

BAHRAIN



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country's respective Universal Periodic Reviews.

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.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

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

Bahrain acceded to CEDAW in 2002 and maintains reservations to Articles 2 (policy measures), 9(2) (equal rights with regard to nationality), 15(4) (freedom to choose residence and domicile), 16 (equality in marriage and family life), and 29(1) (administration of the convention; arbitration in the event of a dispute).

Constitution

Article 18 of the Constitution provides that people are equal in human dignity, and citizens are equal before the law in public rights and duties; there shall be no discrimination among them on the basis of sex, origin, language, religion, or creed.

NATIONALITY LAW

NATIONALITY

Women do not have the same rights as men to pass citizenship to their children and spouse. Men can pass citizenship to their children automatically. Bahraini mothers can pass their citizenship to their children if the child is born from an unknown father or born from a father whose legal status has not been proven.

CRIMINAL LAWS

Domestic violence

Women and girls are protected by the Law on Protection against Domestic Violence, Law No. 17 of 2015. The Law could be strengthened by clarifying if marital rape is criminalized as domestic violence.

Abortion for rape survivors

Abortion under medical supervision is permitted by Article 321 of the Penal Code. A woman has the right to an abortion if a doctor certifies that her life is in danger. However, there is no provision permitting abortion in cases of rape.

Female Genital Mutilation / Cutting (FGM/C)

FGM/C is not practiced in Bahrain, although some cases were reported in the past. FGM/C can be prosecuted as assault under Article 337 of the Penal Code.

Marital rape

Marital rape is not criminalized.

Sexual harassment

Although there is no sexual harassment offence in the Labour Law No. 36 of 2012, workplace sexual harassment of government employees is penalized by the Civil Service Law. The Penal Code criminalizes acts of immorality and assault (Articles 344 and beyond of the Penal Code).

Human trafficking

The Anti-Trafficking in Persons Law No.1 of 2008 prohibits all forms of trafficking in persons and provides prison sentences of three to fifteen years.

Rape (other than of a spouse)

The Penal Code Decree-Law No. 15 of 1976 provides the penalty of life imprisonment for any person who sexually assaults a woman without her consent. The penalty is death or life imprisonment if the victim's age is less than 16 years.

Honour crimes: Mitigation of penalty

Article 334 of the Penal Code permits a reduced penalty for a person (male or female) who surprises his or her spouse in the act of adultery and assaults the spouse or the spouse's partner resulting in death.

Sex work and anti-prostitution laws

Prostitution is prohibited by Articles 324–330 of the Penal Code.

Exoneration by marriage

Article 353 of the Penal Code exempts the offender from criminal prosecution for crimes of rape, sexual assault, or immoral acts if the woman who is the victim of the crime marries her offender.

Adultery

Adultery is an offence under Article 316 of the Penal Code.

Sexual orientation

There is no specific prohibition of homosexual conduct in the Penal Code. There is lack of information about the application of criminal laws relating to debauchery or immoral conduct to penalize consensual same-sex conduct or expression of sexual orientation.

PERSONAL STATUS LAWS

Minimum age of marriage

The legal age of marriage is 16 years for females. A girl under the age of 16 may be married with permission from the court, which must verify the suitability of the marriage before granting permission.

Male guardianship over women

The Family Code provides protections for women under male guardianship. An adult Shia woman can contract her own marriage. A guardian (wali) cannot force a woman to marry or oppose a marriage without legitimate reason.

Marriage and divorce

The Family Code, Law No. 19 of 2017, provides for mutual rights and obligations of spouses. The husband has the right to divorce at his own will by repudiation (talaq). A wife has the right to a khul'a divorce, which requires that she forgoes her financial rights, such as giving up her dowry.

Polygamy

Polygamy is permitted by the Family Code. The husband must declare the number of wives in the marriage contract.

Guardianship of children

The father is the guardian of his children.

Custody of children

Mothers have limited custody rights, which are defined differently for Sunni and Shia communities.

Inheritance

According to the Family Code, Sharia rules of inheritance apply. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

LABOUR LAWS

Right to equal pay for the same work as men

Article 39 of the Labour Law states: "Discrimination is prohibited with respect to wages on grounds of gender, origin, language, religion, or creed."

Domestic workers

Migrant domestic workers have some labour rights. A ministerial decree penalizes an employer who withholds a worker's passport. Rights of domestic workers include access to mediation in labour disputes and the right to be provided with a labour contract.

Dismissal for pregnancy

Labour Law No. 36 of 2012 makes it illegal to dismiss workers because of the sex of the worker, family responsibilities, pregnancy, childbirth, or breastfeeding.

Paid maternity leave

Labour Law No. 36 of 2012 provides that women are entitled to maternity leave on full pay for 60 days. This is less than the ILO standard of 14 weeks.

Legal restrictions on women's work

Article 31 of the Labour Law No. 36 of 2012 allows the Minister of Labour to determine the occupations for which the employment of women is prohibited. The Minister's Decision No. 23 of 2013 prohibits the employment of women in work that is not commensurate with the physiological nature of women.