

YEMEN



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

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.

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)

Yemen acceded to CEDAW in 1984. It maintains a reservation to Article 29(1), which relates to the settlement of disputes through arbitration by the International Court of Justice.

Constitution

Article 41 of the 1991 Constitution provides that citizens are equal in public rights and duties. Article 75 of the 2015 Draft Constitution provides for non-discrimination based on sex.

NATIONALITY LAW

NATIONALITY

Women can pass nationality to their children but do not have the same rights as men to pass citizenship to a foreign spouse.

CRIMINAL LAWS

Domestic violence

There is no domestic violence legislation in Yemen.

Abortion for rape survivors

Abortion is prohibited by Articles 239 and 240 of the Penal Code. There is no exception for rape survivors.

Female Genital Mutilation / Cutting (FGM/C)

A 2001 Ministerial Decree prohibits carrying out FGM/C procedures in public and private hospitals and clinics, but the Decree does not impose penalties.

Marital rape

Marital rape is not specifically criminalized. The Personal Status Code obliges a woman to obey her husband. The courts interpret this to mean that a woman cannot refuse her husband's request for intercourse.

Sexual harassment

There is no specific offence of sexual harassment. Some types of harassment may fall under the crimes of committing disgraceful acts against women and girls, which are punishable under Articles 273 and 275 of the Penal Code.

Human trafficking

There is no comprehensive anti-trafficking law criminalizing all forms of trafficking and addressing prevention and protection measures. There are minimal legal protections against human trafficking.

Rape (other than of a spouse)

The Penal Code No. 12 of 1994 criminalizes rape.

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

Mitigation for 'honour' crimes that are committed against women caught in the act of committing adultery is provided by Article 232 of the Penal Code.

Sex work and anti-prostitution laws

Article 278 of the Penal Code criminalizes prostitution, which is punishable with imprisonment for a period not exceeding three years or a fine. Sex workers may also run the risk of prosecution for zina (sex outside of marriage), which attracts severe penalties.

Exoneration by marriage

There is no specific provision in the Penal Code exonerating a rapist who marries his victim.

Adultery

Adultery is an offence under Article 12 of the Penal Code.

Sexual orientation

Homosexual conduct is criminalized by Articles 264 and 268 of the Penal Code.

PERSONAL STATUS LAWS

Minimum age of marriage

The Personal Status Code and its amendments do not specify a minimum age of marriage.

Guardianship of children

The father enjoys sole guardianship of his children. After a divorce, the father remains the legal guardian of the children and payment of child support is his responsibility.

Male guardianship over women

The Personal Status Code requires a male marriage guardian to consent to a woman's marriage and to sign the marriage contract. The woman's consent is also necessary. Article 18 of the Personal Status Code allows a woman to apply the court if she seeks to refuse to enter a marriage arranged by the guardian.

Custody of children

Custody is generally granted to the mother until a son is nine and a daughter is 12. A divorced woman loses custody if she remarries.

Marriage and divorce

Women do not enjoy equal rights in marriage and divorce. The wife owes obedience to her husband. Men have a right to divorce by repudiation without resorting to the court. Women have access to limited types of divorce that can only be obtained from a court.

Inheritance

The Personal Status Code defines the rules of inheritance, which follow Sharia principles. Women have a right to inheritance, but in many cases receive less than men. A daughter receives half the share that a son receives.

Polygamy

Polygamy is permitted by the Personal Status Code.

LABOUR LAWS

Right to equal pay for the same work as men

Women have the right to equal pay for the same work as men under Article 67 of the Labour Code, No. 5 of 1995.

Domestic workers

Domestic workers are excluded from the Labour Code by Article 3 of the Code and therefore do not benefit from its protective provisions.

Dismissal for pregnancy

Article 45 of the Labour Code prohibits employers from dismissing a worker during her maternity leave because of her pregnancy.

Paid maternity leave

Article 45 of the Labour Code provides that women are entitled to 70 days of maternity leave with full pay, which employers are liable to pay directly to the employee. This is less than the 14 weeks required by ILO standards.

Legal restrictions on women's work

Article 46 of the Labour Code prohibits employment of women in occupations that are hazardous, arduous, or harmful to their health or social standing. It is also forbidden to employ women at night, except during Ramadan and in the jobs specified by order of the Minister.