there an obstacle of women passing nationality to a child and foreign born spouse, but in obtaining a passport as well.

Inheritance inequality continues to be an issue in MENA states. In Morocco the government recently rejected a recommendation under the UN Universal Periodic Review to revise the Family Code to give women the same inheritance rights as men.³¹

Some MENA states have male-only legal guardians who decide on important decisions that should be in the women's discretion to make. These guardianship laws make it very difficult for women and girls to find a safe haven.³² An example of this took place in Saudi Arabia when a woman got in a car accident and before deciding whether to amputate her arm, the medical staff had to wait for her male guardian to arrive to make a determination that they should proceed with medical treatment that would

²⁸ CEDAW Reservations, <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>

²⁹ Syria, Divorce Article 91

³⁰ Human Rights Watch, "Jordan," *Human Rights Watch Report 2013*, <http://www.hrw.org/world-report/2013/country-chapters/jordan?page=2>

³¹ Amnesty International, *Amnesty International Report 2013: The State of the World's Human Rights* (2013), http://takeaction.amnestyusa.org/atf/cf/%7B4abebe75-41bd-4160-91dd-a9e121f0eb0b%7D/AIR2013_ENGLISH.PDF

³² Sanja Kelly, overview essay, Gulf Edition, "Recent Gains and New Opportunities for Women's Rights in the Gulf Arab States," *Women's Rights in the Middle East and North Africa*, Freedom House, <http://www.freedomhouse.org/sites/default/files/Women's%20Rights%20in%20the%20Middle%20East%20and%20Noth%20Africa,%20Gulf%20Edition.pdf>

be best for her.³³ In addition, in certain states, like Saudi Arabia, a woman continues to be required by law to obtain the permission of a male guardian before getting married, travelling, undertaking paid employment or enrolling in higher education.³⁴

Age Allowed to Marry

In MENA states, minimum marriage age differ vastly and often are lower for girls or women than boys or men. Many of these states permit marriage at an even younger age so long as a judge approves it. One of the serious issues lies in Yemen where there is currently no minimum age for marriage set and an entire Human Rights Watch report on child marriages was published in 2011. As of October 2013, child marriages are still a serious problem according to Human Rights Watch.³⁵ One of the concerns of having no minimum age set is that marriage at such a young age leads to girls as young as 8 years-old dying on their wedding night due to bleeding to death.³⁶ The rest of the MENA countries minimum age standards vary from 13 to 20-years-old.³⁷ Some countries like Morocco and Libya have recently changed their laws to raise the minimum ages to 18 and 20 years old.³⁸ However, Iraq who has had 18 set as the minimum age is in the process of changing a law enacted in 1959 to allow marriage to occur as young as 9-years-old.³⁹

Lack of Enforcement

Although Saudi Arabia has law that criminalizes domestic violence, it has yet to initiate mechanism of enforcement. Punishment for domestic violence remained lax, but in August the Council of Ministers issued a new law criminalizing domestic abuse for the first time.⁴⁰ The law does not detail enforcement mechanisms to ensure prompt investigations of abuse allegations or prosecution of those who commit abuses. It also does not explicitly criminalize marital rape.

In Egypt, the government's response to sexual assaults in Tahrir Square has been to downplay the extent of the problem or to seek to address it through legislative reform alone.⁴¹ Only after a public outcry were proposals by Islamist members of parliament to lower minimum age of marriage, repeal the

³³ Human Rights Watch, "Saudi Arabia," *Human Rights Watch Report 2013*, <http://www.hrw.org/world-report/2013/country-chapters/saudi-arabia>

³⁴ Human Rights Watch, "Saudi Arabia"

³⁵ Human Rights Watch, "Mark Day of the Girl by Allowing Yemeni Girls a Childhood," *hrw.org*, October 10, 2013, <http://www.hrw.org/news/2013/10/10/mark-day-girl-allowing-yemeni-girls-childhood>

³⁶ Human Rights Watch, *How Come You Allow Little Girls to Get Married: Child Marriage in Yemen?* (2011), http://www.hrw.org/sites/default/files/reports/yemen1211ForUpload_0.pdf

³⁷ Emory Law School, "Middle East," <http://www.law.emory.edu/ifl/region/mideast.html>

³⁸ Emory Law School, "Morocco," <http://www.law.emory.edu/ifl/legal/morocco.htm>, Emory Law School, Emory Law School, "Lybia," <http://www.law.emory.edu/ifl/legal/libya.htm>

³⁹ Emory Law School, "Iraq," <http://www.law.emory.edu/ifl/legal/iraq.htm>

⁴⁰ Human Rights Watch, "Saudi Arabia"

⁴¹ Human Rights Watch, "Egypt," *Human Rights Watch Report 2013*, <http://www.hrw.org/world-report/2013/country-chapters/egypt?page=3>

right of a woman to initiate a no-fault divorce, and decriminalize female genital mutilation (FGM) set aside to be decided upon at a later date.⁴²

In Iraq, the Kurdistan Regional Government (KRG) recently passed the Family Violence Law in 2011, unfortunately officials have done little to implement the provisions criminalizing domestic violence and killings.⁴³ And therefore, dozens of male family members have abused or killed female relatives since the law has been passed.⁴⁴ Local organizations report that the government has not created special courts to prosecute domestic violence cases, hired additional female security officers, or educated security officers about the law, as the law requires.⁴⁵

Prosecuting Crimes

In Jordanian, Palestinian and Syrian legislatures, judges are granted the option to reduce sentences of a crime if it was committed with certain intent.⁴⁶ These murderers face sentences as low as 24 months if they end up with a conviction.⁴⁷ In Jordan, according to Amnesty International, at least 10 women were reported to have been killed by male relatives, and 24 women went into protective custody to avoid being killed.⁴⁸ The Iraqi penal code allows men who kill their wives to serve a maximum of three years in prison rather than a life sentence.⁴⁹

In Bahrain, Morocco, and Tunisia it remains possible for men to escape punishment for rape by marrying their victim.⁵⁰

Conflict and Women

In Egypt, after the Eid holiday in October the authorities announced they had received over 1,000 complaints of sexual harassment.⁵¹ However, no members of the security forces were held to account for sexual or gender-based violence against women detainees following anti-SCAF protests in 2011.⁵² In addition, forced virginity tests in Tahrir Square were geared towards Egyptian women

⁴² Human Rights Watch, "Egypt"

⁴³ Human Rights Watch, "Iraq," *Human Rights Watch Report 2014*, <http://www.hrw.org/world-report/2014/country-chapters/iraq?page=2>

⁴⁴ Human Rights Watch, "Iraq"

⁴⁵ Human Rights Watch, "Iraq"

⁴⁶ Amnesty International, *Amnesty International Annual Report 2013* and Human Rights Watch, "Syria," *Human Rights Watch Report 2012*, <http://www.hrw.org/world-report-2012/world-report-2012-syria>

⁴⁷ Amnesty International, *Amnesty International Annual Report 2013*

⁴⁸ Amnesty International, *Amnesty International Annual Report 2013*

⁴⁹ Human Rights Watch, *At a Crossroads: Human Rights in Iraq Eight Years after the US-led Invasion* (2010) <http://www.hrw.org/sites/default/files/reports/iraq0211W.pdf>

⁵⁰ Amnesty International, *Amnesty International Annual Report 2013*

⁵¹ Amnesty International "Annual Report: Egypt 2013," Amnesty International, May 2013, <http://www.amnestyusa.org/research/reports/annual-report-egypt-2013?page=4>

⁵² Amnesty International, "Amnesty International Annual Report: Egypt 2013"

protesters.⁵³ Egypt claimed tests were carried out in order to refute claims that the women had been raped while in detention.⁵⁴

Syrian women are being raped and abducted at a high rate. More than 4,000 cases of rape and sexual mutilation have been reported to the Syrian Network for Human Rights.⁵⁵ Zainab Bangura, the Special Representative of UN Secretary General on Sexual Violence in Conflict, said in April 2013, during her briefing to the UN Security Council on Syria that during house searches and at checkpoints, girls are being raped in front of their fathers, mothers in front of their husbands.⁵⁶ According to UNICEF, the U.S. State Department, and Human Rights Watch, women are facing sexual violence in detention by military personnel and it is committed in a systematic manner. Syrian women are also facing sexual violence outside Syrian territory. As refugees in nearby MENA states, they face exploitation and violence, and since they do not have travel paperwork they often become “pleasure wives.”⁵⁷

In Somali regions controlled by al-Shabaab extremists, women suffer from harsh application of Shari’a. It has one of the world's highest maternal mortality rates and sexual violence is widespread. 1,200 women die in childbirth for every 100,000 live births. Girls as young as 13 have been stoned to death for adultery and 98 percent of women and girls undergo FGM. (Djibouti, Mauritania and Sudan also have high percentage of FGM.)

In Iraq mass displacement has made women vulnerable to trafficking and sexual violence.⁵⁸ Thousands of displaced women have been forced to work as prostitutes in neighboring countries including Syria, Jordan and United Arab Emirate.⁵⁹

⁵³ See Generally, U.N. Women, UNICEF, World Bank

⁵⁴ See Generally, U.N. Women, UNICEF, World Bank

⁵⁵ The Syrian Network for Human Rights, *Human Rights Violations in Syria from March 2011 to December 2012*, [syrianhr.org, http://dchrs.org/english/File/Reports/27-02-2013_Facts_And_Figures_SNHR_Report_En.pdf](http://dchrs.org/english/File/Reports/27-02-2013_Facts_And_Figures_SNHR_Report_En.pdf)

⁵⁶ International Federation For Human Rights, “Humanitarian crisis in Syria: Zainab Bangura mentions FIDH report,” [fidh.org](http://www.fidh.org/en/north-africa-middle-east/syria/9416-humanitarian-crisis-in-syria-zainab-bangura-mentions-fidh-report), April 19, 2013, <http://www.fidh.org/en/north-africa-middle-east/syria/9416-humanitarian-crisis-in-syria-zainab-bangura-mentions-fidh-report>

⁵⁷ Human Rights Watch “Syrian refugees struggle to protect daughters from exploitation,” [hrw.org](http://www.hrw.org/news/2013/08/07/syrian-refugees-struggle-protect-daughters-exploitation), August 7, 2013, <http://www.hrw.org/news/2013/08/07/syrian-refugees-struggle-protect-daughters-exploitation>

⁵⁸ Human Rights Watch, “Iraq”

⁵⁹ See Generally, World Bank, Refugees International, Freedom House