



# Legal Provisions on Gender Equality

Arab Countries • Israel • Iran

February 2020

LL File No. 2020-018615  
LRA-D-PUB-002458

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# Comparative Summary

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This report discusses the legal provisions governing inheritance rights, the legal age of marriage, and the transmittal of citizenship through the mother in 18 Middle Eastern and North African countries, including Israel, Iran, and sixteen Arab countries (Algeria, Bahrain, Egypt, Jordan, Iraq, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Syria, Tunisia, Saudi Arabia, the United Arab Emirates, and Yemen). To the extent applicable, the report also discusses constitutional provisions promoting gender equality in these countries.

## I. Gender and Inheritance

Regarding inheritance, the Arab countries apply Islamic law, which provides that a woman's share of an inheritance is half that of a man. The Shi'i Muslim country of Iran applies the same rules of inheritance adopted by Arab countries. For instance, daughters of an Iranian family may claim only half of the inheritance to which sons are entitled. Furthermore, an Iranian mother of a deceased person is entitled to only one-third of the estate, while the father receives the rest. However, Iran did pass a law in 2009 allowing women to inherit all forms of their husband's property. Israel is the only country in the Middle East that does not differentiate between males and females with regard to inheritance.

Table 1: Gender and Inheritance

Country	Gender Distinction	No Gender Distinction	Exceptions
Algeria	X*		
Bahrain	X		
Egypt	X		X**
Jordan	X		
Iran	X		
Iraq	X		
Israel		X	
Kuwait	X		
Lebanon	X		
Libya	X		
Morocco	X		
Oman	X		
Qatar	X		
Tunisia	X***		
Saudi Arabia	X		
Syria	X		
United Arab Emirates	X		
Yemen	X		

Source: Law Library of Congress.

\* Arab countries typically apply Islamic law to matters of inheritance and thus only allow women to inherit half of what men inherit. \*\* An Egyptian court recently allowed a Christian woman to inherit from her father's estate, accepting the woman's argument that she should not be subject to Islamic law.

\*\*\* Legislation is pending in Tunisia that would give women and men equal inheritance shares.

## II. Transmission of Citizenship by Mother

Many Arab countries grant mothers the right to transmit citizenship to their children; however, some countries, such as Libya, the United Arab Emirates (UAE), and Bahrain have made this right conditional on the child’s father being unknown or stateless. Other countries, such as Jordan, Qatar, and Lebanon do not allow mothers to transmit citizenship to their children. In contrast, the Israeli Citizenship Law does not differentiate between a husband and wife for purposes of acquisition of citizenship based on marriage to an Israeli citizen, nor does it differentiate between the parents based on their gender or marital status for purposes of conferring citizenship on a child. Iranian women, on the other hand, are not able to transmit their nationality to non-national spouses, and were unable to transmit citizenship to their children until the approval of a law by Iran’s Guardian Council in early October 2019.

**Table 2: Legal Provisions Allowing Transmission of Citizenship by Mother**

Country	No	Yes	Yes with Qualifications
Algeria		X	
Bahrain			X*
Egypt		X	
Jordan	X		
Iran			X
Iraq		X	
Israel		X	
Kuwait			X*
Lebanon	X		
Libya			X*
Morocco		X	
Oman		X	
Qatar	X		
Tunisia		X	
Saudi Arabia			X*
Syria			X*
United Arab Emirates			X*
Yemen		X	

Source: Law Library of Congress.

\*Bahrain and Libya: The father must be unknown or stateless. Kuwait and Syria: The father must be unknown. Saudi Arabia: The father must be unknown or a foreigner, and in the latter case the child must apply for citizenship upon reaching legal age. UAE: The father must be unknown, stateless, or a foreigner, and in the latter case, the child’s citizenship only attaches after he/she reaches six years of age.

### III. Legal Age of Marriage

Many Arab countries set the minimum age of marriage for women at eighteen years of age. However, these countries also have provisions in their family laws that allow the religious courts to grant women younger than eighteen the right to marry. In Bahrain the minimum age for marriage is 16 for females, while Yemen allow females as young as nine years old to marry. In Iran, the minimum age of marriage for females is 13 (according to the Iranian calendar), but marriages at an even younger age may occur if the child’s guardian and a court approve.

In Israel the minimum age of marriage is eighteen, and marrying, officiating, or assisting in the marriage of a minor in the absence of judicial authorization granted under special circumstances is a criminal offense punishable by two years of imprisonment or a fine. However, the criminal liability associated with underage marriage does not affect the validity of the marriage where it is recognized under the personal status law of the parties.

**Table 3: Legal Age of Marriage**

Country	Age for Females	Age for Males	Earlier with Court and/or Guardian Approval	Varies by Religion
Algeria	19	19	X	
Bahrain	16	18	X	
Egypt	16	18		
Jordan	18	18	X	
Iran*	13	15	X	
Iraq	18	18	X	
Israel	18	18	X	
Kuwait	15	17	X	
Lebanon				X**
Libya	20	20		
Morocco	18	18	X	
Oman	18	18	X	
Qatar	16	18	X	
Tunisia	18	18	X	
Saudi Arabia	17	17	X	
Syria	18	18	X	
United Arab Emirates	18	18	X	
Yemen	No minimum	No minimum		

Source: Law Library of Congress.

\* The ages indicated for Iran are calculated under the Iranian (Persian) calendar.

\*\* Different ages, ranging from puberty (nine to 13) to 17 for girls and 15 to 18 for boys, are recognized in Lebanon according to the person’s religious sect – Catholic Christian, Orthodox Christian, Protestant Christian, Sunni Muslim, Shi’a Muslim, or Druze. A male guardian’s permission to marry is also required in some circumstances.

### IV. Constitutional Provisions Addressing Equality

Most of the constitutions of Arab countries include a provision promoting the principle of gender equality. However, some countries, such as Kuwait, Jordan, and the UAE do not include the term “gender” in the equality provision. This reference to gender is also lacking in the basic law of Saudi Arabia. Instead, the country’s basic law of 1992 links the principle of equality to the

standards of Islamic law, which limits the rights of females with regard to inheritance shares. The Constitution of Iran references “equal rights and protection under the law” for men and women, but the rights it affords are circumscribed by the requirement that they “conform to Islamic criteria” that themselves do not give women equal status with men.

**Table 4: Constitutional Provisions Addressing Equality**

Country	Gender Equality Expressly Mentioned	Gender Equality <i>Not</i> Expressly Mentioned
Algeria	X	
Bahrain	X	
Egypt	X	
Jordan		X
Iran		X*
Iraq	X	
Israel	X**	
Kuwait		X
Lebanon		X
Libya		X
Morocco	X	
Oman		X
Qatar	X	
Tunisia	X	
Saudi Arabia		X
Syria	X	
United Arab Emirates		X
Yemen		X

*Source:* Law Library of Congress.

\* Iran’s Constitution references “equal rights and protection under the law” for men and women, but only in conformity with “Islamic criteria,” and those criteria have historically been interpreted to limit women’s rights.

\*\* Israel does not have a one-document constitution but its Proclamation of Independence guarantees “complete equality . . . irrespective of religion, race, or sex.”

## V. Legal Provisions Addressing Domestic Violence

Many Arab countries have adopted legislation to combat the problem of domestic violence. However, countries such as Egypt, Qatar, Oman, and Yemen lack anti-domestic violence laws. In addition, some of the anti-domestic violence legislation of Arab countries, including Morocco, Jordan, and Lebanon, do not criminalize marital rape. Iran currently has no law aimed at preventing domestic violence and protecting women victims of violence, and a bill currently under consideration does not adequately address these issues. The Family Violence Prevention Law, 1991-5751 of the State of Israel, authorizes courts and religious tribunals to issue protective orders, order participation in treatment plans, and order the confiscation of weapons, in accordance with the requirements established by the Law.

**Table 5: Legal Provisions Addressing Domestic Violence**

Country	No	Yes
Algeria		X
Bahrain		X
Egypt	X	
Jordan		X*
Iran	X	
Iraq	X	
Israel		X
Kuwait	X	
Lebanon		X*
Libya	X	
Morocco		X*
Oman	X	
Qatar	X	
Tunisia		X
Saudi Arabia		X
Syria	X	
United Arab Emirates		X
Yemen	X	

Source: Law Library of Congress.

\* Addresses some acts of domestic violence but does not address marital rape.

The following country surveys provide detailed information on the relevant legal provisions of the surveyed countries.



# Arab Countries

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**SUMMARY** Arab countries apply Islamic law rules to inheritance matters and domestic relations.

Many Arab countries grant a mother the right to transmit citizenship to her children; however, some countries, such as Libya, the United Arab Emirates (UAE), and Bahrain make it conditional. Other countries, such as Jordan, Qatar, and Lebanon have no provisions allowing a mother to transmit citizenship to her child.

Many Arab countries set the minimum age for women to marry at 18 years of age. Nevertheless, those countries have a provision in their family law allowing a religious court to grant women younger than 18 the right to marry. Yemen has abolished its minimum age for marriage.

Most Arab countries include a provision in their constitutions promoting the principle of gender equality. Some countries, such as Kuwait, Jordan, and the UAE, however, do not include the term “gender” in the equality provision.

Many Arab countries have adopted legislation to combat the problem of domestic violence. However, countries such as Egypt, Qatar, Oman, and Yemen lack anti-domestic violence laws.

It is important to note that even in those cases where constitutions or laws guarantee certain rights, court cases illustrating that those rights are enforced are lacking in some of the jurisdictions covered.

## I. Inheritance

Arab countries apply Islamic law rules to inheritance matters. Verse 11 of Surat An-Nisaa of the Qur’an states that a woman’s share of an inheritance is half that of a man.

Recently, attempts to change the general rule of inheritance have occurred in two Arab countries. The cabinet of Tunisia approved a bill on November 22, 2019, which, for the first time in the nation’s history, would require that male and female heirs receive equal inheritance shares. If enacted, Tunisia would be the first among the Arab countries to adopt such a law. The cabinet referred the bill to the Tunisian Parliament for debate and voting.<sup>1</sup> It is not yet a law.<sup>2</sup>

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<sup>1</sup> *Tunisia Becomes the First Arab Nation to Approve Gender Equality in Inheritance Law*, Dhaka Trib. (Nov. 25, 2018), <https://perma.cc/U7RW-EB83>.

<sup>2</sup> *Tunisia: New Parliament’s Rights Priorities*, Hum. Rts. Watch (Nov. 13, 2019), <https://perma.cc/R7LA-H7EX>.

On November 25, 2019, the Cairo Court of Appeal granted an Egyptian Christian woman a share of her late father's estate equal to the share of each of her brothers. The plaintiff had argued that, as a Coptic Christian, she should not be subject to Islamic law in matters related to inheritance. She pointed out that article 3 of the 2014 Egyptian Constitution grants the right to Egyptian Christians to apply their religious laws regarding matters related to personal status and family law.<sup>3</sup>

## II. Citizenship

### A. Algeria

Law No. 01-05 of 2005 allows a child of an Algerian mother to acquire Algerian citizenship.<sup>4</sup>

### B. Bahrain

Article 4(c) of the Bahraini citizenship law allows the child of a Bahraini woman who is born in Bahrain or abroad to acquire Bahraini citizenship, provided that his or her father is unknown or stateless.<sup>5</sup>

### C. Egypt

Article 1 of Law No. 154 of 2004 allows those who were born outside Egypt of Egyptian mothers married to foreign husbands to acquire Egyptian citizenship. Article 1 defines "Egyptian citizens" as anyone born of an Egyptian father or an Egyptian mother, and anyone born in Egypt from unknown parents.<sup>6</sup>

### D. Iraq

Article 3 of Law No. 26 of 2006 states that a person will be considered Iraqi if he or she was born to an Iraqi father or an Iraqi mother.<sup>7</sup>

### E. Jordan

Jordan has no provision in its citizenship law allowing a mother to transmit citizenship.<sup>8</sup>

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<sup>3</sup> George Sadek, *Egypt: Court Grants Christian Woman Share of Father's Estate Equal to Share of Her Two Brothers*, Global Legal Monitor (Jan. 9, 2020), <https://perma.cc/6YFW-RM3C>.

<sup>4</sup> Law No. 01-05 of 2005, art. 6, al-Jarīdah al-Rasmīyah, vol. 15, 17 Feb. 2005.

<sup>5</sup> Law of 1963, al-Jarīdah al-Rasmīyah, vol. 8, 9 Sept. 1963.

<sup>6</sup> Law No. 154 of 2004, al-Jarīdah al-Rasmīyah, vol. 28 duplicate (a), 14 July 2004.

<sup>7</sup> Law No. 26 of 2006, al-Waqā'a` al-'Iraqīyah, vol. 4019, 7 May 2006.

<sup>8</sup> Q&A: *Status of Non-Citizen Children of Jordanian Mothers*, Hum. Rts. Watch (May 1, 2018), <https://perma.cc/CXE2-DQLQ>.

#### **F. Kuwait**

Article 3 of the Royal Decree on Citizenship allows the child of a Kuwaiti woman who is born in Kuwait or abroad to acquire Kuwaiti citizenship, provided that his or her father is unknown.<sup>9</sup>

#### **G. Lebanon**

Lebanon has no provision in its citizenship law allowing a mother to transmit citizenship.<sup>10</sup>

#### **H. Libya**

Law No. 47 of 1976 allows a child born in Libya by a Libyan woman to acquire Libyan citizenship, provided that his or her father is unknown or stateless.<sup>11</sup>

#### **I. Morocco**

Law No. 62-06 of 2007 allows a Moroccan mother's child to acquire Moroccan citizenship.<sup>12</sup>

#### **J. Oman**

Article 11 of the Omani law on citizenship grants an Omani woman's child Omani citizenship whether the child was born in Oman or abroad.<sup>13</sup>

#### **K. Qatar**

Qatar has no provision allowing a Qatari mother to transmit Qatari citizenship.<sup>14</sup>

#### **L. Saudi Arabia**

Article 7 of Resolution No. 4 allows those who are born inside or outside the Kingdom by a Saudi mother and an unknown father to acquire Saudi citizenship.<sup>15</sup>

Article 8 imposes conditions for citizenship on individuals who are born inside Saudi Arabia to a Saudi mother and non-Saudi father. It stipulates that the Minister of Interior may grant Saudi citizenship to such an individual if the person

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<sup>9</sup> Law No. 40 of 1987 amending Royal Decree No. 15 of 1959, <https://perma.cc/9ZJW-34RL>.

<sup>10</sup> *Lebanon: Discriminatory Nationality Law*, Hum. Rts. Watch (Oct. 3, 2018), <https://perma.cc/YSJ7-38SW>.

<sup>11</sup> Law No. 47 of 1976 amending Law 17 of 1954, art. 3 (C), *al-Jarīdah al-Rasmīyah*, vol. 43, 29 July 1976.

<sup>12</sup> Law 62-06 of 2007, art. 6, *al-Jarīdah al-Rasmīyah*, vol. 5513, 2 Apr. 2007.

<sup>13</sup> Royal Decree No. 38 of 2014, *al-Jarīdah al-Rasmīyah*, vol. 1066, 12 Aug. 2014.

<sup>14</sup> Rothna Begum, *Qatar's Permanent Residency Law a Step Forward but Discrimination Remains*, Hum. Rts. Watch (Sept. 11, 2018), <https://perma.cc/CP5Y-K3YG>.

<sup>15</sup> Royal Decree M/4 of 1405 (Hijri), issued on 24/05/1405 (Hijri) (corresponding to 15 Feb. 1985), art. 7.

- has a permanent Resident Permit (*Iqama*) upon reaching legal age (18 years of age),
- has good behavior with no record of a criminal judgment or imprisonment for more than six months,
- is fluent in Arabic, and
- applies for citizenship within one year of reaching legal age.<sup>16</sup>

#### **M. Syria**

Law No. 276 of 1969 provides that anyone born in Syria to a Syrian mother and an unknown father may acquire Syrian citizenship.<sup>17</sup>

#### **N. Tunisia**

Under Law No. 55 of 2010, a child born to a Tunisian mother is considered a Tunisian citizen.<sup>18</sup>

#### **O. United Arab Emirates**

Article 2 of Federal Law No. 10 of 1975 on citizenship stipulates that a person who is born in the UAE to an Emirati mother and an unknown or stateless father may acquire Emirati citizenship.<sup>19</sup>

Under article 10 (bis) of Law No. 16 of 2017, the children of an Emirati woman who is married to a foreign citizen have the right to acquire Emirati citizenship subject to a waiting period of at least six years after their birth.<sup>20</sup>

#### **P. Yemen**

Under article 3 of Law No. 6 of 1990, as amended by article 1 of Law No. 25 of 2010, individuals must be considered Yemeni citizens by birth if they are (1) born to a Yemeni father or mother in Yemen or abroad, or (2) born to a Yemeni mother and a foreign father.<sup>21</sup>

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<sup>16</sup> Id. art. 8, amended by Royal Decree M/4 of 1405 (Hijri), issued on 24 /05/ 1405 (Hijri) (corresponding to 15 Feb. 1985). Prior to this amendment, article 8 did not recognize individuals born to a Saudi mother and foreign father as Saudi citizens. The former provision read: “[A]ny person whose father is a foreigner and mother is a Saudi national may be treated as a foreigner.” The old provision granted those individuals the right to apply for Saudi citizenship if they reached legal age, resided permanently in Saudi Arabia, and renounced their father’s foreign citizenship.

<sup>17</sup> Law No. 276 of 1969, art. 3(a), Nov. 24, 1969, <https://perma.cc/DNQ7-FSAL>.

<sup>18</sup> Law No. 33 of 2010, art. 6 (1), *al-Jarīdah al-Rasmīyah*, vol. 097, 3 Dec. 2010.

<sup>19</sup> Federal Law No. 10 for 1975, *al-Jarīdah al-Rasmīyah*, vol. 32, 15 Nov. 1975.

<sup>20</sup> Law No. 16 of 2017, *al-Jarīdah al-Rasmīyah*, vol. 622, 18 Sept. 2017.

<sup>21</sup> Law No. 6 of 1990, art. 3, amended by Law No. 25 of 2010, art. 1, issued on Nov. 1, 2010, <https://perma.cc/37Y8-RS2Y>. Prior to the amendment, Law No. 6 of 1990 on citizenship did not recognize individuals born to a Yemeni mother and a foreign father as Yemeni citizens unless the father was stateless or absent.

### III. Age of Marriage

#### A. Algeria

Males and females must be 19 years of age to marry. Individuals interested in marrying before that age must obtain approval from the family law court.<sup>22</sup>

#### B. Bahrain

The minimum age of marriage for females is 16. If the female's guardian wants her to get married earlier, he must obtain the permission of the religious court.<sup>23</sup> For males, the minimum marriage age is 18.<sup>24</sup>

#### C. Egypt

Females must be at least 16 years of age and males at least 18 years of age to marry.<sup>25</sup>

#### D. Iraq

The minimum age for marriage in Iraq is 18 years of age for both men and women.<sup>26</sup> Law No. 188 of 1959 grants judges the right to permit the marriage of individuals between the ages of 15 and 18 if the legal guardian of the bride or the groom does not object to the marriage. If the guardian abstains from giving an opinion, the judge may set a deadline for him to express his view.<sup>27</sup>

A judge has the power to authorize the marriage of a 15-year-old person (or either sex) if the judge sees an "urgent necessity" for the marriage. Giving such authorization is also conditional upon the attainment of legal puberty and the "physical ability to marry."<sup>28</sup>

#### E. Jordan

The minimum age for marriage is 18 years of age for both men and women.<sup>29</sup> The Shari'a Courts have the right to permit the marriage of an individual of either sex between the ages of 15 and 18 years.<sup>30</sup>

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<sup>22</sup> Law No. 11 of 1984, art. 7, al-Jarīdah al-Rasmīyah, vol. 24, 9 June 1984.

<sup>23</sup> Law No. 19 of 2017, art. 20, al-Jarīdah al-Rasmīyah, vol. 3323 (annex), 20 July 2017.

<sup>24</sup> Ministerial Decree No. 45 of 2007, al-Jarīdah al-Rasmīyah, vol. 2812, 11 Oct. 2007.

<sup>25</sup> Law No. 1 of 2000, art. 17, 29 Jan. 2000, <https://perma.cc/AK5S-87PN>.

<sup>26</sup> Law No. 188 of 1959, art. 7(1), al-Waqā'a al-'Iraqīyah, vol. 280, 30 Dec. 1959.

<sup>27</sup> Id. art. 8(1).

<sup>28</sup> Id. art. 8(2).

<sup>29</sup> Law No. 36 of 2010, art. 10(a), al-Jarīdah al-Rasmīyah, vol. 5061, 10 Oct. 2010.

<sup>30</sup> Id. art. 10(b).

## F. Kuwait

The minimum age of marriage is 15 for females and 17 for males.<sup>31</sup>

## G. Lebanon

In October 2014, the Legal Research Directorate of the Lebanese Parliament issued a study identifying the minimum age of marriage set by Lebanese religious sects.<sup>32</sup>

Catholic Christians set the minimum age of marriage at 16 for boys and 14 for girls.<sup>33</sup> However, Catholic religious leaders have discretion to raise the minimum age of marriage from 14 to any age.<sup>34</sup>

Orthodox Christians have determined the minimum age of marriage as 18 for both men and women. The Orthodox Christian religious leaders have the right to reduce the minimum age of marriage to 17 for boys and 15 for girls.<sup>35</sup>

Protestant Christians consider the age of puberty as the minimum age of marriage, and define the age of puberty for men as 18 and for women as 16.<sup>36</sup>

With respect to the Muslim Sunni sect, religious leaders have the right to allow a marriage to take place at the age of puberty. They consider the age of puberty as between nine and 13 for girls. The child's guardian must approve the marriage.<sup>37</sup> Some other Sunni leaders set the age of marriage at 18 for boys and 17 for girls.<sup>38</sup> Likewise, the religious leaders of the Muslim Shi'a sect consider the age of puberty as the minimum age of marriage. They identify the age of puberty as nine to 13 for girls,<sup>39</sup> but as 15 for boys.<sup>40</sup> The guardian of the child or teen must approve the marriage.<sup>41</sup>

Concerning the Druze sect, the religious leaders identify the minimum age of marriage as 18 for men and 17 for women.<sup>42</sup> A Druze woman needs her male guardian's permission to marry if she

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<sup>31</sup> Law No. 51 of 1984, art. 26, Al-Kuwait Al-Youm, 23 July 1984.

<sup>32</sup> Dep't of Res., Gen. Directorate for Stud. & Info., Council of Rep., Republic of Leb., *Draft Law Proposed to Set a Minimum Age of Marriage* (Oct. 1, 2014), <https://perma.cc/5WE3-CS9V>.

<sup>33</sup> Id. at 2, para. 2.

<sup>34</sup> Id.

<sup>35</sup> Id. at 2, para. 3.

<sup>36</sup> Id. at 2, para. 4.

<sup>37</sup> Id. at 3, chart 2.

<sup>38</sup> Id. at 2, para. 5.

<sup>39</sup> Id. at 3, chart 1.

<sup>40</sup> Id. at 2, para. 6.

<sup>41</sup> Id. at 3, chart 1 (the approval of the guardian).

<sup>42</sup> Id. at 2, para. 6.

is under the age of 21.<sup>43</sup> Druze leaders have the power to reduce the minimum age of marriage to 16 for boys and 15 for girls.<sup>44</sup>

#### **H. Libya**

Both males and females must be at least 20 years of age to marry in Libya.<sup>45</sup>

#### **I. Morocco**

The minimum age for marriage in Morocco is 18 for both men and women.<sup>46</sup> The religious courts have the power to authorize the marriage of a person under 18 years of age (of either sex) if a court finds marriage is in “the best interest of the couple.” Giving such authorization is also conditional upon the “physical ability to marry.”<sup>47</sup>

#### **J. Oman**

The minimum age for marriage in Oman is 18 for both males and females.<sup>48</sup> The religious courts have the power to authorize the marriage of a person under 18 years of age (of either sex) if a court finds marriage is in “the best interest of the couple.”<sup>49</sup>

#### **K. Qatar**

The minimum age for marriage in Qatar is 18 for males and 16 for females. The religious courts have the power to authorize the marriage of males under 18 and females under 16.<sup>50</sup>

#### **L. Saudi Arabia**

The minimum age for marriage is 17. Persons under 17 years of age must obtain court permission to get married.<sup>51</sup>

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<sup>43</sup> Anna Louie Sussman, *In Lebanon, a Tangle of Religious Laws Govern Life and Love*, Atlantic (Sept. 29, 2011), <https://perma.cc/HTU8-J2D5>.

<sup>44</sup> Dep’t of Res., *Draft Law Proposed to Set a Minimum Age of Marriage*, supra note 32, at 2, para. 6.

<sup>45</sup> Law No. 10 of 1984, art. 20, Apr. 19, 1984, <https://perma.cc/K63B-GNAV>.

<sup>46</sup> Decree 1.04.22, executing Law 70.03, art. 19, al-Jarīdah al-Rasmīyah, vol. 5184, 3 Feb. 2004.

<sup>47</sup> Id. art. 20.

<sup>48</sup> Royal Decree No. 32 of 1997, art. 7, al-Jarīdah al-Rasmīyah, vol. 601, 4 June 1997.

<sup>49</sup> Id. art. 10(c).

<sup>50</sup> Law 22 of 2006, art. 17, al-Jarīdah al-Rasmīyah, vol. 8, 28 Aug. 2006.

<sup>51</sup> Gen. Dep’t of Media & Comm., Saudi Ministry of Just., *Requirements for the Marriage of Females Who Are 17 and Under*, <https://perma.cc/3CUX-UP8W>.

### **M. Syria**

According to article 16 of Law No. 4 of 2019 amending Law No. 59 of 1953 on Personal Status, the minimum age for marriage in Syria is 18 years for both men and women.<sup>52</sup>

Article 18 of Law No. 4 of 2019 grants a judge the right to permit the marriage of an individual of either gender between the ages of 15 and 18 years.<sup>53</sup> Before the judge permits the marriage, the judge must obtain the approval of the minor's guardian.<sup>54</sup>

### **N. Tunisia**

The minimum age of marriage in Tunisia is 18 for both males and females. The religious court has the power to authorize the marriage of a person under 18 years of age of either gender if the court finds marriage is in "the best interest of the couple."<sup>55</sup>

### **O. United Arab Emirates**

The minimum age for marriage for both females and males is 18. The religious court has the power to authorize the marriage of a person under 18 years of age of either sex.<sup>56</sup>

### **P. Yemen**

Article 15 of the Presidential Decree promulgating the Personal Status Law No. 20 of 1992 previously set the minimum age of marriage at 15 years for both genders.<sup>57</sup> However, Law No. 24 of 1999 amended article 15 by abolishing the minimum age of marriage for females. The Law currently states that the marriage contract of a young girl is valid. However, marriage cannot be consummated if the girl has not reached the age of puberty and is not physically able to have sexual intercourse.<sup>58</sup> Article 127 of Law No. 20 of 1992 identifies the age of puberty for females as nine years old and above.<sup>59</sup>

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<sup>52</sup> Law No. 4 of 2019, amending Law No. 59 of 1953, <https://perma.cc/9KS9-3547>.

<sup>53</sup> Id. art. 18.

<sup>54</sup> Id. art. 18(2).

<sup>55</sup> Law No. 32 of 2007, art. 5, *al-Jarīdah al-Rasmīyah*, vol. 042, 14 May 2007.

<sup>56</sup> Law No. 28 of 2005, art. 30, *al-Jarīdah al-Rasmīyah*, vol. 439, 30 Nov. 2005.

<sup>57</sup> Personal Status Law No. 20 of 1992, art. 15, *al-Jarīdah al-Rasmīyah*, vol. 3/6, 29 Mar. 1992.

<sup>58</sup> Law No. 24 of 1999, 10 Apr. 1999, <https://perma.cc/2LDA-MXDC>.

<sup>59</sup> Law No. 20 of 1992, art. 127.



#### **IV. Constitutional Provisions Addressing Equality**

##### **A. Algeria**

“Citizens are equal before the law without any discrimination on the basis of birth, race, gender, opinion or any other personal or social condition or circumstances.”<sup>60</sup>

##### **B. Bahrain**

“People are equal in human dignity and citizens are equal before the law in public rights and duties. There is no discrimination among them on the basis of gender, origin, language, religion or creed.”<sup>61</sup>

##### **C. Egypt**

“Citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, gender, origin, race, color, language, disability, social class, political or geographical affiliation, or for any other reason.”<sup>62</sup>

##### **D. Iraq**

“Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.”<sup>63</sup>

##### **E. Jordan**

“Jordanians shall be equal before the law with no discrimination between them in rights and duties even if they differ in race, language or religion.”<sup>64</sup>

##### **F. Kuwait**

“The people are peers in human dignity and have, in the eyes of the Law, equal public rights and obligations. There is no differentiation among them because of race, origin, language or religion.”<sup>65</sup>

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<sup>60</sup> Alg. Const. of 1989, art. 32.

<sup>61</sup> Bahr. Const. of 2002, art. 18 (amended 2017).

<sup>62</sup> Const. of Arab Rep. of Egypt of 2014, art. 53.

<sup>63</sup> Iraq Const. of 2005, art. 14.

<sup>64</sup> Jordan Const. of 1952, art. 6(1) (amended 2016).

<sup>65</sup> Kuwait Const. of 1962, art. 29 (amended 1992).

### **G. Lebanon**

“All Lebanese are equal before the law. They enjoy civil and political rights equally, and assume obligations and public duties without any distinction among them.”<sup>66</sup>

### **H. Libya**

“The state must ensure equal opportunity and strive to guarantee a proper standard of living, the right to work, education, medical care, and social security to every citizen.”<sup>67</sup>

### **I. Morocco**

“The man and the woman enjoy equal rights and freedoms of civil, political, economic, social, cultural and environmental character.”<sup>68</sup>

### **J. Oman**

“Justice, equality, and equal opportunities among Omanis are pillars of the society guaranteed by the State.”<sup>69</sup>

### **K. Qatar**

“People are equal before the law. There shall be no discrimination against them because of gender, race, language, or religion.”<sup>70</sup>

### **L. Saudi Arabia**

“Governance in the Kingdom of Saudi Arabia is based on justice, Shura [consultation] and equality according to Islamic Shari`a.”<sup>71</sup>

### **M. Syria**

“Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed.”<sup>72</sup>

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<sup>66</sup> Leb. Const. of 1926, art. 7 (amended 2004).

<sup>67</sup> Libya Const. of 2011, art. 8 (amended 2012).

<sup>68</sup> Morocco Const. of 2011, art. 19.

<sup>69</sup> Oman Const. of 1996, art. 12(1) (amended 2011).

<sup>70</sup> Qatar Const. of 2003, art. 35.

<sup>71</sup> Basic Law of 1992, art. 8.

<sup>72</sup> Syria Const. of 2012, art. 33.

## **N. Tunisia**

“All citizens, male and female, have equal rights and duties, and are equal before the law without any discrimination.”<sup>73</sup>

## **O. United Arab Emirates**

“All persons are equal in law. There is no distinction among the citizens of the UAE on the basis of race, nationality, faith or social status.”<sup>74</sup>

## **P. Yemen**

“The State must guarantee equal opportunities for all citizens in the fields of political, economic, social and cultural activities and shall enact the necessary laws for the realization thereof.”<sup>75</sup>

“Women are the sisters of men. They have rights and duties, which are guaranteed and assigned by Islamic law.”<sup>76</sup>

## **V. Legal Protection against Domestic Violence**

### **A. Algeria**

Law No. 15-19 criminalizes physical assault against a spouse or ex-spouse with a term of imprisonment up to 20 years. If the assault results in death, the penalty will be increased to a life sentence.<sup>77</sup>

### **B. Bahrain**

Law No. 17 of 2015 protects wives from all forms of domestic abuse and violence. The Law creates the Department of Family Guidance, located in the Ministry of Social Affairs. The main function of the department is to provide legal assistance to individuals facing domestic violence. It also sets forth procedures to protect victims of domestic violence. Finally, it enhances the penalties for all forms of domestic violence and abuse.<sup>78</sup>

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<sup>73</sup> Tunis. Const. of 2012, art. 21.

<sup>74</sup> U.A.E. Const. of 1971, art. 25 (amended 2009).

<sup>75</sup> Yemen Const. of 1991, art. 24.

<sup>76</sup> Id. art. 31.

<sup>77</sup> Law No. 15-19 of 2015, al-Jarīdah al-Rasmīyah, vol. 71, 30 Dec. 2015.

<sup>78</sup> Law No. 17-2015, al-Jarīdah al-Rasmīyah, vol. 3222, 13 Dec. 2015.

### **C. Jordan**

Law No. 15 of 2017 on combating domestic violence enhances the penalty for assaulting wives (verbally or physically). It also identifies legal measures adopted by the court to protect a wife from her attacker.<sup>79</sup>

### **D. Lebanon**

Law No. 293 of 2014 on combating domestic violence and the protection of women establishes legal safeguards to protect women facing domestic violence not only from their spouses but also from family members. It also enhances the penalties for verbal and physical assault of a wife, daughter, sister, or other female member of the family. Finally, the law identifies procedures that members of law enforcement must adopt when they receive a complaint of domestic violence.<sup>80</sup>

### **E. Morocco**

Law No. 103.13 of 2018 on combating violence against women criminalizes some acts of domestic violence but does not address marital rape. The Law introduces legal measures to protect victims of domestic violence. It also obligates public authorities to take preventive measures against domestic violence, such as creating public awareness campaigns to educate women on how to report domestic violence incidents.<sup>81</sup>

### **F. Saudi Arabia**

Royal Decree No. M/52 of 24/12/1434 (Hijri) corresponding to October 29, 2013, bans forms of domestic abuse. It makes sexual violence in the home and the workplace a punishable crime. Moreover, it mandates the creation of shelters for victims of domestic violence. It also requires law enforcement officers to follow up on reports of domestic violence or abuse. Finally, it imposes a sentence of imprisonment and fines against violators.<sup>82</sup>

### **G. Tunisia**

Law No. 58 of 2017 on eliminating all forms domestic violence provides women with the measures necessary to seek protection from acts of violence by their husbands and family members. The Law includes provisions that prevent violence against women by raising public awareness. It protects victims of domestic violence by creating shelters for abused victims. Finally, it directs that individuals who physically or verbally attack their spouses or female family members should be prosecuted.<sup>83</sup>

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<sup>79</sup> Law No. 15 of 2017, *al-Jarīdah al-Rasmīyah*, vol. 5460, 16 May 2017.

<sup>80</sup> Law No. 293 of 2014, *al-Jarīdah al-Rasmīyah*, vol. 21, 15 May 2014.

<sup>81</sup> Law No. 103.13, *al-Jarīdah al-Rasmīyah*, vol. 6655, 12 Mar. 2018.

<sup>82</sup> Royal Decree No. M/52, <https://perma.cc/W4RV-EAZ3>.

<sup>83</sup> Law No. 58 of 2017, *al-Jarīdah al-Rasmīyah*, vol. 065, 15 Aug. 2017.

## H. United Arab Emirates

Decree Promulgating Law No. 10 of 2019 on the protection from domestic violence introduces an array of legal measures, including terms of imprisonment and restraining orders to protect victims of domestic violence. The law grants the court the right to order an abusive husband to remain a certain distance from an abused wife. Violating the court's restraining order will result in a three-month jail sentence.<sup>84</sup>

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<sup>84</sup> Decree Promulgating Law No. 10 of 2019, *al-Jarīdah al-Rasmiyah*, vol. 661 (annex 1), 29 Aug. 2019.

# Israel

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## I. Inheritance

Under section 3 of the Inheritance Law, 5725- 1965, any person may inherit from the deceased if that person was alive at the time of the death of the deceased, or was born within 300 days from the deceased's death.<sup>1</sup> No distinction is made on the basis of gender.

## II. Citizenship

Israeli citizenship is granted in accordance with the Nationality Law, 5712-1952.<sup>2</sup> The Law does not differentiate between a husband and wife for purposes of acquisition of citizenship based on marriage to an Israeli citizen subject to requirements under that law.<sup>3</sup> Similarly, acquisition of citizenship based on the legal status of a parent in accordance with the categories enumerated by the law does not differentiate between the parents based on their gender or marital status.<sup>4</sup>

## III. Age of Marriage

Marrying, officiating, or assisting in the marriage of a minor in the absence of judicial authorization granted under special circumstances is a criminal offense punishable by two year's imprisonment or a fine.<sup>5</sup> A minor is defined as a person who has not reached 18 years of age.<sup>6</sup> The law does not distinguish between males and females regarding criminal liability.

The criminal liability associated with the above offenses, however, does not affect the validity of the marriage, which is usually determined under the personal status law of the parties.<sup>7</sup>

## IV. Constitutional Provisions Related to Ensuring Gender Equality

Israel does not have a one-document constitution. Israeli laws are generally interpreted in accordance with the Proclamation of Independence, which provides that "[t]he State of Israel will . . . ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or

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<sup>1</sup> Inheritance Law, 5725- 1965, SH 5725 No. 446 p. 63.

<sup>2</sup> Nationality Law, 5712-1952, SH 5712 No. 95 p. 146.

<sup>3</sup> Id. § 7.

<sup>4</sup> Id. §§ 2, 4, 4A, 4B, 8 & 9.

<sup>5</sup> Age of Marriage Law, 5710-1950, §§ 2 & 5, SH 5710 No. 57 p. 286.

<sup>6</sup> Id. § 1; Legal Capacity and Guardianship Law, 5722-1962, § 3, SH 5722 No. 380 p. 120.

<sup>7</sup> Age of Marriage Law, 5710-1950, § 3(a). For information on the marriage system in Israel see Ruth Levush, *Israel: Spousal Agreements for Couples Not Belonging to Any Religion – A Civil Marriage Option?*, Law Library of Congress, <https://perma.cc/E6U8-SS92>.

sex”.<sup>8</sup> Laws regulating inheritance, transmission of citizenship, and age of marriage in Israel do not differentiate between persons based on their gender. Israeli law provides an array of protections against domestic violence.

In accordance with Israel’s Interpretation Law, 5741-1981, any reference to the masculine gender in a law equally applies to the feminine gender and vice versa.<sup>9</sup>

## V. Legal Protections against Domestic Violence

The Family Violence Prevention Law, 1991-5751, authorizes courts and religious tribunals to issue protective orders, order participation in treatment plans, and order the confiscation of weapons, in accordance with the requirements established by the Law.<sup>10</sup>

A marriage or family relationship does not constitute a defense against conviction for assault or sexual offenses under the Penal Law, 5737-1977.<sup>11</sup>

The Ministry of Labor, Welfare and Social Services (MLWSS), through nonprofit organizations and associations, operates several programs for the protection of victims of domestic violence, including shelters for battered women and transitional apartments. Referrals to these programs are made by social services departments, domestic violence prevention and treatment centers, and the police. The MLWSS also operates domestic violence emergency lines and victims’ aid centers for sexual assault victims, in addition to other programs.<sup>12</sup>

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<sup>8</sup> Proclamation of Independence (May 14, 1948), Knesset website, <https://perma.cc/S5SW-K2Z7>.

<sup>9</sup> Interpretation Law, 5741-1981, §§ 1 & 6, Sefer HaHukim [SH] [Book of Laws (official gazette)] 5741 No. 1030, p. 302. This and other laws cited are as amended.

<sup>10</sup> Family Violence Prevention Law, 1991-5751, §§ 1, 2 & 2A-C, SH 5751 No. 1352 p. 138.

<sup>11</sup> Penal Law, 5737-1977, SH 5737 No. 864 p. 226.

<sup>12</sup> *Protection and Primary Assistance to Victims of Domestic Violence*, MLWSS, <https://perma.cc/L96F-9UZF> (in Hebrew).

# Iran

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**SUMMARY** Islamic rules of inheritance as expressed through Iran’s Civil Code prevent women in Iran from inheriting equally with men. However, a religious decree issued by Grand Ayatollah Sane’i in 2008 that broke with Iran’s Shari’a-based law spurred the implementation of legislation that expanded women’s inheritance rights the following year by allowing women to inherit all forms of their husband’s property. Similarly, a law approved in October 2019 concerning a woman’s right to transmit citizenship, while not putting women on an equal footing with men, now allows Iranian mothers married to non-Iranian men the right to transmit Iranian citizenship to their children under 18 under certain conditions. A girl in Iran cannot legally marry before the age of 13 without the approval of her guardian and a court. Iran’s Constitution does not ensure complete gender equality because the rights it affords are circumscribed by the requirement that they “conform to Islamic criteria” that do not give women equal status with men. Iran does not have a law specifically aimed at preventing and protecting women from domestic violence, and a recent bill that purports to expand protections to women against the different forms of violence they encounter does not adequately address the problem of domestic violence.

## I. Women’s Right of Inheritance

Iran’s Civil Code,<sup>1</sup> which is based on the principles of the Ja’fari school of Shi’a Islam,<sup>2</sup> lays down the following rules of inheritance:

- Daughters may claim only half of the inheritance sons are entitled to when the deceased is not survived by parents.<sup>3</sup>
- The mother of a deceased person is entitled to one-third of the estate, while the father receives the rest. However, if Islamic rules of inheritance give preference to another member of the family over her in sharing the estate, she inherits one-sixth of the estate.<sup>4</sup>
- A woman who marries a man who dies of an illness before the marriage is consummated is not entitled to any inheritance from him.<sup>5</sup>

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<sup>1</sup> Civil Code, May 3, 1928, as amended, <https://perma.cc/M7SV-XHP4> (in Persian).

<sup>2</sup> *Inheritance Laws*, UN Women (last updated Feb. 27, 2011), <https://perma.cc/WKQ4-FAMF>.

<sup>3</sup> Civil Code art. 907; *Inheritance Laws*, supra note 2.

<sup>4</sup> Civil Code art. 906; Laura Jokinen et al., *Legal Status of Women: Iran’s International Human Rights Obligations* 25 (Legal Res. Series, Hum. Rts. in Iran Unit, Univ. of Essex, June 2014), <https://perma.cc/J7TH-6EF2>.

<sup>5</sup> Civil Code art. 945; Jokinen, supra note 4, at 25.



- A wife may claim one-eighth of her deceased husband's estate when he has surviving descendants; one-quarter of his estate when he has no other heirs; and, in the event of surviving multiple wives, an equal portion of the one-quarter or one-eighth portion that is shared with the other wives. The husband, on the other hand, may inherit one-quarter of his deceased wife's estate when she has surviving descendants, one-half if she has no surviving descendants, and all of the estate if there are no other heirs.<sup>6</sup>

However, the UN Women's Virtual Knowledge Centre to End Violence Against Women and Girls, states that Iranians have found "creative ways to ensure their spouse can inherit as they desire."<sup>7</sup> UN Women cites a 2006 report by the Centre on Housing Rights and Evictions finding that

families evade the Shari'a-derived inheritance rules and divide property and assets according to their own desires. Because the law allows only one third of a person's estate to be willed, the most common method is to transfer the title of the property into the heir's name while the benefactor is still alive. This method is especially common among married couples because . . . the share to which the wife is legally entitled is the lesser. In case they die first, husbands tend to buy property in their wife's name, or transfer the title into her name. Fathers often do the same for their children and other heirs. In this way, the benefactors, rather than the law, determine how their estate is divided.<sup>8</sup>

In 2009, Iran's Majlis (parliament) "began implementing controversial legislation that allow[ed] women to inherit all forms of their husband's property."<sup>9</sup> Previously, article 946 of the Civil Code had entitled a husband to a share of his wife's entire estate, but the wife could not inherit any of the husband's land; rather, she was limited to inheriting movable property and the monetary value of buildings and trees on her husband's land, unless the heirs refused to pay her the value of the buildings and trees and a court subsequently ordered that she could receive her share of the allotted property.<sup>10</sup> The 2009 law allows a woman to inherit property from a deceased husband and removed the limits on the proportion of movable property a woman could inherit.<sup>11</sup> According to Iranian legal scholar and human rights lawyer and activist Dr. Leila Alikarami, the 2009 law's enactment was catalyzed by a *fatwā* (Islamic legal decree) by Grand Ayatollah Sanei'i that "undermin[ed] the claim that the current state of legislation concerning female inheritance . . . correctly adhere[d] to Islamic principles . . . [and] put pressure on the political system to change its stance regarding inheritance."<sup>12</sup> Sanei'i's *fatwā* was so

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<sup>6</sup> Civil Code art. 913; *Inheritance Laws*, supra note 2.

<sup>7</sup> *Inheritance Laws*, supra note 2.

<sup>8</sup> Ctr. on Housing Rts. & Evictions (COHRE), *In Search of Equality: A Survey of Law and Practice Related to Women's Inheritance Rights in the Middle East and North Africa (MENA) Region* 36 (Oct. 2006), <https://perma.cc/3AYS-U3TA>.

<sup>9</sup> Gholam Vafai, *Iran: New Women's Inheritance Law Is Enforced*, *Global Legal Monitor* (May 15, 2009), <https://perma.cc/PW9T-8QPJ>.

<sup>10</sup> Civil Code art. 946; COHRE, supra note 8, at 35.

<sup>11</sup> Vafai, supra note 9.

<sup>12</sup> Leila Alikarami, *Women and Equality in Iran: Law, Society and Activism* 209 (I.B. Tauris 2019).

significant because his interpretation that a wife whose husband passes away with no other heirs becomes the sole heir of his assets markedly differed from Iran's Shari'a-based law.<sup>13</sup>

## II. Right of Women to Transmit Citizenship

Iran's Civil Code provides that Iranian men automatically transmit Iranian nationality to their non-national spouses and to their children, regardless of where the children were born.<sup>14</sup> Iranian women, on the other hand, are not able to transmit their nationality to non-national spouses, and were unable to transmit citizenship to their children until the approval of a law by Iran's Guardian Council in early October 2019.<sup>15</sup> This law gives Iranian mothers married to non-Iranian men the right to transmit Iranian citizenship to their children under 18 years of age if the mother and father were married in accordance with the Shari'a, the mother files a request for the children's citizenship, and no security concerns have been identified by the Ministry of Intelligence and the Intelligence Service of the Islamic Revolutionary Guards.<sup>16</sup> Thus, according to the United Nations High Commissioner for Refugees, "[w]hile the law still doesn't put mothers and fathers on a fully equal footing with respect to their ability to confer nationality, it represents a significant incremental improvement."<sup>17</sup>

## III. Legal Age for Marriage

The Civil Code of Iran prohibits a girl from marrying before attaining her majority – that is, before she reaches the age of 13 – unless her guardian approves of the marriage and the competent court determines that the marriage is in her best interest.<sup>18</sup> A person's age is determined according to the 365-day Iranian calendar rather than the shorter Islamic lunar calendar.<sup>19</sup> A boy cannot marry before the age of 15 without the approval of his guardian and the competent court.<sup>20</sup>

## IV. Constitutional Provisions Related to Ensuring Gender Equality

Article 20 of the Constitution of Iran provides all men and women of the country with "equal protection of the law and all human, political, economic, social and cultural rights in conformity

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<sup>13</sup> *Iran: Ayatollah Support[s] Women's Right to Inheritance and Abortion*, Payvand (Feb. 18, 2008), <https://perma.cc/AW9A-YNWT>.

<sup>14</sup> Civil Code art. 976(2), (6); Tara Sepehri Far, *Iran's Nationality Law Bill Highlights Challenges for Legislative Reform*, Atlantic Council (Aug. 9, 2019), <https://perma.cc/YB8V-3UNN>.

<sup>15</sup> Law Amending the Law Establishing the Obligations of Citizenship of Children Resulting from the Marriage of Iranian Women with Foreign Men, Oct. 7, 2019, <https://perma.cc/CU59-Z6T3> (in Persian).

<sup>16</sup> *Id.* art. 1.

<sup>17</sup> *UNHCR Welcomes Iran's New Nationality Law Addressing Statelessness*, UNHCR Iran (Oct. 8, 2019), <https://perma.cc/6KWV-5K46>.

<sup>18</sup> Civil Code art. 1041; Jokinen, *supra* note 4.

<sup>19</sup> Sofia A. Koutlaki, *Among the Iranians* 6–7 (Intercultural Press 2010), bibliographic information at <https://lcn.loc.gov/2010002959>.

<sup>20</sup> Civil Code art. 1041.

with Islamic criteria.”<sup>21</sup> Article 21, the only article in the Constitution explicitly mentioning women’s rights, provides that “[t]he government must ensure the rights of women in all respects, in conformity with Islamic criteria.”<sup>22</sup> Thus, article 21 “strictly limits women’s rights according to the principles of Islam . . . [and ensures] that every dialogue about women’s rights must be understood in its religious context.”<sup>23</sup> Iranian lawyer and women’s rights activist Mehrangiz Kar notes that what constitutes “Islamic criteria” in articles 20 and 21 is very vague because the ultimate definitions of women’s rights in Iran have always been made by the ultra-traditionalists comprising the legislation-vetting Guardian and Expediency Councils rather than the reformists, but that the specific obligations of the government mentioned in article 21 (as reflections of the section “Women in the Constitution” in the Constitution’s preamble) center on protecting the family and women’s role as mothers.<sup>24</sup>

While “women ‘as citizens,’ can vote and be elected [to] some offices,”<sup>25</sup> the “Islamic criteria” mentioned above may effectively serve to disqualify them from running for president of the republic and serving as judges.

Article 115 of the Constitution sets the qualifications for candidates for president, providing that the president must be elected from among the *rijāl* who meet certain qualifications. Controversy arises because of the ambiguous use of the word *rijāl*, which in Persian means “respected religious and political figures” but can also be used in the Arabic sense of “men.”<sup>26</sup> According to article 98 of the Constitution, the Guardian Council is the only body with the power to interpret provisions of the Constitution, and it has never clarified in what sense *rijāl* is meant.<sup>27</sup> Significantly, the Guardian Council has not given its requisite approval to any woman candidate for president since the founding of the Islamic Republic of Iran in 1979.<sup>28</sup>

Regarding women serving as judges, article 163 of the Constitution provides that “[t]he conditions and qualifications to be fulfilled by a judge will be determined by law, in accordance with the criteria of *fiqh* [Islamic jurisprudence—‘the science of ascertaining the precise terms of the Shari’ah, or Islamic law’].”<sup>29</sup> Iranian human rights lawyer and scholar Delaram Farzaneh

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<sup>21</sup> Const. of Islamic Rep. of Iran, 1979, as amended, art. 20, <https://perma.cc/6N3Y-9N6L> (in Persian); Delaram Farzaneh, *One Step Forward, Two Steps Back: A Brief History of Legal Discriminations Against Women in Iran and the Violations of International Human Rights*, 20(1) Ann. Surv. Int’l & Comp. L. 201, 223 (2014), <https://perma.cc/UMJ2-ZERQ>.

<sup>22</sup> Const. art. 21; Farzaneh, *supra* note 21, at 223.

<sup>23</sup> Farzaneh, *supra* note 21, at 223 (citing Hammed Shahidian, *Women in Iran: Gender Politics in the Islamic Republic* 109 (Greenwood Press 2002)).

<sup>24</sup> Mehrangiz Kar, *Session One: The Constitution of the Islamic Republic of Iran’s View on Women*, Tavaana, <https://perma.cc/67T3-TAP5> (in Persian); Farzaneh, *supra* note 21, at 225.

<sup>25</sup> Farzaneh, *supra* note 21, at 223–24.

<sup>26</sup> Const. art. 115; Farzaneh, *supra* note 21, at 227; رجال, Dekhoda Dictionary (published online by Dictionary Abadis), <https://perma.cc/69SV-5RXM> (in Persian).

<sup>27</sup> Farzaneh, *supra* note 21, at 228.

<sup>28</sup> *Id.* at 229.

<sup>29</sup> *Fiqh*, Encyclopedia Britannica Online, <https://perma.cc/B36C-TFA6>.

writes that, to implement article 163, lawmakers drew up the Law on the Qualifications for the Appointment of Judges in line with “the famous consensus of opinion of the *Shi’a foqaha* (Islamic jurists).”<sup>30</sup> Article 1 of this Law explicitly provides that judges should be chosen “from among qualified men [*mardān*]. According to Farzaneh, after the Law was implemented, “all then serving female judges were either removed from the office or demoted to lower positions such as administrative and consultant roles,” and what the government of Iran has called its “women judges” are “not decision-making judges who preside as a real judge in the courtroom . . . [but] counselors in family courts or administrative authorities.”<sup>31</sup>

## V. Domestic Violence Laws

Iran currently has no law aimed at preventing domestic violence and protecting women victims of violence.<sup>32</sup> In fact, human rights activists in Iran maintain that certain articles in the country’s Civil Code “effectively undermine protections for women against domestic violence” and “exacerbate the vulnerabilities of women to domestic abuse.”<sup>33</sup> For example, the Code provides that the husband is the head of the family and a wife who refuses to fulfill the duties of a wife without a legitimate excuse is not entitled to receive maintenance costs from the husband. The wife must also stay in the dwelling the husband allots for her unless doing so causes the risk of bodily or financial injury or loss of dignity, in which case she must be able and willing to go to court to prove she is endangered.<sup>34</sup> According to Iranian journalist and women’s rights activist Jelveh Javaheri, “[t]his leaves Iranian women deeply vulnerable to violence, including marital rape, especially given the requirement of witnesses, the fact that a female witness’s testimony is worth half that of a man’s, and the stipulation that if a woman leaves the marital home, she is not subject to maintenance.”<sup>35</sup> Javaheri adds that “[m]any female victims of violence . . . have been ignored by the police because domestic violence is not considered a crime. . . . The police have treated these cases as public battery and urged the women to go back home and face their abuser.”<sup>36</sup> The fact that Iranian laws contain no protections that allow the police to take women victims of violence to safe houses or keep a violent person away from a woman’s place of residence also results in women being forced to return to their unsafe home environments and possibly even killing themselves.<sup>37</sup>

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<sup>30</sup> Law on the Qualifications for the Appointment of Judges, May 4, 1982, <https://perma.cc/N5LQ-LYMC> (in Persian); Farzaneh, *supra* note 21, at 232.

<sup>31</sup> Farzaneh, *supra* note 21, at 231, 233.

<sup>32</sup> Ahmad Zahedi Langroudi, *Statistics on Domestic Violence Against Women Are Unmistakable: Interview with Jelveh Javaheri, Member of the Domestic Violence Against Women Campaign* (Dec. 14, 2017), <https://perma.cc/5JDH-G98B> (in Persian); *Iran Must Pass Legislation to Protect Women Against Violence*, Ctr. for Hum. Rts. in Iran (Nov. 23, 2018), <https://perma.cc/4UZF-XPV4>.

<sup>33</sup> *Iran Must Pass Legislation to Protect Women Against Violence*, *supra* note 32.

<sup>34</sup> Civil Code arts. 1105, 1108, 1114.

<sup>35</sup> *Iran Must Pass Legislation to Protect Women Against Violence*, *supra* note 32.

<sup>36</sup> *Id.*

<sup>37</sup> Langroudi, *supra* note 32.

On September 16, 2019, about eight years after it was originally formulated and after two years of review and what critics have termed “disagreeable” changes, the Iranian judiciary sent to the executive branch its approved version of a bill aimed at protecting women from violence.<sup>38</sup> Originally titled the “Bill for the Protection of Women Against Violence,” the judiciary changed the name to the “Bill for the Protection, Dignity and Security of Ladies Against Violence.”<sup>39</sup> While calling the bill a “positive move” containing several “significant strengths,” the Center for Human Rights in Iran stated that the bill “does not provide effective and sufficient guarantees to protect women against violence and, in many cases, promotes and supports stereotypical, discriminatory, and sexist views toward women.”<sup>40</sup> Among the shortcomings of the bill specifically concerning domestic violence that the Center hopes will be addressed by the executive and the Parliament are the following:

- The extreme caution in the bill’s use of the word “violence” and the complete absence of the term “domestic violence.”
- The unaddressed legal and enforcement deficiencies in protecting women from domestic violence and the obstacles to taking effective legal action against the abuser (e.g., the difficulty of proving marital violence in court and the numerous obstacles and long period involved in obtaining a final criminal court verdict).
- The bill’s insufficient and ineffective measures to institute protection orders that keep the abuser away from the woman’s home or workplace.
- The bill’s limiting a wife’s separation from her abusive husband to three months, after which, if she refuses to return home, she loses her subsistence support.
- The provision that before filing a lawsuit in the prosecutor’s office and the court, a woman who claims to have been physically or sexually abused by her husband or father must pass through a one-month compulsory reconciliation period and referral of the case to the Dispute Settlement Council.
- The requirement that the husband be definitively convicted three times of committing violence against the wife before she can obtain a divorce on the grounds of abuse.<sup>41</sup>

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<sup>38</sup> Judiciary’s “Bill on the Protection, Dignity, and Security of Women Against Violence” Does Not Provide Effective and Sufficient Guarantees for Women, Ctr. for Hum. Rts. in Iran (Sept. 27, 2019), <https://perma.cc/REG9-A27Q>; *Combatting Violence Against Women by Removing the Word “Women,”* Deutsche Welle (Sept. 30, 2019), <https://perma.cc/9WLX-SL3X> (in Persian).

<sup>39</sup> *Text of the Bill on the Protection, Dignity and Security of Women Against Violence Published*, Mizan Online (Sept. 17, 2019), <https://perma.cc/S5YD-QQNP>.

<sup>40</sup> Judiciary’s “Bill on the Protection, Dignity, and Security of Women Against Violence,” *supra* note 38.

<sup>41</sup> *Id.*