

BAHRAIN



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The colour codes indicate whether the laws comply with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women, and recommendations of the country's Universal Periodic Review.

Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

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. Law No. 35 of 2009 provides for rights of the children of a Bahraini women, which are similar to citizens, in education, health, government health fees, education fees and residence fees. The Supreme Council for Women has presented proposals on amending the Nationality Law to allow Bahraini women married to a foreigner to grant Bahraini nationality to their children.

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 in the Penal Code. There are protections provided by Law No. 17 of 2015 on Protection against Domestic violence. Victims of domestic violence can apply for protection orders against crimes of domestic violence which are defined to include sexual assault as well as other forms of violence. Breach of a protection order is punishable with imprisonment for a term not exceeding three months and fine of not more than 200 dinars.

Sexual harassment

Decree Law No. 59 of 2018 amended the Labour Law in the private sector issued by Law No. 36 of 2012 to provide for the crime of sexual harassment in the workplace (Article 2 bis). Employees may be punished by imprisonment for a period not exceeding one year or by a fine not exceeding 100 dinars for sexual harassment by words, acts or by any other means (Article 192 bis). Workplace sexual harassment of government employees is penalized by the Civil Service Law.

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.

Femicide: Mitigation of penalty (so called 'honour' crimes)

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. The article provides the same mitigation for a husband or wife who murders a spouse in these circumstances. Although the country assessment found there is no discrimination in this regard, there are concerns that the application of this provision will benefit more male offenders than female offenders. The country assessment found that honour crimes do not exist in Bahrain.

Sex work and anti-prostitution laws

Prostitution is prohibited by Articles 324–330 of the Penal Code. There are severe penalties for offences of debauchery and prostitution, including up to seven years' imprisonment for anyone who incites or assists a woman to commit debauchery or prostitution. If the victim is under 18 years of age, the penalty is up to ten years imprisonment.

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. A proposed law has been put forward to the Legislative Authority to remove Article 353 of the Penal Code.

Adultery

Adultery is an offence under Article 316 of the Penal Code. There is no distinction between men and women in the criminalization of adultery.

Sexual orientation

There is no specific prohibition of homosexual conduct in the Penal Code. The Penal Code criminalizes debauchery or immoral acts committed in public. 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. Article 20 of the Family Law, No. 19 of 2017, states: "A girl under the age of 16 years (Gregorian calendar) may not be married except with the permission of the Sharia court after verifying the appropriateness of the marriage."

Guardianship of children

The father is the guardian of his children under Articles 133–134 of the Family Law. The care and good upbringing of children is a mutual right and duty of spouses under Article 38 of the Family Law. Guardianship is originally the obligation of the father over the money and self of the child, in accordance with the provisions of Islamic law, the law of fiscal guardianship and Family Law which consider the interests of the children.

Male guardianship over women

The Family Law, No. 19 of 2017, provides protections for women. The country assessment found there to be no male guardianship over women, however the provisions of Islamic law stipulate the requirement of a guardian to conclude marriage. The marriage is not valid without the explicit, clear and full will of the woman. 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.

Custody of children

Mothers have limited custody rights, which are defined differently for Sunni and Shia communities by Article 124 of the Family Law, No. 19 of 2017. According to Sunni jurisprudence, a woman's custody of her sons end when males turn fifteen years old. For daughters, custody ends upon marriage and consummation by the husband. According to Jaafari jurisprudence, a mother's custody ends when the child turns seven years old, after which custody transfers to the father.

Marriage and divorce

The Family 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). The husband has the right to divorce in exchange for the legitimate rights of the wife. The wife has the right for khul'a divorce in exchange for compensation granted to the husband.

Polygamy

Polygamy is permitted by the Family Law, No. 19 of 2017. The husband must declare the number of wives in the marriage contract.

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. Males can inherit more or less than females or equally, according to the rules of the Islamic inheritance system.

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. The Labour Law, No. 36 of 2013, and Decision No. 4 of 2014 guarantee the rights of domestic workers including regarding the organization of work permits.

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. There are additional entitlements to childcare and breastfeeding breaks during work hours, which in Bahrain is counted as additional maternity leave.

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. The assessment did not confirm if this remains in force. Restrictions on women's employment in night work were addressed by Minister of Labour and Social Development Decree No. 85 of 2019 on the annulment of Decree No. 16 of 2013 on determining the conditions, jobs and occasions where women may not be employed at night.