



Arab Women Development Report 2015

Arab Women and Legislations



Arab Women and Legislations

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**Arab Women
and Legislations**

Executive Summary

Edited by
**Center of Arab Women
for Training and Research
CAWTAR**

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**Center of Arab Women
for Training and Research
CAWTAR**

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Foreword and Acknowledgment

The Center of Arab Woman for Training and Research (CAWTAR) has since 2001 issued periodic reports on the development of Arab women. The reports have focused on specific perceptible and priority issues to enhance the situation of Arab women. CAWTAR believes that knowledge is a mechanism of change once endorsed by policies and decision-makers. Therefore, CAWTAR has chosen - in cooperation with regional partners and CAWTAR's Arab Network for Gender and Development (ANGED) - to work on a number of key issues. The developments in the Arab world have proven that these issues were rightly selected.

The first report in the series of Arab women development reports⁽¹⁾ assesses the impact of globalization on the Arab economies, in their process of trying to catch up with globalization, and on the economic participation of Arab women. The second report looks to the future, by exploring the dreams and aspirations of teenagers as well as their social and cultural composition. The report allows teenagers to speak up and express the ways in which they relate to one another. They express their views and their criticism of schools, households, work, religion, traditions, politics, terrorism, friendship, and love. The report also allows teenagers to talk about the situation of women and men and physiological changes.

Arab media has developed significantly since the early 1990s. It provides platforms for debating a variety of public issues. Hence, CAWTAR's third report was a special report on Arab women and the media. The report discusses how the media handles Arab women, and deals with women as media producers, media source, and media consumers. The report reviews a decade of media research in the Arab world (as of the Fourth World Conference on Women, Beijing 1995). It analyzes the research and produces findings and recommendations.

CAWTAR remains aware of the difficulty of making separate reviews of how women are involved in decision-making. The fourth report by CAWTAR therefore deals with Arab women's participation all decision-making processes in the public and private domains. The purpose of the report is to expose the key obstacles that keep women from decision-making, whilst also highlighting the resources that are made available for women to participate effectively in the decision-making process.

This report deals with Arab women and legislations, an issue that has become a priority in the Arab world in recent times. The approach of the report avoids, as much as possible, the traditional perspective of dealing with this issue, which involves focusing primarily on personal status laws and laws of political nature. Instead, the report looks at entire sets of laws that regulate the status of women and the regulations, if any, which are dedicated to women's human rights.

Each report by CAWTAR has a special approach, and the reports thus vary. Some of the reports collect and analyze data, while others field studies. The samples of selected countries for research also vary. In this report, national legislations are collated; and the report focuses on the rights granted to women, in comparison to those granted to men. The report also looks at the conventions that Arab states have or have not ratified. The legislations are analyzed from a gender and human rights perspective, with the purpose of showing aspects of equality and discrimination in civil and political rights, education, training, women's rights within the household, health and reproductive health rights, gender-based violence, right to work, relevant social rights, and rights to litigation and access to justice. While this report does not claim to be exhaustive, its efforts in reviewing laws and conventions and highlighting the discriminatory aspects ought to be seen as highly significant.

The report brings added value; it includes twenty Arab states that are members of the Arab League. This allows for a comparative review of the states and shows that the legal system of each state has its own advantages and disadvantages. While some countries have well-developed legal systems, they can sometimes fail to match the successes of the women's rights related laws of countries with less-developed legal systems. The comparative

1. Globalization and Gender: Economic Participation of Arab Women 2001

review also shows that the Arab states, despite all successes, still fear full equal treatment of men and women by the law.

Nevertheless, in this report, CAWTAR aspires to be the first in mapping Arab legislations by integrating recent developments in Arab states – in the aftermath of Arab uprisings. The report provides basis for knowledge that can be used as a starting point by different stakeholders. They may enhance and develop the knowledge-base by making policies and drafting laws against discrimination.

While the Arab Gulf Program for Development (AGFUND) is the key supporter of Arab Women and Legislations report, other organizations interested in this issue have been involved too. Hence, the report is jointly produced with these organizations, which reflects CAWTAR's continuous efforts to create effective partnerships. CAWTAR has worked with the Organization for Economic Cooperation and Development (OECD) on a study entitled "Women in Public Life: Gender, Laws, and Policy in the Middle East and North Africa." The study was published in October 2014 and launched on November 17 and 18, 2014 in Amman, Jordan.

The United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the United Nations Development Program (UNDP) produced a paper based on the findings of the report addressing decision-makers in various countries and calling for implementation of the proposed reforms. The legal situation of each country included in the report is taken into consideration. The Arab League held two symposiums in Amman and Cairo to review the initial findings of the report. Representatives of governments and civil society organizations, as well as experts from the countries included in the report, joined the symposiums. CAWTAR will continue to work with these organizations in a joint program on strategic tools for enhancing equality between men and women, strengthening the rights granted to women by laws and human rights, and preparing for the future. CAWTAR would like to express its gratitude to all those who took part in the two symposiums, for their valuable contribution to enriching this report.

We would also like to extend sincere gratitude to the President of AGFUND H.R.H. Prince Talal Bin Abdul Aziz, and AGFUND Director Mr. Jibren Abdul-Rahman Jibren, who believe in a legislative environment that supports women's effective involvement in the public and private domains and in a critical review of women's legislations. We would also like to thank Dr. Carlos Conde from the governance team of OECD. OECD has been involved in this work and appreciates the value of the report, the capacities of the Arab organizations, and the expertise that can produce work of international magnitude. We also extend sincere gratitude to the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), especially Dr. Sameera Maziad Al-Tuwaijri, the then Regional Director Arab States, Dr. Adel Abdellatif and Dr. Maya Morsy from the United Nations Development Program (UNDP). We would like to thank the Arab League, especially H.E Ambassador Inas Sayed Mekkawi, Director of Women, Family and Childhood Department, for their confidence in CAWTAR's capacity to review Arab women's situation, to research the situation and to provide training and advocacy.

Many thanks to the experts and those who contributed to this work, for their efforts to collect laws, data, and provide analysis of the laws, identifying the laws that are worthy of commendation and those that require amendments. CAWTAR is certain that this report will lay the foundation for changing Arab discriminatory laws and for adopting best legal practices. We hope that the report will initiate in-depth reviews, collection and updating of data on women's legal statuses, and that it will be an incentive for debates on these critical issues now and in the future.

Dr. Soukaina Bouraoui
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Arab Women Development Report 2015

Arab Women and Legislations

Executive Summary

Introduction: Between Discrimination and Equality

Methodology used in preparing the report and its outputs

1. Executive framework and approach

- Context

The completion of this report is the first phase of the Arab Women and Legislations Programme, which is carried out by the Center of Arab Woman for Training and Research (CAWTAR) with the support of the Arab Gulf Programme for Development (AGFUND).

Arab Women and Legislations Programme started in 2010, which was before the unrest that took hold of the Arab world and before many changes took place at different levels, including in legislations. CAWTAR; therefore, took into account the historic changes resulting from the unrest. Consequently, more partners showed interest in the Program including a number of international and regional organizations such as the Organization for Economic Cooperation and Development (OECD), the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the United Nations Development Programme (UNDP) and the League of Arab States (LAS).

- Objectives

- Define and analyze the status of Arab women and their rights as determined by national legislations.
- Conduct full diagnosis and define priority issues vis-à-vis rights.
- Expose evidence of institutional discrimination against women in Arab states; consequently, support the desired change through advocating legislative reforms and relevant supporting regulations.

- The context

The report reviews and analyzes the rights as determined by national legislations; however, it focuses on:

- Civil and political rights
- Right to education and training
- Right to work and related social rights
- Right to nationality
- Legal status and rights within the family
- Right to health and reproductive health
- Gender-based violence/Violence against women
- Right to litigation and access to justice

The review of the laws and rights is made with reference to the following:

- The international human rights instruments endorsed by the Arab States covered by the Programme. The reservations of the states to such instruments are also indicated.
- Measures taken by the states to put into effect their obligations to the international human rights instruments including mechanisms or policies and strategies concerning women's issues and human rights.

- **Arab states included in the report**

The report covers twenty states including People's Democratic Republic of Algeria, Arab Republic of Egypt, Republic of Tunisia, State of Kuwait, Kingdom of Morocco, Kingdom of Bahrain, United Arab Emirates, the Hashemite Kingdom of Jordan, State of Palestine, Republic of Lebanon, Republic of Djibouti, Republic of Yemen, Kingdom of Saudi Arabia, Republic of Iraq, State of Libya, Arab Republic of Syria, Republic of the Sudan, Islamic Republic of Mauritania, Sultanate of Oman, and State of Qatar.

- **The volume of surveyed and analyzed legal material**

The legislations (laws, decrees, and decisions) of twenty Arab states were reviewed. Only official and effective legislations were considered in the review; draft laws were not considered.



- **The technical work team**

CAWTAR Director supervised the formation of the technical work team of eight experts from Tunisia, Algeria, and Egypt. The team also had a team assistant. Each team member worked on examining one or more of the rights analyzed by the report. The technical work team operated under the supervision of the report coordinator on preparing the report methodology and on creating work structure for the legal system of each state in question. The team then produced CAWTAR's Arab Women Development Report. A meeting was held in Cairo early 2014 to review the first draft analysis of 20 legal systems, which was contributed to by a group of experts from Lebanon, Sudan, Jordan, Egypt, Saudi Arabia, Tunisia, and Algeria. The report was edited by an independent team of editors from Egypt and CAWTAR's Media Unit team.

- **Methodology**

The analysis methodology of the report is based on the following:

- Quantitative approach: Assessing achievements in development and their indicators, which measure progress in legal and human rights.
- Gender perspective and principles approach: Analyzing legislations on the basis of their respect for gender equality.
- Human rights approach with focus on equality, rule of law, accountability, and defining rights and duties at different levels.
- Discussion with stakeholders.

- **The volume of surveyed and analyzed legal material**

The legislations (laws, decrees, and decisions) of twenty Arab states were reviewed. Only official and effective legislations were considered in the review; draft laws were not considered.

2. Approach and terminology framework

2.1 Quantitative approach

The context of women's human rights lies within the holistic development framework. This is where women enjoy the protection of the constitution as well as other legislations. States also can empower women and ensure equality between men and women through the policies, programs, and strategies they set up. This is accomplished via mechanisms, national institutions, and states' efforts in line with international human rights instruments. The purpose is to achieve human rights; especially women's rights.

Development indicators are important to assessing the extent to which people enjoy legal and human rights. The accurate quantitative data of such indicators allow defining the gaps in enjoying legal and human rights in general, as well as the gaps in the enjoyment of such rights between men and women in particular. Development indicators may show gaps in granted legal and human rights that affect all citizens. In this case, gaps would exist in the rights granted to men and women. Such gaps cannot be denied or ignored. Noticeably, the impact of the gaps varies by women's age and the gaps take different shapes. These gaps may also vary from one Arab state to another. They may vary from one community or group of people to another within the same country. These gaps exist in other states all over the world; however, Arab states suffer more from such gaps compared to other countries. Arab states also lag behind in gender equality and in development and in ensuring human and legal rights to their people. The defining and analysis of the status of rights –with reference to development indicators- rely on available data in the reports published by international organizations annually. Such reports usually focus on national statistics. The analysis also uses national statistics, whenever available, and the Global Gender Gap Report of the World Economic Forum that covers 14 states that are included in the analysis (the survey of the legislations and laws).

The Gender Gap Indicator assesses the extent to which states are advanced in distribution of resources and opportunities among their citizens. The assessment takes into consideration the levels of resources and opportunities and having clear framework to adjust and compare international gender gaps showing states where the distribution of resources and opportunities among men and women is ideal.

The Global Gender Gap Report aims to create incentives to raise awareness and enhance cooperation among decision-makers. Gender Gap, according to Global Gender Gap Report of the World Economic Forum of 2006, is the differences and inequalities between men and women. The Gender Gap Index of the World Economic Forum examines the gap between men and women in four fundamental categories:

1. Economic participation and opportunities: This gap is the result of differences and inequalities in wages, levels of participation, and opportunities of obtaining jobs that require high skills.
2. Educational attainment: This gap is the outcome of having access to basic education or higher levels of education.
3. Political empowerment: The outcome of representation in decision-making positions.
4. Health and survival: The outcome of difference in life expectancy at birth between men and women.

2.2 Gender approach

- **Definition:**

Gender means the status, which the society defines for men and women throughout their lives, as male and female. Hence, gender is different from sex, which refers to the biological and physiological characteristics that define what is male and what is female. Hence, roles are given to men and women accordingly. The roles are not related to sex; they are related to education. They change with time and place and extremely vary among cultures and within the same culture. The social structure of gender defines duties and responsibilities and distribution and control of resources as well as the expectations and personal attributes the society considers as appropriate to men and women throughout life. They define the capacity, behavior, and attitude of men and women on the basis of masculinity and femininity

- **Reviewing laws from gender perspective**

Gender perspective allows analysis of differences and discriminations in the society, mainly families, that are gender-based. Gender perspective refers to social discrimination and discrimination within the family upon which roles and relations are established. It also defines distribution and control of all societal and institutional systems. Looking through the gender perspective glasses allows discovery of distribution, roles, resources, authority, decision-making, and policies that are gender-based.

Law provisions define rights, responsibilities, and penalties on the basis of behavioral and functional standards, which are traditionally and customarily acceptable from men and women at a specific society at specific time inside and outside the family. The report considers how the following issues are treated by the laws of the Arab states included in the study:

- Distribution of rights, tasks, and responsibilities within the family: Marriage and divorce, family support and custodianship, and Nafaqah (husband's financial support of a wife). Nafaqah reflects the role of the man as the breadwinner who rules and controls. Other issues include how the laws require the approval of a woman's guardian in marriage. Ta'a (wife's obedience to husband) and custody of children is also dealt with. The last two issues reflect women's reproductive role, which leads to dependency and vulnerability. This is justified by the law by blaming it on women's physicality.
- The right to work: Defining women's right to work takes into consideration women's physicality, ethics, and the necessity for protecting women. These aspects are used to justify reduction of women's rights and liberties.

- The right to social security: A woman covered by social security is expected to support her disabled husband (such as paying the medical bill). However, she is not supposed to support her children unless she obtains court order since the husband is legally the breadwinner.

The analysis of the laws of the Arab states understands the issue that they are mostly based on the traditional gender structure. This is clearly seen in the laws that regulate individual, family, and social relationships. Alternatively, other laws have evolved with the society; they integrate human rights principles and equality. This has caused significant contradictions among the laws. It also created gaps in the rights and development of men and women

- **Gender principles :**

Gender principles -human rights principles- were first adopted officially by the International Conference on Population and Development held in Cairo in 1994. They are objectives for development, equity, and empowerment to be integrated in strategic planning, gender analysis, and the various components of development process, including rights. Equality can be achieved by eliminating all forms of discrimination against women and reducing and eliminating gaps between men and women.

- **Gender equality**

Gender equality means equal human value, equal treatment of women and men by laws and policies, and equal rights and equal access to resources and services within the family, groups, and the society. According to UNICEF, gender equality “means that women and men, and girls and boys, enjoy the same rights, resources, opportunities and protections.”⁽²⁾ Hence, gender equality requires equal enjoyment, by men and women, of rights, opportunities, and resources of social value at personal level and at the level of economic, political, social, and cultural participation levels.

UNESCO believes that “Gender equality means that the different behavior, aspirations and needs of women and men are considered, valued and favored equally. It does not mean that women and men have to become the same, but that their rights, responsibilities and opportunities will not depend on whether they are born male or female” ⁽³⁾.

- **Gender equity**

Gender equity means fairness in distribution of benefits among women and men. This is based on distribution of duties and responsibilities and multi-roles.

- **Women empowerment**

Empowerment does not only involve taking “positive discrimination” measures, or designing programs especially for women (mostly to help their families, which enhance their positive role). It means making and implementing policies and drafting legislations to eliminate inequality and discrimination against women and end the social, cultural, and institutional measures that strengthen such inequality and discrimination. For the purpose of this report, women empowerment means taking measures to ensure

2. UNICEF «Promoting Gender Equality: An Equity-based Approach to Programming». UNICEF

3. Gender Equality and equity, A summary review of UNESCO's accomplishments, since the Fourth World Conference on Women (Beijing 1995), Unit for the Promotion of the Status of Women and Gender Equality, May 2000

equality between women and men. Such equality is originally lacking since, for instance, it is not desirable to have a baby girl.

The principles of gender can be explained on the basis of being overlapping and as phases to be planned for; the planning starts with this principle: Family planning is an equal right for men and women. Since women are the ones who are burdened with pregnancy, childbirth, breastfeeding, and upbringing, it would be fair for them to be given the priority to decide on timing pregnancy and the number of children to be had. However, women are not given the power by the law or at home to decide on this matter. Hence, they must be empowered to decide on this issue.

- **Gender principles**

The principles are deployed to review and analyze the legislations. Noticeably, laws and legislations of the Arab states in question ensure both equality and discrimination at the same time. They discriminate against women and blame it on women's physicality, ethics, and Shari'a. The provisions of some laws observe equity, empowerment, and enhancement of women's rights especially public rights. Women's political rights are the least considered; they may, if existed, give way to the rules that regulate family life. Women are still stereotyped as being incapable of making own decisions, including decisions with lifelong impact such as marriage and divorce.

2.3 Human rights-based approach ⁽⁴⁾

- **Term, comparability, and approach**

James Crawford defines rights in *The Rights of the Peoples* as the demands that have secured some kind of support or success, including legal rights granted by legal systems and human rights ensured by common feelings or international system⁽⁵⁾.

Human rights are the legal expression of what humans need to have decent living. They are defined as the core values that grant dignity to people. Human rights including civil, cultural, economic, political, and social rights, are now considered universal rights that are indivisible and interdependent and interrelated as stated by the Universal Declaration of Human Rights of 1948. Human rights approach is comprehensive. It enhances and protects human rights including economic and social rights, ensures that people are treated equally and enjoy all rights and liberties and social justice.

Human rights embody human development. Violation or lack of human rights can be seen in lack of development. Development can define human rights standards with reference to relevant human rights instruments. The analytical approach of this report uses human rights instruments as standards to refer to in analyzing development and achievements of human rights in the states under study.

- **Legal rights vs. human rights**

The report differentiates between rights granted by the law and human rights since the first does not always ensure equality between men and women. The laws may also work to strengthen discrimination against women and other groups. On the other hand, human rights that are embodied in constitutions and international and regional conventions are based on equality. However, such conventions are not usually integrated in the effective laws.

4. UN agencies came together in 2003 to adopt a Common Understanding on Human rights-based approaches to development cooperation and programming. The Common Understanding aims to ensure that a HRBA (Human rights-based approach) is applied consistently at the global, regional and country level. <http://hrbaportal.org>

5. James Crawford (ed.), *The Rights of Peoples*, Oxford, Clarendon Press, (1988) (reprinted as paperback in 1992) pp. X-236

- **Human rights principles**

Achievement of development objectives requires observing human rights standards as defined by international human rights instruments. Human rights are:

- **Universal:** This means that all humans, regardless of the culture they have, are entitled to human rights on the basis of being human.
- **Indivisible:** All human rights are equally important including civil, cultural, economic, political, and social rights. They cannot be put in hierarchal order.
- **Interdependent and interrelated:** The achievement of human rights is interdependent and interrelated. For instance, the right to health is dependent on the right to education and access to information.
- **Allow for participation and integration:** This means that human rights and their activities are open to all nations. All people may enjoy political, economic, social, and cultural development that can ensure human rights and basic liberties.
- **Accountability and rule of law are basic human rights:** States must respect human rights. They must comply with the legal rules and standards as defined by human rights instruments –at least those, which they had ratified. Failure to do so allows victims of human rights violations to file complaints before courts of law, in accordance with the law. Accountability and rule of law must be observed and applied equally without discrimination.

- **Equality without discrimination:**

This principle asserts that all people are equal; they may enjoy human rights equally without discrimination on the basis of ethnicity, color, sex, age, language, religion, opinion (political or otherwise), disability, or birth. This is affirmed by human rights treaty bodies. To strengthen equality without discrimination, marginalized groups, including disabled people, must be taken into consideration (as indicated by the Convention on the Rights of Persons with Disabilities). Equality is the cornerstone of the international human rights law and equal development of human rights is one of its absolute conditions “the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.”⁽⁶⁾

The main seven international human right treaties are equally valid for men, women, boys, and girls. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights are the “the international legitimate reference to human rights.” Article 3 of the International Covenant on Economic, Social and Cultural Rights stipulates that “States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.” Moreover, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is one of the seven treaties. It is specifically created to eliminate all forms of discrimination against women. It is the legitimate international reference to women’s human rights. There is a long list of mechanisms, reports, procedures (action plans and international conferences) to achieve equal enjoyment of human rights”⁽⁷⁾.

- **States obligations to the international human rights law**

States’ governments are responsible for keeping to their promises with respect to human rights realization. There are other effective parties that are required to do so, too, but governments come first. For instance, state parties to the International Covenant on Economic, Social and Cultural Rights

6. From the Preamble of the Universal Declaration of Human Rights

7. See the full chapters of this report and summary and the table of international and regional treaties and conventions

must respect and protect the rights of the people living within their boundaries. Wealthy countries must provide technical assistance and cooperation as required by the international human rights law.

Therefore, state parties must adhere to their obligations and the four basic duties to take steps to respect, protect, promote, and fulfil the human rights defined in the treaties to ensure people's full enjoyment of such rights throughout their life

- **To respect human rights:** States must not use laws, policies, programs, and procedures to violate human rights. For instance, states must not fail in providing education to girls or women, or fail to provide medical care. States are also responsible for the human rights of the people who are under its jurisdiction. They must not violate any of the human rights.
- **To protect human rights:** States must stop their agencies and other institutions, individuals, families, groups, businesses from violating human rights. States must also ensure equity. They must guarantee that employers do not discriminate against HIV positive employees or those with disability or discriminate on the basis of sex or color. The states need to ensure that victims of such discrimination are compensated.
- **To enhance respect for human rights and basic liberties:** This includes, for instance, raise awareness about human rights and take other steps to prevent any violations of human rights.
- **Fulfil and ensure human rights:** States must set forth measures to ensure human rights including drafting legislations, take administrative and/or financial procedures. Additionally, states must remove legal and regulatory barriers that prevent, for instance, delivery of health services such as costs of an urgent medical procedure including treatment of female victims of domestic violence. This can be summarized in the following: Create conducive environment to ensure human rights including allocation of resources.

2.4 Consult with stakeholders

CAWTAR and partners believe that consulting with government agencies, civic society organizations, international and regional organizations, is important. The purpose is to review the findings of the survey and analysis of the legislations. Two regional symposiums were organized in Cairo and Amman between 3-5 and 27-29 September, 2014, respectively. The first symposium presented Arab women's legal and human rights for economic empowerment. Fifty people including 41 women and 9 men representing 18 states as well as national, regional, and international organizations attended the symposium. Participating women's rights organizations included Supreme Council for Women in Bahrain, National Council of Women in Egypt, National Council for Family Affairs in Jordan, and General Women's Union in the UAE. The following government agencies attended the symposiums, Ministry of Manpower and Migration in Egypt, Egypt ICT Trust Fund, The Ministry of Labor and Social Affairs in Iraq, Ministry of Social Development in Jordan, Ministry of Education in Kuwait, Women Affairs Committee in Kuwait, Ministry of Labor and Social Affairs in Qatar, Ministry of Social Affairs in Saudi Arabia, Ministry of Solidarity, Women, Family and Social Development in Morocco, Ministry of Welfare and Social Security in Sudan, Ministry of Social Development in Oman, Ministry of Education in Oman, and Ministry of Foreign Affairs in the UAE. The following unions and associations also attended the symposiums, the General Union of Algerian Workers, Tunisian General Labor Union, Federation of Yemeni Chambers of Commerce and Industry, Union of Djibouti Workers, Family Development Association in Jordan, Friendship Project in Jordan, Libyan Women Forum, Libyan Representation with Arab League, Chamber of Commerce and Industry in Ramallah, Human Rights Commission in Saudi Arabia, and Women's Human Rights Center in Sudan. Regional and international organizations attending the symposiums included, United Nations Population Fund, Food and Agriculture Organization of the United Nations, International Labor Organization, Arab women Organization, Organization for Economic Co-operation and Development, and the German Technical Cooperation Agency.

The second symposium discussed women's legal and human rights in the public and private domains. The purpose of the discussion was to empower Arab women and ensure equality. The number of participants was 37 including 30 women and 7 men. They represented 14 states. Experts and parliamentarians also attended the symposium. The following women's affairs organizations participated in the symposium, National Council in Egypt, High Council of Women Affairs - Iraqi Kurdistan Government, and the Jordanian National Commission for Women. The following universities and centers also participated, the University of Jordan, University of Ez-Zitouna in Tunisia, Appropriate Communication Techniques for Development, and Women Institute for Training and Qualification in Kuwait. The following civic society organization also attended, Alnahda Bahrain Women Organization, Alkarama –a regional network based in Egypt, Family Development Association in Jordan, Friendship Project in Jordan, the Jordanian Hashemite Fund for Human Development JOHUD, Higher Council for Affairs of Persons with Disability in Jordan, Libyan Women Forum, KAFA (enough) Violence & Exploitation in Lebanon, Association Ennakhil in Morocco, the Palestinian Businesswomen's Association ASALA in Palestine, Wahit Alamal Organization in Syria, Ertiqa and Tahaluf from Tunisia, Kuwait Human Rights association, Arab Network for Environment & Development in Saudi Arabia, and Human Security Association in Yemen. International and regional organizations attending the symposium included, Arab League, UN Women, United Nations Development Program, United Nations Population Fund, Open Society Foundations, and Arab Regional Association –partner with Al-Azhar University. Participants discussed the findings of Arab legislations analysis especially equality between men and women, remaining gaps of discrimination, contradictions within the laws and with international obligations.

The symposiums concluded with priority issues to be used in setting forth joint action plan of legal reforms and steps to be taken to empower women's legal and human rights and ensure equality between men and women in development. The recommendations of the symposiums were in line with partners' expectations to activate "Women's Development Agenda beyond 2015".

The recommendations of the symposiums were submitted to roundtable discussion on "A Declaration on Protecting and Safeguarding Arab Women's Rights" organized by Open Society Foundations and CAWTAR in Amman on September 30 and October 1. This was prompted by an initiative by the Arab Parliament leading to issuing principles on Arab women's rights. The roundtable discussion was chaired by the Head of the Women and Family Committee of the Arab Parliament and attended by approximately 35 experienced activists in women issues and human rights as well as issues concerning marginalized groups, people with special needs, service providers, and documentation of violations of women's rights. The activists came from Algeria, Jordan, Iraq, Libya, Lebanon, Egypt, Morocco, Palestine, and Tunisia. Female researchers on Syrian women refugees joined the roundtable, which discussed the principles on Arab women's rights by the Arab Parliament and the analysis of the legislations of twenty Arab states.

3 Report structure

These are the components of the report:

- **Introduction**

A reading and analysis of the Arab states' laws from a perspective of gender, human rights, and equality without discrimination. Also, defining the approach, tools, and available indexes.

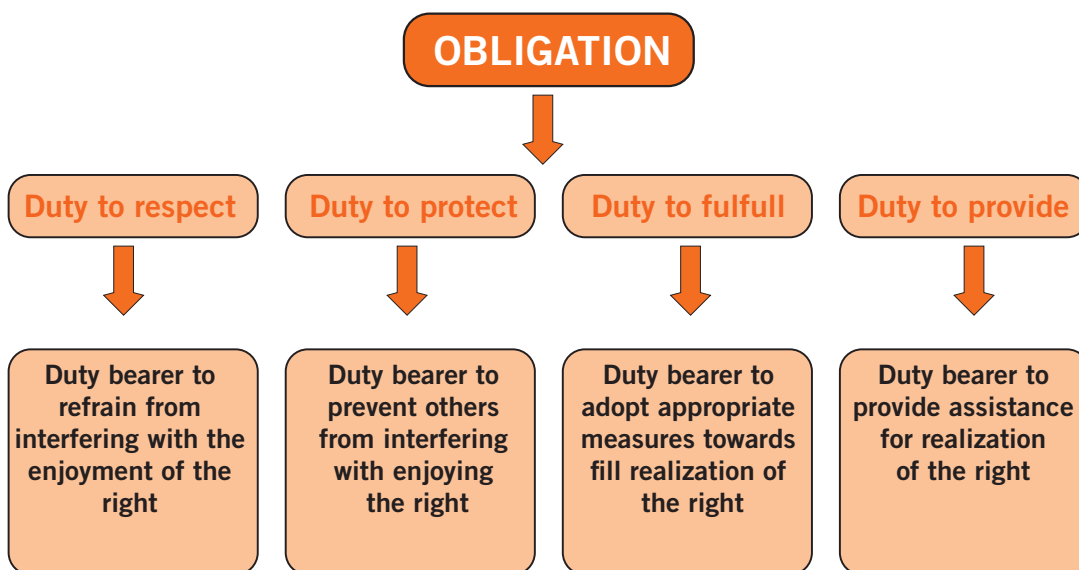
- **Contents**

There are four chapters discussing the legislations of twenty Arab states including texts taking from the constitutions (300 abstracts), decrees, and decisions dealing with women's rights including civil and political rights (Chapter 1), legal rights for women's economic empowerment such as the right to education and training (Chapter 2), legal status and rights within the family including the right to pass on nationality (Chapter 3), and the right to health and reproductive health and gender-based violence (Chapter 4).

Chapters follow these analytical stages:

- Foreword: Explains context and terminology as needed. Presenting development/legal indexes, and analysis of the current situation to define obstacles and challenges.
- Survey of legislation: Review of laws and achievements in equality between men and women, defining remaining discrimination gaps, diagnosis of contradictions in the law and in relation to other laws, and state's obligations as defined by international human rights instruments ratified by the state in question.

DUTIES OBLIGATIONS



- **Conclusion :** Accurate review of three key components, including
 1. Equality as stated by the national laws in relation to international law
 2. Analysis of the right to litigation and access to justice in relation to human rights
 3. Rule of law and accountability so that people may enjoy legal and human rights equally without discrimination.

Status and indexes

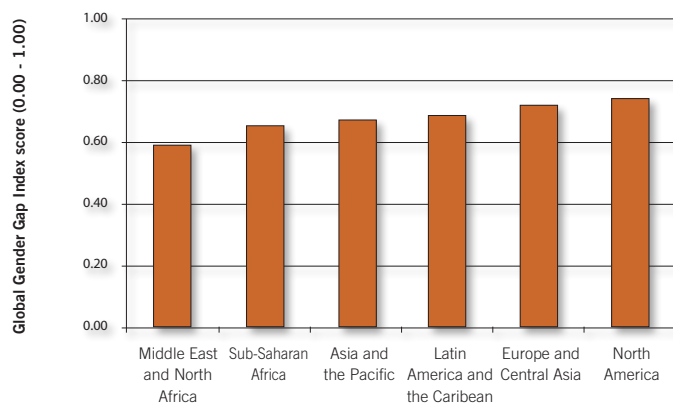
1. Foreword

The countries of the Middle East and North Africa assessed their role and contribution to women status, gender issues, human and legal rights, gender-based violence in peace, conflict, and after conflict, in light of their international obligations. Also, to health and reproductive health, education, technology, employment, combating poverty, economic security, and women’s political participation. Undoubtedly, progress can be seen, many forms of discrimination and violence against women have been eradicated. The countries acknowledge gender equality, equity, and empowerment of women. International organizations, such as the Committee on CEDAW, consider this as an important step towards reducing gender-based discrimination and enhancing women’s human rights. However, more efforts are still needed in light of published national findings.

2. Development and rights indexes

Gender and sex-based discrimination continues in public and private domains. There are also gender-based differences in civil, social, economic, and political rights. Hence, Arab states lag behind in international ranking in these areas as shown by the table below⁽⁸⁾.

Regional Performance on the Gender Gap Index 2013 ⁽⁹⁾



8. World economic Forum, The Global Gender Gap Report

9. World economic Forum, The Global Gender Gap Report, 2013, Geneva, Switzerland

Arab states ranking on the global gender gap index score of 2013

Country	Performance	Rank
United Arab Emirates	0.6372	109
Kingdom of Bahrain	0.6334	112
Qatar	0.6299	115
State of Kuwait ⁽¹⁰⁾	0.6292	116
The Hashemite Kingdom of Jordan	0.609	119
Sultanate of Oman	0.6053	122
Republic of Lebanon	0.6028	123
Algeria	0.5966	124
Republic of Egypt	0.5935	125
Kingdom of Saudi Arabia	0.5879	127
Kingdom of Morocco	0.5845	129
Republic of Mauritania	0.5810	132
Arab Republic of Syria	0.5810	132
Republic of Yemen	0.5128	136

The 2014 gender gap index shows that Arab states still lag behind, in comparison to 2013 gender gap index, with Kuwait ranking 113, UAE at 115, Qatar at 116, Tunisia at 123, Bahrain at 124, Algeria at 126, Oman at 128, Egypt at 129, Saudi Arabia at 130, Mauritania at 131, Morocco at 133, Jordan at 134, Lebanon at 135, Syria at 139, and Yemen at 142. In any case, Saudi Arabia has made unprecedented progress in comparison with previous years, according to international gender equality experts.

3. Situation on the ground

Arab states have made considerable efforts to ratify laws and make policies and strategies for gender integration. Their reference in that is human rights approach, with UN support. They also acknowledge gender practical and strategic needs and set forth programs to ensure equality and equity between men and women such as good governance, decentralization, and partnership with community and private sector organizations. Arab states have also created gender and human rights initiatives to empower women and facilitate their access to resources.

10. Ranked 113 in 2014

The progress in women's political, social, and economic empowerment in Arab states has made significant improvements to Arab women and their families; however, women still face many challenges such as the obstacles of enjoying legal and human rights to facilitate access to resources equally and equitably. The resources are related to education, access to information, economic resources, social services, free-time, and decision making. Hence, despite the undeniable progress and measurable achievements⁽¹¹⁾, progress is relative and ineffective due to:

- Women's legal, social, and economic conditions in Arab states fail to provide adequate protection to women; hence, Arab states occupy the lowest ranks globally in equality between men and women, according to relevant international reports.
- Women, especially vulnerable women such as rural women have not yet benefited from appropriate policies and budgets. They lack access to resources and services including health, education, social security, movement, justice... etc. Therefore, women do not enjoy legal or human rights.
- Arab states fail to invest adequately in realizing the Millennium Development Goals 2015 especially the first goal concerning reducing poverty rates and the third goal aiming at eliminating gender disparity in education.

There are also conflicts, occupation, political unrest, and terrorism, which constitute serious challenge to Arab states like Palestine, Iraq, Sudan, Algeria, Somalia, Egypt, Tunisia, Libya, and Syria. These have caused unrest in Arab states and put nations, especially women, on the verge of unknown challenges. Political unrest and conflicts have led to putting basic services on hold. Deteriorated economy and other threats to public security have taken a toll on human rights and the life of nations, including women and children.

In 2010 and 2011 women took part in the Arab uprising, which was spontaneous first. The Arab community welcomed women's involvement in the uprising; however, in the aftermath of the Arab Spring and the removal of regimes, women's contributions were ignored and women's rights were put on hold –reactions varied among states.

In any case, Arab women may have an opportunity for change and equal rights and basic liberties as well as women's human rights. However, the politics and security are more urgent for those in charge.

What's next?

In the interim phase, women's progress depends on ensuring democracy; women's rights cannot survive without democracy. This requires more efforts to safeguard the progress that had been achieved and continue to fight for it through eliminating all forms of discrimination against women in the legal systems and set forth policies to facilitate women's human rights including the right to life and protection from violence.

Despite the acknowledgement of women's rights by the policy-makers and the community, traditions and customs compromise women's human rights. Women are still discriminated against in education, political and economic participation, occupying senior policy-making positions, equal pay and equal job opportunities, promotion, allowances ... etc. They are discriminated against in marriage, polygamy, ta'a (obedience to husband), not allowed to decide for themselves or their children, wife disciplining, violence against women ... etc.

Reforms in policies and legislations have not stopped conflicting laws and the way they strengthen discrimination. For instance, Arab family laws, which discriminate against women, supersede constitutions and laws on education, health, labor, and political participation as well as other aspects.

11. Country and international monitoring reports of international conferences and conventions (Cairo, Beijing, MDGs, CEDAW ...etc.)

Arab states' laws are inconsistent with their obligations to the international human rights instruments they had signed. For instance, the laws violate the principle of equality between men and women, minimal marriage age, and inheritance rights. They fail to address violence against women including murder. The above describes some of the political, social, cultural, and legal practices that stop women from enjoying equality in civil, social, and economic rights. This is happening despite the fact that most Arab states' constitutions call for respect for equality and human rights.

4. Obstacles and challenges

• Obstacles

Gender structure defines social and family relationships as well as the roles given to women and men throughout life. The obstacles in this area include,

- Cultural and individual legacy that stop women from moving on and deprive them from chances of progress and enhancing legal status and defending of human rights. The cultural legacy, which is inherent in laws and policies, is used to justify deprivation of women of their rights.
- The way law is enforced in similar situations: The personal status laws of the Arab states, which apply to Muslims and non-Muslims, are fertile grounds for legalizing and legitimizing discrimination between men and women.
- Governance: Lack of adequate policies or lack of support to adequate policies, if any, to enhance women's and family's issues as well as the community. Obviously, these domains are grounds for strengthening discrimination, disparity, and inequality between men and women.
- Human rights issues: Lack of enforcement of national laws, regulations, and procedures – rule of law and accountability- that may constitute respect for human rights and compliance with international obligations.
- Institutional mechanisms: They are often too centralized in decision-making, planning, budgeting, application, monitoring, and evaluation. They also restrict resources and mandates.
- Lack of accountability, which strengthens gaps of discrimination. Accountability must be enhanced via programs that make the decisions that enhance rights and responsibilities and were made at international, regional, and national level effective. Kofi Annan said in 1998 in his address to the UN General assembly, good governance means establishing effective institutions that are subjected to political, judicial, and administrative accountability. They are considered legitimate by people who also take part in the decision making process of these institutions since they affect their daily life and empowerment.

• Challenges

Change requires overcoming challenges. The political, social, cultural, and legal challenges still stand in the face of the legal, political, and community acknowledgement of women's rights as well as the reforms in policies and legislations and the hard work of the civic society. These challenges stop women from equally enjoying civil, social, and economic rights as stipulated by Arab constitutions. They also

prevent stability and progress within families –for instance, family laws are adamant in strengthening discrimination against women. The challenges include:

- Community and institutions' legacy that compromise women's human rights and discriminate against women in education, political and economic participation, access to senior decision-making positions, equality in employment, pay, promotion, and allowance. The legacy also allows for minors' marriage, ta'a, polygamy, preventing women from deciding for themselves and their children, wife discipline, domestic violence ... etc.
- Conflicting laws: Conflicting provisions may be found among laws or within the same law. They may conflict with the constitutional principles of the state. The final word, in this case, is given to the laws that are discriminatory such as the family laws, penal code.
- A state's legal system may be inconsistent with the state's international obligations, which the state needs to observe as a result of ratifying human rights instruments. The inconsistency may affect crucial rights such as equality, marriage of minors, divorce, inheritance, and violence against women.

Chapter 1

Women's Civic and Political Rights in the Legislations of Twenty Arab States

“The concept of democracy will have real and dynamic meaning and lasting effect only when political decision-making is shared by women and men and takes equal account of the interests of both.”⁽¹²⁾

Arab women's political participation and building of democracy

1. Achievement of Equality between men and women

The representation in the democratic process needs to engulf the entire society; it shall not exclude any members of the society via discrimination. Governance can only be efficient and effective as long as its doors are open to women. Women's civic rights, citizenship rights, and political participation are necessary to ensuring equality between men and women. They are also important for ensuring social justice, liberty, and democratic governance. However, women's civic rights have rarely been treated the way they should be. They are linked to other rights such as political, economic, and social participation. They also relate to rights within the family –defining the rights and duties of men and women.

The constitutions of most Arab states call for equality in enjoying rights and in duties. This includes civic and political rights. A number of Arab states reformed their legislations to integrate equal political participation in the constitution or via specific election laws; this will be discussed further in this chapter. Moreover, some of the Arab states recognize that equal participation of men and women in decision-making leads to a balance that reflects society structure more accurately.

2. Development and rights indexes

Women's role and involvement in decision-making in Arab states is still inadequate notwithstanding the quota and the parity systems. The most recent elections at some Arab states show that the progress that had been made in this area capitulated or compromised due to the precariousness of the status of women's rights that had been previously secured. The following indexes show how progress in women's role and involvement in decision-making in Arab states is still insufficient⁽¹³⁾. They are taken from the global gender gap reports of the World Economic Forum –the reports have been published since 2006 and rely on national, regional, and international statistics. The classification of the Inter-Parliamentary Union, which builds on data submitted by parliaments on September 1st of every year, is also used in the report. The number of states included in the classification varies. The classification lists states in accordance with the number of women members of parliament (lower or single house and upper house or senate). The classification may include a number of Arab states covered by the study.

Gender gap index

Women's political empowerment is one of the four sub-indexes of the gender gap index. It tells of the number of women at ministerial positions, percentage of female members of parliament, and percentage of women in political decision-making positions. The sub-index considers the number of years spent in executive positions such as being a prime minister or a president over 50 years.

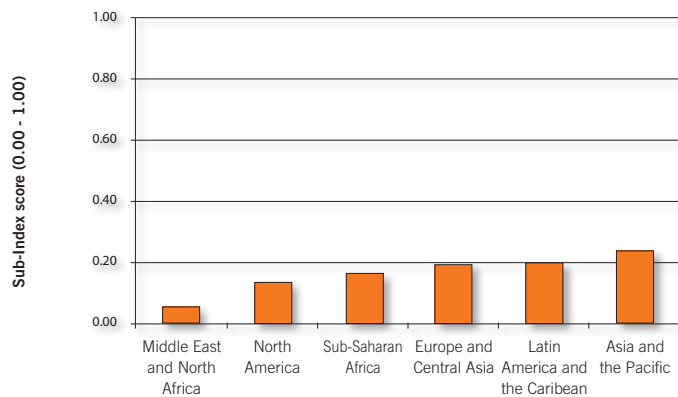
However, the women's political empowerment sub-index excludes variables, which would show disparities in women's and men's involvement in local government levels, which requires international efforts to establish data to be included in global gender gap.

The Global Gender Gap Report 2013⁽¹⁴⁾ shows that Arab states occupy the lowest ranks in providing political empowerment opportunities to women; however, there is a 7% closing of the gap.

13. You can view comparative data on global and regional rates and data on elected regional councils on separate pages. You can also refer to PARLINE database to read outcomes of parliamentary elections of the countries.

14. The report is published at the end of every year

Regional Performance on the Gender Gap Index 2013⁽¹⁵⁾



The Global Gender Gap Report 2013 covers 135 states. The political empowerment sub-index covers 135 states, including 14 Arab states. Tunisia was not included in the 2012 and 2013 report due to situation in the country and lack of up-to-date data.

The performance on the political empowerment sub-index is as follows:

- Seven states rank last
- Two states are given 0.0%⁽¹⁶⁾, including Qatar (0/35) and Vanuatu (0/52).

Regional classification of political empowerment sub-index⁽¹⁷⁾

Country	Score	Rank
Algeria	0.1511	62
United Arab Emirates	0.1206	81
Mauritania	0.1201	82
Saudi Arabia	0.0769	105
Morocco	0.072	111
Syria	0.0697	112
Bahrain	0.0667	113
Jordan	0.0607	117
Kuwait	0.037	126
Egypt	0.0348	128
Oman	0.0221	129
Yemen	0.0227	131
Lebanon	0.0099	133
Qatar	0	135

15. The Global Gender Gap Report, World Economic Forum 2013

16. This means that there are no women members in parliament or in elected or appointed local or national councils or in decision making positions.

17. World Economic Forum, The Global Gender Gap Report 2013

The IPU ranking reflects official figures submitted by states and shows the gender gap index. For instance, the 2011 ranking shows that the rate of Arab women members of parliament is 9.5%, which is the lowest in the world; whereas, Sub-Saharan Africa figure is 18.7%, North America and South America figure is 22%, and 42.1% for Scandinavia. The 2014 IPU ranking shows that Rwanda is number one with 63.8% women MPs in the lower or single house and 38.5% in the upper house or senate.

In Asia and the Pacific, 7.6% of MPs in the lower or single house are women and 15.9% MPs in the upper house or senate are women. The high rates of women MPs in the upper house or senate are positive discrimination, which allow, in many countries including Arab countries, adopting the quota system and appointing of women MPs rather than just relying on elections such as the one-third system of the Council of the Nation of Algeria and the Shura (Consultative) Assembly of Saudi Arabia.

IPU ranking 2014 ⁽¹⁸⁾

Rank	Country	Lower or single House				Upper House or Senate			
		Elections	Seats*	Women	Women %	Elections	Seats*	Women	Women %
27	Algeria	05/ 2012	462	146	31.6%	12/2012	144	10	6.9%
"	Tunisia	10/ 2011	217	61 ⁽¹⁹⁾	28.1%	---	---	---	---
45	Iraq	04/ 2014	328	83	25.3%	---	---	---	---
60	Mauritania	11/2013	147	37	25.2%	11/ 2009	56	8	14.3%
69	Sudan	04/2010	354	86	24.3%	05/2012	29	5	17.2%
"	Saudi Arabia	01/ 2013	151	30	19.9%	---	---	---	---
83	United Arab Emirates	09/ 2011	40	7	17.5%	---	---	---	---
86	Morocco	11/ 2011	395	67	17.0%	10 /2009	270	6	2.2%
105	Libya	6/ 2014	93 ⁽²⁰⁾	30	16.0%	---	---	---	---
"	Somalia	08/2012	275	38	13.8%	---	---	---	---
116	Djibouti	02/2013	55	7	12.7%	---	---	---	---
131	Jordan	01/ 2013	150	18	12.0%	10/2013	75	9	12.0%
"	Syrian Arab Republic	05/ 2012	250	30	12.0%	---	---	---	---
142	Lebanon	06/2009	128	4	3.1%	---	---	---	---
143	Comoros	12/2009	33	1	3.0%	---	---	---	---
"	Kuwait	07/2013	65	1	1.5%	---	---	---	---
"	Oman	10/2011	84	1	1.2%	10/2011	83	15	18.1%
"	Yemen	04/2003	301	1	0.3%	04/2001	111	2	1.8%
"	Qatar	05/2003	35	0	0.0%	---	---	---	---

18. Report of the IPU -Figures correspond to the number of seats currently filled in Parliament

19. Women won 67 seats (or 30.87%) of 217 seats of the Assembly of the Representatives of the People in most recent elections in Tunisia on October 26, 2014.

20. Other references show that the number of seats in the new Assembly is 100 not 93

3. Situation on the ground

According to IPU ranking, Arab women participation in decision-making is still limited and the progress in this area is very slow (the 2010 ranking is 19% and the 2011 ranking is 19.5%). However, some Arab states see improvements in national indexes. These have made progress after taking positive measures to amend the constitution, the election law, or through direct appointment; however, women's political participation is still limited. Other Arab states failed to take similar positive measures; hence, they have no women members in their parliaments. Other states' indexes dropped due to politics that threaten women's rights.

According to IPU data⁽²¹⁾, women occupy less than 20% of the parliaments' seats of Arab states. The average of women's representation in the parliaments was stagnant and stopped at 10.7% in 2011. The most recent elections in Tunisia, Egypt, and Morocco do not reflect the contributions of women and their rights. For instance, the elections of the Constituent Assembly of Tunisia in 2011 show drop in women's representation by two seats (59 women MPs out of 217 MPS or 27.8%⁽²²⁾) compared to previous Assembly –pre-revolution Assembly- despite the parity law. The 2011 cabinet of Tunisia had 2 female ministers out of 30 ministers. In Egypt, women won only 8 seats in the January 2012 multi-party parliamentary elections –after canceling the quota system. Hence, women MPs' number dropped from 12% to 2%. The Moroccan parliament had 67 women MPs (or 17%) out of 395 MPs in 2011 elections. The 30-minister cabinet had only one female minister in charge of the Ministry of Solidarity, Women, Family and Social Development portfolio. The 2013 Moroccan cabinet of 39 portfolios had 6 female ministers. In Kuwait, in 2009 women won four seats in the elections of the National Assembly of Kuwait for the first time in country's history but no seats were won by women in the Assembly's 2012 elections and in 2013 Assembly elections, only one seat was won by women. The Kuwaiti cabinet of 2012 had no female ministers.

Sixty-eight seats of Tunisia's parliament of 217 seats were won by women in the parliamentary elections on November 20, 2014; hence, Tunisia met the obligations of Beijing Platform for Action, which called for 31.3364% presentation of women in parliaments⁽²³⁾. In May 2012 Algeria elected 145 female MPs (out of 462 MPs) or 31.6%, for the People's National Assembly. However, only three female ministers (out of 34 ministers) were appointed in the cabinet, which was formed immediately after the elections. The number was later increased to seven in the September 2013 cabinet. Yemen women's parliamentary representation dropped to 1.05% in 2011. In Libya, women won 33 seats (16%) of 200 seats of the General National Congress in June 2014.

The difference is obvious when the quota system⁽²⁴⁾ is applied and received political support and resources, which can be seen in the cases of Algeria, Tunisia, and Morocco. Other effective measures that lead to increasing women's seats in parliaments include special training, financing election campaigns, media support, and supportive public policies. However, obstacles such as community customs and traditions and values still stand in the way of achievement of women's civil and political rights. There are also problems with the elections system, high costs of running elections campaigns, and political parties' rejection to the idea of having female competitors.

National parliaments in Arab states such as Algeria, Tunisia, Jordan, Bahrain, Morocco, and Iraq evolved during the last decade due to direct appointments, introducing the gender quota system, and taking positive measures to increase women's political participation. Additionally, the active role of the civic society organizations, the hard work of female activists, and the efforts of women's institutions in the Arab states have all contributed to the evolvement of Arab women's political participation.

21. As indicated by UN report issued by Women's Committee on women on March 2 2012

22. www.isie.tn

23. www.isie.tn

24. The quota system is temporary measure to be abolished once obstacles are overcome. Obstacles include cultural obstacles, women's arrival at parliament, and bridge gaps between men and women.

The outcomes of recent elections were; however, rather disappointing in the sense that they showed how fragile were the achievements made in securing women's rights. The elections also showed that it was urgent to enhance women's capacities to enable them to safeguard their rights as set forth by laws and constitutions, and to initiate steps for better life for women and for the community as a whole.

4. Survey of legislations and analysis of laws

• Foreword

The review of the Arab states' constitutional and legal provisions that regulate citizens' rights, women's rights in specific, included review of what was needed to make women's rights as well as women's human rights more effective. Hence, we used an approach that allowed looking at the extent to which Arab laws were supportive of women's rights as citizens and as human being. Both components of rights received separate treatment; however, we understand that the legal system of any country must not separate between women's rights as citizens and as humans since both components are inseparable. Moreover, the constitutions and laws must work together in support of women's enjoyment of personal, legal, and human rights in private and in public domains, including civil and political rights. Therefore, the constitutions and laws must embody equal enjoyment of rights among women and men.

Civil and political rights and participation are very important because they open the door to opportunities of occupying leading public offices in politics, business, social, and cultural domains. They also allow for leading roles at home⁽²⁵⁾. Most Arab constitutions include parts, chapters, articles, and provisions on civil and political rights due to their importance. The constitutions allude to civil and political rights but fail to be explicit about including women in the enjoyment of such rights. The report categorizes civil and political rights and participation as follows:

1. Civil and political rights
2. Achievements and remaining gaps of discrimination
3. Required reforms to ensure equality in civil and political rights and other rights

The review of the rights; therefore, shows equality, or inequality, between women and men as well as respect for women and men and their rights and liberties. The review covers twenty Arab states; it is comprehensive and takes gender perspective into account. The civil and political rights are analyzed. The achievements -and the failures- of ensuring such rights are presented. The discriminatory provisions of the laws are also analyzed as well as the stand the relevant Arab states take on international human rights instruments.

5. Regulating women's civil and political rights by the law

• Civil rights

A review of the system of laws from human rights principles' approach shows the following:

- i. Universality/comprehensiveness: The review and analysis of the constitutions and the laws of the specified Arab states show that there are civil rights that are not religious, military, or political in nature. The Arab states' systems of laws are in agreement of these civil rights in the same way other world countries approve them.
- ii. Overlapping: The articles and provisions of the relevant Arab states' laws and constitutions on civil and political rights and liberties overlap. They cannot be examined separately. They are old. They are of great value; however, the way they enforce liberties and rights is relative.

25. Components of the legal system (family law)

- iii. Equality and non-discrimination: A number of Arab constitutions provide for equality between women and men and non-discrimination among citizens, including on the basis of sex. These constitutions are those of Algeria, Tunisia, Egypt, Morocco, Bahrain, Yemen, Kuwait, Oman, Mauritania, Libya, Djibouti, Sudan, Lebanon, Syria, Palestine, and Qatar. The constitutions of Algeria, Morocco, Yemen, Djibouti, and Lebanon provide for equality between men and women in public duties and payment of taxes. Algerian constitution is the only one that calls for freedom of trade and industry.
- iv. Ensure personal rights and liberties, safety, and security: The constitutions of Algeria, Tunisia, Egypt, Morocco, Iraq, Yemen, UAE, Jordan, Mauritania, Libya, Djibouti, Sudan, Lebanon, Saudi Arabia, and Palestine provide for basic liberties including personal liberty, freedom of belief, opinion, and expression. They safeguard confidentiality of correspondence, freedom of movement and abode, freedom of the press, ownership, and inheritance. The Palestinian basic law calls also for Palestinian women's right to return to the homeland. There are also individual aspects of Arab constitutions such as the Algerian constitution's prohibition of human trafficking and exploitation. The Sudanese constitutions prohibits slavery. The UAE and Libyan constitutions criminalize enslavement of people.

- **Political rights**

Tunisia, Egypt, Kuwait, UAE, Libya, Djibouti, Sudan, Lebanon, Syria, Saudi Arabia, Palestine, and Qatar opted for unicameral legislature. Algeria, Morocco, Iraq, Bahrain, Yemen, Oman, Jordan, and Mauritania opted for bicameral legislature. The following Arab states approve the rights to run for elections, go on strike, demonstrate, form unions and societies, claim asylum, address public authority, and political participation: Algeria, Tunisia, Egypt, Morocco, Bahrain, Jordan, Iraq, Yemen, Oman, UAE, Mauritania, Libya, Djibouti, Sudan, Syria, Saudi Arabia, Palestine, and Qatar. The quota system –allocating a percentage of parliamentary seats for women- operates in the following Arab states: Algeria, Tunisia, Libya, Egypt, and Palestine. States like Morocco, Iraq, Bahrain, Djibouti, and Jordan have gender quota in parliaments and political parties. Lebanon approves gender quota in municipal councils' membership only. Mauritania has not accurately defined a percentage or a number of parliamentary seats for women; however, it gives financial incentives to parties that endorse gender quota and women's participation. Saudi Arabia follows gender quota percentage; hence, the Saudi Shura (consultative) Assembly has 30 women members. The quota mechanism is used by states to enhance women's participation in the electoral system. Other states appoint women to the upper house or senate such as Algeria, which reserves one-third of the seats of the People's National Assembly for women.

6. Achievements and loopholes of discrimination between men and women in civil and political rights

The review and analysis of the constitutions and laws of the Arab states in question revealed the politics and ideology of each state's pattern and reference. The political and ideological patterns take their toll on the constitution and legislations and the way they deal with gender issues and human rights. Some of the examined constitutions show that they safeguarded civil and political rights of men and women equally. Other constitutions were discriminatory and contradictory in safeguarding men and women's civil and political rights. Other constitutions contain vague texts that may be interpreted as in favor or against equality on the basis of sex.

- **Gender equality achievement**

The reviewed constitutions of the Arab states provide for rights and liberties that are to be equally enjoyed by men and women; they also called for women's protection. They call for equality between men and women. The language of those constitutions were gender sensitive. This applies to the constitutions of

Algeria and Tunisia, which use gender-sensitive language also for constitutional provisions on running for presidency. The Egyptian constitution uses similar language in describing equality between men and women. Other examples of this language is the Iraqi and Bahraini constitutions when providing for protection of women; the Mauritanian constitution in stipulating political rights; and the Djiboutian and Syrian constitutions in their stipulating election laws.

Other constitutions safeguard new rights and more liberties for women such as the constitution of Syria in its provision for equality between men and women in ownership of agricultural assets and political participation; the Lebanese constitutional guarantee of political rights for Lebanese citizens and naturalized Lebanese citizens; the Qatari constitution's prohibitions of amendment to the constitution unless for the interest of the people. New constitutional provisions include those that call for protection of women and for parity (Algerian and Tunisian constitutions). The Iraqi, Yemeni, and Bahraini constitutions include provisions on human dignity. The constitutions of UAE and Mauritania have provisions on the women's right to personal property. The Jordanian national charter provides that women are equal to men; they also enjoy the constitutional and legal rights to equality and equal opportunities. The Libyan constitution calls for just distribution of national wealth. The Sudan, Algeria, and Morocco constitutions embody positive discrimination for the benefit of women.

In any case, there are law provisions that supersede the constitution with respect to women's rights and equality such as the case of Jordan (national charter), Bahrain, and the Palestinian women's bill of rights (the last is still unratified due to country's situation but used as a reference). Djibouti, and most recently Algeria's penal code of 2014 define discrimination, consider it a crime, and identify punishment for acts of discrimination.

- **Remaining loopholes of discrimination**

The constitutional provisions and those of the law contain loopholes of discrimination against women in relation to men and in relation to other women of the same country. These are the findings of the analysis of these provisions:

- i. The language used in the provisions is not impartial:**

It does not consider equal rights of men and women. However, some Arab states use a language in describing civil and political rights that is coming closer to being gender sensitive. They approve equality (linguistically) but not at the same level. They use feminine and masculine terminology (this also applies to provisions written in French)⁽²⁶⁾. This includes the elections, nomination for presidency and parliament and political parties' laws of Egypt, Morocco, Algeria, Sudan, Syria, Palestine, Qatar, Jordan, UAE, Iraq, Libya, and Yemen. The parties' laws of Libya and Yemen are excluded.

- ii. Conditional equality, masked and obvious discrimination**

A number of Arab states' constitutions and laws contain provisions of inequality between men and women in rights and liberties since they make the rights and liberties of women conditional on issues like "public order" such as the case of Syria; "Islamic Shari'a" such as the case of Bahrain; "public accepted standards of behavior and to avoid public disorder"; "woman's physicality"; and "women's family responsibility". These conditions lead to lesser rights and liberties for women compared to men; hence, men and women are not treated equally as citizens and human beings in the right to movement, for instance, and considering a woman's testimony before a Shari'a court worth half that of a man (Lebanon's new law) and restricting women's testimonies before courts and considering women's membership in the parliament unnecessary such as the case of Bahrain.

26. Les citoyens or citizens, for example.

Constitutions provide for equality and non-discrimination in rights and liberties; however, they place restrictions that make women unequal to men and unequal to other women of the same country. For instance, some constitutions allow different sects the right and freedom to regulate their family affairs. These sects draft laws that are inconsistent with the constitution for this purpose. Examples of this case are the constitutions of Lebanon, Iraq, Jordan, Palestine, and Egypt. These countries have different laws for different religions and sects.

Moreover, there are Arab states where the order of succession to the throne is reserved for men, not women, such as Jordan, Oman, Morocco, Saudi Arabia, Qatar, and Bahrain.

More loopholes of discrimination :

- **Lack of political institutions**

Lack of political parties in Saudi Arabia, Qatar, UAE, and Oman –the laws of these states do not provide for political parties- affect women’s participation in politics, in the community, and in other careers. Moreover, laws lack provisions to provide for establishing societies and unions, which restrict women’s opportunities –more than men- to have a role in public life. The rights of Saudi and Qatari women to political participation and running for elections are temporary measures determined by senior government levels. These temporary measures need to be made into legislations. It is worth mentioning that the Kuwaiti parliament was dissolved due to having high percentage of women’s representation. Sudanese women could also face difficulties since the Sudanese law delay women’s parliamentary nominees.

- **A mixture of rights and institutionalized discrimination**

There are Arab states such as the UAE, Yemen, and Sudan that still require husband’s approval to issue a passport for his wife. A wife may be added to her husband’s passport rather than has her own passport –pending the husband’s approval in these states. Hence, for a wife to enjoy the rights that are part of hers for being a citizen of the state, she needs a man’s approval. Moreover, there is the ta’a or obedience to the husband provisions of the family laws that a wife must comply with, which undermines women’s entire rights. Civil, personal, public, private rights, and family rights are all mixed up. Mauritania gives the husband the right to control his wife’s assets if she donates more than one-third of them. A husband may also terminate a contract for breastfeeding signed by his wife if he were unhappy with it. A judge in Saudi Arabia may order a divorced woman to go back to her husband if she had a baby. This; however, does not apply to a divorced woman with no children, which shows some showing discrimination.

- **Laws’ provisions that are inconsistent with the legal and human rights**

There are provisions from laws and/or constitutions that discriminate between men and women in the enjoyment of civil and political rights such as the right to safety and security, which undermines the right to live. For instance, the Iraqi law does not punish a husband who beats his wife to discipline her. Adulterous men and women are punished differently. The Saudi and Sudanese laws allow for flogging in the case of adultery and the Syrian laws allow for beating. In Libya, women accused of the so-called honor crimes are not allowed to appeal the sentences against them or defense. Lebanese laws allow the state to confiscate the passports of domestic workers, which impedes their right to movement. These laws’ provisions hinder enjoyment of civil and political rights.

7. International treaties on women's rights

The following explains the standpoint of Arab states with respect to international human rights treaties and women's rights. The purpose of the explanation is to assess the states' compliance and enforcement and integration of the treaties' principles and provisions in their systems of laws.

- **Ratifying women's rights treaties**

Most Arab states are parties to international human rights instruments. Fifteen Arab states ratified the International Covenant on Civil and Political Rights, which stipulates in Article 3 that "The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant." The states are Algeria, Tunisia, Egypt, Morocco, Iraq, Bahrain, Kuwait, Jordan, Mauritania, Libya, Djibouti, Sudan, Lebanon, Syria, and Qatar. All of the Arab states which had their legislations reviewed and analyzed in this report, except for Sudan, have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Libya and Tunisia have ratified the Optional Protocol of the Convention. Only Jordan, Morocco, and Tunisia have ratified the Convention on the Political Rights of Women.

Arab states treat the international human rights instruments, which they had ratified, in different ways. For instance, Tunisia, Algeria, Morocco, Mauritania, and Djibouti placed such instruments in a rank that is higher than national legislations but lower than the constitution. The constitutions of a number of Arab states in question provide that international human rights instruments are equal to national legislations. These states are Egypt, Bahrain, Kuwait, and Saudi Arabia; they treat the instruments like presidential or royal decrees. Sudan; however, is the only state among the twenty states in question that treats human rights instruments as a constitution.

Palestine or the Occupied Palestinian Territory or the Palestinian Authority, is not eligible to ratify the United Nations' human rights treaties; however, the Palestinian Authority has recently ratified CEDAW as reference to deal with the Palestinian women's development and human rights. In any case, more than two-thirds (138 out of 193⁽²⁷⁾) of the United Nations' member states voted to recognize Palestine as a non-member UN observer state on November 29, 2012. The vote was historic and grants Palestine the right to appeal before the International Criminal Court and ratify international treaties. Hence, Palestine ratified, without reservations, the International Covenant on Civil and Political Rights in April 2014.

- **Impossible reservations**

A number of Arab states have reservations to the International Covenant on Civil and Political Rights. Syria, Iraq, and Libya said that "being a state party to the International Covenant on Civil and Political Rights does not mean recognizing Israel or dealing with it in any of the issues related to Covenant." Bahrain, Mauritania, Egypt, and Yemen have reservations to the Covenant in matters that are inconsistent with the Shari'a. Bahrain, Algeria, and Kuwait have reservations to the Covenant in the parts that are inconsistent with the election law, family law, and the penal code.

However, the reservations the states present to the Covenant include reservation to paragraph 1 of Article 2, which stipulates that "Each State Party... undertakes to respect and to ensure to all individuals... the rights recognized in the present Covenant, without distinction of any kind..." and Article 3, which stipulates that "The States Parties... undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights..." and Article 41, which calls state parties to "recognizes the

27. Only nine countries voted against including the USA and Israel. Forty-one states abstained, including the UK and Germany.

competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant.”

Arab states that are parties to the Covenant need to develop their laws to become consistent with the Covenant rather than try to adapt the Covenant to their laws.

Arab states have also impossible reservations to CEDAW’s call for equal enjoyment of private and public rights including civil and political rights since such rights are indivisible. These states blame their reservations on Shari’a and national laws. The reservations to CEDAW⁽²⁸⁾ include reservation to Article 2, which stipulates that “States Parties... undertake... To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation...” and paragraph (f) of the same Article, which stipulates that state parties are “To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women” paragraph 2 of Article 9, which stipulates that “States Parties shall grant women equal rights with men with respect to the nationality of their children,” paragraph 2 of Article 15 “States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals,” and Article 16, which stipulates that “States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations...”

Only three states (Yemen, Djibouti, and Comoros) have no reservations to CEDAW⁽²⁹⁾. Tunisia ended its CEDAW reservations in 2014; however, Tunisia’s general declaration provides that the Tunisian government shall not take regulatory or legislative decisions, with respect to CEDAW, that may be inconsistent with the provisions of Chapter One of the Tunisian constitution. The general declaration can be a reservation to all international human rights instruments.

28. See table on international treaties in annexes

29. *Majalat al-insan wal huriyat* (People and rights magazine), human rights league, CEDAW special issue, December 2009.

Findings and recommendations

1. Findings

The analysis of Arab women's civil and political participation show some progress; however, the laws are still discriminatory against women, which may undermine women's rights and impede their access to decision-making positions. The analysis also shows that some constitutions do not stop at providing for equality between men and women; they also provide for rights for women that fit women's situation in the country. Some states, according to the analysis, have put the international human rights instruments in ranks equal to that of the constitutions or higher than national laws. The reading of the laws from gender and human rights perspective shows the following:

1. All Arab states have made progress, at different levels of expression, in introducing women's rights and equality between women and men in civil and political rights and participation to their laws.
2. There is no definite link between the progress achieved by Arab states in the writing of the constitutions with respect to expressing civil and political rights and participation and the actual support the states provided to make such rights a reality in women's existence. All indexes point to this uncertainty despite the extra measures adopted by some states to enhance women's civil and political rights and participation.
3. The systems of laws of Arab states indicate that there is no constitutional support to women's civil and political rights and participation; on the contrary, the systems are contradictory since they contain equality and discrimination.
4. The system of law of the same country may be contradictory. The constitution can contain inherent contradictory provisions and it may be inconsistent with the laws. Hence, the laws' system may provide for equality and inequality at the same time between men and women and discrimination on the basis of ethnicity, religion, and sect.
5. Many Arab states have ratified international human rights instruments, which guarantee women's rights and equality with men, eliminate discrimination between women and men in civil and political rights. However, these states do not make it easy to integrate such instruments in their laws even when the provisions of the instruments are in line with the constitutions of such states. This puts the states in contradictory position with their international obligations.

International indexes show that having women in leading positions has positive impact on the society in areas like education, investment in infrastructure, and combating corruption. Women have made many successes in civil and political participation. They secured progress in drafting legislations that combat domestic violence, enhance women's health, and improve work rights. Women in leading positions have become role models for younger women.

Denying women their rights hinders their access to public offices and strengthen inequality between men and women. Reforms for achieving democracy can only work when the challenges facing women, including marginalized and impoverished, are recognized as well as recognizing women's right to take part in all public decision making processes.

Civil and political rights and participation

Respect

1. The constitutions and laws need to be in line with international human rights instruments. No reservations on the basis of traditions' restrictions and wrongful or extreme interpretations of religion shall hinder the enforcement of treaties.
2. The constitutions and laws need to be in line with the most recent updates of civil and political rights and liberties.
3. Review the language of the laws and constitutions to be gender sensitive.
4. Replace the policies, directives, circles, and instructions of public officers with laws and legislations to ensure enforcement.

Respect

1. Draft laws that streamline constitutional provisions and their enforcement.
2. End contradictions in the systems of laws. Take all necessary measures to enhance equality and to abolish the provisions that discriminate against women's basic rights and liberties such as the right to movement and domicile.
3. The authorities are to pursue all violations of women's rights and political empowerment. They shall be supported in this by human rights organizations.
4. Combat stereotypes and extreme measures against women to ensure that women enjoy basic rights and liberties and physical safety.
5. Enforce the positive provisions of the constitutions and laws. Enhance the role of parity and non-discrimination commissions, which deal with women's issues and human rights.

Respect

1. Deliver media and social services to raise women's awareness of their rights to political participation and empower such participation.
2. Increase civic society organization's involvement in training and orientation to ensure empowerment of women to achieve their political rights.
3. Curricula of high education to teach integration of women's civil and political rights treaties. Raise women's awareness of the laws

Respect

1. Use quota and other measures to increase women's participation in leading positions and judicial offices and elected councils and executive apparatuses in administration and government.
2. Make effective the executive regulations of the laws as well as laws and constitutions.
3. Review laws using gender sensitive language to ensure equality and non-discrimination.
4. Ensure independence of the judiciary to ensure the rule of law. Respect laws' provisions that ensure women's rights and civil and political empowerment.
5. Adopt gender responsive budgeting to ensure interests of the people regardless of age, sex, ethnicity, location ...etc. Ensure equality and reduce gaps through the spending and revenues policies. Enhance options and political participation in decision taking.

Finally, the international community has a unique opportunity to play an effective role in mobilizing the civic society and assist government agencies and constituencies to set up new frameworks that are supportive of women's legal and human rights. Coordination among Arab states and promoting new legal and constitutional ideas through the media may play a vital role in revealing new laws and constitutions.

Chapter 2

Women's legal rights for economic empowerment

“Women’s poverty is directly related to the absence of economic opportunities and autonomy, lack of access to economic resources, including credit, land ownership and inheritance, lack of access to education and support services and their minimal participation in the decision-making process. Poverty can also force women into situations in which they are vulnerable to sexual exploitation”.

Beijing Declaration and Platform of Action Paragraph 51

Arab women's economic participation and role in development

1. Foreword

The value of individual's economic rights cannot be ignored by any country regardless of its political and economic systems. They –the economic rights- reflect what the legal system has accomplished to ensure individual's liberty and decent living.

The constitutions and laws that regulate civil, political, and social rights are worthless unless they reflect the benefits secured to the state and to the individuals. Economic empowerment and living standards achieved by a state and the freedom of conducting economic activities measure the extent to which the state has ensured economic rights in practice as well as in theory as stipulated by constitutions and laws.

The economic components and activities of Arab states vary according to their location, population, and resources. Economic liberties of individuals vary with the economic components and activities of each state. Economic activities include the following sectors

- **Services:** The services the state delivers to people such as education and health. The service sectors of Tunisia, Egypt, Lebanon, Jordan, Syria, Morocco, Yemen, and Algeria stand out.
- **Oil and mining:** This sector depends on the resources and wealth the states possess. These Arab states stand out in oil and mining: Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, UAE, Libya, Iraq, and Algeria.
- **Trade:** Trade activities such as import and export, marine transport, delivery of trade services. UAE, Egypt, and Djibouti are prominent in this sector.
- **Developing agriculture and industry:** A number of Arab states have developing agriculture and industry after years of suffering of colonialism. Their economy is at early stage of development. These states include Djibouti, Mauritania, Sudan, and Palestine. Palestine is a special case since it is still under occupation and blockade. Palestine's economic activities are also under the control of the occupation.

Understanding the above sectors is important to this report. However, the borders between these sectors are fuzzy. Economic activities of Egypt, for instance, include the services delivered by the Suez Canal, tourism, and agricultural activities. The economic activities of Saudi Arabia include trade, oil, and religious tourism. The UAE's economic activities include oil and tourism. The division into sectors is; therefore, only for explaining the components of the economic system.

Economic rights and liberties are important to measuring the extent to which human rights, including women's rights, and individuals' liberties, are respected. Since the number of economic activities that Arab women may take part in, the situation will be reviewed by using available indexes to examine how the economic rights and liberties are part of the life of men and women; hence, understand the gaps in these rights and liberties.

The analysis of women’s economic rights and related social rights requires more comprehensive vision since women’s participation in the economic activities and labor market –that is equal to men’s participation- does not really mean women empowerment in the same sense as “Women’s capacity to access and control resources, to have opportunities, and to take decisions on the basis of knowledge, which enables women to change at the personal, family, community, and national levels,”⁽³⁰⁾ whether they work at the public or private sectors or self-employed in the informal sector.

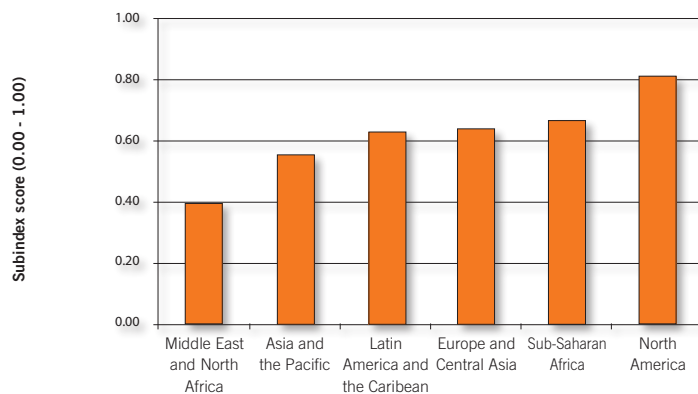
“Access and control resources” does not, from a gender perspective, mean access to economic resources such as work and loans only, it also covers all resources from human rights perspective including social rights and resources such as education and training. It also includes procedures supporting women’s work such as providing women with mechanisms that reduce their burdens of having multiple roles and tasks at home and at work. This also includes social security, health services, reproductive health rights of employed and unemployed women, use of free time, and ability to make decisions.

This chapter assesses women’s enjoyment of rights such as education and economic participation and opportunities on the basis of available data. Such assessment will show the gaps in actual achievement of women’s rights in reality

2. Development and rights indexes

2.1 Right to education and training

Regional Performance on the Educational Attainment Sub-index⁽³¹⁾



30. This is the definition of the concept of women’s economic empowerment adopted by CAWTAR in the framework of the Regional Economic Empowerment of Women Project (REEWP), Oxfam Quebec 2011-13, the national legislations, policies, and mechanisms of impact on women’s economic empowerment.

31. The Global Gender Gap Report 2013

Arab countries are in the fifth place globally in educational attainment followed by sub-Saharan Africa. This is the regional ranking :

Regional Ranking of the Educational Attainment sub-index ⁽³²⁾

Country	Score	Rank
United Arab Emirates	1	1
Qatar	0.9941	54
Kuwait	0.9936	57
Jordan	0.9915	68
Bahrain	0.9911	71
Lebanon	0.9796	87
Saudi Arabia	×.9761	90
Oman	0.9745	94
Syria	0.9682	96
Algeria	0.9387	106
Egypt	0.9199	108
Morocco	0.9002	109
Mauritania	0.8591	119
Yemen	0.698	134

The UAE is the only Arab country that has closed the gender gap on educational attainment.

2.2 Right to education and training

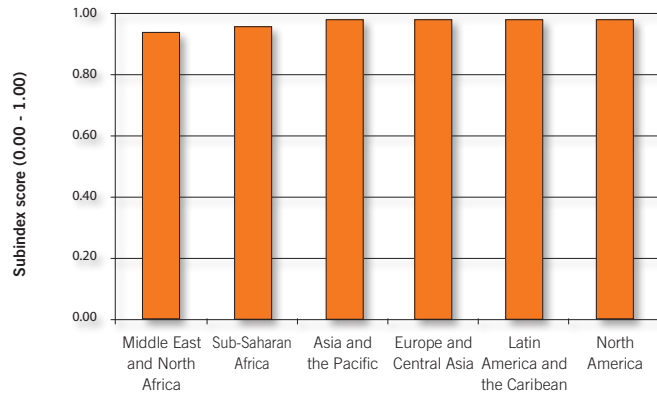
According to the Global Gender Gap Report, the Arab region occupies the lowest rank in economic participation and opportunities with a sub-index of 39% of closure of the gender gap. Thirteen of the twenty Arab states reviewed by this study occupy low ranks on the index of participation in the labor force⁽³³⁾ and eleven states occupy low ranks on the index of earned and estimated income⁽³⁴⁾.

32. Ibid

33. Labor force participation index

34. Estimated earned income index

Regional Performance on the Economic Participation and Opportunity Sub-index



Regional Ranking of the Economic Participation and Opportunity sub-index⁽³⁵⁾

Country	Score	Rank
Qatar	0.5735	106
Kuwait	0.5252	115
Bahrain	0.5146	117
United Arab Emirates	0.4572	122
Oman	0.4489	123
Egypt	0.4425	125
Lebanon	0.442	126
Jordan	0.4145	128
Morocco	0.3949	129
Mauritania	0.3651	131
Yemen	0.3577	132
Algeria	0.3307	133
Saudi Arabia	0.3223	134
Syria	0.2506	136

- ate of women’s participation in the labor force**

The analysis of economic rights focuses on the right to work. Hence, the study examines the Arab women’s participation in the labor force, which reflects the extent to which they enjoy the right to work. The table⁽³⁶⁾ below shows a list of the twenty Arab states whose legislations were examined by this study.

35. The Global Gender Gap Report 2013

36. Global Gender Gap Report 2013 and World Bank data 2012 (% of female population ages 15-64) (modeled ILO estimate)



The data of Djibouti, Sudan, Libya, Tunisia, Palestine, and Iraq were taken from the 2012 data of the World Bank. The data of the remaining 14 states were extracted from the Global Gender Gap Report 2013 of the World Economic Forum –this report is mostly based on data from the World Bank as well as regional and national data.

Country	Sub-index
Qatar	53
Kuwait	45
United Arab Emirates	44
Bahrain	41
Djibouti	38.2
Sudan	32.4
Libya	31,7
Oman	29
Mauritania	29
Tunisia	27,2
Morocco	26
Yemen	26
Lebanon	25
Egypt	25
Saudi Arabia	18
Jordan	16
Algeria	16
Palestine	15.8
Iraq	15.5
Syria	14

3. Situation on the ground

In spite of the signs of progress, the battle Arab women face is fiercer than that the rest of the women in the world face. Though most Arab states are working to provide women a role in economic growth, development, and planning, the multi-source and multi-level data show that such states have not been working as hard as the rest of the world in this regard. Hence, their work is inadequate to arrive to the desired outcome.

The data of the Global Gender Gap Report 2013 show that not much has improved in Arab states throughout the years. In fact, the status of women's rights of education, participation, and economic opportunities, for instance, has deteriorated. This includes the Arab states with advanced places in the global ranking or those who have secured progress in areas such as political participation.

Hence, the progress is circumstantial. The findings show that progress and deterioration go hand in hand and that progress in areas of women's empowerment, equality between men and women, and in economic rights is shy.

The reading of the indexes of gender gap and the analysis of the way they overlap and affect each other and affect states' ranking in closing the gender gap and achieving equality between men and women show how indivisible and interrelated are human rights. This has direct impact on securing or failing to secure progress among states in development and rights, including women's economic empowerment.

The economies of high ranks such as Qatar, Bahrain, Kuwait, Algeria, Oman, Jordan, Lebanon, and Saudi Arabia invested heavily in the past decades in women's education. Therefore, the rates of women's enrollment in higher education became higher than those of men. However, these states registered various degrees of success or failure in providing opportunities for to be involved in the economic progress and the decision-making process; hence, reap the fruits of the investment.

The UAE is number 109 in the global gender gap index 2013 rankings, which is the highest ranking by an Arab state. The UAE is the only Arab state that has closed the gender gap of educational attainment. However, the UAE dropped by two places in 2013 rankings due to a failure in securing wage equality for similar work and in the estimated earned income indicators. The UAE occupies the sixth rank in literacy rate and seventh rank in elementary school enrollment rate indicator followed by Bahrain at 112th place, Qatar at 115th place, Kuwait at 116th place, and Jordan at 119th place.

Qatar is the first of the Arab states, on the earned income indicator followed by Oman at 122, Lebanon at 123, and Algeria at 124. Oman jumped three places ahead compared to 2012 when it ranked 125. This is due to improvements in the sub-indexes of providing economic opportunities and education attainment. Alternatively, Algeria dropped by four places to 124 –in comparison with 2012- due to drop in the indicators of participation in the labor force and enrollment in secondary education. Mauritania registered the highest drawback among Arab states since it dropped by 13 places due to drop in the indicator of women's participation in the labor force. Syria occupies the lowest rank among the Arab states in the indicator of participation in the economic opportunities. Yemen is in the lowest rank among the Arab states in the secondary school enrolment indicator.

In conclusion, the indexes and sub-indexes of education or participation in the economic opportunities show that Arab women do not enjoy fully the rights granted by laws or by human rights in the areas of education and economy. This is due to the ineffective policies, programs, and strategies of the Arab states that failed to secure women's economic empowerment or equality between men and women. The legislations and gender responsive budgeting and international efforts of the Arab states as well as the ratification of international treaties that ensure respect and protection of women's economic rights have not been sufficient to secure satisfactory results. This calls for review of women's economic rights including the right to work as well as other rights such as education and training, and social rights including social security and working mother's rights, pension rights, and legal protection of the entirety of women's rights.

Survey of legislations and analysis of laws concerning the right to education and training

1. Foreword

This section analyzes the laws and regulations of women's economic empowerment, the right to education and training –as defined by this study–, and the achievements and failures in ensuring equality between men and women or causing gaps of discrimination and impeding women's enjoyment of full rights and empowerment.

Regulating women's right to education and training

- **Regulating the right to education**

The entire Arab states' constitutions provide for the right to education. The constitutions stipulate that states shall deliver free and compulsory basic education. The constitutions of Algeria, Egypt, Tunisia, UAE, Bahrain, Jordan, Palestine, Iraq, Syria, Qatar, and Sudan require delivery of education by the state without adding any restrictions. However, the constitutions of Kuwait, Morocco, Saudi Arabia, Oman and Libya stipulate that the state shall ensure the right to education but do not add expressions like “to citizens” or “compulsory education” or “free of charge education services”.

Some constitutions include articles especially for women's right to education and equality between men and women. The Palestinian Women's Bill of Rights, which also calls for the right to eradicate illiteracy among women, is an example of such additional material to constitutions. Alternatively, Lebanon treats education as liberty rather than right; whereas, the Taif Agreement considers education as a right for all. The constitutions of Djibouti and Mauritania do not include education in their constitutions. Some states' constitution say that combating illiteracy is a right such as Yemen, Egypt, Saudi Arabia, Iraq, and Oman.

Most Arab states draft legislations on education using gender sensitive language such as Kuwait whose legislations provide for free and compulsory education for females and males. The constitution of Kuwait does not include the “female and male” expression. Morocco, UAE, Djibouti, Saudi Arabia, Syria, Libya, and Mauritania follow suit. Other legislations use gender sensitive expressions when they call for equality “between both sexes” in education. They call for the right to education for all citizens. These legislations are those of Algeria, Egypt, Tunisia, Lebanon, Bahrain, Jordan, Iraq, and Qatar. The legislations of Qatar go even further by defining who is responsible for providing the right to education. Qatar also holds the husband responsible for the wife's education. Syria's legislation holds parents responsible for their children's education.

Some states draft laws to combat poverty among illiterate citizens aged 15 to 35 such as Algeria and Egypt. Yemen's laws call for combating illiteracy among females and males. States like Tunisia, Kuwait, Morocco, Lebanon, Bahrain, Djibouti, Jordan, Palestine, Saudi Arabia, Oman, Libya, Syria, Mauritania, Qatar, and Sudan failed to address illiteracy in their legislations. UAE is the only Arab state that has closed all gender gaps of education attainment. The legislations of Algeria and Yemen guarantee education for detained women. Moroccan laws ensure education for rural women. However, the legislations of all Arab states failed to address the right of disabled people to education.

- **Regulating the right to training**

Arab states' legislations and constitutions are not very much focused on the right to training. Only Egypt and Morocco provide for vocational training in their constitutions.

Tunisia drafts separate laws for vocational training; however, the laws do not use gender sensitive language. The laws of Palestine, Iraq, Libya, and Sudan use "both sexes" in the right to training. The UAE, Yemen, Algeria, Djibouti, Iraq, Syria, Oman, Libya, and Qatar include vocational training in their labor, human development, education, or combating illiteracy laws. Egypt, Kuwait, Morocco, Lebanon, Bahrain, Jordan, Saudi Arabia, and Mauritania have separate laws for vocational training.

2. Achievements and loopholes of discrimination in the right to education and training

The constitutions and legislations of Arab states vary in the use of gender sensitive language. However, an exemplary constitution or legislation will not guarantee better women's rights or economic empowerment. This section will discuss loss and achievement of rights.

- **The achievements of equality between men and women**

The significance of education is that it is based on equality between "both sexes" and non-discrimination. The right to education is approved by the constitutions of most Arab states. It is also included in other official documents of more significance such as the Taif Agreement, the Jordanian National Charter, the National Action Charter of Bahrain, the Palestinian Women's Bill of Rights, the Palestinian Declaration of Independence, and the Palestinian Council of Ministers' policies. They all call for education and training. The laws consider discrimination between people a crime. In Djibouti, the law clearly forbids discrimination on the basis of sex in vocational training. The Algerian penal code was amended to forbid sex-based discrimination. The curricula of Algeria and Tunisia teach children the principle of equality between men and women. Yemen and Jordan policies of eradicating illiteracy are based on equality between males and females. Mauritania adopted equality principle in reforming education. The Saudi chambers of commerce focus on training women. The Iraqi law calls for establishing higher institution for training of men and women. The Qatari law calls for issuing certificates to people finishing education years.

- **Remaining loopholes of discrimination**

There are provisions in the constitutions and the laws of the Arab states in question that are still discriminatory against women. These provisions may claim that they aim to protect women but they impede women's right to education and training. For instance:

- Women's rights and empowerment are made dependent on Shari'a, customs, traditions, and social patterns, which hinder women's rights. Kuwait and Yemen, for instance, use Shari'a to discriminate between men and women.
- Use of non-gender-sensitive language such as the case of Syria. Tunisia's laws use the word shuban, which means young men in describing those entitled to training allowance.

- here are procedures and provisions that strengthen discrimination and restrict enjoyment of rights. These include prohibiting coeducation such as the cases of Kuwait and Saudi Arabia. Kuwait also stops married women from continuing education. There are laws that are more flexible with men's age to enroll into illiteracy combating programs. The UAE requires women who go on training missions outside the country to have a mahram or unmarried kin. Qatar gives a custodian the right to terminate the training contract of a female under his custodianship for legitimate reasons. Sudan's training regulations discriminate in training allowance between married men and married women.

3. Status under international human rights and women's rights treaties

Arab states do not have reservations to articles on education in the international human rights instruments, which they had ratified, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, CEDAW, and the Convention on the Rights of the Child. However, they have reservations to articles on equality and eliminating discrimination, which may directly or indirectly affect the right to education and training. The excuses states like Egypt, Djibouti, Jordan, Saudi Arabia, Libya, Mauritania, and Qatar use to justify their reservations include inconsistency with Shari'a, traditions, and family laws.

Findings and recommendations

1. Foreword

These are the most important findings

- Arab states have made progress in including women's rights and equality between men and women in education in the constitutions and laws. The progress varies from one state and another with respect to being in line with the principles of gender.
- The progress in the wording of constitutions and laws is not necessarily linked to achievements made by certain Arab states in education and training or what to be expected from the legal system in boosting economic rights of women and women's empowerment. The UAE, for instance, is number one in education in the world –despite not exceling in wording of legislations-; however, it has low ranking in participation and economic opportunities due to unequal pay.
- Moreover, despite the excellent wording of the laws and constitutions of Sudan and Morocco, women's empowerment is limited and requires boosting.
- Most Arab states were enthusiastic to ratify international human rights instruments that also ensure women's rights, non-discrimination, and equality between men and women in education, training, work, and economic areas. However, these states hinder the enforcement of such instruments even when the constitution provides for such enforcement and gives international human rights instruments higher status than national legislations. This has negative impact on women's enjoyment of their rights.

2

2. Legal reforms and required additional measures

Respect

- Review the wording of constitutions and laws of the Arab states to make it more gender sensitive.
- Eliminate all discriminatory provisions of the family laws, which may hinder women's right to education and training (basic education, higher education, illiteracy combating programs).
- Circulate/draft laws on vocational training including modern science and technology areas.
- Replace guidelines and instructions by legislations to ensure commitment and enforcement

Observance

- Remove reservations to international treaties where such reservations may threaten women and girls' right to education and training.
- The allocations made for education in the annual public budgets shall not be reduced so as to enable development of education infrastructure and train teachers.
- Take legal, administrative, and financial steps to deliver education, training, and illiteracy-combating programs to marginalized people, people with special needs, and reduce cases of dropout.
- Take steps to stop and punish extremism, terrorism, and violence against female children, girls, and women in education.
- Set forth independent legal entity to monitor the media programs that promote men and women stereotypes and strengthen discrimination and/or incite violence against women.

Promote

- Reform curricula by integrating human rights in them. The focus shall be on principles of equality, non-discrimination, values of tolerance, accepting others, and the measures that prevent and stop human rights violations, prevent cultural and religious extremism and violence. Ensure state's international obligations.
- Enhance women's image by breaking stereotypes. This is accomplished with the cooperation of the media.
- Set up cooperation framework with institutions involved in cultural rights and women's role. This is to enhance citizenship principles and the values of tolerance and solidarity in the cultural and social identities of Arab states.
- Set up mechanisms to support civic society organizations. Coordinate with government agencies involved in education, culture, media, in making and implementing policies.

Ensure

- Ensure removal of all legal and regulatory barriers that stand in the way of making education –up to end of high school- compulsory and free, this includes education of disabled people.
- Regulate compulsory education and punish those who deprive their children of the right to education.
- Create mechanisms that ensure implementation of the right to education and training and illiteracy-combating programs. The process shall be based on just distribution of financial and human resources at distant and marginalized areas.
- Provide friendly education environment for disabled people especially girls to enable them to continue education and training.
- Expand vocational training and other types of training of women. Take steps to encourage women's participation in scholarships and in economic activities' training at other Arab states.
- Adopt gender responsive budgeting to ensure that people's interests regardless of age, sex, ethnicity, location ...etc. are met in expenditure and revenue policies. This reduces gaps and ensures equality in education, training, information, and technology.

Survey of legislations and analysis of laws concerning the right to work and vocational and social rights

1. Foreword

The progress and measurable⁽³⁷⁾ achievements in Arab women's legal rights as stipulated by national laws and human rights cannot be denied. The achievements reflect states' compliance with international treaties and ensuring women's rights in the objectives of their policies and strategies. However, the progress is not sufficient to ensure full enjoyment of women's legal and human rights. The political, social, and economic statuses of Arab women are still low. Arab states occupy the lowest ranks of equality between men and women. Lack of women's empowerment is linked to the community structure, which restricts women's status and defines the roles of men and women.

2. Regulating women's economic and related social rights

• Regulating the right to work

There are interrelated economic and social rights. The study will focus on specific relevant social rights that are cornerstones of economic rights such as the right to work, which when regulated, links to other rights. The study examines the extent to which Arab women enjoy the right to work and their chances of promotion, holding public office, equal pay and other compensations, leaves, and other union rights. The study; however, does not dwell on the women's right to conduct trade activities, save, and invest. Such details can be referred to in the annexed table of rights.

Arab states' constitutions and labor laws provide for equality and non-discrimination on the basis of sex. Some of the legislations even call for supporting women's work and helping them accommodate responsibilities at home and at work. Small number of constitutions link between women's right to work and women's physicality and Shari'a. Most Arab states legislations call for equality between men and women in promotion and employment and equal opportunities. The legislations do not discriminate between men and women in holding public offices.

Wages are treated by certain legislations on the basis of ensuring better living standards, qualifications, position, geographic location, job hazards, years spent in service, social status, equal pay for equal work, and equal pay for men and women.

Compensations –job allowance, social status allowance, family allowance, children allowance-, are granted by Arab states' legislations. Certain Arab states grant leaves to employees, including sick leaves and Hajj leaves, and leaves to employed woman to accompany traveling husband. A widow in certain Arab states is given iddah (period of waiting) leave.

There are Arab states that grant professional and union rights in their constitutions and laws. Certain Arab states do not include such rights in their constitutions and laws but they do not openly prohibit them. In any case, there are certain states that restrict women's right to work.

The laws of certain Arab states prohibit women from night work and hard and hazardous jobs. Justifications for such prohibition include women's capability, physicality, protecting women's health and moralities, and public interests. Certain states use ILO's conventions as reference to laws concerning women's work.

37. Evaluation reports of conferences and treaties and the remarks and recommendations of special state committees and the international reports that are regularly published.

The laws of many Arab states refer to women's right to conduct trade activities; however, this is not defined. It is only based on state's interest and other development factors. Other states refer to women's right to ownership. Only one state's law gives married and single women who are 18 years old or more full right to conduct trade activities and own property and dispose of such property without having to obtain the husband's approval first. Most Arab states' laws allow women to save and invest. Constitutions allow women to freely invest and conduct economic activities, which benefit people and state. They also promote cooperation and saving and women's right to dispose of the property they own.

Only few Arab states' laws (labor law or penal code) have provisions that deal with sexual harassment⁽³⁸⁾ at the workplace; however, the treatment is inadequate to protect women from sexual harassment hence victims in this case are required to provide evidence.

- **Regulating the work related social rights**

The work related social rights include; the right to social security, maternity rights, and pension right.

The right to social security

This right is guaranteed for all working people though it varies from one state to another. It is also guaranteed for the unemployed, the handicapped, and senior citizens.

Maternity rights

These are constitutional and legal rights in most states. They depend on time spent on the job and the sector of employment (private or public). For instance, a maternity leave varies in duration (30-180 days) or (7-14 weeks) or 3 months. There are states that limit maternity leaves per person to three and duration to 120 days first time maternity leave is taken, 90 days second time, and 75 days third time. Maternity leave can be extended but without pay or the days off are taken from the annual leave. However, a medical report is needed. The law prohibits instructing pregnant women to work overtime. Time given for breastfeeding varies between 1 and 2 paid hours per day. Certain laws require employers who employ 50 or more women to provide room for breastfeeding. A woman may also have a leave to care for a disabled or a sick child who is less than six years old.

The right to pension

This right is ensured for men and women. Retirement age; however, is different for men and women in different states. The right to pension may depend on period of contribution to pension at both private and public sectors. It may also depend on age; men may stay longer on the job than women before retirement though age expectancy at birth for women is higher than that of men and women may be more available to stay on the job since at 55 children would be all grown and independent.

Certain Arabic states give a widower his late wife's pension if he were handicapped, has no other income, and may require to provide medical certificate.

- **Regulating other rights that facilitate economic and social rights**

There are provisions of the laws that facilitate and restrict women's and girls' economic and social rights, including

- The right to free access and use of information is guaranteed; however, there are exceptions that are blamed on national security. There are states that do not refer to the right to free access and use of information in their laws or constitutions.

38. For more details, see chapter 4 on gender-based violence against women

- The right to establish societies and unions is guaranteed by most Arab states. The right to go on peaceful strikes is also guaranteed. The principles of democracy and transparency are also stated. One of the Arab states allows a working married woman to join and manage a union without having to obtain the husband's approval first. However, the term civic society does not exist in Arab laws.
- Ownership right is a constitutional and legal right that is guaranteed for all. Certain Arab states clearly prohibit discrimination in the right to ownership on the basis of sex. Most Arab states ensure the right to movement to men and women since it is crucial to education and work and to political and economic participation.

3. Achievements and loopholes of discrimination between men and women in the wording of economic and social rights

There are Arab states that ensure equal economic rights while others are discriminatory in the provision of such rights. While a constitution may guarantee equal economic rights, the laws that regulate them are biased.

- **Achievements of equality between men and women**

The 20th century is the golden age of national policies and legislations that protect social and economic rights. Labor laws aim to protect employees and ensure social stability. There are Arab states that have laws to ensure equality between men and women in accessing economic opportunities and in the right to work and related social rights such as equal pay for equal work, promotion, vocational training, social security, and the right to association.

Constitutions provide for equality and non-discrimination between men and women. Certain laws such as labor laws ensure equal opportunities and social security.

The Algerian constitution clearly calls upon the state to eliminate obstacles standing in the way of men and women's participation in economic activities. The Sudanese constitution provides for just treatment of women and positive discrimination for women. The constitutions of Egypt and Morocco ensure economic rights including for people with special need and the impoverished. These are clear examples of wording in constitutions and laws that ensure women's economic empowerment and ending discrimination against women.

There are also guarantees to implement women's constitutional rights that affect women's economic activities such as:

- Freedom of movement and abode. This is guaranteed by Egyptian constitution and laws and enforced by Supreme Court that looks into administrative cases.
- The high constitutional court of Kuwait rules that it is unconstitutional to make issuance of passport for a wife conditional on her husband's approval.
- The Bahraini passport law allows a wife to obtain a passport without having to obtain her husband's approval first.
- The Omani law follows suit.

- The high court of Sudan rules that girls' education allowance is among the Nafaqah a woman is entitled to.
- The UAE constitution provides that a UAE woman who is married to a non-UAE man is entitled to be guaranteed an accommodation, land, and real estate financing.
- The Qatari constitution provides for protection of private enterprises and capital.

- **Remaining loopholes of discrimination of civil and political rights**

Contradictions in Arab constitutions

- **First:** Disregard of gender-sensitive language. They do not refer to men and women in stating economic rights and equality.
- **Second:** Certain constitutional provisions are too long and vague such as those of the constitutions of Algeria, Egypt, Lebanon, Jordan, Palestine, Saudi Arabia, Iraq, Qatar, and Sudan.

Despite the progress in the wording of laws and constitutions as well as the strategies of the Arab states that aim for women's economic empowerment and eliminating discrimination between men and women, the laws concerning economic rights are still discriminatory against women. The labor laws, for instance, do not cover the agriculture sector and domestic workers. They do not treat public and private sectors' employees in the same way. Labor laws exclude women working in agriculture, women working in family businesses, and domestic workers from their coverage. Men and women enjoy the right to pension; however, conditions vary according to sector (public or private), age, and time spent on the job. Certain states do not treat widows and widowers the same way in eligibility to late partner's pension – a widower needs to be fully disabled or without income to be eligible to his late wife's pension. This does not apply to a widow, which is a form of discrimination against men.

Though constitutions call for equality and non-discrimination on the basis of sex, certain states restrain such equality and justify that by beliefs, women's physicality, and women's roles at home. Hence, the laws that regulate private life usually have the upper hand and undermine public rights. These laws must be reviewed to ensure equality. For instance, most laws of Arab states provide for equality in marriage and prohibit early marriage; however, they contain exceptional conditions that undermine equality and allow for minors' marriage. Since rights are indivisible, minors' marriage deprives girls of their rights to education, training, work, and freedom of movement. Moreover, the ta'a provision of the laws of Arab states deprives women of the rights to education, work, training, disposing of property, obtaining loans, and taking part in political or economic activities. Ta'a also deprives of women of freedom of movement.

Arab states ratified the conventions of ILO. Arab laws strictly provide for donation and endowment. The right to inherit is subject to complex conditions. It is mostly violated where the violation is blamed on factors that have nothing to do with Shari'a. For instance, the laws and the Shari'a do not contain any provisions that prohibit women from owning property, deprive them of the right to inheritance, stop them from disposing of property, obtain loans, sign contracts, start an enterprise ...etc. Moreover, there are many provisions of the laws that ensure equality and non-discrimination between men and women. However, women still face obstacles in enjoying full rights due to legal, cultural, and societal obstacles. Moreover, a woman who owns or inherits property especially land is subjected to pressure from male siblings to give it up to safeguard family wealth –prevent such property to go to her husband or children who are not considered family. The male siblings often use this excuse for personal gains rather than safeguarding family wealth.

4. International treaties on women's rights

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

None of the Arab states made any reservations to Article 11 of CEDAW, which stipulates in paragraph 1 that "1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction."

Jordan, the UAE, Qatar, Morocco, and Syria have reservations to Article 15 of the same Convention, which stipulates in paragraphs 1 and 2 that "1. States Parties shall accord to women equality with men before the law. 2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals."

Paragraph 1 (h) of Article 16 of CEDAW provides that "States Parties shall take all appropriate measures" to ensure that "The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration." Most Arab states have reservations to this paragraph.

Twenty Arab League member states ratified CEDAW. Some of the signatories have no reservations. Sudan and Somalia are still to ratify CEDAW. However, Arab states are still to integrate CEDAW in their legal systems.

- **ILO's conventions**

ILO seeks to strengthen the rights of women and men at work. The organization believes that equality between men and women is key to social and economic development. Arab states are ILO members; therefore, they are obligated to observe the ILO Declaration on Fundamental Principles and Rights at Work of 1998. They are also obliged to review their legislations so as to be consistent with such Declaration. Arab states ratified a number of ILO's conventions such as the Hours of Work (Industry) Convention of 1919, the Convention Concerning Forced or Compulsory Labor of 1930, and the Labor Inspection Convention of 1947. This is a brief look into the ILO's conventions that provide for equality at work and the name of Arab states that are still to ratify them:

- Equal Remuneration Convention, 1951 (No. 100): This is the first international convention that calls upon member states to “ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.” Also, to enhance equality in providing opportunities and treatment of working women and men as approved by ILO’s Equal Remuneration Convention of 1951. The Convention was entered into force in 1953. Arab states ratified the Convention except for Bahrain, Oman, and Qatar.
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111): This Convention defines discrimination in Article 1 (a) as “... any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.” Paragraph (b) of the same Article provides that “such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers’ and workers’ organizations, where such exist, and with other appropriate bodies.” Oman and Somalia are still to ratify this Convention.
- Workers with Family Responsibilities Convention, 1981 (No. 156): The purposes of the Convention include “1. This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. 2. The provisions of this Convention shall also be applied to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.” Yemen is the only Arab state that had ratified this Convention.
- Night Work Convention, 1990 (No. 171): This Convention provides in the Preamble for “Noting the provisions of international Labour Conventions and Recommendations on night work of women, and specifically the provisions in the Night Work (Women) Convention (Revised), 1948...” Article 7 of the Convention focuses especially on night work during pregnancy. None of the Arab states have ratified this Convention yet.
- Home Work Convention, 1996 (No. 177): Article 4 of the Conventions provides for “... Equality of treatment shall be promoted, in particular, in relation to: (a) the homeworkers’ right to establish or join organizations of their own choosing and to participate in the activities of such organizations; (b) protection against discrimination in employment and occupation; (c) protection in the field of occupational safety and health; (d) remuneration; (e) statutory social security protection; (f) access to training; (g) minimum age for admission to employment or work; and (h) maternity protection.” None of the Arab states have signed this Convention yet.
- Maternity Protection Convention, 2000 (No. 183): This Convention deals with maternity protection in a more comprehensive way. It goes beyond social security legislations, which Social Security (Minimum Standards) Convention, 1952 (No. 102) focuses on. The Convention calls upon “Each Member [to] adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including ... access to employment. (Article 9 (1))” The Convention contains articles dealing with maternity leave period, financial support, care, and protection, non-discrimination, breastfeeding, protection of women during pregnancy and breastfeeding. Morocco is the only Arab state that had signed this Convention.
- Domestic Workers Convention, 2011 (No. 189): Article 10 of the Convention stipulates that “Each Member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws,

regulations or collective agreements, taking into account the special characteristics of domestic work. Weekly rest shall be at least 24 consecutive hours ... domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights.” The Convention was entered into force in 2013. None of the Arab states have signed this Convention.

- Social Security (Minimum Standards) Convention, 1952 (No. 102): Jordan, Libya, and Mauritania are the only Arab states that had ratified this Convention.

The following points describe the extent to which Arab states’ laws are in line with ILOs’ conventions:

- **Equal pay for men and women:**

Equal Remuneration Convention, 1951 (No. 100) and Discrimination (Employment and Occupation) Convention, 1958 (No. 111): The legislations of the Arab states that ratified this Convention are still inconsistent with it.

- **Women’s night work**

Arab labor standards in general prohibit women from night work except for jobs defined by national legislations. This is in violation of international labor standards.

- **Social security**

The social security programs of most Arab states tend to ensure pensions; however, they do not cover, or partially cover, unemployment, maternity, and sickness.

- **Maternity leave**

The Arab labor standards concerning maternity are inconsistent with international standards. They define maternity leave at 10 weeks while international standards define it at 14 weeks. However, there are Arab states that give less than 10 weeks in maternity leave while other states give more than 14 weeks.

- **Domestic workers**

The labor laws of the Arab states usually exclude domestic and agriculture workers from the right to work and related social rights. Women are usually the majority of domestic and agriculture workers.

Findings and recommendations

1. Foreword

No matter what level a woman may reach in education, social hierarchy, business, politics, institutional organization or income she may bring in or age she reaches, there are laws that look at her as minor since she needs a guardian to approve her marriage contract and she still have to perform the ta'a to her husband. Hence, the legal systems of a state may be contradictory. The constitution may include contradictory articles. The constitution of a state may call for equality while the laws of the same state provide for discrimination. The laws that embody discriminatory provisions are mostly family laws, education and labor laws and work-related social rights. The constitutions and laws of a certain state may also be in collision course with the international human rights instruments ratified by the same state.

Hence, the contradictory relationships between Arab states' constitutions and laws are obvious in the cases where the constitutions and other laws may prohibit discrimination against women while other laws call for strengthening such discrimination such as the personal status laws and the penal code. These discriminatory laws have the upper hand. They regulate labor and work related social rights. The ratification of international human rights treaties by a state that has such contradictory legal system adds insult to injury.

2. Legal reforms and required additional measures

Respect

- Non-discrimination must be strengthened. Equality must be consistent in laws (labor law, social security, penal code, family law ... etc.) and constitutions. States' international obligations must be respected.
- Ensure equality between men and women before the law, the way laws treat men and women, and in public and private domains. Ensure eligibility of women to conduct civic, economic, and social activities.
- Equality must be ensured in job opportunities. Apply the quota system on women's participation in economic activities to reduce unemployment and poverty among women and in the society.
- End discrimination against women in work and related social rights in agriculture where employees are mainly women especially in rural areas.
- End the provisions of ta'a (obedience to husband) and custodianship of women in family and personal status laws, which are inconsistent with the constitutional provisions that call for equality of civil and economic rights such as education and training, work, control of resources, independent control of financial assets, and freedom of movement.

Observance

- Define hazardous jobs that affect women's and men's health. Define night work on the basis of international standards. Remove the use of women's physicality and morals as excuses to restrict women's work at night and in hazardous jobs.
- Retirement age for men and women must be the same.
- Increase maternity leave to 14 weeks as defined by international standards.
- Social security benefits and pension must be the same for men and women and among sectors. Strengthen equality between widows and widowers in benefiting from late partner's pension.
- Take measures to reduce unemployment among women especially postgraduates and the highly qualified. Define specific percentage for women to hold public offices and to conduct jobs that are traditionally allocated for men.
- Set forth financial policy that allows women to benefit from large loans rather than being restricted to income-generating activities and small businesses.

Promote

- Raise awareness among women about unions in the private and public sectors.
- Raise awareness among women and employers about measures protecting women from sexual harassment at both private and public sectors.

Ensure

- Review, amend, or draft laws that increase women's role in trade and investment and women's economic empowerment. This enhances the productive power of Arab states.
- Establish an Arab development fund to support economic and investment policies especially the policies that strengthen women's economic participation.
- Set up national policies and strategies to ensure equal access for women to economic resources such as education, capacity building, promotion, loans, social security, and women's support services.
- Encourage women in the informal sector to gradually join the institutions of the formal sector such as chambers of commerce, social security, tax system ...etc.)
- Adopt gender responsive budgeting to ensure interests of the people regardless of age, sex, ethnicity, location ...etc. Ensure equality and reduce gaps through the spending and revenues policies. Enhance access to economic, social, and financial resources and participation in setting forth economic policies and budgets and in decision taking.

Chapter 3

Legal status and rights within the family

3

“Other things may change us, but we start and end with the family”.

Anthony Brandt

Conceptual framework

1. Foreword

The definition of the concept of family, types of families, and family functions facilitates the reading and analysis of laws. The provisions of the laws are often based on frameworks defined by the society's components and expectations. They are drafted to protect the institutions and roles of the society rather than to protect individuals. "Relationships within a family are characterized by being based on the specific status of each family member. The roles and responsibilities and levels of authority of the family members (parents, grandparents, and children) are given according to their status, factors such as sex, age, education, contribution to income, authority outside the family...etc., and the dominating social pattern. A family is based on such structure and asymmetric relationships between the members. These features are often considered normal; their outcomes of mutual rights, duties, and lines of authority, are unquestionable"⁽³⁹⁾.

Despite the changes in the Arab family structure of the past decades, the traditional roles are largely still intact⁽⁴⁰⁾.

- **Types of Arab families:**

- **Extended family:** This is based on several family units. They have joint accommodation and blood relation. This is the common type of family in old traditional patriarchal communities. This type of family is still common in rural communities. There are two types of extended families including,
 - Simple extended family: This type of family consists of parents and their married children.
 - Complex extended family: This type of family consists of parents, their married children, grandchildren, in-laws, uncles and aunts. Complex extended families may include three or more generations. The behavioral patterns of the members of complex extended families and their commitment to the cultural values of the society, traditions, and customs, are always monitored by the family. The purpose of such monitoring is to protect the continuity of the family and the community to which it belongs. A complex extended family is also an economic unit headed by its founder. The social relationship among the members makes them feel safe and secure. Other views consider the competing and conflicting elements among the members of complex extended families.
- **Nuclear family:** This family type consists of parents and their children. It is the common type in Arab cities. Nuclear families have independent accommodation and income; however, they are still subject to extended family system since their social relationships with the extended family continues especially with the parents and brothers and sisters.

There are other types of families such as:

- **Joint family:** This type of family has several family units linked through parents, brothers, and sisters. They live in one place and have joint social and economic responsibilities. Some people consider joint families extended families.
- **Authoritative family:** This type of family is characterized by having the husband/father in control and source of absolute authority. The wife/mother has no social or legal independence.

39. CAWTAR, Arab Women Development Report 2, Arab Adolescent Girls, Reality and Outlook, , 2003, pp 138 (Arabic reference)

40. Ibid., pp 62

- **Democratic family:** This type of family exists in advanced industrial societies. It is based on equality and understanding among the married couple. None of the couples have authority over the other.
- **Family functions**

The functions of the family include all those required to be carried out by a family such as:

- Biological, emotional, and social functions: These include reproduction, provide emotional and healthcare to children and other family members as well as providing food. Ensure love, safety, and peace to family members. The family also provides education and knowledge to children in order to be good citizens. Ensure good life to family members.
- Financial and economic functions: Provide and produce what the family needs such as food, accommodation, and education. A family contributes to the economic process of the society.
- Social, cultural, and political functions: These functions are based on the values and principles that protect and develop the society.

The functions of the families include roles and tasks to be conducted by the family members. There are roles that are given on the basis of gender. For instance, in the biological, emotional, and social functions, the reproductive role is that of the woman (the mother, the wife). In the financial and economic functions, the “production role” is given to the man (the husband, the father, or the son who can be the breadwinner in an extended family or a nuclear family). The social, cultural, and political functions include the societal role, which individuals play as members of a family that belongs to the society. This role is for men and women; it includes caring for the elderly and the vulnerable as well as conducting charitable and voluntary work. Contributing to the civic society activities, political activities, and raising awareness on vital issues are also among the social, cultural, and political functions.

The way the society defines the family functions determines what roles women and men can play. For instance, the above distribution of functions makes the society expect women to play the role of the person who provides care to others while men are expected to take on responsibility and make decisive decisions in the civic and political domains.

- **Family rights within the society**

It is difficult to define family rights since rights, such as human rights, refer to individuals rather than groups. However, the legal rights of a family can be defined. Hence, a family has rights as well as duties (functions). The rights include,

- Enjoy resources and services
- Enjoy social and economic rights including education, health, work ... etc. which allow family members to progress and advance in life.
- Safety and security.

National legislations as well as regional and international treaties seek to facilitate and ensure people's lives and family rights. The legal system; however, is the instrument that manages family affairs. The legal system includes family law, personal status law, family code ... etc. Such system follows the pattern the society follows in role distribution among men and women. The provisions of the legal system often regulate affairs within the family, including roles and relations, rather than rights. It may annul rights linked to a domain that is wider than the family domain such as citizenship. The following sections will analyze relevant components of legal systems.

2. Population/family indicators

These indicators lack sufficient, documented, and accurate statistical data. However, we gathered data and information from various sources that may give an idea about general trends of family indicators. Lack of qualitative and quantitative data means that there is lack of family studies at least in issues of concern to this study.

• Population and family in figures

Regular statistics, indexes, or figures couldn't be found even with relevant organizations⁽⁴¹⁾. They would have provided information on family figures, types, and average size of families for each Arab state included in the study. Therefore, the study uses the population statistics, which are often designed to meet the needs of demographic studies or other development purposes but do not assist analysis of the laws. In any case, population statistics may assist in assessing violations of rights by providing statistics about gaps between men and women and population distribution. According to the State of World Population report of the UNFPA of 2012⁽⁴²⁾, the Arab population was 367.4 million people, including 16.7 million senior citizens (aged 65 +) or 4.1% of the Arab population. The world population was 7 billion. The Report estimates the number of senior citizens to climb to 17.7 million in 2015. On the other hand, young Arab population (under 25 years of age) is 70% of the population. Other statistics of population of 2010-2013 showed the Arab population at 370 million. Arab states have problems with unplanned for high rates of increase in population. See the following table of Arab population by state according to most recent population statistics:

Country	Performance	Rank
Egypt	83.661.000	UN, 2013
Sudan	37.964.000	UN, 2013
Algeria	37.900.000	UN, 2013
Iraq	35.404.000	UN, 2013
Morocco	32.992.700	UN, 2013
Saudi Arabia	29.195.895	UN, 2012
Yemen	24.527.000	UN, 2012
Syria	21.377.000 (Syria's population dropped by 2 million due to country's civil war)	UN, 2012
Tunisia	10.777.500	UN, 2012
Somalia	10.496.000	UN, 2013
UAE	8.264.070	UN, 2012
Jordan	6.475.100	UN, 2013
Libya	6.202.000	UN, 2013
Lebanon	4.822.000	UN, 2013
Palestine	4.420.549 (West Bank and Gaza Strip only)	UN, 2013

41. Arab Family Organization, Arab League, UNFPA, Regional Office for Arab States

42. UNFPA, State of World Population, 2012 (report is published annually by UNFPA)

Oman	3.831.553	UN, 2013
Kuwait	3.582.054	UN, 2010
Mauritania	3.461.041	UN, 2013
Qatar	1.916.426	UN, 2013
Bahrain	1.234.571	UN, 2010
Djibouti	864.618	UN, 2011
Comoros	724.300	UN, 2012

Arab States are focused now on family planning and maternal mortality as well as early marriage and pregnancy. Some focus on late marriage and pregnancy as results of women status and society development.

- **Early marriage, children marriage**

UNFPA issued a report titled *Marrying too Young, End Child Marriage*, in 2012. According to the report, early marriage of girls deprives them of rights and subjects them to danger. It is an obstacle to education, health, and productivity of girls. It deprives girls of the opportunity to decide when to get married, to choose a husband, and to choose time for pregnancy. According to the Jordanian Women Solidarity Institute⁽⁴³⁾, 37,000 girls under 18 years of age get married every day. This phenomenon is widespread in rural areas of developing countries and uneducated girls are more likely to get married at an early age than educated girls who have high school diploma or higher, according to the Institute. Despite international calls for ending early marriage, one in every three girls in developing countries gets married before turning 18. Moreover, 1 in every 9 girls will get married before turning 15. Most of these girls are uneducated and live in rural areas. The Jordanian Women Solidarity Institute expects an increase in early marriage numbers unless steps are taken and laws are drafted to deter the phenomenon. According to the Institute, 15% of Arab women aged 20-24 got married before turning 18 between 2000 and 2010 compared to 11% for eastern Europe and central Asia, 46% for south Asia, and 41% for central Africa. However, 34% of girls aged 20 to 24 got married before turning 18 in developing countries. The 2010 statistics show a drop in the percentage of Arab girls aged 20-24 who got married before turning 18 to 6% compared to 24.4% in south Asia and 5.8% in eastern Europe. The Jordanian Women Solidarity Institute reveals wide disparities in early marriage rate among Arab states for women aged 20 to 24 who got married before they had reached the age of 18 between 2000 and 2011. The Institute bases statistics on indicators including living in rural or urban areas and education and family wealth. The rates of Arab states in early marriage of girls aged 20-24 (those who got married before 18 years of age) are as follows: Algeria (1.8%), Djibouti (5.4%), Egypt (16.6%), Iraq (17%), Jordan (10.2%), Lebanon (11%), Morocco (15.9%), Palestine (18.9%), Somalia (45.3%), Sudan (34%), Syria (113.3%), and Yemen (32.3%).

It is worth noting that poverty is one of the reasons for early marriage where families use marriage of young girls for economic reasons. Population displacement is another reason for early marriage. There is also the sexual jihad (or jihad al-nikah), which allows a girl to marry more than one man a day in countries under civil war or have terrorist groups active within their borders such as Iraq, Syria, Tunisia, Egypt, and Libya. Girls in these countries are often subjected to abduction, rape, murder, and terrorism.

43. <http://www.sigi-jordan.org/>

- **Delayed marriage**

A comprehensive review⁽⁴⁴⁾ of the statistics and data provided by Arab and international studies, human resources development reports, and Arab women and family reports shows that the rate of delayed marriage is rapidly increasing among males and females. The phenomenon is widespread in all Arab states albeit to various degrees. The Arab Gulf States witness an unprecedented increase in this phenomenon while twenty years ago delayed marriage in those states was very limited, according to a study on marriage in the Arab states in 2005⁽⁴⁵⁾. The number of Arab women who delay marriage until after turning 35 years is four times what it used to be ten to twenty years ago in most Arab states. The rate is twenty times what it used to be in the Arab Gulf States. This phenomenon has interrelated social, psychological, economic, political, educational, cultural, and ideological reasons⁽⁴⁶⁾. The phenomenon can only be explained from different perspectives. Certain analyses blame delayed marriage on high cost of marriage nowadays, being enrolled in an educational institute, Arab women are more independent, globalization impact, increased rates of poverty, shrinking family role, and migration.

- **Divorce**

National and regional Arab statistics on divorce are unreadily available. However, a study by Ghalib Al-Sartawi, judge at Amman Shari'a Court, presented at the Firs Shari'a Conference in Amman, Jordan on September 21, 2007, show that the number of divorces is half the number of marriages in certain Arab states. The study also shows that divorce rate is 44% in the UAE, 30% in Qatar, 32% in Kuwait, and 46 in Rabat in Morocco. Moreover, 240 divorces are registered in Egypt every day. Divorce rates in Saudi Arabia, Bahrain, Libya, and Jordan are 21%, 17%, 4.6%, and 3.6%, respectively. Fifty percent of divorced Saudi women are aged 18 to 30; most of them have high school diploma or university graduates.

3. Situation on the ground

A family is the first unit formed for the wellbeing of all family members and the society. The International Conference on Population and Development (ICPD), Cairo, 1994 called upon states to make policies, draft laws, and set up mechanisms in support of families' sustainability and stability and to establish social security systems to care for families and deal with the increasing costs of raising children. The Conference also called for enhancing equal opportunities and equality among family members. The Conference also urged governments to ensure that social and economic development policies meet family needs and protect family and individual rights. To this end, ICPD proposed an action program containing a number of strategic interventions. They can be summarized as follows:

- a. Issues for formation and disintegration of family
- b. Different types of family
- c. Social and economic support of family

44. <http://studies.alarabiya.net/hot-issues/> 10 March 2014

45. Arab Marriage website PRB.

46. Majdi Abdullah

ICPD Program of Action has shown little impact throughout the past twenty years. States have not shown adequate care for family issues. Moreover, Arab societies have greatly changed at cultural, social, and economic levels since 1994 with impact on family formation. The changes caused gaps and contradictions especially in women and girls development within the family and in the society. World crises and advanced technology also have impacted young people's aspirations. UNFPA and regional and national partners; therefore, focus on issues beyond 2014 especially concerning family formation and components.

The study focuses on the trends and differences of family formation, age at marriage, early marriage, and child marriage, delayed marriage, divorce, and family support. The study also deals with women's right to pass on nationality to children and the rights of men and women as parents. Various trends of married couples' roles and duties, factors impacting family formation, and the way Arab states' laws treat families, will be discussed in the study.

Survey of legislations and analysis of laws concerning legal status and rights within the family

1. Foreword

The review will cover the laws that regulate relations within the family⁴⁷, the right, and the duties of the family members, a legal definition of the family, and equality. There is a review of the achievements made by the laws in equality, failures, and loopholes of discrimination against women that stand in the way of women's enjoyment of rights within the family and the community.

2. Regulating the legal status and rights within the family

- **Legal definition of family**

Certain Arab states provided legal definition to family without considering the structure, functions, or objectives of a family. They only referred to religion, ethics, and homeland. For instance, Article 5 (a) of Bahrain constitution defines family as “the basis of society, deriving its strength from religion, morality and love of the homeland.” Article 29 of (First) of the Iraqi constitution of 2005 defines family as “the foundation of society; the State preserves its entity and its religious, moral and patriotic values.” The UAE constitution of 1971 defines the family in Article 15 as the “basis of society. Its support shall be religion, ethics and patriotism.” Egypt's constitution of 2014 defines the family in Article 10 as the “basis of society and is based on religion, morality and patriotism.” Tunisia's constitution of 2014 defines a family in Article 7 as “the nucleus of society and the state shall protect it.” The Jordanian National Charter of 1991 stipulates in Chapter 5 (3) that a family is “the principal block of society. It is the natural environment for the rearing, education and personality growth of the individual.”

Certain Arab states define the state's responsibility to family. Bahrain constitution of 2002 stipulates in Article 5 that “the law shall preserve [the family's] legal integrity and strengthen its bonds and values, and shall protect motherhood and childhood within the family.” The Jordanian National Charter of 1991 stipulates in Chapter 5 (3) that “the official and grassroots institutions of the state must provide for the formation, cohesion and well-being of the family. They must assist it in the task of providing future generations with a sound upbringing.” The UAE constitution of 1971 stipulates in Article 15 that “the law shall guarantee [the family's] existence and shall safeguard it and protect it from corruption.” Egypt's constitution of 2014 stipulates in Article 10 that “the state protects [the family's] cohesion and stability and the consolidation of its values.” The constitutional articles that deal with family also deal with the status of men and women and the responsibilities of each one of them as well as the state's role in ensuring such responsibilities. Article 5 of Bahrain's constitution stipulates “The law shall preserve [the family's] legal integrity and strengthen its bonds and values, and shall protect motherhood and childhood within the family. The law shall also protect the young and defend them against exploitation and moral, physical and spiritual neglect. The State shall take particular care of the physical, mental and moral growth of youth. (b) The State shall ensure the accomplishment of necessary social security for citizens in old age, sickness, inability to work, orphanhood, widowhood or unemployment.

47. The study uses references adopted by states such as Saudi Arabia, which relies on Shari'a, as member of the Cooperation Council for the Arab States of the Gulf and the personal status law of the GCC (2001).

The State shall also provide them with services of social insurance and medical care, and strive to protect them from ignorance, fear and poverty.” Egypt’s constitution stipulates in Article 11 that “the state commits to achieving equality between women and men in all civil, political, economic, social, and cultural rights in accordance with the provisions of this Constitution... and ensures women empowerment to reconcile the duties of a woman toward her family and her work requirements.” The Jordanian National Charter of 1991 stipulates in Chapter 5 (6) that “Women are men’s partners and equals in contributing to the growth and development of Jordanian society. This requires an affirmation of women’s constitutional and legal right to equality, guidance, training and employment as a means of enabling them to play their proper role in the growth and development of society.” Most Arab states’ laws and constitutions include articles on protection of maternity and childhood and provision of healthcare and social care to mother and child. Definitions vary. In Jordan for instance, the Jordanian National Charter of 1991 stipulates in Chapter 5 (4 and 5) that “Good motherhood is the basis of good childhood, to which every child has a natural right. State and society must provide special care for mothers and children ... Children have the right to expect the best possible level of care and protection from parents as well as from the state ... without any discrimination between males and females. Article 2 of Egypt’s Child Law number 12 of 2008 stipulates that a child “is a person whose age is less than 18.”

However, the question is whether Arab states translate the above into action or not. Do the states that ratified the Convention on the Rights of the Child comply with the Convention in their laws, including the family law? Does the concept of care mean the same thing in all laws?

- **Constitutional equality⁽⁴⁸⁾**

Most Arab constitutions call for equality between men and⁽⁴⁹⁾ women. In Egypt, for instance, Egypt’s 2014 constitution stipulates in Article 11 that “the state commits to achieving equality between women and men in all civil, political, economic, social, and cultural rights in accordance with the provisions of [the] Constitution.” Tunisian constitution of 2014 stipulates in Article 21 that “all citizens, male and female, have equal rights and duties, and are equal before the law without any discrimination.” However, the majority of the Arab states restrict the equality stipulated in international human rights treaties to the way Shari’a understands equality. In Yemen, for instance, the constitution of Yemen of 2001 stipulates in Article 31 that “women are equal to men. Their rights and duties are as guaranteed and assigned by Shari’a and stipulated by law.” Certain institutions fall short of including “sex” as one of the bases for non-discrimination such as Article 6 of the constitution of Jordan of 1952, which stipulates that “Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion.” Moreover, the family and nationality laws of Arab states fall short of observing equality between men and women as provided for by the constitutions and international human rights treaties.

The study of Arab laws show that family laws, nationality laws, and other laws such as the guardianship law and minors’ protection law have discriminatory provisions, which impede women’s rights. However, other provisions provide for equality. The study shows areas of equality as well as discrimination, areas of contradictions between laws, and areas of inconsistencies with ratified international human rights instruments. There is also dwelling on necessary reforms of laws at the end.

48. The summary contains full section on this issue.

49. Such as Morocco’s 2011 constitution, Algeria’s 2008 constitution (articles 29, 31, 32), Sudan’s constitution 2005 (article 31 stipulates “All persons are equal before the law and are entitled without discrimination, as to race, color, sex, language, religious creed, political opinion, or ethnic origin, to the equal protection of the law.” Djibouti’s constitution of 2010 (article 10), Mauritania’s constitution of 2006 (article 1), Yemen constitution of 2001 (article 5), and Saudi constitution Of 1992 9article 8.

3. Achievements and loopholes of discrimination in the laws that regulate civil and political rights

This part analyzes the personal status and family laws. The analysis is based on the four previously defined components. The restrictions on equality and non-discrimination on Shari's, ethics, and security grounds are also analyzed. The different family laws of the same state such as the case of Lebanon, Egypt, Syria, and Palestine are also analyzed.

• Achievements in equal rights between women and men

Arab states have scored achievements in equality as defined by international human rights treaties, which they had ratified, in the following areas:

• Marriage

- **Consent in marriage:** Most Arab states' family laws provide for consent in marriage; hence, no marriage contract can be made without the consent of man and woman in Egypt⁽⁵⁰⁾, Jordan⁽⁵¹⁾, Yemen⁽⁵²⁾, Saudi Arabia⁽⁵³⁾, UAE⁽⁵⁴⁾, Qatar⁽⁵⁵⁾, Kuwait⁽⁵⁶⁾, Bahrain⁽⁵⁷⁾, Iraq⁽⁵⁸⁾, Syria⁽⁵⁹⁾, Palestine⁽⁶⁰⁾, Lebanon (various sects)⁽⁶¹⁾, Sudan⁽⁶²⁾, Djibouti⁽⁶³⁾, Libya⁽⁶⁴⁾, Tunisia⁽⁶⁵⁾, Algeria⁽⁶⁶⁾, Morocco⁽⁶⁷⁾, and Mauritania⁽⁶⁸⁾. The following states provide for consent in more than one provision of the personal status laws; Morocco, Algeria, Egypt, and Iraq.
- **Marriage age is defined at 18:** This is in line with the age of consent as provided for by international human rights treaties. In Egypt, for instance, the personal status law of 2008 stipulates in Article 7 that "it shall not be allowed to certify a marriage contract for males and females under 18." The same is found in Article 5 of the family law of Tunisia, Article 13 of Djibouti's family law, and Article 30 of UAE's family law. Algeria and Libya increased age of consent to 19 and 20, respectively (Article 7 of Algeria's family law and Article 6 of Libya's family law).
- **Guardian is no longer a party to marriage contract:** Tunisian law allows couples marry without needing to resort to engaging the woman's male guardian (Article 9 of Tunisia's personal status law). In Morocco, Article 24 of the family law stipulates that a woman is her own guardian in choosing and deciding what's good for her (Article 24 of the family law). The guardian is not prerequisite to a valid marriage contract, according to the Iraqi personal status law (Article 6) and the personal status law of the Christian sect of Lebanon. Algeria family law (Article 13) puts restriction on guardian's authority "the guardian may not force a female minor under his guardianship into marriage."

50. Article 14, 16, and 23 of law number 462 of 1955, which includes the Egyptian family law

51. Article 6 of personal status law of Jordan number 36 of 2010

52. Articles 7 and 10 of personal status law of Yemen of 1992

53. Articles 17 and 18 of the personal status law of the GCC 2001

54. Article 41 of the UAE personal status law of 2005

55. Article 9, 11, and 13 of Qatari family law of 2006

56. Articles 9 and 10 of Kuwait's personal status law 51 of July 23, 1984

57. Articles 23 and 25 of Bahrain's family law

58. Articles 3 and 6 of Iraq's personal status law

59. Articles 1, 5 and 11 of Syria's personal status law 59/1953

60. Articles 7 and 14 of the family rights law of 1954 (effective in Gaza) and personal status law of 1967 (effective in West Bank)

61. Articles 14 and 23 of the Druze personal status law of 1948. Christian sects law of 1959. Article 35 of family rights law. Ottoman law of 1917. Evangelical episcopal sect personal status law of 1954 and eastern catholic sect personal status law of 1949.

62. Articles 11, 12, and 14 of Sudanese personal status law of 1991

63. Article 7 of Djibouti's personal status law of 1992

64. Articles 3, 8, and 11 of the Libyan personal status law of 1984

65. Article 3 of Tunisian family law of 2008

66. Articles 4, 9, 10, and 19 of the Algerian family law of 2005

67. Articles 4, 10, and 11 of Moroccan family law of 2004

68. Articles 9 and 26 of the Mauritanian personal status law of 2001

- **Certification of marriage:** Certain family laws of Arab states require certification of marriage before a public officer, which is a process similar to civil marriage. This restricts urfi marriages (unregistered with public officer). The family laws of Morocco (Article 16), Algeria (Articles 7 and 18), Tunisia (Article 11), Libya (Article 5), Mauritania (Article 2), Iraq (Article 10), Syria (Article 34, 40, 41, 45), Lebanon (Article 16⁽⁶⁹⁾ of the Druze sect family law), Djibouti (Articles 8 and 9), and Qatar (Article 10) require certification of marriage.
- **Equality in defining marriage conditions:** Couples are equally free to define the conditions of their marriage contract. This is valid in the personal status laws of UAE (Article 20), Syria (Article 14), Saudi Arabia (Article 5), Sudan (Article 42), Morocco (Article 4), and Bahrain (Article 5).
- **Ending ta'a:** Legislators in Algeria, Morocco, and Tunisia removed the ta'a provision from the laws to ensure equality between men and women.

- **Children's support**

Equality is not limited to rights; it included duties and responsibilities. Hence, a number of Arab states provide in their laws that women are equally responsible for children support. However, Saudi Arabia, Libya, Sudan, and Tunisia put restrictions such as absence of the father or his inability to support the children.

- **Family guardianship**

Family guardianship involves a number of rights and duties towards children and managing family life. A number of family laws include equality between men and women in managing family affairs and bringing up the children such as Tunisia (Article 23 of the family law) and Algeria (Article 36 of the family law), Morocco (Article 51), Libya (Articles 32 and 44) and Lebanon⁽⁷⁰⁾.

- **Divorce**

Equality in divorce is treated differently by the Arab states' laws. Tunisia provides for equality between men and women in ending the marriage on the basis of mutual consent, harm done, or the desire of one of the couples to end marriage (Article 31 of the personal status law). The court decides the compensation for the outcome of divorce. The amount of compensation for a divorced woman (paid after iddah –period of waiting-) depends on the standard of living during marriage. This includes covering the cost of accommodation. However, this changes if the divorced woman marries again or can support herself. The compensation continues after the demise of the man and deducted from the assets he leaves behind. This issue can be solved amicably or at court.

Morocco (Articles 78, 94, and 114 of the family law), Algeria (Article 48 of the family law), and Libya (Article 35 of the family law) provide for equality in divorce with mutual consent. Iraq (Articles 35, 40, and 41), Djibouti (Article 39), and Syria (Article 112) provide for equality in divorce on the basis of harm done or dispute. Iraq (Article 39), Jordan (Article 155), Syria (Article 117), Algeria (Article 52), and Morocco (Article 101) provide for compensation to be paid in the event of arbitrary divorce.

- **Women's right to pass on nationality to children**

Small number of Arab states allow women, equally to men, in their nationality laws to pass on nationality to children such as Tunisia⁽⁷¹⁾, Morocco⁽⁷²⁾, Algeria⁽⁷³⁾, Iraq⁽⁷⁴⁾, Mauritania⁽⁷⁵⁾, and Djibouti⁽⁷⁶⁾. Egypt made this right constitutional⁽⁷⁷⁾.

69. Druze personal status law of 1948 and Lebanese Christian sects personal status law of 1959

70. Article 61 of the personal status law of eastern catholic sects of 1990

71. Article 6 of Tunisia's nationality law of 2010

72. Article 6 of the nationality law.

73. Article 6 of the Algerian nationality law of 2005

74. Article 3 of the Iraqi nationality law of 2006

75. Article 15 of the Mauritanian nationality law of 2010

76. Article 5 of Djibouti's family law of 2002

77. Article 2 of the Egyptian nationality law of 2014, which allows children born to an Egyptian mother or an Egyptian father the right to acquire Egyptian nationality

• Remaining loopholes of discrimination in Arab family and nationality laws

Arab states' family laws provide for equality in marriage through consent. Equality also applies to divorce, as stipulated by the law. However, there are provisions in the laws of the Arab states that are inconsistent with equality in marriage and divorce or equality between men and women as provided for by other laws. For instance:

• Marriage

- Minors' marriage: Arab states' family laws allow marriage of female minors such as Sudan family law, which defines in Article 40 the minimum age of marriage at 10. In Iraq, Article 8 of the family law allows defines minimum age of marriage at 15. Marriage of minors is also allowed in Yemen (Article 15), Mauritania (Article 6), Syria (Article 18), and Kuwait (Article 26) of the family laws. In Bahrain, Article 18 of the family law defines minimum age of marriage at 16. Lebanon defines minimum age of marriage at 17⁽⁷⁸⁾. The family laws of Jordan (Article 10), Palestine (Articles 5 and 6), Algeria (Article 7), Morocco (Articles 20 and 21), and Tunisia (Article 5) allow minors' marriage without defining a minimum age.
- Proxy marriage: Large number of Arab personal status laws allow proxy marriage. This may lead to forced marriage. Proxy marriage is mentioned in Article 33 of Egypt's personal status law, Article 21 of Yemen's personal status law ⁽⁷⁹⁾, Article 14 of Lebanon's Druze sect personal status law, and Article 4 of Iraq's personal status law. It is also mentioned in the personal status laws of UAE (Article 37), Syria (Article 8), Djibouti (Article 17), Kuwait (Articles 10 and 27), Qatar (Article 19), Morocco (Article 17), and Tunisia (Articles 9 and 10).
- Guardian is a party to marriage contract: This means that a guardian may replace a woman in signing the marriage contract, which may lead to violation consent principle. Arab personal status laws allow this, except for Lebanon and Tunisia. Guardian is a party to marriage contract is mentioned in the personal status laws of Yemen (Articles 14 and 16), Mauritania (Articles 5, 6, and 9), UAE (Articles 32 and 33), Kuwait (Articles 08 and 30), Libya (Article 7), Algeria (Articles 9, 11, and 13), Morocco (Article 13), and Syria (Articles 21 and 48).
- Prohibiting Muslim women from marrying non-Muslims: This is stipulated by in all Arab family laws including Yemen (Article 29), Iraq (Article 17), Mauritania (Article 46), Kuwait (Article 18), UAE (Article 47), Libya (Article 12), Algeria (Article 30), Morocco (Article 39), Tunisia⁽⁸⁰⁾, Iraq (Article 17), Syria (Article 63), Sudan (Article 21), Bahrain (Article 11), and Palestine (Article 33).
- Ta'a: This implies that a wife must obey her husband in issues related to marital life as well as traveling. This is stipulated for by the personal status laws of Egypt (Article 11), Yemen (Articles 40 and 151), Iraq (Articles 24, 25, and 23), Syria (Articles 70, 73, and 75), UAE (Articles 55 and 56), Kuwait (Articles 87 and 88), Sudan (Articles 75 and 91), Djibouti (Article 31), Bahrain (Articles 37,38 and 53), Qatar (Articles 58 and 69), Saudi Arabia (Articles 39 and 54), and Jordan (Articles 37 and 62).
- Polygamy: Arab states' laws allow for polygamy except Tunisia and the Druze sect of Lebanon. However, Algeria and Morocco place strict conditions to restrain polygamy.

• Divorce

- Husband's right to individually decide on divorce: Most Arab states' personal status laws allow this, including Yemen (Article 60), Iraq (Article 34), Syria (Articles 85, 87, and 91), UAE (Article 100), Kuwait (Article 97), Sudan (Articles 127 and 132), Djibouti (Article 39), Bahrain (Article 97), Egypt (Article 5), Qatar (Articles 113, 109 and 115), Saudi Arabia (Articles 80, 82, 84, and 88), Jordan (Article 88), Algeria (Article 48) and Morocco (Article 123).

78. Articles 1 and 2 of Druze personal status law of 1959. Article 4 of Lebanese family rights law of 1954 of the Sunni sect. Article 19 of the Assyrian orthodox sect of 1997. Article 4 of the Syriac orthodox sect of 1951 and Article 22 of the Angelical Episcopal sect of 1954.

79. New regulations for marriage clerks of 2000

80. Justice minister's statement of 1937

- Treatment of woman as nashiz (disobedient to husband): This is acknowledged by the personal status laws of Syria (Articles 74 and 75), Yemen (Article 152), Sudan (Article 93), Qatar (Article 69), and Saudi Arabia (Article 54).
 - Revocable divorce: This means giving the husband the authority to force his wife back into the marital home. It is included in all Arab states' personal status laws, including UAE (Article 104), Bahrain (Article 52), Qatar (Article 116), Syria (Article 118), Iraq (Article 38), Egypt (Articles 5, 6, and 22), Kuwait (Article 149), Lebanon (Article 231)⁽⁸¹⁾, Saudi Arabia (Article 91), Yemen (Articles 68 and 75), Mauritania (Article 89), Algeria (Articles 50 and 52), and Morocco (Articles 123 and 124) –Moroccan law allows women the right to refrain from reinitiating marital life.
 - Khul'a: Khul'a allows women to terminate marriage in return for compensating the husband. The compensation is often the postdated dowry. Khul'a provided for in the personal status laws of Yemen (Articles 68 and 75), Iraq (Articles 35, 37, and 38), Mauritania (Article 89), Syria (Article 118), UAE (Article 104), Kuwait (Article 149), Libya (Article 29), Algeria (Articles 50 and 52), Morocco (Articles 123 and 124), Egypt (Articles 5, 6, and 22), Lebanon (Article 231 ottoman sect), Sudan (Article 139), Bahrain (Article 52), and Qatar (Article 116).
- **Family guardianship**
 - Arab family laws give family guardianship to the father. This is valid in Yemen (Articles 16, 40, 150 and 158), Kuwait (Article 209), Qatar (Article 116), Mauritania (Articles 177 and 178), Syria (Articles 170, 172, 176, and 189), UAE (Articles 19 and 149), Egypt (Article 1 of the personal status law), Bahrain (Articles 38 and 130), Libya (Article 67), Algeria (Articles 74 and 87), Morocco (Articles 194, 236, 237, and 238), Sudan (Articles 234 and 235), and Lebanon (Druze sect law articles 30 and 66)⁽⁸²⁾. Though Tunisian personal status law provides for equality in family guardianship, the husband remains the head of the family; hence, he must support the wife and children. The law does not require the wife to chip in unless she is wealthy (Article 23 of Tunisia's personal status law). Algerian family law discriminates against the husband in divorce since family guardianship is given to the mother (upon court decision).
 - A child may not travel with his/her mother unless approved by the father: This is mentioned in the family laws of Qatar (Article 185), UAE (Article 149), Syria (Article 148), Bahrain (Article 138), Kuwait (Article 195), and Jordan (Article 166).
 - When women support children, it goes unrecognized: Arab states' laws do not require women to support children, like men. Tunisia allows this for women who can afford such support.
- **Inheritance**
 - The issue of the right of men and women to own and dispose of assets is one of the issues that are open for discussion. There is discrimination between men and women in this regard. This discrimination is based on religious doctrines as well as laws. Most Arab states refer to Shari'a in inheritance on the basis that a brother inherits twice the portion of his sister and a husband inherits more than his wife. This has led to deprivation and poverty among women.
- **Nationality**

A woman is deprived of passing on nationality to her children from a husband who has a nationality other than hers. This is mentioned in the nationality laws of Kuwait (Article 2), UAE (Articles 2 and 3), Bahrain (Articles 4 and 7), Qatar (Articles 1 and 10), Syria (Articles 4, 8, 12, 18, and 19), Jordan (Articles 2 and 3), Saudi Arabia (Articles 4, 7, 8, 16, and 17), Libya (Article 11), and Mauritania (Article 16) – though articles 8 and 13 of the nationality law of Mauritania grant women and men equal rights to pass on nationality through naturalization. The nationality laws of Egypt (Article 2) and Yemen (Article 3) stipulate that this process requires ministerial decision. Qatar withdraws the nationality of a Qatari woman who marries non-Qatari and obtains his nationality (Article 10 of Qatar's nationality law).

81. Ottoman Family rights law of 1917.

82. Druze personal status law of 1959

Hence, the review and study of the personal status and family laws of the Arab states show contradictions in the legal systems of states. There are contradictions between the laws and the constitution of the same country. Constitutions call for equality and social justice as well as non-discrimination on the basis of sex, ethnicity, or religion; whereas laws are contradictory. In family laws, marriage is based on consent and equality in rights and duties; however, other provisions of the law provide for discrimination against women, which undermines consent and equality.

4. International treaties on women's rights

• Ratification of women's rights treaties

Most Arab states are signatories to international human rights instruments, which call for equal human rights for women and men, including

- International Covenant on Civil and Political Rights: Ratified by 15 out of 20 states covered by the study, three of which have reservations to the Covenant.
- International Covenant on Economic, Social and Cultural Rights: Ratified by 15 out of 20 states covered by the study, one of which has reservations to the Covenant.
- Convention on the Elimination of All Forms of Discrimination against Women: Ratified by 19 out of 20 states covered by the study, 15 of which have reservations to the Convention.
- Convention on the Rights of the Child: Ratified by 20 out of 20 states covered by the study, 10 of which have reservations to the Convention.

A number of Arab states' constitutions consider the ratified international human rights instruments as enforceable as the laws of the state. These states are Tunisia, Algeria, Morocco, Mauritania, and Djibouti. Other Arab states consider these instruments as higher than the laws but come in the second place after the constitution. The constitutions of Egypt, Bahrain, Kuwait, and Saudi Arabia consider the instruments equivalent to the laws of the state. Sudan is the only state that puts the instruments in an equivalent place to the constitution; however, Sudan is yet to sign CEDAW. Palestine had decided after becoming non-member UN observer state to ratify 19 of the international human rights instruments without any reservations. In any case, there are Arab states' constitutions that do not recognize equality as stipulated by international treaties. Moreover, the family laws of the twenty Arab states included in the study are inconsistent with the principles of the ratified instruments, which undermines the efforts of such states to reduce discrimination and strengthen equality within the family. The discrimination against women in the family laws impede women's enjoyment of their rights as human beings and as citizens at home and in the community. For instance, the family laws are in violation of the following (more details are available in the table of international human rights instruments):

- International Convention on the Elimination of All Forms of Racial Discrimination: Articles 1 and 5.
- Convention on the Elimination of All Forms of Discrimination against Women: Articles 2, 6, 9, 15, 16, and 29.
- Convention on the Rights of the Child: Article 1

The reservations of the Arab states to international human rights instruments are in the way they interpret the instruments. They prevent the full commitment of states to the obligations of the instruments. They also prevent reforms of national laws of the states.

• **Impossible reservations**

The reservations are mostly justified by politics to do with borders, recognition or unrecognition of other states, as well as for reasons to do with religion and culture. An in-depth reading of Arab states' reservations shows also that they are to do with the principles of equality in private life; at home, husband-wife relationship, before marriage, upon signing the marriage contract, and in dissolving marriage. The reservations are also to rights and responsibilities in families between married people, parents, sisters and brothers, throughout life. Other reservations are to do with the definition of a child. The reservations strengthen discrimination against women's rights as citizens, as human beings, as married women, as mothers at home and in the society. The reservations can be summarized as follows⁽⁸³⁾:

Examples of key human rights treaties	Ratification	Reservations	
		No	Yes
International Covenant on Civil and Political Rights	15	12	3
International Covenant on Economic, Social and Cultural Rights	15	14	1
Convention on the Rights of the Child	20	10	10
Convention on the Elimination of All Forms of Discrimination against Women	19	4	15
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	10	10	
UNESCO's Convention against Discrimination in Education	10	10	
Convention on the Political Rights of Women	9	9	

Optional Protocols	Ratification	Reservations	
		No	Yes
The First Optional Protocol to the International Covenant on Civil and Political Rights	0	4	4
The First Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	0	0	0
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	17	13	4
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	18	6	12
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	2	2	0

83. See table of international human rights treaties in the annexes



These are some examples of reservations to international human rights treaties:

- International Covenant on Civil and Political Rights: Article 2, which stipulates that “Each State Party ... undertakes to respect and to ensure to all individuals ... the rights recognized in the present Covenant, without distinction of any kind,” Article 3, which stipulates that “States Parties ... undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant,” and Article 23, which stipulates that “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State ... The right of men and women of marriageable age to marry and to found a family shall be recognized ... No marriage shall be entered into without the free and full consent of the intending spouses ... States Parties ... shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.”
- Convention on the Elimination of All Forms of Discrimination against Women: Article 1 on the definition of the term «discrimination against women» ... any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women,” Article 5, which stipulates that “States Parties shall take all appropriate measures to ... achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” Article 2, which stipulates that “States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation.” Article 6, which stipulates that “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.” Article 9 on “States Parties shall grant women equal rights with men to acquire, change or retain their nationality.” Paragraph 4 of Article 15, which stipulates that “States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.” Article 16 on «States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations ... the same rights and responsibilities during marriage and at its dissolution ... the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children.” Article 29 on the “dispute between two or more States Parties concerning the interpretation or application of the ... Convention.” The states usually say that they have reservations to specific articles due to their inconsistency with family and nationality laws and the Shari’a.
- Convention on the Rights of the Child, Article 1, which stipulates that “a child means every human being below the age of eighteen years...”

The readings and interpretations of the states produce the reservations, which stand in the way of their international obligations as well as conducting reforms of the law at home. These states use the same reasons to justify their reservations such as inconsistency with national laws and Shari’a. The reservations of most Arab states are to equality, non-discrimination, and definition of a child. These reservations hinder women’s enjoyment of human rights and citizen rights. The following table summarizes the reservations⁽⁸⁴⁾:

84. See detailed table of international treaties in the annexes

Findings and recommendations

1. Findings

Arab states have made great progress in strengthening and enhancing women's legal and human rights including rights at home. This has been achieved through reforming and drafting laws and strategies. However, a vast gap separates the wording of the laws and policies and actual enforcement and implementation. There is also contradiction between constitutions and laws such as the family law and the penal code.

Most Arab states have family or personal status laws. In Greater Maghreb, for instance, these laws are one and they are for Muslims. However, in Egypt, Lebanon, Iraq, Jordan, Qatar, and Bahrain, these laws vary.

The family laws of the Arab states, from human rights perspective, are discriminatory. "Should we look at the provisions of laws that apply to similar legal circumstances, the Arab personal status laws that apply to Muslims and non-Muslims would clearly appear as examples of discriminatory laws where such discrimination is based on sex and gender⁽⁸⁵⁾." The provisions of the discriminatory laws are based on Shari'a interpretations. They vary from one state to another and from one sect to another. For instance, in marriage, divorce, and children custody, the personal status laws allow women less rights than men. Moreover, women do not enjoy the same rights as men in the rights to pass on nationality to children, to education, to inheritance, to bringing up the children...etc. Some Arab states treat a woman as if she is incapable of deciding on her own marriage or divorce; hence, a male guardian is needed, albeit the same state's laws allow women to run and vote in elections and share the decisions of the future of the country. This is a deprivation of women's right to choose. Moreover, the ta'a, depriving women of the right to support the children and be their guardian, and polygamy are further insults to women. The Khul'a (a woman's filing for divorce) deprives a woman of the rights that she would be entitled to had the husband been the one who filed for divorce. This is a further undermining of women's rights as if they were paying a tax for peace of mind through ending an unhappy marriage. Depriving women of inheritance, which is guaranteed by Shari'a, is another violation of women's rights. The inheritance law is based on Shari'a; however, Shari'a is used here to justify discrimination against women. Additionally, Arab discriminatory customs and traditions are used to deprive women of inheritance. In certain Arab states like Lebanon and Iraq the laws may discriminate between women of different sects since these states have different personal status laws for different sects of the same country.

2. Required legal reforms and additional measures

The feedback and recommendations of the Human Rights Committee (established by the International Covenant on Civil and Political Rights) are used as reference to this study since they are comprehensive and in line with the findings of the analysis of the study. The concept of family varies from one state to another. It may vary from one region to another of the same state. Hence, finding one definition to the concept is not possible. However, the Committee agrees that when a group of people is considered a family, according to state's law, the group must enjoy the protection stipulated by Article 23 "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

85. Faiza Benhadid, *The Status of Women and Girls in the Middle East and North Africa*, UNICEF, 2010 (Arabic reference)

States parties shall explain in their reports the definition of family and how the definition is perceived in the society and by laws. Should more than one definition exist (nuclear family, extended family), it must be noted as well as the level of protection provided to each definition. The International Covenant on Civil and Political Rights recognizes the family and its right to be protected by the society. The states parties must illustrate in their report how they provide protection to families and other social institutions as well as the resources and instruments that are allocated for such protection. The Committee recommends that the reports explain any restrictions to the right to marriage such as kinship degree or mental ineligibility. The Covenant does not clearly express a minimum age for marriage for men or women; however, the potential couples must be at an age that allows them to freely express their full personal willingness to marry and they fully understand the meaning and conditions of marriage as defined by the law.

According to the Committee, the provisions of the laws must be in agreement with practicing other rights guaranteed by the Covenant. For instance, the right to “freedom of thought, conscience and religion- Article 18, (1)” requires that legislations allow civil marriage as well as marriage based on requirements of religion. The Committee agrees that marriage based on religious requirements may be registered afterwards in accordance with civil law. States parties shall provide information concerning marriage in their reports.

The Committee calls for equality in marriage and non-discrimination on the basis of sex in obtaining or losing nationality in marriage or keeping maiden name. The Covenant stipulates in Article 23 (4) that “States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.” This applies to selecting a place of accommodation, managing the family affairs, children’s education, and managing assets.

States parties shall include in their reports information on arrangements to protect children in marriage dissolution.

Rights within the family

Respect

- Respect and be committed to the provisions of the constitutions and laws that call for equality between men and women where such equality is in line with international human rights treaties such as CEDAW. Facilitate integration of equality in family and nationality laws.
- Set up legal definition for discrimination that shall be in line with the definition in Article 1 of CEDAW. Draft laws’ provisions that clearly prohibit discrimination.
- Women shall be entitled to the same rights and responsibilities during marriage and in marriage dissolution. Arbitrary divorce shall be banned. A husband must not be allowed to have the divorced wife back in accordance with revocable divorce. The provisions of Khul’a and Nashiza (disobedient wife) must be ended.

Observance

- Take all necessary measures to eliminate discrimination against women in all their lives' stages. This includes nullifying all discriminatory provisions of the personal status and nationality laws especially sui juris laws that prevent women from conducting civil affairs, the right to movement, and freedom of selecting accommodation.
- Draft law provisions that reinforce women's rights within the family in accordance with Article 16 of CEDAW and Article 23 of the International Covenant on Civil and Political Rights. This includes observing equality between men and women in marriage, family relations, freedom to select a husband, women's full consent upon signing marriage contract, end minors' marriage, increase marriage age to age of consent (18), and end the condition of having a male guardian to approve a woman's marriage.
- Draft legal provisions to protect women in all life stages from domestic violence, especially violence conducted by a husband against a wife.

Promote

- Set up, finance, and implement national strategies in support of equal enjoyment of legal and human rights by women at home and in the society. Provide women with legal aid.
- Take steps to raise women's awareness, and society's awareness, about women's rights within and outside the family. Raise awareness among women's rights organizations that protect women from discrimination and violence. The media and social services shall contribute to such awareness.
- Support the civic society organizations in providing training that empower women to realize civil and social rights within and outside the family.
- Integrate women's rights in the curricula of schools and higher education institutions. Raise women's awareness of the laws.

Ensure

- Remove all provisions of laws that discriminate against women. Ensure that equality is one of the fundamental principles of the laws.
- Ensure enforcement of inheritance laws to guarantee women's entitlement to inheritance including the cases where women and men have equal shares of inheritance as approved by Shari'a.

Chapter 4

Right to health and reproductive health and gender-based violence

“Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women’s lives, on their families, and on society as a whole. Most societies prohibit such violence yet the reality is that too often, it is covered up or tacitly condoned. Violence against women and girls makes it hideous imprint on every continent, country and culture. It doesn’t care about your income, class, race or ethnic background. It takes a devastating toll on women’s lives, on their families, and on society as a whole. It is a threat to all women, and should be unacceptable to all humankind”.

Ban Ki-moon remark at International Women’s Day Inter-Agency
Event on Ending Impunity for Violence against Women and Girls
New York, 8 March 2007

Right to health and reproductive health

1. Foreword

- **Types of Arab families:**

Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. The correct bibliographic citation for the definition is:

Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference, New York, 19-22 June, 1946; signed on 22 July 1946 by the representatives of 61 States (Official Records of the World Health Organization, no. 2, p. 100) and entered into force on 7 April 1948.

- **Sexual and reproductive health:**

First: WHO definition

“A state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, reproductive health, or sexual health/hygiene, addresses the reproductive processes, functions and system at all stages of life. Reproductive health implies that people are able to have a responsible, satisfying and safer sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. One interpretation of this implies that men and women ought to be informed of and to have access to safe, effective, affordable and acceptable methods of birth control; also access to appropriate health care services of sexual, reproductive medicine and implementation of health education programs to stress the importance of women to go safely through pregnancy and childbirth could provide couples with the best chance of having a healthy infant.”

Second: Sexual and reproductive health as defined by the International Conference on Population and Development held in Cairo in 1994 (ICPD, Program of Action, Cairo, September 5-13, 1994, section 7.2): “Reproductive health is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and its functions and its processes.” This implies that people shall have satisfying and safe sexual life and freedom to reproduce as desired. This means that men and women are entitled to the following rights:

- Access to information and family planning methods of their choice and legal methods of birth control. The methods must be safe, effective, and at affordable price.
- Receive healthcare services during pregnancy and childbirth. Enhance reproductive and sexual health in order to improve sexual relations and raise awareness about reproduction and sexually transmitted diseases.

2. Development and rights indexes

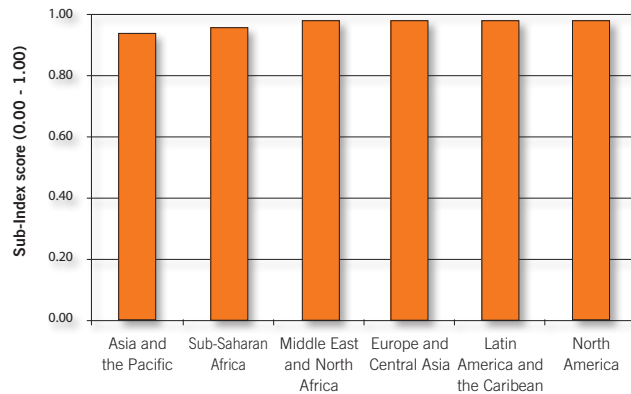
- **Gender gap index**

The following diagram covers life expectancy at birth and sex ratios. Life expectancy at birth includes also the average number of years a person may live if the mortality trends continue the way they are. The life expectancy ratio includes other factors such as sex. Women’s life expectancy ratio is often higher than those of men.

Life expectancy ratios for rich countries are usually higher than those of poor countries; however, there are exceptions. Progress in medicine and nutrition may increase the life expectancy at birth ratio. Wars cause the ratio to drop. The additional number of years a person may live can be affected by social and economic factors as well as gender. Living conditions may have impact on the fact that women's life expectancy at birth ratio is higher than that of men. These living conditions include birth, maternity mortality, discrimination and violence against girls and women.

The sex ratio is the male-female ratio in one generation; while the male ratio is the ratio of men to the total population. It is an important biological indicator, as the male-female ratio can affect the numerical balance between the sexes.

Regional Performance on the Gender Gap Index 2013⁽⁸⁶⁾



The following table shows the performance of a number of Arab states on the health and survival sub-index and their global ranking.

86. World Economic Forum, Global Gender Gap Report 2013

Country	Score	Rank
Lebanon	0.9796	1
Mauritania	0.9796	1
Egypt	0.9768	51
Saudi Arabia	0.9762	52
Syria	0.9756	58
Oman	0.9755	59
Yemen	0.9727	81
Morocco	0.9712	88
Jordan	0.9706	90
Algeria	0.9661	108
Bahrain	0.9612	112
Kuwait	0.9612	112
United Arab Emirates	0.9612	112
Qatar	0.9612	112

3. Situation on the ground

The definition of health includes protection and enhancing individuals' rights to access comprehensive health services and information. This is to meet physical and mental health requirements as defined internationally, including sexual and reproductive health with special focus on young couples especially women. The Arab Human Development Report⁽⁸⁷⁾ shows that the Arab states included in this study had worked very hard between 1980 and 1990 as well as in 2000 to move ahead with healthcare services. Therefore, life expectancy at birth for females rose to 68 in 1997 and to 70 in 2003. There was a drop in fertility rates from four children per woman in 1997 to 3 in 2003. The Actual fertility rate is now 3.46 (ranging between 6.3 for Somalia and 1.8 for Lebanon).

Maternal mortality ratios dropped noticeably in 2010 to 197.01 per 100,000 live births. However, there were large differences between Arab states with respect to maternal mortality ratios where Somalia registered 1000 (per 100,000 live births) whereas the Gulf Cooperation Council States registered 18.1. The improvement is due to two factors; increase in the education of girls and women and facilitated access to family planning. The population policies and reproductive health programs, which the Arab states had adopted, allowed more girls and women to benefit from an improved healthcare system. More information on reproductive health allowed for better diagnosis and medical services. There were more accurate data on maternal mortality ratios, which could be used to analyze and assess the extent to which women had access to healthcare services. These data showed MENA region, except for Sudan and Somalia, were headed in the right direction and that Arab states occupied the third rank in regional

87. Arab Human Development Report: Statistical Data, Arab States UNDP (RBAS), 2012

performance of health and survival sub-index⁽⁸⁸⁾. Hence, there is still a lot of work to be done especially at rural areas where women get married early and have more children than women in other localities. Maternal mortality ratios for rural areas are much higher than urban areas. Early marriage is one of the factors that increase maternal mortality ratios –early marriage is often common in rural areas and among impoverished people.

The percentage of people aged 15-49 who were HIV positive in MENA in 2003 was 0.1%. This low percentage was due to progress in treatment and prevention⁽⁸⁹⁾. However, Arab states are among regions witnessing an increase in the number of people with HIV. According to a report by the Joint United Nations Program on HIV/AIDS (UNAIDS), 39% of the HIV positive people are women⁽⁹⁰⁾. Certain Arab states witnessed in the past decade⁽⁹¹⁾ an increase in the number of HIV positive women due to lack of basic elements of prevention and the high cost of treatment. A report by UNAIDS in 2011-12 on women and girls in ten Arab states show that the challenges to treatment and prevention of HIV include lack of treatment, care, sexual and reproductive health services, the stigma of being HIV positive, and human rights denial⁽⁹²⁾. Data from Egypt and Algeria affirm the challenges. Moreover, the data from these two states show an increase in the number of HIV positive females since 2001⁽⁹³⁾. In most cases, a woman gets HIV from the husband. Another challenge to confronting HIV is that women are not given the opportunity to decide on their sexual and reproductive health. This is due to the social and cultural structure and role distribution and gender-based relations as well as the personal status and family laws, which give domination to men.

88. World Economic Forum, Global Gender Gap Report 2013

89. High level meeting of women leaderships in MENA on November 10 and 11, 2014 titled “Enhancing equality between women and men to confront HIV as part of Arab strategy 2014-2020 and development agenda 2015”

90. UNAIDS, 2014, Gap Report p. 175

91. Global Report: UNAIDS report on the global AIDS epidemic 2013. Joint United Nations Program on HIV/AIDS; 2013

92. UNAIDS, 2013, Regional Report for the Middle East and North Africa

93. <http://go.worldbank.org/OIHU489AZO>

Survey of legislations and analysis of laws concerning the right to health and reproductive health

1. Foreword

The following section is a reading of the health and reproductive health regulations.

1. Regulating women's right to health and reproductive health

The right to health and reproductive health has not always been incorporated in the legislations of all Arab states. However, some of the states include this right in their laws such as Algeria and Mauritania. The right to health and reproductive health is often treated in the national strategies, policies, and programs of health ministries.

In most Arab states, women health is based on women's role as mothers. This entails neglecting the health needs of teenage girls and elderly women. Tunisia's 2014 constitution provides for healthcare and prevention for all citizens since the right to health is a human right. Hence, Tunisia provides free of charge medical treatment to those who cannot afford it. Most Arab institutions ensure health as citizens' right. The states provide control and prevention services against infectious diseases and epidemics. States also provide maternal care and children protection as well as protection to senior citizens and disabled people. The constitutions of the UAE, Djibouti, Syria, Oman, Iraq, Kuwait, Egypt, and Saudi Arabia provide for equal healthcare to senior citizens and disabled people.

2. Achievements and loopholes of discrimination in the right to health and reproductive health

• The achievements of equality between men and women

Arab states' constitutions prohibit discrimination on the basis of sex and provide for equal social, political, and civil rights. Moreover, the constitutions, except for Mauritania's constitution, affirm that the state must provide healthcare to all citizens. The constitutions of Jordan, UAE, Iraq, Qatar, Egypt, and Yemen call upon the state to provide maternity and child care. Other states include provision of healthcare services in laws and policies⁽⁹⁴⁾.

Not all Arab legislations provide for social rights, including health, on the basis of equality. However, legislations recognize maternity rights. The legislations give the state the responsibility for maternity and child care, prevention, emergency medical care, marriage, and family needs. In Bahrain, couples intended to get married are required by the law to conduct medical tests for infectious and hereditary diseases as defined by the [health] minister. They may receive treatment to diseases that may affect reproductive health⁽⁹⁵⁾. The laws of most Arab states do not prohibit family planning; they even provide birth control methods free of charge. In Oman, husband's approval is not a prerequisite for a woman to obtain health services, including reproductive health. In Bahrain, women are given birth control methods free of charge and clinics encourage couples to receive advice on family planning. However, hysterectomy and tubal ligation require husband's approval⁽⁹⁶⁾.

94. See table on health and reproductive health rights

95. Law 11 of 2004 on medical test for would-be married people

96. Responses to questions on initial CEDAW reports of Oman, 2011

Tunisia is the only state that allows women to end pregnancy “Pregnancy may be terminated during the first three months of pregnancy by a legal practitioner at licensed hospital or clinic. Pregnancy may be terminated after three months of pregnancy if proven to be a threat to mother’s and infant’s health⁽⁹⁷⁾.” Algeria and Tunisia allow raped women to have abortion.

- **Remaining loopholes of discrimination**

The right to health is guaranteed by all Arab states, without discrimination between men and women. However, most laws ignore reproductive health rights. In Syria, for instance, articles 523 and 524 of the constitution of 2012 stipulate that “a person who promotes contraceptives shall be punished. A person who promotes contraceptives for prostitution purposes shall be punished. A person who sells or facilitates the use of contraceptives shall be punished.” These constitutional provisions are valid though Syria’s population and reproductive health policies allow provision of contraceptives, which are sold at pharmacies. Hence, medical staff are still punishable if they violate the provisions of the two constitutional articles. The Libyan law criminalizes artificial insemination “Artificial insemination by force or threat or consent is punished. The punishment is tougher if the perpetrator were a doctor or pharmacist⁽⁹⁸⁾.” All Arab states criminalize abortion and enforce tough punishments if a woman were forced to undergo abortion and died in the process⁽⁹⁹⁾. Self-induced abortion is also illegal. However, abortion is allowed if pregnancy is the result of rape –medical conditions apply- in Tunisia, Algeria, and Sudan. In Jordan, Syria, Libya, and Iraq, abortion may be treated with leniency if pregnancy were the outcome of an extramarital affair. Iraqi women are not allowed to decide if they want to end a pregnancy; however, punishment when they do it is not strict. Leniency also applies if pregnancy were outside the wedlock.

Morocco allows termination of pregnancy if it were a threat to mother’s life; however, this requires the father’s approval. Moroccan penal code stipulates that “Abortion shall not be punished if it were to protect mother’s life and were conducted by a doctor with husband’s permission. The husband’s permission shall not be required if the doctor believes that the mother’s life were in jeopardy. The doctor in this case must inform the head doctor of the region. The doctor needs written approval from head doctor of the region to carry out an abortion to save a mother’s life in the event of husband refusal or in the presence of an obstacle⁽¹⁰⁰⁾.” In Saudi Arabia “A doctor may not conduct an abortion unless the life of the pregnant woman is in jeopardy. However, the mother must be less than four months pregnant and pregnancy was proved, beyond doubt, to be a threat to the mother’s life⁽¹⁰¹⁾.” Alternatively, the senior clerks’ council rules that (regardless of the justifications of abortion) “Abortion must have legitimate cause –in the very strict sense of legitimacy; abortion can be within the first forty days of pregnancy if it were to cause [physical] harm; abortion in the very early days of pregnancy for reasons to do with being a threat to mother’s life requires decision by reliable medical committee after running out of all options to avoid the threat; and abortion shall not be allowed after four months of pregnancy unless it would cause the mother’s death as agreed by specialized reliable doctors and after running out of all options to save the mother’s life⁽¹⁰²⁾.” A person who carries out abortion, whether the mother, father, midwife, doctor... etc. shall have qisas [retribution] if the pregnancy is more than 81 days old or diyya [bloodwit] if the pregnancy were less than that. Unintentional abortion is cause for paying diyya⁽¹⁰³⁾.

97. Algerian law of 1913 and amendments of 2010

98. Article 403/413 of the Libyan penal code 70 of 1973

99. See table on health and reproductive health rights

100. Article 449/453-454 of the penal code of Morocco

101. Article 22 of the health regulations as approved by Council of Ministers in 2005

102. Decision by the senior clerks committee of Saudi Arabia 140 on abortion

103. Ibid

Abortion is treated differently in Palestine due to its several legal references - Jordanian law in the West Bank and Egyptian law in Gaza Strip. For instance, in Gaza “A pregnant woman who takes poisonous substance or used force or allowed others to do that to her for the purpose of abortion shall be sentenced to seven years imprisonment.” In the west Bank, the punishment for a woman who is involved in abortion, whether self-inflicted or conducted by other, is imprisonment of for a period of 6 months to three years⁽¹⁰⁴⁾.

3. Status under international human rights and women’s rights treaties

• Ratification of women’s rights treaties

The right to health is among the social and economic human rights, according to the Universal declaration of Human Rights and International Covenant on Economic, Social and Cultural Rights –the right to the highest attainable standard of health⁽¹⁰⁵⁾.

Most Arab states ratified the following international human rights treaties, which include provisions of the right to health and reproductive health and incorporated them in their national policies:

- Universal Declaration of Human Rights 1948 –source of the customary international humanitarian law
- Proclamation of Teheran, Final Act of the International Conference on Human Rights, Teheran, 22 April to 13 May 1968 – this clearly recognizes individuals’ and couples’ right to access information and decide the number of children and pregnancy spacing.
- International Convention on the Elimination of All Forms of Racial Discrimination 1969. This stipulates in Article 5 that “In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights ... [including] (iv) The right to public health, medical care, social security and social services.”
- Declaration on Social Progress and Development Proclaimed by General Assembly resolution 2542 (XXIV) of 11 December 1969). Article 4 of the declaration stipulates that “... Parents have the exclusive right to determine freely and responsibly the number and spacing of their children.” To do this, families must be provided with means and knowledge.
- The World Population Plan of Action of the United Nations World Population Conference at Bucharest, 1974. The conferences produced 88 recommendations, which were adopted by World Population Conference at Mexico in 1984.
- International Covenant on Civil and Political Rights adopted and opened for signature, ratification and accession by General Assembly resolution in 1966. Entry into force in 1976.
- International Covenant on Economic, Social and Cultural Rights adopted in 1966. Entry into force in 1976. Paragraph 1 of Article 12 of the Covenant stipulates that “... States Parties... recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

104. Article 176 of the penal code 16 of 1960 effective in the West Bank

105. General Comment No. 14: The Right to the Highest Attainable Standard of Health - UN Committee on Economic, Social and Cultural Rights Twenty-second session, 2000

- Convention on the Elimination of all Forms of Discrimination Against Women, 1979: This is the only international human rights convention that points out to family planning as main component of the health and wellbeing of the family. The convention also provides grounds for ensuring equality between women and men through giving women equal rights, including the right to health.
- Declaration on the Right to Development 1986: This calls for development to ensure population's wellbeing, free participation, and equal distribution of benefits.
- Convention on the Rights of the Child 1989: This convention defines standards for children's protection from negligence and abuse in all countries. The convention also aims to protect children from harmful practices, including physical and emotional abuse. It calls for assisting parents in bringing up children and ensuring children's right to healthcare and other rights and liberties.
- World Conference on Human Rights, 1993, Vifenna: The conference affirmed that women's rights are among human rights.

General recommendation number 24 made by the Committee on the Elimination of Discrimination against Women⁽¹⁰⁶⁾ stipulates that "States parties' compliance with article 12 of the Convention is central to the health and well-being of women. It requires States to eliminate discrimination against women in their access to health care services, throughout the life cycle, particularly in the areas of family planning, pregnancy, confinement and during the post-natal period." Reproductive health rights include a number of human rights that are recognized by international human rights instruments as well as the rights included in national laws. These rights are based on recognizing the basic rights of married couples, including free and responsible decision on the number of children and pregnancy spacing, family planning methods, access to accurate information to help them to make free and responsible decisions, and achieving the highest level of sexual and reproductive health.

• Impossible reservations

The World Health Organization requests the international community to officially recognize the right to health as a human right. The challenge; however, is the meaning of the right to health as one of the social and economic rights. In 2000, the UN Committee on Economic, Social and Cultural Rights defined the basic obligations of states to ensure health services, food, freshwater, health facilities, and basic medicine on equal basis. States acknowledge the right to health as equal right for all citizens as principle, at least. However, states link this right to their economic situations. No impossible reservations⁽¹⁰⁷⁾ threaten the right to health, as principle. Such right is recognized in states' constitutions and laws. In any case, states' have laws of discriminatory nature that affect women's rights, including the right to health, such as allowing marriage of female children, imposing ta'a, restricting women's right to movement, imposing husband's right to discipline the wife, imposing reservations to the right to safe abortion when women's life is in jeopardy, and imposing reservations to the right to family planning. States' reservations to equality and non-discrimination are blamed on Shari'a and national laws. Reservations to other human rights and the provisions of the family and personal status laws may affect the right to health and reproductive health.

106. Paragraph 1(f) of Article 11 of CEDAW focuses on "The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction. » Article 12 (1and 2) of CEDAW stipulates "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."

107. See the table containing international treaties

Findings and recommendations

1. Findings

According to WHO, the society requires men and women to perform different roles in different contexts. There is difference in the opportunities and resources that are available to men and women in the Arab states. The society in the Arab states also defines men and women's capability to make decisions and enjoy human rights including the right to health. Women and men's roles interact with the social and economic changes leading to different patterns including inequality of rights, lack of access to health information, which may have impact on health. Abortion and reproductive health are still to be decided by Arab laws. Men and the society control women's fate. Women are not treated as equal partners. This may jeopardize women's life. For instance, women may not be allowed to terminate unwanted pregnancy, which may threaten their lives. Libyan women who are raped and become pregnant go to Tunisia to terminate the unwanted pregnancy.

2. Legal reforms and required additional procedures

The right to health and reproductive health

Respect

- Non-discrimination and equality are to be incorporated in the constitutions and legislations of states. Also criminalize gender-based violence in the constitutions and legislations.
- End the reservations to international human rights treaties' provisions that provide for equality and non-discrimination. End all reservations to CEDAW.
- End the provisions of the laws that prohibit selling and using contraceptives. Use modern family planning methods to enjoy the right to reproduction.
- End the provisions of the law that prohibit termination of pregnancy and criminalize abortion in the event that pregnancy was the result of rape or incest.

Observance

- Review the penal codes that prohibit women from self-induced abortion of unwanted pregnancy and when pregnancy jeopardizes health and life.
- Draft laws that allow married couples equal rights to space pregnancy and family planning. If couples fail to agree, the woman must have the final say since she is the one who suffers the burdens of pregnancy.
- Draft laws that ensure reproduction rights for men and women including benefiting from artificial insemination.
- Set up legal procedures to empower women to decide on reproduction at home and in the society.

Promote

- Population issues and reproductive rights must be incorporated in the curricula to ensure that they are human rights based on equality and non-discrimination.
- Organize and fund national and regional campaigns on the importance of women's health throughout their lives, including reproductive health.
- Support national awareness and advocacy campaigns to change beliefs and viewpoints within families and societies. The campaigns need to involve men, women, family members, policy and decision makers, service providers, social workers, influential people, and local leaders.

Ensure

- Set up strategies concerning women's health throughout women's lives regardless of women's civil, social, or economic statuses. Focus shall be on sensitive issues such as unsafe abortion and sexually transmitted diseases especially AIDS, which has high rates of infection among married women. Focus shall be on impoverished and disabled women and girls and those living in war-torn countries and refugees.
- Adopt gender responsive budgeting to ensure interests of the people regardless of age, sex, ethnicity, location ...etc. Ensure equality and reduce gaps through the spending and revenues policies especially in health and reproductive health.

Violence against women/ gender-based violence

“Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women’s lives, on their families, and on society as a whole. Most societies prohibit such violence yet the reality is that too often, it is covered up or tacitly condoned. Violence against women and girls makes it hideous imprint on every continent, country and culture. It doesn’t care about your income, class, race or ethnic background. It takes a devastating toll on women’s lives, on their families, and on society as a whole. It is a threat to all women, and should be unacceptable to all humankind”.

**Ban Ki-moon remark at International Women’s Day Inter-Agency
Event on Ending Impunity for Violence against Women and Girls
New York, 8 March 2007**

Framework and context of gender-based violence against women

1. Introductio

Due to various concepts used in legislations of the Arab states included in the study, it became imperative to define conceptual framework on the basis of international controls recognized by certain Arab states and incorporated in their policies and strategies as well as international, regional, and domestic campaigns to combat violence against women and gender-based violence (such as the 16-day campaign).

- **Violence against women and gender-based violence**

Gender-based violence is the violence, which women are subjected to more than men throughout their lives for being women. It is a highly complex social phenomenon and deeply rooted in the authoritarian gender-based relationships and the structure of social institutions. The term «violence against women» means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Accordingly, violence against women encompasses but is not limited to the

Following: (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs⁽¹⁰⁸⁾.

Hence, there are three basic elements to categorize gender-based violence as different form of violence against women: First: It is sex-based, which means that women and girls are discriminated against only for being females. Second: It is the result of role distribution among men and women by the society, which leads to unbalanced and unstable relationships between men and women. Third: It is the outcome of social practices, which women accept as norms.

- **Different forms of gender-based violence**

Article 2 of the UN Declaration on the Elimination of Violence against Women stipulates that “Violence against women shall be understood to encompass, but no be limited to, the following: (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.”

108. Report of the Fourth World Conference on Women Beijing, 4-15 September 1995

- **Life cycle perspective⁽¹⁰⁹⁾**

Arab laws mention specific age groups; however, they ignore childhood and old age. It is probably important to define a framework for an approach to define the life cycle to avoid ignoring age groups of the life cycle and consequently define violence against women and girls in the different phases of their life cycle. Laws or policies must deal with all forms of violence against women throughout their lives. There are six key stages in the life of a woman through which she is subjected to various types of gender-based violence. The stages are pre-birth; early childhood; childhood; teenage; reproductive age; and old age. There are specific interventions to combat violence in each stage. This involves drafting laws that protect women from violence throughout their lives, eliminate violence and its impact on women, ensure respect of women's rights and safety, and safeguard women's right to life. Looking at gender-based violence, throughout women's lives, shows violent attitudes against women. This necessitates urgent interventions, including initiatives and policies, to draft laws and programs to protect women's human rights, regardless of their age, most prominently the right to life.

2. Actual development indices

- **Measuring the unmeasurable**

Violence against women is monitored and statistical data are collected in order to define the actual size of the problem and the extent to which the problem spreads. The statistical data and the analysis and classification of such data allow us to understand the define gender-based violence as well as set up quantitative and qualitative measures such as violation of women's human and legal rights; impact of gender-based violence on development including education and health and work; the extent to which the society is aware of this problem and the society's view of women and their role, status, and rights; the social, economic, and educational changes as well as changes in the social traditions; and legislations related directly to defining criminal and non-criminal behavior. Most data on violence against women in studies provide only little information. Arab states have until recently kept silence about this problem. There has been lack of evidence. There are also social and legal impediments that concealed accurate data about violence against women. Public surveys have often included in the questionnaires measurement units or matrixes on violence against women and female children. The treatment of this issue has often been limited to specific phenomena such as female circumcision or domestic violence⁽¹¹⁰⁾. In the past two decades, statistics distributed by sex allowed defining gaps between women and men and secured unprecedented success. Unfortunately, the levels of success, quality, and comprehensiveness were not the same in all Arab states. The problem of violence against women is still to be recognized, which keeps data limited. However, meaningful national initiatives occurred between 2005 and 2013 in certain Arab states, including household surveys, as attempts to define the size of violence against women. The surveys were conducted by official statistics agencies, which showed official recognition of the phenomenon. The states include Palestine⁽¹¹¹⁾, Algeria⁽¹¹²⁾, Syria, Tunisia⁽¹¹³⁾, Morocco⁽¹¹⁴⁾, Iraq, and Egypt⁽¹¹⁵⁾.

109. Heise, Lori L., *Violence against Women: the Hidden Health Burden*, World Bank discussion papers; Washington, D.C.: The World Bank 1994

110. Household survey of the Arab league conducted with partners PAFAM

111. Palestinian Central Bureau of Statistics, *Domestic violence survey in the Palestinian territory*, Women Studies Institute, Birzeit University 2006

112. National survey on violence against women, Ministry of Health and Population, National Institute of Public Health, 2005 and the second survey on violence against women in Algeria, research and social and cultural anthropology center, UNIFEM support 2006

113. National survey on spread of violence against women 2012

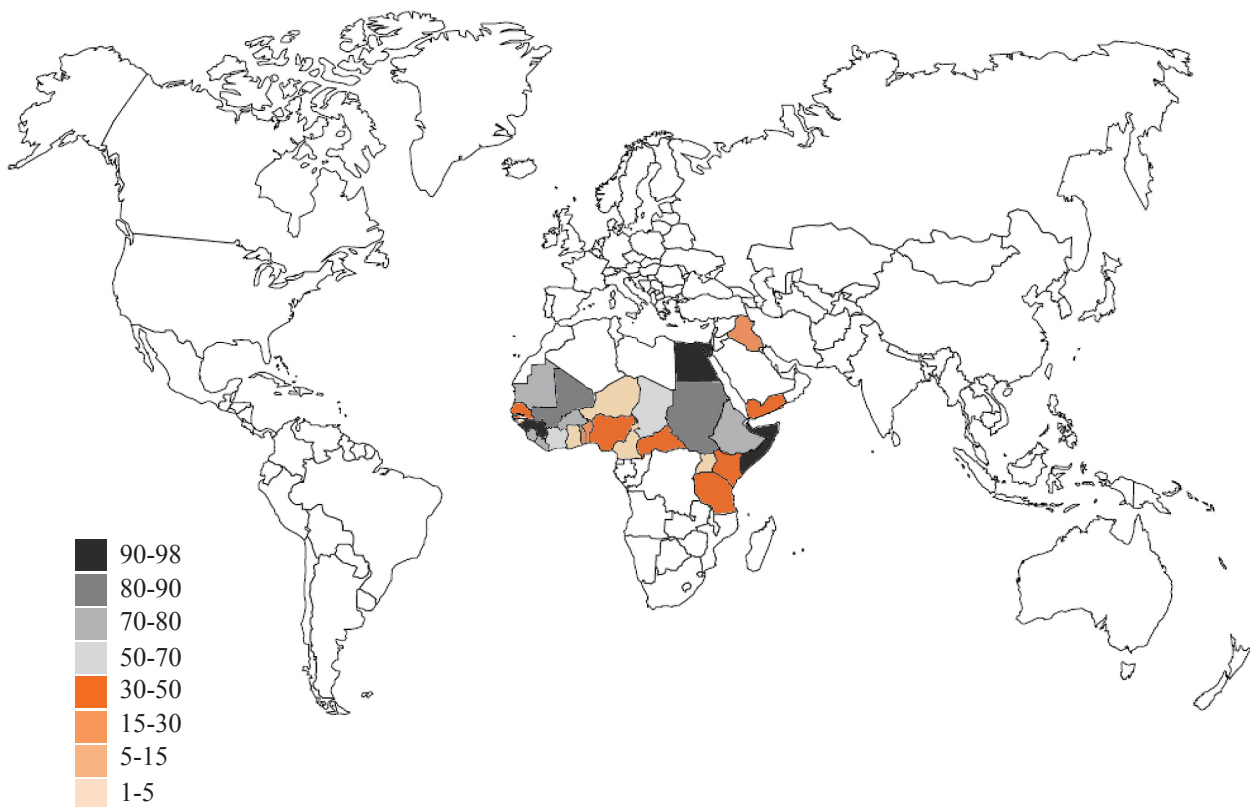
114. National survey on spread of violence against women 2011

115. Survey on violence against women in Egypt, USAID funding, 2009

- **Facts and figures**

The analysis of statistics show horrific facts about the social and health consequences of violence against women. Statistics show that violence against women is a main cause of death and disability among women aged 15 to 44. A study by the World Bank in 1994⁽¹¹⁶⁾ shows ten risks to women's lives in this age group and that the risks of rape and domestic violence are higher than those of cancer and road accidents, wars, and malaria. Other studies⁽¹¹⁷⁾ show steady relationship between violence against women and spread of HIV/AIDS since abused women are 48% more likely to become HIV positive.

Despite the efforts of the states and the civic society organizations to end female circumcision and other harmful practices against women, the rates in the Arab states in this area are the highest among the states that conduct such practice. The following diagram, taken from a 2013 UNICEF report⁽¹¹⁸⁾, shows data about female circumcision including ages and percentages:



116. Heise, Lori L.; Pitanguy, Jacqueline; Germain, Adrienne. 1994. Violence against women: the hidden health burden. World Bank discussion papers; no. WDP 255. Washington, D.C. : The World Bank. <http://documents.worldbank.org/curated/en/1994/07/442273/violence-against-women-hidden-health-burden>

117. <http://www.womenshealth.gov/hiv-aids/women-are-at-risk-of-hiv/violence-against-women-and-hiv-risk/> <http://www.genderandaids.org/index.php>

118. Female Genital Mutilation/Cutting UNICEF (July 2013)

The following table contains examples of violence against women in a number of Arab states.

Comparative numbers of violence against women ⁽¹¹⁹⁾

Form of violence	Violence Form			
	Physical violence %	Sexual violence	Psychological violence %	Economic violence%
Algeria	9.4	10.9	21.6	---
Egypt	28	17	62.6	
Morocco	15.2	8.7	48.2	8.4
Palestine	23.3	9	61.7	---
Syria	18	4	26	33
Tunisia	7.5	9.7	16.8	3.9

• Violence against women in Egypt

Demographic surveys were conducted in 1995, 2005, and 2008. Their findings show the changes in the concept of violence against women. The 1995 survey focused on physical violence. The 2005 survey covered all female members of a household and focused on physical, emotional, and sexual violence. According to the 1995 survey, 35% of the total number of wives were subjected to physical violence by the husbands at least once. The percentage dropped to 33% in the 2005 survey. The 2005 survey also showed that 18% of married women were subjected to economic and emotional violence and 7% were subjected to sexual violence. 63% of female respondents said they had been subjected to economic and emotional violence in the 2008 survey, 71.7 said they had been subjected to physical violence where 4.9% had wounds and 1% had broken bones, 17.3% were forced to have sexual intercourse. The perpetrators are mostly the husbands followed by relatives at 33.5%. Rural areas registered the highest cases of violence against women at 42%. The 2008 survey also showed that 99.6% of female were subjected to verbal abuse, 76% were subjected to attempts of physical contact, 84% had their purses or jewelry stolen, 91% were pursued, 73% photographed [without being consented to be photographed], and 59% escaped rape.

• Violence against women in Iraq

A survey by WHO and Iraq's health ministry in 2006-2007 show that one in every five women in Iraq in the age group of 15-49 are subject to physical violence caused by the husbands. 14% are subjected to physical violence during pregnancy. Cases of physical violence were nine times higher in 2009 compared to 2003, according to Iraq's health ministry. The number of raped women in Iraq in 2009 was 224, according to a report by the health ministry. 292 women disappeared in the same year. In 2008, the number of female victims of honor killing was 87, according to the annual report on Iraqi women. The number of women who committed suicide in Kurdistan, Iraq, between 2008 and 2010 was 987, according to interior ministry's report (they burnt themselves alive).

119. Data were taken from aforementioned surveys' data

3. Reality on the ground

Arab states are in the second place among states where violence against women on a global scale is most spread –after Southeast Asia, according to UNFPA data. According to the regional strategy to prevent and address violence against women 2014-2017, which was prepared with support from CAWTAR and according to WHO⁽¹²⁰⁾, domestic violence, children marriage, female circumcision, women trafficking, rape, sexual slavery, and honor killing are among the most common gender-based violence in Arab states. 37% of women are subjected to violence, according to the strategy. One in each eight girls are given in marriage before they turn 18. However, this does not mean that gender-based violence is new to Arab states. The increase in awareness levels among decision-makers and societies contributed to accumulation of data on gender-based violence. Women victims of violence can now speak up. There is also the work of the civic society organizations. All these factors contributed to gathering data on gender-based violence. Arab governments have since late 1990 and early 2000 taken part in awareness-raising campaigns to combat violence against women. Morocco is among the states that also takes part in international campaigns to combat violence against women and takes appropriate decisions. Actually, Morocco was the first to join international campaigns to combat violence against women in 1998. Many states have adopted policies and strategies against violence against women. They deliver services to violence victims. Despite these efforts of the Arab states, they haven't thought of ways to protect women in times of war. In any case, Algeria and Libya issued decrees to compensate women victims of violence including sexual violence. Presently, Arab states have to face situations of polygamy, sexual jihad, female genital mutilation, children marriage to avoid AIDS –such as the case of Morocco and Tunisia-, use living conditions to abuse women such as the case of Syrian refugees, use religious fatwa for marrying women and girls in Iraq, Jordan, Lebanon⁽¹²¹⁾, and Turkey to protect them from rape and sexual relations outside the wedlock. There is also sex trade and prostitution of Tunisian and Syrian women in the name of jihad. There is rape and abduction of Muslim, Yazidi, Christian, and Kurdish women in Iraq and Syria in the name of religion, democracy, and revolution. Palestinian women are imprisoned in the prisons of the occupier. Libyan women who took to the street to fight for democracy are imprisoned. Arab states have to face all these crises to move on.

120. <http://www.who.int/reproductive-health/publications/violence/en/index.html>

121. Mawared Abad Center, Syrian Women and Girls, Gender-Based Violence against Syrian Female Refugees, International Rescue Committee (IRC), 2012

Survey and analysis of legislations on women's right to protection from violence

1. Regulating violence against women and gender-based violence in Arab states

Violence against women is a global phenomenon; however, states deal with it differently. Most Arab states do not have common laws to address this violence though many have adopted legal provisions that vary from one state to another and in reference, time taken to adopt them, and whom they target. Kurdistan, for instance, drafted a law to combat domestic violence in 2007. The law was approved by majority in the parliament's session of June 21, 2011. The ministry of women's affairs submitted draft law on combating violence against women to the Iraqi parliament for ratification government. The law was reviewed by relevant sectors and stakeholders and civic society organizations. In 2014 the draft law was still waiting parliament's ratification. Saudi Arabia adopted a law and sever measures to combat violence against women including husbands' violence against wives in 2013. In Lebanon, 40 organizations worked together in 2007 to push for a law against marital rape, which was ratified in 2013. Saudi Arabia and Jordan ratified laws that protect all household members from violence in 2014 and 2010, respectively. Djibouti, Egypt, and Sudan drafted law against female genital mutilation. Algeria, Morocco, Tunisia, Jordan, and Egypt have drafted laws against sexual harassment.

Algerian Council of Ministers approved on August 26, 2014 draft law to amend the penal code to include provisions on combating violence against women and imposing tougher sanctions against husband's violence against the wife including emotional violence and threats to deprive a wife of property. However, the legislature allows withholding charges if the victim decides to drop charges. The draft law contains punishments also against relatives who commit sexual violence against women especially minors, handicapped, and pregnant women. It punishes violence against women's dignity in public places.

This study looks at legislations dealing with violence against women in Arab states from gender and human rights perspective. The legislations include constitutions, penal code, family law, and personal status law. The forms of violence the study addresses include child marriage and female circumcision. The purpose is to expose discrimination and inconsistency with international obligations. The analysis of the laws has been a complex issue due to conflicting provisions of the laws, which may provide for equality in one part and strengthen discrimination in another.

2. Achievements and remaining loopholes of discrimination between men and women that impact violence against women and girls

- **Achievements of equality between men and women**

Most Arab states' constitution provide for equality among citizens⁽¹²²⁾ and that there shall be no discrimination on the basis of sex in enjoying rights and before the law. The state shall ensure its citizens' dignity, protection, right to life, liberty, and security. Certain constitution address violence against children and women and provide for protection of women. For instance, Iraq's 2005 constitution prohibits in paragraph 3 of Article 29 all forms of economic abuse of children and that the state shall take measures to protect children. Paragraph 4 of the same article prohibits all forms of violence including

122. See chapter 3 legal status and rights within the family

domestic violence and violence in the community and at schools. Article 37 stipulates that “people’s liberty and dignity are guaranteed. All types of psychological and physical violence are prohibited as well as inhumane treatment. A confession under coercion, torture, or threat shall not be reckoned with. Victims in this case may claim compensation for the physical and emotional harm, according to the law. The state must ensure individuals’ protection against ideological, political, and religious oppression.” Tunisia’s constitution of 2014 stipulates in Article 23 that the state ensures “people’s dignity and life’s sanctity. It shall prohibit physical and emotional torture. The crime of torture shall not lapse.” Article 46 stipulates “the state shall safeguard, support, and enhance the rights obtained by women. The state ensures equal opportunities to men and women. The state shall take the measures that ensure elimination of violence against women.”

- **Children marriage**

A number of Arab states acknowledge that marriage shall be at age of consent (18) in accordance with international standards. In Egypt, the law says “it shall not be allowed to register a marriage certificate to those under 18 years of age.” The family laws of Tunisia (Article 5), Djibouti (Article 13), and UAE (Article 30) have similar provisions. Whereas in Algeria and Libya marriage age is set at 19 (Article 7) and 20 (Article 6), respectively.

- **Physical violence**

Most Arab states’ penal codes criminalize physical violence without mentioning men or women. A perpetrator of physical violence may end up serving a life sentence if violence leads to death. Different punishments apply violence leads to disability, disfiguring, or dismemberment. Egypt’s penal code provides in article 240 to 243 that imprisonment for physical violence ranges between one year and life. If motives for violence were terrorism or selling human organs and involved use of firearms, the punishment will be tougher. If a wound were inflicted as described in articles 241 and 242 through the use of arms or other tools used by one or more people, the punishment would be imprisonment. Punishment for crimes stated in Article 243 shall be for no more than five years when committed for terrorism purposes. The Syrian legislature included legal provisions in the amended penal code that criminalize physical violence. The punishments vary according to the inflicted damage. This applies to domestic violence⁽¹²³⁾.

- **Verbal abuse**

Kurdistan and Lebanon consider threats, verbal abuse, defamation, insulting, and degradation as crimes. They provide tougher sanctions when they take place at home. Domestic violence including insulting, degradation, and emotional violence are prohibited⁽¹²⁴⁾. Lebanon also punishes a husband who “has sexual intercourse with the wife through threats⁽¹²⁵⁾”.

- **Female circumcision**

Djibouti considers female genital mutilation a crime⁽¹²⁶⁾. The law has since 2000⁽¹²⁷⁾ allowed NGOs to file complaints against cases of female circumcision⁽¹²⁸⁾. The Kurdish law stipulates that “Domestic violence, including female circumcision, shall be prohibited. A person who facilitates female

123. Articles 540, 544, and 556 of the Syrian penal code 148/1949 and amendments

124. Article 2 of domestic violence combating law 8 of 2011

125. Articles 573/578/582/584 of the penal code 340 of 1943 and amendments of up to 2014. Article 333 of the penal code of women and family members protection from domestic violence law, ratified by Lebanese parliament in April 2014.

126. Article 333 of the penal code of 1995 amended in 2009

127. Article 7 of criminal procedure law 46 of 2002

128. Ibid

circumcision, especially to minors, shall be punished. The punishment shall be tougher when the perpetrator is a doctor, a pharmacist, a chemist, a midwife, or any of their assistants.⁽¹²⁹⁾”The Egyptian law punishes those (doctors, nurses) who cut or harm other people using illegitimate means. Female circumcision at public or private hospitals and clinics is prohibited⁽¹³⁰⁾.

Sudan adopted a national strategy to end female circumcision 2008-2018 and the Sudanese parliament ratified a law in 2014 that considered female circumcision a crime. The Sudanese council of ministers agreed on February 5, 2009 to nullify Article 13 of the draft child law, which addressed female circumcision.

- **Sexual harassment at the workplace**

Only Jordan, Tunisia, Algeria, and Morocco have laws against sexual harassment. In Jordan, the law allows an employee who is subjected to sexual harassment (or beating or degradation) at the workplace to quit work without giving a notice. Such employee will not lose end of service compensation consequently. The minister may also close the business where the employee was sexually harassed for a period he/she deems appropriate⁽¹³¹⁾. Sexual harassment perpetrators are sent to prison for one year and fined 3,000 dinars in Tunisia. Sexual harassment in Tunisia includes words or signs that degrade people or cause outrage of modesty and to exert pressure on people to be subdued to sexual or non-sexual⁽¹³²⁾ desires. Algeria laws provide similar prison sentence to those who abuse their power to subdue people to their sexual desires⁽¹³³⁾. Morocco also fines and sentences perpetrators of sexual harassment to imprisonment⁽¹³⁴⁾. This includes perpetrators of verbal abuse, acts of aggression, and inciting for corruption⁽¹³⁵⁾ and abuse of power⁽¹³⁶⁾. UAE’s legislature does not clearly define sexual harassment. However, the UAE law considers outrage of modesty and child abuse illegal. The punishment for the perpetrators of such acts is a maximum one year imprisonment and a 10,000 dirham fine or both⁽¹³⁷⁾.

- **Sexual violence, unconsensual sexual intercourse, rape**

Arab laws use unconsensual sexual intercourse, forceful intercourse, and sexual molestation. The term rape is not commonly used except in the laws of Djibouti, Sudan, Mauritania, and Yemen. Arab states consider sexual violence against women, girls, and boys crimes. They have tough sanctions against perpetrators of sexual violence against children, handicapped people, and helpless people. Tough sanctions also apply to relatives, unmarried relatives, teachers, and religion officers who commit acts of sexual violence. Egyptian and Tunisian laws do not let rapists go unpunished [if they marry their victims such as the case with other Arab states]. Syrian law also considers sexual molestation, rape, acts of indecency, seduction, promoting acts of indecency, and incest crimes. Oman considers sexual acts of aggression including rape as crimes that can be punished by life sentence or death if committed by a relative.

129. Article 2/6 of the domestic violence combating law 8 of 2011

130. Articles 241 and 242 of the Egyptian penal code 95 of 2003. Article 1 of Health minister’s decision 171 of 2007 on prohibition of female circumcision.

131. Article 29 of Jordan’s labor law 48 of 2008.

132. Article 226 of Tunisia’s law 73 of 2004

133. Article 341 of Algeria’s law 04-15 of November 2004

134. Articles 1-503 of the penal code of 11 November 2003

135. Article 40 of the Moroccan labor law 2004

136. Articles 1-503 of the penal code of 11 November 2003

137. Article 359 of the penal code 3/1987

- **Economic violence**

The Palestinian law stipulates that “if a spouse disposes of the spouse’s property, it shall be an act of theft and the perpetrator may be accused of theft.⁽¹³⁸⁾” and “theft shall be punishable by a one-year imprisonment unless the law imposes another sanction according to theft type or circumstances.⁽¹³⁹⁾”

- **Human trafficking and sexual exploitation**

Arab states address human trafficking and sexual exploitation in the constitution, penal codes, and special laws. They all criminalize prostitution, sexual abuse, and forcing women, girls, and boys into prostitution. The sanctions are tougher when victims are minors and forced in such acts by relatives or people who have authority over them. The Arab states’ laws, though important, are insufficiently deterrent. They do not cover all forms of sexual abuse. UAE, Djibouti, Syria, Oman, Iraq, Qatar, Egypt, and Saudi Arabia have laws that criminalize human trafficking. Lebanon and Algeria have drafted similar law. Jordan, Iraq, and Sudan (Article 30 of Sudan’s 2005 constitution) prohibit slavery. Sudan approved the anti-human trafficking law of 2013 on March 3, 2014 (the laws originally submitted by the justice minister to the cabinet in 2012). The law is unambiguous in defining human trafficking at home and abroad (articles 7 and 8).

- **Remaining loopholes of discrimination**

Children marriage

Laws define marriage age at 18; however, they include exceptions that allows judges to approve marriage of minors for their own good. This is included in all Arab family laws. There are laws that allow the marriage of 10-year old girls such as Sudan (Article 10 of the family law). Iraq allows marriage of 15-year old girls (Article 8 of the family law). The same applies to Yemen, Mauritania, and Kuwait (articles 15, 6, and 26 of the family laws), respectively. Marriage age is set at 16 in Bahrain (Article 18 of the family law) and 17 in Lebanon⁽¹⁴⁰⁾ and Syria. The family laws of Jordan, Palestine, Algeria, and Morocco allow marriage of minors without defining an age.

Physical violence

The laws provide for punishment to perpetrators of violence. However, they vary in the way they pay special attention to physical violence against women at home and in the community. Most laws do not pursue further procedures when a victim decides to drop charges, even in the case of domestic violence. Tunisian and Lebanese laws are examples of this case. Moreover, laws give the husband the right to discipline his wife. Examples of this case include the laws of Jordan, Oman, and Syria (Article 185 of the Syrian penal code). This is in line with customs and traditions. Beating is considered method of discipline of the wife and children at home and at school. Iraqi law does not consider domestic violence a crime. Disciplining the wife is a violation of women’s rights to physical and mental safety. It may involve high degree of physical and psychological harm or even death. Traditions and customs that allow such disciplining let perpetrators go scot-free. For instance, Article 41 of the Iraqi penal code of 1969 stipulates that it shall not be considered a crime “if the act is the outcome of a right that is approved the law such as disciplining the wife by the husband and disciplining children at home and school.” A law like this assumes that the wife is always wrong. She is even considered criminal when she

138. Article 269 of Palestine’s penal code 47 of 1936 (effective in Gaza)

139. Article 270 of Palestine’s penal code 47 of 1936 (effective in Gaza)

140. Articles 1 and 2 if Druze personal status law of 1948. Article 4 of the Lebanese family rights law (of Sunni people) of 1954. Article 19 of the personal status law of the orthodox Assyrian sect of 1997. Article 22 of the episcopal evangelical sect of 1954.

harms the husband even in self-defense, according to articles 410 to 416 of the Iraqi penal code. The Iraqi law also allows for leniency to those who perpetrate honor crimes. These laws are inconsistent with Iraq's constitution, which provides for equality of all Iraqis before the law. The constitution also prohibits all forms of domestic violence as well as violence at school and in the community. The Jordanian law is similar to the Iraqi law since it does not consider "disciplining the children by the father in accordance with customs" as a crime⁽¹⁴¹⁾. Consequently, the laws do not differentiate between legal rights and human rights, which is why this study is important.

Libya also give leniency to honor killing. The law stipulates "it shall be a cause for leniency to who catches his wife, daughter, sister, or mother committing adultery and commits murder. Beating or causing little harm shall in this case go unpunished. Beating with no intention to cause harm shall receive reduced sentence⁽¹⁴²⁾." The Palestinian law stipulates "lenient sentencing shall apply to [a person] who commits a crime while in extreme rage and the [man] who catches his wife or unmarried relatives committing adultery⁽¹⁴³⁾." The Egyptian law is also lenient to a husband who catches his wife committing adultery and kills her and her partner⁽¹⁴⁴⁾. The same applies to the Yemeni law⁽¹⁴⁵⁾. The Syrian law does not enforce tough sanctions against a man who commit physical violence against his wife, sisters, and other girls in the family. Honor killing is cause for leniency as well as extreme rage.

- **Verbal abuse**

Arab states do not apply tough sanctions when threats, defamation, and degradation occur at home. Verbal abuse may go unpunished if the accuser decides to drop charges or the law decides that women's clothes or high voice were the cause of the verbal abuse.

- **Female circumcision**

This phenomenon is widespread in the Arab states including Mauritania, Libya, southern Algeria, Iraq, Kurdistan, Jordan, Palestine, Syria, Yemen, Oman, Qatar, Saudi Arabia, UAE, Bahrain, and Kuwait. These states do not have laws that protect little girls and women from genital mutilation, which is a threat to sexual life, reproduction, and life. Female circumcision would have gone unchallenged hadn't been for the studies and awareness-raising by NGOs and international organizations.

Egypt, Djibouti, Kurdistan, and Iraq drafted laws against female circumcision; however, they need to be tougher than they are in enforcing such law. Their data, including those published by UNICEF in 2013⁽¹⁴⁶⁾ show that 27.2 million women in Egypt had female circumcision, which puts Egypt in the first place globally in female circumcision. In Somalia, 98% of females undergo circumcision. In Djibouti 90-98% of females undergo circumcision. In Egypt the rate of female circumcision is 78-97% and in Kurdistan, the rate is 26-80%. The rates of female circumcision for Sudan and Mauritania are 91% and 71%, respectively though these two states' laws criminalize such practice. These high rates of female circumcision are due to lack of powerful laws and enforcement and accountability as well as lack of political and legislative will to confront harmful traditional practices against female genital mutilation. This proves that the ministerial decisions⁽¹⁴⁷⁾ that prohibit female circumcision at health centers and hospitals are inadequate since female circumcision is done somewhere else and goes unpunished.

141. Article 62 of the Jordanian penal code 16 of 1960 and supplementary laws

142. Article 375 and 383 of the Libyan penal code 70 of 1973

143. Article 18/340 of the penal code 16 of 1960 effective in the West Bank and Article 98 of the penal code 47 of 1936 effective in Gaza Strip

144. Article 237 of Egypt's penal code 95 of 2003

145. Articles 232 and 233 of the penal code 12 of 1994

146. Female Genital Mutilation/Cutting UNICEF, (July 2013)

147. Health ministers decision 2010CRC/C/YEM/4on female circumcision

- **Sexual harassment at the workplace**

Sixteen of the Arab states included in this study do not have laws against sexual harassment at the workplace. They speak of sexual molestation and outrage of modesty, which does not necessarily mean that such acts are crimes of physical and/or sexual violence. Moreover, the Arab states that have laws against sexual harassment need to review their laws for more accurate definition of sexual harassment and for better protection of women, women's rights, and protection of witnesses in sexual harassment lawsuits. The Tunisian law for instance does not include a definition of sexual harassment that is consistent with international standards. The law accuses the victim of sexual harassment of defamation when the defendant is declared to be innocent. This constrain may explain why there is limited number of sexual harassment legal cases at courts though the phenomenon is widespread at workplaces and the streets. Lack of knowledge among victims and authorities is another reason for limited lawsuits of sexual harassment in Tunisia. Sexual harassment must be defined and not be limited to the workplace. The Egyptian penal code was amended in June 2014 to be strict with criminalizing sexual harassment. The amended law stipulates that "a punishment of at least six months imprisonment and a fine of at least five thousand pounds, or one of them, shall be given to anyone who in public or private places makes signs or words or acts⁽¹⁴⁸⁾ of sexual nature or uses wire and wireless means of communication to convey such signs or words or acts."

- **Sexual violence, rape, sexual molestation**

All Arab states consider sexual violence a crime; however a rapist or an abductor may escape punishment if they marry their victims, such as the case of Algeria and Tunisia. Such marriage stops any further legal procedures –however, the procedures may proceed if a divorce takes place before two years of marriage⁽¹⁴⁹⁾. "The marriage of the criminal to the girl he seduced shall withhold court [procedures] and execution of punishment⁽¹⁵⁰⁾." It is worth noting that Paragraph 2 of Article 475 of the Moroccan penal code, which allowed marriage of victims of sexual violence and perpetrators of such crime to marry and let the criminal go scot-free, was nullified in January 2014 after a lobbying by civic society organizations convince the Moroccan legislature that such procedure caused victims to commit suicide.

Rape is a crime that may lead the rapist to capital punishment if the victim is less than 16 years old⁽¹⁵¹⁾. In Qatar, "[a person] who has sexual intercourse with a female, who had already turned sixteen, without coercion, threatening, or deception, shall be punished. The female shall receive similar punishment⁽¹⁵²⁾. "[a person] who has sexual intercourse with an unmarriageable female, who had already turned sixteen, shall be punished. The female shall receive similar punishment. The age of consent, in international standards, is 18, therefore, legal protection must be made available to boys and girls under this age. The law must not consider minors' approval as free and responsible⁽¹⁵³⁾. In Yemen, severer punishment applies when victims of sexual violence are less than fourteen years of age⁽¹⁵⁴⁾. Yemen laws stipulate that "[a person] who commits sexual molestation using coercion or deception with a female who is no more than 15 years of age or a male of no more than 12 years of age or helpless person shall be imprisoned for a period not exceeding five years. This also applies to criminals who are related to or in charge of victims⁽¹⁵⁵⁾." The Yemeni laws do not provide protection to women victims of rape. The punishment of rapists in Yemeni law is inadequate compared to the severity of the crime of rape. A sentence of no more than ten years imprisonment applies to rape when committed by two or more people or by one person who is in charge of the victim such as the father, brother, or uncle. If rape is

148. Articles 306 (A) and (B) of the penal code of 2015

149. Article 227 of Algerian law 1913 and amendments to 2010. Law 15 of 1958, law 21 of 1969, and law 23 of 1989

150. Article 239 of the Algerian law of 1913

151. Articles 279 and 280 of Oman's penal code of 2004

152. Articles 280 and 281 of Qatar's penal code of 2004

153. With reference to Convention on the Rights of the Child

154. Article 209 of the penal code 12 of 1994

155. Article 272 of the penal code 12 of 1994

committed by one person, the sentence is no more than seven years. Minimum sentence for rape is two years in prison. Tougher sentence applies when the victim is less than 14 years old or if rape leads to suicide. Minimum sentence in this case is three years in prison. The difference between maximum and minimum sentencing is obvious; it is left to judicial discretion⁽¹⁵⁶⁾, which is difficult to estimate. The way Yemeni laws address sexual violence could be blamed on the cultural and social background, which blame women for being victims of sexual violence because of the way they dress or behave or because they get out of home. Most Arab states lean towards this blame but to various extents.

UAE laws are very strict on rape but do not address sexual harassment (described as sexual molestation or outrage of modesty) in the same strictness. Perpetrators of such acts are sent to at least one year imprisonment. The UAE law does not address incest. Arab states do not consider marital rape a crime. It is not included in the legal provisions on sexual intercourse by coercion in the laws of Palestine, Jordan, and Syria⁽¹⁵⁷⁾. The Syrian law allows the husband to beat and rape his wife⁽¹⁵⁸⁾.

- **Economic violence**

Arab states lack laws that protect women from economic violence –except for Palestine. It is true that laws address women’s right to own and dispose of property; however, Arab women still confront economic violence. Arab Women are deprived of basic resources, under the nose of the law. They are deprived of inheritance. They are forced to quit jobs. Their salaries and other financial resources are confiscated by the husbands. They are forced to relinquish financial rights in order to get a divorce or a marriage (in some Arab states women are forced to forgo inheritance in order to be allowed to marry).

- **Human trafficking and sexual exploitation**

Most Arab states failed to address human trafficking in a specific law that would consider such practice as a crime. The way other laws and constitutions deal with human trafficking is insufficient to deter the crime. The circumstances of specific states have exacerbated human trafficking. Imposing simple fines or deporting illegal immigrants are inadequate procedures to deter the perpetrators of the crime of human trafficking.

Situation under relevant human rights and women’s rights international treaties

- **Ratifying and joining women’s rights treaties**

Article 1 of the Declaration on the Elimination of Violence against Women of 1993 stipulates that “For the purposes of this Declaration, the term «violence against women» means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” Morocco, Algeria, Tunisia, Palestine, Lebanon, and Iraq (including Kurdistan) adopted strategies or plans to stop and combat violence against women on the basis of the

156. Article 12 of the penal code 12 of 1994

157. Article 292 of the penal code 16 of 1960 effective in the West Bank. Articles 392-394 of Syrian penal code148/1949.

158. Articles 489 and 490 of Syrian penal code148/1949

aforementioned definition. In addition to the international human rights instruments, which Arab states ratified⁽¹⁵⁹⁾, there are resolutions and other documents that are directly related to ending gender based violence against women in times of peace and conflict or in post-conflict situations. Arab states mostly refer to ratified human rights treaties such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as references to human rights. They refer to CEDAW as reference to women's rights. Other instruments, such as the following, have not been given the attention they deserve:

- Human Rights Council resolution 26/15 of 2014 on accelerating efforts to eliminate all forms of violence against women: violence against women as a barrier to women's political and economic empowerment.
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders 2010
- Resolution adopted by the General Assembly on 18 December 2009 on Intensification of efforts to eliminate all forms of violence against women.
- UNDP report on actions to eliminate violence against women. Memo from the UN Secretary General, 2008.
- Elimination of rape and other forms of sexual violence including during conflict. Report by UN Secretary General, 2008.
- Intensification of efforts to eliminate all forms of violence against women. Report by UN Secretary General, 2008.
- General Assembly's resolution to eliminate rape and other forms of sexual violence including during conflicts, 2008
- General Assembly's resolution concerning intensification of efforts to eliminate all forms of violence against women, 2007.
- In-depth study on all forms of violence against women. Report by UN Secretary General, 2008.
- Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (only two Arab states ratified this protocol).
- Crime prevention and criminal justice measures to eliminate violence against women, 1997.
- Declaration on the Elimination of Violence against Women 1993
- Declaration on the Participation of Women in Promoting International Peace and Cooperation 1982
- Declaration on the Protection of Women and Children in Emergency and Armed Conflict, 1974
- Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1965
- Declaration on the Elimination of Discrimination against Women. 1967
- General Recommendation No. 19 of CEDAW (1992) on violence against women, which was adopted by the Committee on the Elimination of Discrimination against Women. The recommendation stipulates in paragraph 1 that "Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.
- Committee on the Elimination of Discrimination against Women General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situation. "The primary aim and purpose of the general recommendation is to provide authoritative guidance to States parties on legislative, policy and other appropriate measures to ensure full compliance with their obligations under the Convention to protect, respect and fulfil women's human rights. It also builds upon principles articulated in in previously adopted general recommendations."
- Security Council Resolution 1325 of October 2000. It is a binding resolution for all UN member states. The adoption of Resolution 1325 is an international political recognition

159. See table after conclusion

of the importance of linking women and gender issues to international peace and security. The key provisions include increase women's participation and representation at all levels of decision-making; pay attention to the requirements of protection of women and girls in conflicts; incorporate the gender perspective in post-conflict processes; incorporate the gender perspective in programs and UN reports and missions; incorporate the gender perspective and training in UN peacekeeping operations.

- Security Council Resolution 1820 of 2008: Raise awareness on sexual violence in armed conflicts and post conflicts and end such violence.
- Security Council Resolution 1888 of 2009: Contains important provisions and measures concerning leading and coordinating and providing tools for accountability, including examining cases of sexual violence as a standard for imposing Security Council's sanctions.
- Security Council Resolution 1889 of 2009: Reaffirms resolution 1325 and condemns continuation of sexual violence against women in conflicts. The resolution urges UN member states and civil societies to initiate programs in post conflict situations to meet women and girls' needs for empowerment and protection including women in armed groups.
- Security Council Resolution 1960 of December 2010: This resolution provides institutional tools and necessary means to bring sexual violence perpetrators during conflicts to justice.
- Security Council Resolution 2106 of June 2013: This resolution recommends deployment of Women Protection Advisors (WPA) in accordance with Resolution 1888.
- Security Council Resolution 2122 of October 2013: This resolution proposes taking tougher measures to involve women in peace processes. It calls for regular submission of brief reports on women, peace, and security.

- **Impossible reservations**

Sex-based discrimination is violence against women regardless of justifications. Gender-based violence is an important issue on the international human rights agenda. The Shari'a and national law-based reservations of the Arab states to international human rights instruments are; therefore, factors of strengthening discrimination against women in private and public domains. Hence, the national legal provisions that strengthen discrimination and the reservations to equality are forms of institutional violence. This includes physical violence such as allowing a husband to discipline his wife; sexual violence in lenient sentencing of abduction and rape; and socio-economic violence where women are deprived of education and work and are sexually harassed. Institutional violence also includes depriving women of basic liberties such as freedom of speech, movement, decision-making, allowing minors' marriage, and forced marriage. Women's human rights are violated by Arab states institutions since they don't allow equal citizenship rights to women compared to men and they do not ensure dignity to women. Paragraph 2 of Article 27 of Vienna Convention on the Law of Treaties stipulates that "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty." Paragraph 1 of Article 46 of the same Convention stipulates "A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance."

Findings and recommendations

1. Findings

Clearly, the effective Arab legislations do not ensure sufficient and efficient protection to abused women throughout their lives. The legislations have also failed to address all forms of violence including that conducted by the husband. In fact, some Arab states makes it legal for a husband to abuse his wife. There are different levels employed by the laws in sanctioning violence against women including domestic violence and sexual crimes, which increase women's suffering. In many cases women cannot defend themselves, cannot find laws to protect them, and find it difficult to pursue litigation due to social customs and traditions that protect the perpetrators rather than the victims.

Moreover, the phenomenon of violence against women, especially sexual violence including rape, exacerbates during time of conflict such as the case of early 1990s revolution in Algeria and during the present day conflicts of Tunisia, Libya, Egypt, Syria, and Iraq.

2. Required legal reforms and additional measures

The following includes reforms that are proposed for more just laws from a human rights perspective:

The right to health and reproductive Gender-based violence: Legal system and social and cultural system

Respect

- Make equality and non-discrimination principles constitutional. Consider gender-based violence a crime included in national legislations.
- Ensure compliance of states' laws with states' international obligations by ending the impossible reservations to ratified international human rights instruments. Such instruments shall be incorporated and shall take precedence in national legislations as required by articles 27 and 46 of Vienna Convention on the Law of Treaties.
- Adopt the international definition of sexual violence including sexual harassment, rape, and marital rape. Nullify the articles of the laws that allow and justify violence against women in all forms and under all circumstances such as giving the husband the right to discipline his wife and children; allow the rapists to marry their victims and the abductor the abductee to avoid punishment; and leniency for murder in "honor killing" and making marital rape legal.
- Adopt internationally recognized age of consent (18 years). Consider minors marriage sexual crime. Reject consent to marriage of minors.

Observance

- Draft comprehensive laws that criminalize all forms of violence in public and private domains. This includes economic violence and marital rape.
- 1. Draft laws that makes sexual harassment at the workplace a crime. The laws must protect the person who files the complaint of sexual harassment.
- 2. Enable civic society organizations to file lawsuits in the event an abused woman drops charges or is unable to file complaint of sexual harassment; children marriage; and female circumcision.
- Draft laws against human trafficking if such laws do not exist.
- Create legal framework to activate the resolutions of the UN Security Council concerning violence against women in conflicts, including sexual violence.
- Adopt legal frameworks and regulations at national and regional levels that consider abuse and rape of women and girls in conflicts as war crimes. This shall be accomplished through Arab League and civic society organizations' cooperation with support from relevant international organizations.

Promote

- Reform curricula by incorporating and teaching human rights. The focus shall be on discrimination and violence in all of their forms. Raise awareness on sexual violence forms such as sexual harassment and sexual abuse especially at schools and universities.
- Support civic society organizations and create cooperation and coordination frameworks with relevant official state's entities to regulate, fund, and implement national and regional awareness-raising campaigns to combat violence against women and girls.

Ensure

- Establish courts specialized in processing cases of all forms of violence against women and girls.
- Train judges in general and female judges and lawyers in particular on gender-based violence. The training shall include national and international dimensions of gender-based violence.
- Establish shelters for women who escape violence and enable them to file complaints at police stations and courts against the perpetrators of violence against them.
- Set up, fund, and implement strategies at national and regional levels to combat violence against women throughout their lives in time of peace and conflict. This shall be accomplished through Arab League and civic society organizations' cooperation with support from relevant international organizations.
- Ensure protection of women who are victims of violence. This shall involve creating special police units, courts, and civic society organizations to receive complaints and provide efficient guidance to victims of violence. Provide medical services including emergency services, trauma treatment, forensic medicine, and maternity services as well as psychological support and legal aid to victims of violence. This can be carried out by social affairs ministries and specialized NGOs. Also, provide economic empowerment including training and financial support to ensure independence of women who escape violence.

Arab Women and Legislations

Conclusion

Present and Future

Equality in national laws

1. Foreword

The conclusion focuses on a number of human rights principles including non-discrimination, equality, rule of law, and accountability. Other human rights principles are also taken into consideration in the conclusion since they constitute grounds for democracy and good governance. The conclusion also includes equality between women and men that has been incorporated in national laws and constitutions of the Arab states and how such incorporation influenced policy makers and legislatures and people's lives⁽¹⁶⁰⁾. The conclusion also reviews equality between men and women with reference to international law and Arab states' compliance with international law having ratified international human rights treaties. The human rights principles will be tested by assessing the key indicators of the rule of law and the extent to which it is observed. The conclusion assesses accountability mechanisms and people's right to access litigation. Gaps will be defined as shown in the survey and analysis of the laws in the four chapters of the report.

- **Equality and non-discrimination incorporated in constitutions**

Arab states' constitution contain provisions that provide for equality between women and men as citizens of states. They enjoys similar rights and duties and are subject to similar laws and legislations. However, the concept of equality varies among constitutions. The concept may also differ in the provisions of the same constitution. Equality may be granted in one area and concealed in another. Therefore, constitutions may be categorized in accordance with more than one variation such as equality and non-discrimination on the grounds of sex; use of gender-sensitive language, being influenced by religious, social, and cultural values as well as different sects; setting up special procedures and mechanisms to empower women. Certain Arab states' constitutions acknowledge equality and non-discrimination on the basis of sex; however, they restrict non-discrimination to Shari'a provisions. The constitutions of the Arab states included in the study can be categorized into four categories on the basis of the difference in the meaning of "equality among citizens in rights and duties and equality before the law":

One: Equality that is subject to conditions and interpretation

The constitutional provisions on equality link equality to Shari'a. The wording of the provisions does not clearly mention women. For instance, the Saudi constitution calls for non-discrimination in human rights among people. Articles 8, 11, and 26 of royal decree 90 of 1992 stipulates that governance shall be based on justice, Shura [consultation], and equality in accordance with Shari'a. The Saudi community shall be based on faith and cooperation on righteousness and solidarity. The state shall safeguard human rights according to Shari'a. Yemen's constitution of 2001 stipulates in Article 31 that "women are equal to men; they shall have the rights and duties that are guaranteed by Shari'a and the law."

Two: Equality and non-discrimination but no mentioning of non-discrimination on the basis of sex

This includes provisions like "citizens are equal before the law. They are equal in rights, duties, opportunities, and human dignity. It shall not be allowed to discriminate between them on the basis of language, origin, ethnicity, religion, or political affiliation." Sex is not included as a basis of non-discrimination between citizens. There are certain constitutional provisions that do not explain discrimination or consider gender-sensitive language though such provisions were later used to set

160. As explained in the different chapters of the report

up procedures to eliminate discrimination against women. These provisions are in the constitutions of Lebanon 1926 (Article 7), Jordan 1952 (Article 6), UAE (Articles 14 and 257), Article one of the Jordanian National Charter of 1991.

Three: Equality and non-discrimination including on the basis of sex

Most Arab states' constitution belong to this category. They provide for equality of citizens before the law; there shall be no discrimination on the basis of sex. These constitution contain statements that are closely alike "citizens are equal before the law. They are equal in rights, duties, opportunities, and human dignity. It shall not be allowed to discriminate between them on the basis of sex, origin, or ethnicity." Such statements are available in the constitutions of Kuwait 1962 (Article 29), Mauritania 1991 (Article 1), Djibouti 1992 (Articles 1 and 10), Oman 1996 (Article 17), Bahrain 2002 (Article 18), Palestinian basic law 2003 (Articles 9), Qatar 2004 (Articles 34 and 35), Iraq 2005 (Article 14), and Libya's interim constitution declaration 2011 (Article 6).

Four: Assert equality between men and women with focus on positive discrimination

Certain constitutional provisions are similar to type three; however, they are better improved in gender-sensitive wording and in activating equality between men and women. For instance, articles 29 and 32 of the Algeria constitution of November 28, 1996 stipulate that basic liberties and human and citizenship rights are guaranteed and shall be joint legacy for all Algerians (male and female Algerians), which they shall safeguard for future generations. All citizens are equal before the law. The institutions shall ensure equality between all citizens (male and female citizens). Article 31 of the Algerian constitution (amended in November 2008) stipulates that "the state shall promote women's political rights by increasing women's presentation in elected councils⁽¹⁶¹⁾." Article 19 of the Moroccan constitution of 2011 stipulates that men and women shall equally enjoy political, economic, social, and environmental rights and liberties. Article 31 of the same constitution requires the state, public institutions, and local groups to ensure the means that facilitate citizens' (male and female citizens) equal benefiting from the right to medical treatment, healthcare, social protection, health coverage, solidarity, and access to public offices (on the basis of merit). Article 23 of the Syrian constitution 94 of 2012 requires the state to provide women with opportunities to have effective and full contribution to political, economic, social, and cultural domains. The state shall also remove the obstacles that hinder women's development and participation in building the society. Article 21 of the Tunisian constitution 21 of 2014 stipulates that "citizens (male and female citizens) are equal in rights and duties. They are equal before the law. There shall be no discrimination. The state shall ensure public and private rights and liberties to citizens (male and female citizens) as well as decent living." Article 46 of the same constitution requires the state to safeguard the earned rights of women, support and develop women, and ensure equal opportunities to men and women with respect to responsibilities and in all domains. Ensure parity between men and women in elected councils. Take measures to eliminate violence against women. Article 11 of the Egyptian constitution of 2014 stipulates that the state shall ensure equality between men and women in all civil, political, economic, social, and cultural domains in accordance with the provisions of the constitution. The state shall take measures to ensure appropriate representation of women in the parliament as defined by the law. The state shall also ensure women's right to occupy public offices and the judiciary. There shall be no discrimination against women. The state shall protect women from all forms of violence and ensure that women can meet home and work requirements. Article 32 of the Sudanese constitution of July 9, 2005 provides that "the state shall ensure equal rights between men and women in enjoying all civil, political, social, cultural, and economic rights including equal pay for equal work and other job benefits." The state may also enhance women's right through positive discrimination.

161. And the provisions of law 12 of 2012, which show how to enhance women's representation in elected councils

2. Contradictions and discrimination loopholes

Most Arab states have made progress in improving laws concerning women's rights. The progress was achieved in reforming laws and constitutions and making policies that are consistent with the reformed laws and constitutions. However, there are contradictory laws and enforcement of laws is not consistent with the laws. Policies and practices designed to eliminate discrimination and enhance equality can also be contradictory with the laws. The contradiction is at individual and institutional levels. Moreover, not all constitutions include sex as basis for non-discrimination. Most Arab constitutions' language is not gender-sensitive. The process of ensuring women's human and legal rights still faces obstacles due to contradictions between enforcement of constitutional provisions, laws, customs and tradition, and religion.

Schools of religious thoughts (jurisprudence) in MENA and Arab Gulf States make enforcement of the law subject to circumstances and personal interpretation –while enforcement of the law and protection of justice need to be unbiased. The family laws are examples of the double standard of the laws of the Arab states in question. These laws supersede other laws and the constitutions. A constitution of an Arab state may be contradictory since it would provide for equality in one part and discrimination between men and women and women and women in another. The Lebanese constitution is an example of such contradictory constitution. Lebanon has fifteen personal status laws for eighteen sects. Iraq has different personal status laws for different clans. Article 41 of the Iraqi constitution stipulates that “Iraqis are free to comply with their own personal status [laws] in accordance with their religions or doctrines or beliefs of choices, which shall be regulated by a law.” This means that Iraqis are free to violate women's rights in the name of religion and beliefs. Article 41 of the Iraqi constitution is also contradictory to Article 14 of the same constitution, which stipulates that all Iraqis are equal before the law and that there shall be no discrimination of the basis of sex, ethnicity, nationality, origin, color, religion, doctrine, or belief.

3. Principles and viewpoints and reality of women's situations

Equality and non-discrimination are indivisible human rights principle. Human rights are enjoyed together. People cannot have some human rights while deprived of others. Improvement of women's situation requires women's participation and involvement and women's enjoyment of all human rights in private and public domains. The challenges relevant Arab states face include:

- The laws that provide for equality lack enforcement
- The laws and constitutions that provide for equality are hindered by contradictions and lack of capacities and services
- Limited enjoyment of rights due to lack of awareness of rights
- Contradictions between national laws and international obligations of states
- Achievements of equality face uncertain future

Status of equality between men and women in international law

1. Equality in international law

The Preamble of the Charter of the United Nations of 1945 stipulates, “We the peoples of the united nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small...”

This is affirmed in paragraph 5 of the Preamble to the United Nations Universal Declaration of Human Rights 1948, which states “Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.” Article 2 of the Declaration stipulates that “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”

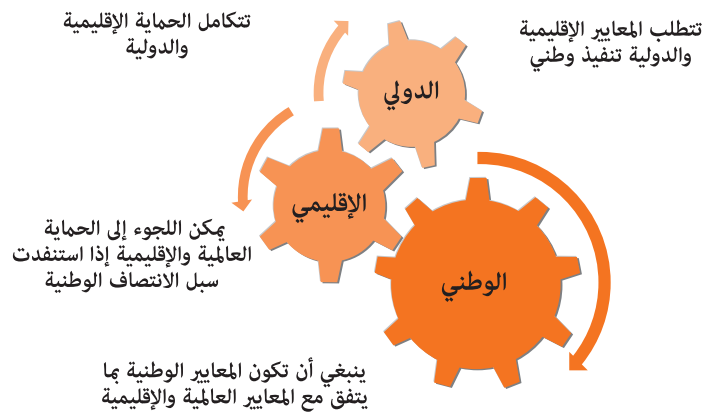
The seven core international human rights treaties apply equally to men and women, boys and girls. They include the International Covenant on Civil and Political Rights, which stipulates in Article 3 that “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.” Article 3 of the International Covenant on Social, Economic, and Cultural Rights resonates this by stating “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.” The seven core treaties include the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which is exclusively designed to ensure equality between men and women. In order to clear any doubts about CEDAW, the concepts of discrimination and violence against women were strengthened by the tool of general recommendations. For instance, General Recommendation No. 19 of the 11th session, 1992 of the Committee on the Elimination of Discrimination against Women stipulates in paragraph 4 that “The Committee concluded that not all the reports of States parties adequately reflected the close connection between discrimination against women, gender-based violence, and violations of human rights and fundamental freedoms. The full implementation of the Convention required States to take positive measures to eliminate all forms of violence against women.” This clearly means that any form of discrimination against women is a violation of women’s human rights (see other paragraphs on the general recommendation), which will be dealt with in accordance with the Convention.

Each person is entitled to enjoy human rights; they are birthrights. The enhancement of human rights is basic condition of the international law. National laws must be made to be consistent with the international law.

2. Arab states' obligations to international treaties: Ratification and reservation

• What are states parties required to do?

The focus is often on human rights treaties as international instruments for ensuring protection and enhancement of human rights at national levels. The internationally-approved standards require implementation at states' levels to ensure that men, women, and children of each state enjoy human rights. The following diagrams shows that protection and enhancement of human rights are required to be implemented at states' levels even with having a national monitoring and accountability system in place⁽¹⁶²⁾.



Hence, people are entitled to enjoy human rights in their countries and the people in charge must ensure such rights, which consequently would ensure achievement of progress. The states that signed the international human rights instruments must observe their obligations to such instruments. People may seek litigation at home or abroad to be granted human rights.

• Implementation of international obligations locally

1. Conduct reforms of the laws the led to ending a number of reservations.
2. Set up national mechanisms on issues related to human rights, equality between men and women, and women's empowerment.
3. Set up policies, strategies, programs, and services.
4. Set up monitoring and evaluation system to prepare periodic reports at state level on women's situations and rights. Reports are submitted to relevant international and regional agencies.

People are now more capable to lobby for demanding human rights individually or through civic society organizations. This is to push people in charge to observe and protect human rights. They can demand compensation when human rights are violated. People in charge including heads of families and states' governments are more understanding of their duties and responsibilities toward observing and protecting human rights and ensure that people who are entitled to them enjoy them.

162. Treaty Bodies/ Organes Conventionnels

Arab states ratified many international human rights treaties including those that seek to eliminate all forms of discrimination on the basis of race and sex and those that target specific groups such as children, women, migrants, and disabled people. Arab states ratified treaties targeting specific rights such as work, education, and political participation; and treaties targeting specific violations such as torture and cruel treatment and human trafficking and abuse. They also ratified optional protocols (see attachments). The following shows the Arab states' standpoints with respect to the human rights treaties:

- Arab states have reservations to articles calling for elimination of discrimination in the international human rights treaties;
- Arab states have reservations to articles calling for equality between men and women in the international human rights treaties;
- Arab states have laws and constitutions that are contradictory to articles in international human rights treaties [Arab states laws and constitutions may be inconsistent with the human rights instruments they ratified];
- Certain Arab states' constitutions allow international human rights treaties to take precedence over the national laws;
- Certain Arab states end reservations to international human rights treaties after reforming their own laws; however, they may have other reservations that put reform at stake; and
- Certain Arab states end reservations to specific provisions of international human rights treaties but keep other reservations, which makes ending of reservations meaningless.

An analysis was conducted on Arab states' compliance with equality between men and women, women's empowerment, progress in observing international human rights treaties in states' laws, and the extent to which people (especially women) enjoy the rights stipulated in the international human rights treaties they ratified. In conclusion, the Arab states in question have common factors in dealing with the treaties they ratified: They expressed compliance with the treaties; however, the expression of compliance has not translated into action on the ground at home in the public or private domains.

Right to litigation and access to justice

1. Definitions and principles

- **Right to litigation**

The right to litigation is guaranteed to all people; it is also provided for in the constitution. It is one of public freedoms. Individuals may seek litigation freely. The right to litigation is:

1. One of the basis public rights.
2. The framework for the prevailing of justice.
3. Provided for in the constitution.
4. An absolute right; it cannot be restricted.

The right to litigation is among the key principles that ensure human rights. It is observed by all laws and international treaties such as the Universal Declaration of Human Rights, which stipulates in Article 10 the "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal." The right to litigation is also recognized in the Basic Principles on the Independence of the Judiciary of 1985.

A judicial authority is imperative to safeguarding rights and freedoms. The legislative authority plays a complementary role to protecting rights and freedoms. The legislative authority's enactment of laws requires a judge (judicial authority) to put such laws into action. The laws require the right to litigation. To ensure such right is the only way that allows a judge to do one of the noblest jobs to protect rights and liberties. Moreover, the purpose of having a legal system is to safeguard rights and freedoms. International human rights treaties and the states' constitutions ensure the right to litigation as one of the most important people's rights.

- **Access to justice**

The international law does not define access to justice; however, the term is used in different ways and contexts of the international law. The term, in general, is an indication of the extent to which official agencies of the law are open to marginalized people of the community such as the poor and the migrants. This access involves provision of legal aid, removal of obstacles including social and language obstacles, raising of awareness of the law, and eliminating the fear of law and its institutions. Access to justice can be defined by two dimensions:

1. Fair trial before a court of law
2. Justice in dealing with violation of a person's rights

Access to justice does not stop at access to courts. It involves civil and administrative processes such as dealing with immigration and compensations paid by states. It also involves protection of rights throughout legal procedures from filing a complaint to court hearing to sentencing, including paying compensations.

The conditions of access to justice:

1. The right to facilitated access to the judiciary
2. Independent and unbiased judiciary
3. Not to hinder litigators with procedural and financial obstacles. Ensure execution
4. of court sentences.
5. Remove obstacles to accessing the judiciary, including
 - a. Obstacles related to lack of awareness and knowledge of the law
 - b. Obstacles related to complex access to the judiciary
 - c. Financial obstacles

- **The cornerstones of the right to litigation and access to justice**

The right to litigation and access to justice is based on a number of principles. However, the principles remain theoretical due to facts on the ground. For instance, immunity should not be used to protect human rights violations. People must all enjoy equal access to justice. The right to litigation and access to justice are human rights of special nature. The judiciary delivers services to people. The way the judiciary deals with laws that had not been originally enacted by it must be monitored. The way the judiciary follows to arrive to equality between men and women must also be monitored. The judiciary must be informed of the requirements of securing equality between men and women.

2. Legal systems of the right to litigation and access to justice

Arab legal systems have different ways of ratifying the right to litigation and access to justice. For example, certain Arab states provide for it in the constitution such as Algeria, Egypt, Iraq, Oman, Bahrain, Sudan, Syria, Saudi Arabia, Palestine, and Qatar. In these countries, the right to litigation and access to justice covers the citizens and the non-citizens of the country. Other states such as Libya made the right to litigation and access to justice exclusive for its citizens. In Lebanon, the right to litigation and access to justice is included in legal aid. Kuwait has specific provision for women's right to litigation and access to justice. In Morocco, the right to litigation and access to justice is free of charge. Refugees in Yemen are granted the right to litigation and access to justice.

Certain Arab states, such as Tunisia, Egypt, Iraq, Kuwait, Libya, Lebanon, Palestine, Qatar, and Jordan provide for independence of the judiciary in their constitutions. The constitutions of Algeria, Tunisia, Egypt, Morocco, Yemen, Kuwait, Oman, UAE, Jordan, Mauritania, Libya, Djibouti, Sudan, Lebanon, Syria, Saudi Arabia, Palestine, and Qatar ensure that litigation is conducted at various degrees and the right to appeal is ensured. Other Arab states constitutions provide for the right to defense, trial, and publicity, which are key points in the litigation system. These states include Algeria, Tunisia, Egypt, Morocco, Iraq, Bahrain, Yemen, Kuwait, Oman, UAE, Jordan, Libya, Djibouti, Sudan, Syria, Palestine, and Qatar.

One of the most important principles of the right to litigation and access to justice is a defendant is innocent until proven guilty in a public fair trial in a court of law. Crimes and punishments are written in laws. This principle is provided for in most Arab states including Algeria, Tunisia, Morocco, Bahrain, Yemen, Oman, UAE, Jordan, Mauritania, Libya, Djibouti, Sudan, Syria, Saudi Arabia, Palestine, and Qatar. The Egyptian constitution is the only constitution to add provision on a trial must be before a "relevant judge."

The constitutions of Egypt, Tunisia, and Morocco provide for completing trials within reasonable periods. Jordan and Sudan call for justice. The Basic Law of Palestine calls for speedy processing of lawsuits. Saudi Arabia and Libya provide for married couples to file cases related to marriage.

- **Achievements of equality between men and women in the right to litigation and access to justice**

Certain constitutions include unique provisions concerning the right to litigation and access to justice such as the Algerian constitution which stipulates that there shall be no discrimination [between men and women] in sentencing to prison. It also provides that a judge may not preside over lawsuits where the defense of such lawsuits is from a department where his wife works as a lawyer⁽¹⁶³⁾. The regulations concerning legal aid of Tunisia, Morocco, Yemen, Syria, and Qatar exempt martyrs' widows from lawsuits' fees. The laws of Libya, Jordan, Sudan, and Iraq allow legal aid to be given to those who can prove that they cannot afford to pay court fees. The Jordanian, Mauritania, and Palestinian laws call for using feminine and masculine terminology when writing court sentences. They also call for non-discrimination on the basis of sex upon enforcement of court sentences.

Qatar law provides for not trying people who commit crimes that inflict harm upon themselves. Moroccan and Syrian laws call for compensating people who are victims of mistakes committed by the judicial authority. The law of Djibouti calls for not creating exceptional courts.

163. However, the law failed to add that the judge may not preside over lawsuits where the defense of such lawsuits is from a department where her husband works as a lawyer since the number of female judges equals the number of male judges if not more.

The laws of Oman, Syria, Sudan, Saudi Arabia, and Qatar withhold capital punishments against pregnant women. The laws also allow for replacing the capital punishment in this case with life sentence. In Sudan, enforcement of court decisions is the responsibility of the president of the country; a woman forced into extramarital sexual intercourse is not punished. Saudi Arabia has instructions and decisions to facilitate litigation procedures for women. The Tunisian law has provisions for legal advice centers, family reconciliation services, and tribunals. There are also provisions for protecting privacy when a crime of sensitive nature is committed. The Libyan law has similar provisions. The law of Bahrain provides for an office for family reconciliation services to replace court procedures. Morocco has family reconciliation tribunals to solve domestic problems. Palestine has special departments where judges try cases of juvenile delinquents. The UAE has units to monitor enforcement of court orders in favor of women. Libyan law provides for creation of courts to try legal cases of violence against women but does not deal with cases when a man confiscates his wife's property. The laws of Iraq, Egypt, and Bahrain dropped the provisions that made woman's travel subject to her husband's approval. Moreover, the Iraqi judicial system makes polygamy subject to judicial approval, which is a step in favor of women's protection.

Libya issued a law that allows women to occupy judicial posts. In fact, many Arab states have appointed women in judicial posts. These states include Algeria, Tunisia, Egypt, Morocco, Bahrain, Yemen, UAE, Jordan, Djibouti, Sudan, Palestine, Qatar, Kuwait, and Mauritania. A female judge in Algeria became the President of the Council of State. A female judge made to the Supreme Court panel of the UAE. Female judges preside over the administration courts of Tunisia and Morocco and the Supreme Court of Djibouti. The constitution of Djibouti stipulates that the Supreme Court judge replaces the president of the country if the posts becomes vacant. Women can be judges in Lebanon except in Shari'a courts.

- **Remaining loopholes of discrimination in the right to litigation and access to justice**

Certain provisions make the independence of the judiciary seem uncertain. These provisions provide for discrimination and are contradictory with constitutional provisions. For instance, Qatar's law stipulates that laws are issued in the name of the Emir. Women in Saudi Arabia provide affidavit in the presence of a member of the Committee for the Promotion of Virtue and the Prevention of Vice since an interrogator and a woman cannot be left alone. The Palestinian legal system is in a state of shambles due to having more than one system of laws effective –Jordanian laws are effective in the West Bank and Egyptian laws are effective in Gaza Strip-, which exacerbates discrimination against women. The occupation and conflicts add insult to injury by impeding respect for rights and freedoms of Palestinian women. The Iraqi, Kuwaiti, and Palestinian laws require a woman to obtain her husband's consent to be issued with a passport. The Libyan law does not require the first wife's approval for further marriages of her polygamous husband. Certain Arab states confiscate the passports of domestic workers, which impedes their right to litigation and freedom of movement. Qatar has exceptional courts to interpret Shari'a and laws. Qatar also exempts certain decisions from judicial control. Iraqi Shari'a courts are sectarian in nature. Libya allows certain cases to be tried outside its courts system. Jordan has so-called religious courts.

Contradictory rights

1. Findings

- **Equality in national laws and international law**

- Looking at the way the laws and constitutions are observed, including personal status laws that apply to Muslims and non-Muslims, shows how discrimination is made legitimate. Beliefs and cultural and individual practices make it impossible for women to enjoy rights. They deprive women of the chances to move on and progress with enjoying human rights. In fact, the laws and cultural values and standards are used to justify depriving women of their rights.
- Regardless of women's education, career achievements, social and political status, and women's income, women are still treated as minors who need a guardian to protect them and accompany them. These are causes of contradictions and conflicts in the national laws of Arab states. Constitutions are often contradictory. Constitutions and laws can also be contradictory. Constitutions may provide for equality while laws, especially laws regulating public domains, provide for discrimination. The laws that are inconsistent with the equality provisions of constitutions may also regulate the rights to education, health, work, and other social and political rights. They deal with rights within the family thus hindering women's opportunities to enjoy rights. Moreover, the states' laws may be inconsistent with international obligations and controls of the human rights treaties, which states had ratified.
- Arab states also made reservations to specific provisions and articles of international human rights instruments. The reservations lead to inequality and discrimination. The reservations are based on masculine social practices and thoughts. These include gender-based violence and women's participation in decision-making processes. Therefore, to ensure equality the following must be realised: First, set up framework to enforce accountability before the law. Second, combat discrimination so as the society understands equality.
- In addition to the contradictions, there are challenges and obstacles facing enforcement of the laws due to weak justice systems. Justice services delivered to citizens are very limited, which negatively impacts access to justice especially by women. Obstacle also include complex administrative procedures and lack of funding, which prevents implementation of programs. Lack of funding affects capacity building of employees in the justice sector.

2. Conducive environment for women's empowerment and equality between men and women

- **Key principles to activate legal rights and human rights**

Access to justice is affected by the way individuals perceive the justice system of the country and the way justice is ensured. Access to justice is a process. Justice must be accessible by the poor and vulnerable. The space and opportunity need to be made readily available for all individuals to file complaints and seek justice at public institutions and civic society organizations. This must be on the basis or principles of the rule of law in a state where law institutions are empowered.

Accountability

Accountability requires that a relationship is set up between the individuals and institutions who are entitled to rights and those who have the authority and mandate to ensure that individuals and institutions enjoy the rights they are entitled to. Accountability means the ability of the individuals and institutions to speak up and express their needs and demands. The components that define accountability include:

- A third party commits to submitting reports to an external authority
- Social interaction where individuals are held accountable before other individuals and are punished for failure to ensure enjoyment of rights.
- Clear answers to questions about accountability in order to make judgments.

Gender accountability

UNIFEM report “Progress of the World’s Women 2008-9” acknowledges that enhancing accountability involves women whose number in decision-making position is on the rise, good governance, and respect for obligations involving equality between men and women nationally and internationally.

Framework and enforcement of the law

Incorporating human rights in the laws allows for solving disputes at courts on the basis of neutralism and independence. All must be equal before the law and all must be subject to the law.

- **Reform procedures in support of achievements and realize changes**

Legislation is the mirror of the society. The legal system is a reflection of political, social, and economic systems. Hence, the provisions of the laws define the roles of women and men in the family and in the society. The legal system often embodies the vision and ideology of the society and the relationship between men and women. Hence, the legal system can either allow for expression and change or block expression and change. Equality between men and women in the Arab states requires the following:

- **Non-discrimination between men and women**

- The law to include equality between men and women. Conduct the necessary amendments and reforms.
- Ensure equality between men and women without reservations. Enhance states’ regional and international obligations so that they could support each other and activate women’s legal and human rights and equality between men and women.
- Remove all restrictions, even temporary restrictions that laws or policies impose, and practices and traditions and any other means that stop women from enjoying their legal and human laws. End all forms of discrimination regardless of justifications.
- Define and involve key stakeholders in the country including civic society organizations, women’s NGOs, media, members of parliament ... etc. to conduct legislative and institutional reforms.
- Review laws that are based on customs and traditions as well as the legislations to ensure their consistency with international human rights treaties and regional treaties. Ensure that laws that are consistent with international human rights treaties are enforced. This is conducted in cooperation with stakeholders such as traditional and religious authorities and women groups.

- **Right to litigation and access to justice**

- Limit exceptional courts and judicial regulations, which produce interpretations and provisions that are beyond enforcement.
- Review provisions on legal aid to cover all women.
- Review punitive laws to make them free of discrimination against women at courts, filing lawsuits, and testimony, and punishment.
- Support women's rights and basic freedoms by reducing the domination of traditions and customs, family duties, and control of guardian over women's activities and demands of rights including the right to litigation and access to justice. End the tradition of treating women as if they always need a protector or guardian.
- Court hearings to be completed with reasonable periods.
- Draft laws to protect foreign women, especially domestic workers, and their right to litigation.

- **Accountability and rule of law and enforcement of the law**

People require capacity building in the following areas to enjoy rights and conduct duties:

1. Responsibility, motivation, and leadership: People must know their duties
2. Authority and mandates: Ensure that what is done is legitimate
3. Access and control of resource including human, economic, financial, and regulatory resources.
4. Decision-making and learning from interventions.
5. The ability to communicate to obtain sufficient information to facilitate evidence-based decision-making; also to process information, define problems, and take necessary measure. Learn from lessons.

Responsibility, authority, and resources -having the capacity to conduct duties- make individual accountable. This requires close monitoring. Hence, individuals who are entitled to rights may hold individuals in charge –performers of duties- accountable for ensuring such rights. The system needed for this relationship is based on the following:

- **Rule of law**

1. Including holding the government and government agents accountable before the law
 2. Clear, published, and consistent laws. Such laws equally applicable and protect basic human rights including safety of individuals and property.
 3. Adopt an approach that is fair, streamlined, and effective for enacting and enforcing laws.
 4. Ensure processing of legal cases within reasonable time. The people who process the cases need to be qualified, unbiased, and independent. Their number must be sufficient and have suitable resources. They need to reflect the organization of the society they serve.
- Set up appropriate frameworks, mechanisms, and indicators to enforce the law and demand from those in charge to conduct their duties and ensure the rights of the individuals.
 - Create systems and units to enforce court orders in favor of women.
 - Train judges and officers dealing with lawsuits filed by women and legal cases concerning rights and freedoms to pay more attention to such cases and be more considerate of women's rights.
 - Appoint more women in the judiciary. Train and qualify women to conduct judicial duties equally with men.

Finally, accountability requires more mandates, clearer performance indicators, better incentives and continuous lobbying. To put another way, accountability requires good governance.



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