

## BAHRAIN<sup>1</sup>

### OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES (Updated December 2021)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><b>Equality of spouses in marriage</b></p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncoded? If codified, what are the titles of all the applicable laws? If not, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws</i></p>	<p>The Constitution of Bahrain declares all citizens to be equal before the law in public rights and duties and prohibits discrimination on the basis of sex, origin, language, religion, or creed.”<sup>2</sup></p> <p>The Constitution also states that the family is the basis of society, and commits the state to guarantee reconciling the duties of women towards the family with their work in society, and to guarantee their equality with men in the political, social, cultural, and economic spheres, without</p>	<p>In 2018, the Cassation Court held that a husband is entitled to obedience by his wife at the moment he pays the full dowry and prepares a suitable place of residence for his wife.<sup>8</sup></p>	<p>The Government of Bahrain has affirmed its commitment to the equality of women in rights and duties, but has nonetheless expressed certain reservations with respect to the application of its commitment to guarantee legal equality.<sup>9</sup></p> <p>Bahrain acceded to the CEDAW Convention in 2002 and has expressed reservations, in relevant part, to Articles 2, 9(2)</p>		<p>According to UN Women, some progress on women’s rights has been achieved in Bahrain, but work still needs to be done to achieve gender equality. According to UN. As of December 2020, only 35.3% of indicators needed to monitor the SGDs from a gender</p>

<sup>1</sup> This Musawah project to map Muslim Family Laws globally was led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Bahrain country table, we would also like to thank Kierra Jones and Divya Srinivasan from Harvard Law School, and Walaa Kadhem for their inputs in its preparation. This table was last updated in December 2021 as part of the Campaign for Justice in Muslim Family Laws, we would like to thank Salma Waheedi for the recent update.

<sup>2</sup> Constitution of the Kingdom of Bahrain (2002), Article 18, <https://www.bahrain.bh/wps/wcm/connect/d749d20a-7545-4900-b64c-5443e6c20cd6/CA9SS7XP.pdf?MOD=AJPERES> .

<sup>8</sup> Cassation Court (Civil) Case No. 97 of Judicial Year 2018 (Holding: 6 March, 2019). The Cassation Court is Bahrain’s highest court of appeal.

<sup>9</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR /4 (2018), para. 52, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en)

<p><i>for different sects within Islam? If uncodified, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<p>breaching the provisions of Shari’ah.”<sup>3</sup></p> <p>Matters regarding marriage and family relations of the predominantly Muslim population in Bahrain are governed by Law No. 19 of 2017 Promulgating the Family Law (hereinafter “Family Law”), which applies to all Muslims in Bahrain.<sup>4</sup></p> <p>The Family Law includes generally applicable provisions, as well as provisions that apply specifically to Sunni and Shi’a Muslims, respectively. The Sunni provisions are based primarily, but not exclusively, on rulings of the Maliki school of Islamic jurisprudence (<i>fiqh</i>). The law further clarifies that in Sunni family disputes related to matters not explicitly covered by the law, a judge shall apply the majority</p>		<p>15(4), and 16 of the Convention in so far as they conflict with Shari’ah.<sup>10</sup></p> <p>In its 2018 report to the CEDAW Committee, the Government of Bahrain stated that its reservation to the abovementioned articles applied only inasmuch as they conflict with Islamic Shari’ah, and that it does not detract from the essence of the Convention or from the principle of equality of rights and duties between men and women.<sup>11</sup></p>		<p>perspective were available.<sup>12</sup></p> <p>In the 2020 UN Human Development Report, Bahrain was ranked 42 on the UNDP Human Development Index, and 49 on the UNDP Gender Inequality Index (GII). Its Gender Development Index (GDI) was 0.922, placing it into Group 4 (among countries of medium to low equality in HDI achievement between men and women).<sup>13</sup></p>
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<sup>3</sup> Article 18 of the Constitution of the Kingdom of Bahrain (2002), <https://www.bahrain.bh/wps/wcm/connect/d749d20a-7545-4900-b64c-5443e6c20cd6/CA9SS7XP.pdf?MOD=AJPERES>.

<sup>4</sup> Law No. 19 of 2017, With Respect to the Promulgation of the Family Law (hereinafter “Family Law”), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>10</sup> United Nations Treaty Collection Website, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IV-8&chapter=4&clang=en); Law No. 70 of 2014, <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=72087#.Wadfta2ZN00/>. Bahrain also maintains a reservation to article 29(1).

<sup>11</sup> Bahrain State Party Report to the CEDAW Committee, U.N. Doc. CEDAW/C/BHR/4 (2018), para. 52, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en)

<sup>12</sup> Bahrain Country Fact Sheet, UN Women, <https://data.unwomen.org/country/bahrain>

<sup>13</sup> UN Human Development Report 2020, Briefing Note for Countries on the 2020 Human Development Report: Bahrain, <http://hdr.undp.org/sites/default/files/Country-Profiles/BHR.pdf>

	<p>opinion of the Maliki school of <i>fiqh</i>.<sup>5</sup></p> <p>The Family Law of 2017 provides for a marital framework based on ‘reciprocal’ or ‘complementary’ rights (as opposed to equal rights) between the two spouses, whereby in return for maintenance and protection from her husband, a wife is expected to obey him and care for the household. Specifically:<sup>6</sup></p> <ul style="list-style-type: none"> <li>• Article 5 defines marriage as a legitimate contract between a woman and a man to form a family, the purpose of which entails assuming mutual Shari’ah rights and duties.</li> <li>• Article 38 lists the mutual rights and obligations of spouses, which are: (a) Enjoyment of each other and protection of their chastity; (d) gracious treatment and the maintenance of the family; (c) mutual respect to each other, and to the parents and relatives of each other; and (d) caring for, nurturing, and</li> </ul>				
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<sup>5</sup> Article 3 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>6</sup> Articles 5, 38-40, and 50 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

	<p>raising of their children to provide them a good upbringing.</p> <ul style="list-style-type: none"> <li>• Article 39 of enumerates the following rights of a wife upon her husband: (a) care, financial maintenance, and gracious treatment; (b) non-interference in her private property, which she shall have the right to dispose of in a reasonable manner; (c) refraining from physical or moral harm; (d) in case of having multiple wives, treating each wife equally in terms of financial spending and the number of nights spent with each wife; (e) permitting her to visit her family in a reasonable manner; and (f) not depriving her of having children.</li> <li>• Article 40 enumerates the following rights of a husband upon his wife: (a) care, obedience, and gracious treatment; (b) caring for his children from her; (c) preserving his honor in herself, his property, and home in his presence or absence; (d) not to refrain from having children from him,</li> </ul>				
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	<p>except upon his permission or for a good reason; and (e) not leaving the matrimonial home without a legitimate reason.</p> <p>A woman risks losing her financial rights if she were determined to be disobedient (<i>nashez</i>). For example, a woman who pursues a career outside the home without her husband's permission is considered <i>nashez</i> under article 56(b) of the Family Law.</p> <p>Marriage and family relations of non-Muslims in Bahrain are governed by their own laws.<sup>7</sup></p>				
	<b>Legislative Framework</b>	<b>Case Law</b>	<b>Policy</b>	<b>Procedure</b>	<b>Practice</b>
<p><b>Minimum and equal legal age for marriage</b></p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there</i></p>	<p>There is no absolute minimum age of marriage. Article 20 of the Family Law states that a girl below 16 years of age cannot be married except by permission of the Shari'ah court, upon verifying the appropriateness of the marriage.<sup>14</sup> The law is silent on the minimum marriage age for</p>			<p>It is the duty of the marriage officiator (<i>Ma'dhun</i>) performing the marriage to check the age of both parties at the time of marriage. The <i>Ma'dhun</i> must</p>	<p>The average age of marriage in Bahrain is 24.<sup>17</sup></p> <p>According to statistics published by the Ministry of Justice and Islamic Affairs, over 11% of</p>

<sup>7</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR /2 (2007), para. 325, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f2&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f2&Lang=en)

<sup>14</sup> Article 20 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>;

<sup>17</sup> Bahrain State Party Report to the CEDAW Committee, U.N. Doc. CEDAW/C/BHR /4 (2018), para. 201, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en)

<p><i>equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>boys, and does not specify a minimum age below which a Shari'ah judge cannot permit marriage.</p>			<p>ensure that both parties are at least 16 and must confirm the age using a birth certificate or a similar official document.</p> <p>Articles 9(5) and 9(6) of the 2016 Decision of the Minister of Justice with respect to <i>Ma'dhuns</i> also require permission of the Shari'ah Court for any marriage of a man over 60 years old with a foreign woman who is not a citizen of any of</p>	<p>marriages contracted in Bahrain in 2020 involved young girls between 15-19 years old.<sup>18</sup> This is an increase from 2019, when the percentage of marriages involving girls aged 15-19 was only 8%.<sup>19</sup> Some of these young girls were married off to men as old as 50 years or more.<sup>20</sup> According to official numbers, there have also been a number of cases where marriage of a child below 15 years old was recorded in</p>
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<sup>18</sup> Marriage & Divorce 2020, Bahrain Open Data Portal, Bahrain Information & eGovernment Authority (23 February, 2021), <https://www.data.gov.bh/en/ResourceCenter/DownloadFile?id=3556>

<sup>19</sup> Marriage & Divorce 2019, Bahrain Open Data Portal, Bahrain Information & eGovernment Authority, (10 May, 2020), <https://www.data.gov.bh/en/ResourceCenter/DownloadFile?id=3338>; see also "385 Bahraini Women Married Foreigners and 642 Bahraini Men Married the Second [Wife] (Arabic)", *Al-Ayam Newspaper*, 26 May, 2020, <https://www.alayam.com/alayam/first/858321/News.html>, "91 Divorce Cases Under the Age of 19 in 2019 (Arabic)," *Akhbar Al-Khaleej*, 27 February 2019, <http://www.akhbar-alkhaleej.com/news/article/1156832>.

<sup>20</sup> Marriage & Divorce 2020, <https://www.data.gov.bh/en/ResourceCenter/DownloadFile?id=3556>; Marriage & Divorce 2019, <https://www.data.gov.bh/en/ResourceCenter/DownloadFile?id=3338>.

				the Gulf Cooperation Council countries, <sup>15</sup> and marriage of a Bahraini woman below 20 years of age to a foreigner over 50 years of age. <sup>16</sup>	2019 and 2018. <sup>21</sup>
	<b>Legislative Framework</b>	<b>Case Law</b>	<b>Policy</b>	<b>Procedure</b>	<b>Practice</b>
<p><b>Women's consent to marriage</b></p> <p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad</i></p>	<p>The Family Law requires consent of both parties to a marriage.<sup>22</sup></p> <p>Article 17 of the Family Law prohibits forcing a woman to marry against her will, regardless of her age,<sup>23</sup> Article 25 states that consent of both parties is</p>		<p>The Government of Bahrain, in its 2007 report to the CEDAW Committee, reaffirmed that it considers forcing a woman to marry to be a transgression of Shari'ah.<sup>26</sup></p>	<p>In order to officiate a marriage in Bahrain, the following procedures are required:<sup>27</sup></p> <ul style="list-style-type: none"> <li>• A <i>Ma'dhun</i></li> </ul>	<p>There are no statistics on the prevalence of forced marriages in Bahrain. The Government of Bahrain has explained in its 2007</p>

<sup>15</sup> Countries of the Gulf Cooperation Council are Bahrain, Oman, Kuwait, Qatar, Saudi Arabia, and the United Arab Emirates.

<sup>16</sup> Articles 9(5), 9(6) of the Minister of Justice Decision No. 1 of 2016 with Respect to *Ma'dhuns* of Shari'ah and Officiating Personal Status Documents, [https://www.sjc.bh/website/doc\\_print/R0116.pdf](https://www.sjc.bh/website/doc_print/R0116.pdf) [Note: link is only accessible within Bahrain or using a VPN set to Bahrain as a location]

<sup>21</sup> Marriage & Divorce 2020 (reporting one girl below age 15 married in Bahrain in 2020), <https://www.data.gov.bh/en/ResourceCenter/DownloadFile?id=3556>; Marriage & Divorce 2019 (reporting four girls below age 15 married in Bahrain in 2019), <https://www.data.gov.bh/en/ResourceCenter/DownloadFile?id=3338>; Marriage & Divorce 2018, Bahrain Open Data Portal, Bahrain Information & eGovernment Authority (21 February, 2019), <https://www.data.gov.bh/en/ResourceCenter/DownloadFile?id=2982> (reporting six girls under age 15 married in Bahrain in 2018).

<sup>22</sup> Article 25 of the Family Law (2017),

<sup>23</sup> Article 17 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>26</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR/2 (2007), paras. 327,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f2&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f2&Lang=en)

<sup>27</sup> 10, 11 of the Minister of Justice Decision No. 1 of 2016 with Respect to *Ma'dhuns* of Shari'ah and Officiating Personal Status Documents, [https://www.sjc.bh/website/doc\\_print/R0116.pdf](https://www.sjc.bh/website/doc_print/R0116.pdf)

<p><i>provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>required, and Articles 26 and 27 provide that consent must be expressed in clear understandable terms, either explicitly or implicitly.<sup>24</sup></p> <p>Article 18 of the Family Law requires a marriage to be officially registered. However, non-registration of a marriage does not necessarily invalidate the marriage. Article 18 of the Family Law provides that a marriage may be proven by evidence in accordance with Shari'ah.<sup>25</sup></p>			<p>must confirm consent of the woman [and her legal guardian] to the marriage.</p> <ul style="list-style-type: none"> <li>• A <i>Ma'dhun</i> must use the standardised marriage contract form issued by the Ministry of Justice.<sup>28</sup></li> <li>• Upon contracting a marriage, the <i>Ma'dhun</i> issues 3 copies of the marriage contract, provides each party with a copy, and submits the third copy to</li> </ul>	<p>report to the CEDAW Committee that there are some cases in which a girl is compelled to marry someone she does not wish to marry, and these occur in social milieus where social legacies and prevailing customs so permit.<sup>29</sup></p>
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<sup>24</sup> Articles 25-27 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>25</sup> Article 17 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>28</sup> All standardized forms are available on the Ministry of Justice website (Arabic), <https://www.moj.gov.bh/index.php/ar/data-and-statistics/information-4>

<sup>29</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR /2 (2007), paras. 327, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f2&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f2&Lang=en)



				<p>the appropriate marriage registration directorate within one week of issuing the marriage contract.</p> <ul style="list-style-type: none"> <li>Each party to the marriage must submit his/her copy of the contract to the appropriate Shari'ah Court in order to obtain a marriage certificate, which is issued within one week from the date of submission.</li> </ul>	
	<b>Legislative Framework</b>	<b>Case Law</b>	<b>Policy</b>	<b>Procedure</b>	<b>Practice</b>
<p><b>Women's capacity to enter into marriage</b></p> <p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can</i></p>	<p>Consent of a woman's male guardian (<i>wali</i>) is required, subject to certain conditions.</p> <p>The Family Law requires a guardian's consent for a Sunni</p>			<p>A <i>Ma'dhun</i> is required to confirm both the consent of a woman and her guardian before officiating a</p>	<p>In practice, a woman's ability to enter into marriage on her own accord is limited in all cases, because it is often</p>

<p><i>a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her marital rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>woman to enter into marriage, without exception.<sup>30</sup></p> <p>Article 15 of the Family Law specifies the following order of who may act as a Sunni woman's guardian: father, paternal grandfather, son no matter how low in lineage, full brother, paternal half-brother, son of full brother, son of paternal half-brother, full paternal uncle, half-paternal uncle, son of full paternal uncle, son of half -paternal uncle.<sup>31</sup></p> <p>If a guardian is not available or seeks to prevent a marriage without a legitimate reason, guardianship is transferred to the Shari'ah Court judge.<sup>32</sup></p> <p>For a Shi'a woman, the Family Law stipulates that her guardian is her father or paternal grandfather, and if they are not present, a Shi'a adult woman may independently contract her own</p>			<p>marriage, except when the <i>fiqh</i> of the specific sect of the parties provides otherwise (e.g. the specific cases where Shi'a <i>fiqh</i> does not require consent of a guardian).<sup>37</sup> If no guardian is available, or if a woman's guardian refuses to consent to a marriage without legitimate reason, a judge may act as the woman's guardian.<sup>38</sup></p>	<p>difficult socially and practically for a woman to challenge the will of her guardian. In all cases of marriage, family consent and support is considered essential, and it is not socially acceptable to get married without her family's consent.</p>
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<sup>30</sup> Articles 15, 28 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>31</sup> Article 15 (1) of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>32</sup> Article 15(1) of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>37</sup> Article 10 of the Minister of Justice Decision No. 1 of 2016 with Respect to *Ma'dhuns* of Shari'ah and Officiating Personal Status Documents, [https://www.sjc.bh/website/doc\\_print/R0116.pdf](https://www.sjc.bh/website/doc_print/R0116.pdf).

<sup>38</sup> Article 10 of the Minister of Justice Decision No. 1 of 2016 with Respect to *Ma'dhuns* of Shari'ah and Officiating Personal Status Documents, [https://www.sjc.bh/website/doc\\_print/R0116.pdf](https://www.sjc.bh/website/doc_print/R0116.pdf).

	<p>marriage.<sup>33</sup> There is no requirement for a guardian's consent for a previously married sane Shi'a woman.<sup>34</sup></p> <p>Under both Sunnis and Shi'a rules, a guardian may not force a woman to get married or oppose a marriage without legitimate reason.<sup>35</sup></p> <p>If a woman contracts a marriage without the consent of her guardian outside of Bahrain, the marriage contract is considered valid in Bahrain. However, if the wife is a Bahraini national, the consent of the guardian must be obtained before legalizing (officially registering) the marriage contract.<sup>36</sup></p>				
<p><b>Polygamous marriages</b></p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? Is the permission of an</i></p>	<p>A Muslim man may marry up to four wives at his own discretion, irrespective of whether his first/current wife agrees to a polygamous marriage arrangement.<sup>39</sup> Polygamy is not listed in the law as an acceptable</p>		<ul style="list-style-type: none"> <li>• In its 2018 report to the CEDAW Committee, the Government of Bahrain reiterated its position that polygamy will</li> </ul>	<p><i>A Ma'dhun</i> is required to confirm the marital status of the prospective husband before contracting a marriage. If the</p>	<ul style="list-style-type: none"> <li>• Polygamous marriages constitute a small percentage of total marriages.</li> </ul>

<sup>33</sup> Article 15(2) of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>34</sup> Article 15(2) of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>35</sup> Article 17 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>36</sup> Article 28 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>39</sup> Articles 14, 19 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<p><i>existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recognised? Is it necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>	<p>ground for a woman to initiate a divorce.</p> <p>A man must declare his marital status in the marriage contract, and if he is married, the number of current wives must be stated in the contract<sup>40</sup></p> <p>Article 39(d) of the Family Law requires a husband to treat multiple wives equally in terms of financial spending and the nights he spends with each of them.<sup>41</sup></p> <p>A woman may stipulate conditions in her marriage contract, presumably including a condition against polygamy, but the Family Law does not specifically enumerate a list of acceptable or enforceable conditions.<sup>42</sup></p>		<p>continue to be permitted in the law, as a matter governed by Islamic Shari'ah and in accordance with applicable Shari'ah rules and regulations.<sup>43</sup></p> <ul style="list-style-type: none"> <li>•</li> <li>• The Government report clarified that a woman could enter a condition in the marriage contract stipulating that her husband may not take other wives.<sup>44</sup> For Sunni marriage contracts, the Family Law states that a</li> </ul>	<p>husband is already married, the <i>ma'dhun</i> must include in the marriage contract the names of the existing wife/wives and their place of residence.<sup>46</sup></p>	<p>According to the 2020 marriage and divorce statistics released by the Ministry of Justice and Islamic Affairs, about 5.7% of marriages that were conducted of Bahraini citizens were polygamous.<sup>47</sup> The percentage of polygamous marriages has been fairly stable</p>
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<sup>40</sup> Article 19 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>41</sup> Article 39(d) of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>42</sup> Article 6 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>43</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR/4 (2018), para. 202,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en)

<sup>44</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR/4 (2018), para. 202,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en) ;

<sup>46</sup> Article 9(3) of the Minister of Justice Decision No. 1 of 2016 with Respect to *Ma'dhuns* of Shari'ah and Officiating Personal Status Documents,

[https://www.sjc.bh/website/doc\\_print/R0116.pdf](https://www.sjc.bh/website/doc_print/R0116.pdf).

<sup>47</sup> Marriage & Divorce 2020, <https://www.data.gov.bh/en/ResourceCenter/DownloadFile?id=3556>

			<p>breach of a condition in the contract may result in court-ordered marriage annulment or divorce.<sup>45</sup> The Law is silent on the consequences of violating a condition in case of a Shi'a marriage contract, thus leaving the matter to the discretion of the judge in case of a dispute.</p>		<p>between 2015-2020, ranging between 5.5-6.5% of Bahraini marriages contracted.<sup>48</sup></p> <ul style="list-style-type: none"> <li>• In 2018, the government noted a historical decline in the number of polygamous marriages, as women are frequently reluctant to agree to marry an already-married man.<sup>49</sup></li> </ul>
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<sup>45</sup> Article 6 (e) of the of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>48</sup> "385 Bahraini Women Married Foreigners and 642 Bahraini Men Married the Second [Wife] (Arabic)", *Al-Ayam Newspaper*, 26 May, 2020, <https://www.alayam.com/alayam/first/858321/News.html>, "91 Divorce Cases Under the Age of 19 in 2019 (Arabic)", *Akhbar Al-Khaleej*, 27 February 2019, <http://www.akhbar-alkhaleej.com/news/article/1156832>; "6,600 Thousand Marriage Contract and 1,900 Divorces in 2017 (Arabic)", *Al-Watan Newspaper*, 6 July 2018, <https://alwatannews.net/article/779850/Bahrain/66-2017-1900-طلاق-في-الف-عقد-زواج-مقابل>; Marriage & Divorce 2015, <http://www.data.gov.bh/en/ResourceCenter>

<sup>49</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR /4 (2018), para. 202, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en)

<p><b>Divorce rights</b></p> <p><i>Is there an equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to</i></p>	<p>A man may divorce his wife unilaterally, at any time and without any reason, either in writing or verbally by uttering a divorce declaration, in person or through a proxy appointed by a special power of attorney.<sup>50</sup></p> <p>By contrast, a woman may only seek judicial divorce (<i>tatleeq</i>) for specific reasons enumerated in the law, which include a husband's: failure to provide financial maintenance, severe or incurable illness of which the wife was not aware at the time of marriage, harm that makes the continuation of married life impossible, prolonged absence, imprisonment, or consumption of drugs or alcohol.<sup>51</sup></p> <p>If a woman elects to initiate a divorce for reasons other than the ones enumerated in the law, she is then required to forfeit her financial rights and pay a sum of</p>	<p>In 2019, Cassation Court held that a husband's failure to provide a wife with a suitable marital home and removing her by force from the marital home constitutes harm that provides a valid cause for judicial divorce. The Court also noted that it is sufficient for a harmful act to occur once in order to establish harm.<sup>59</sup></p> <p>In another 2019 case, the Cassation Court upheld the validity of a</p>	<ul style="list-style-type: none"> <li>• The Government's broad policy is to seek to minimize divorces and preserve the unity of the family. In its 2011 report to the CEDAW Committee, the Government of Bahrain informed the Committee that a family guidance and reconciliation section has been established in the Ministry of Justice and Islamic Affairs, after the Ministry found that it needed such a spousal reconciliation service to prevent divorces and</li> </ul>	<p>A divorce must be registered with the specialised Shari'ah court.<sup>62</sup></p> <p>In all cases, article 18 of the 2016 Decision of the Minister of Justice provides that in order for the divorce to be valid, it must be registered with the Shari'ah court and a divorce certificate is then issued.</p> <p>Under Sunni rules, a husband may unilaterally approach the court to register a divorce even if the wife was not present.<sup>63</sup></p>	<p>According to academic research and information on the ground:<sup>65</sup></p> <ul style="list-style-type: none"> <li>• It is not uncommon for judges in both the Jafari and Sunni departments of the Shari'ah court to decline granting the wife a divorce even if she has valid grounds and has suffered harm. The attitude of many judges is to preserve the unity of the family at all costs, and a woman is often asked to provide specific proof of</li> </ul>
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<sup>50</sup> Articles 81-83 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>51</sup> Articles 81-112 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>59</sup> Cassation Court (Civil) Case No. 98 of Judicial Year 2018 (Holding: 8 May, 2019).

<sup>62</sup> Article 16 of the Minister of Justice Decision No. 1 of 2016 with Respect to *Ma'dhuns* of Shari'ah and Officiating Personal Status Documents, [https://www.sjc.bh/website/doc\\_print/R0116.pdf](https://www.sjc.bh/website/doc_print/R0116.pdf).

<sup>63</sup> Article 18 of the Minister of Justice Decision No. 1 of 2016 with Respect to *Ma'dhuns* of Shari'ah and Officiating Personal Status Documents, [https://www.sjc.bh/website/doc\\_print/R0116.pdf](https://www.sjc.bh/website/doc_print/R0116.pdf).

<sup>65</sup> I Information obtained from Bahraini advocates, March 2017 and February 2021.

<p><i>register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u></p> <p>Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>money to her husband in exchange for dissolving the marriage (<i>khul'</i>).<sup>52</sup> <i>Khul'</i> rules diverge for Sunni and Shi'a women in cases of a husband's refusal: If a Sunni Shari'ah Court judge determines that a husband's refusal was, he may grant <i>khul'</i> against the payment of an appropriate sum (not to exceed the dowry).<sup>53</sup> Under the Shi'a rules, mutual agreement is required and a judge may not rule for <i>khul'</i> in absence of a husband's consent.<sup>54</sup> In all cases, a <i>khul'</i> is considered final and irrevocable.<sup>55</sup></p> <p>Under both Sunni and Shi'a rules, a man may grant his wife power of attorney to divorce herself, and this power of attorney is unilaterally revocable by the husband.<sup>56</sup></p>	<p>Sunni <i>khul'</i> divorce, affirming that a <i>khul'</i> divorce under Sunni jurisprudence is valid upon payment by the wife to the husband of the full dowry as compensation, and that there is no requirement to prove harm.<sup>60</sup></p>	<p>resulting social, family and psychological damage.<sup>61</sup></p>	<p>A Shi'a man must register a request for divorce with the relevant Shari'ah Court. A Shi'a divorce, a divorce cannot be finalised and registered unless both husband and wife are present before a Shari'ah Court and the wife signs the divorce certificate in front of the judge.<sup>64</sup></p>	<p>harm (e.g. showing physical injury, presenting a medical certificate, or providing testimony), which is difficult to obtain in the majority of cases.</p> <ul style="list-style-type: none"> <li>• Shi'a women in particular face longer delays in courts and bigger obstacles to obtaining a divorce, as judges exercise wider discretion; anecdotal evidence suggests the</li> </ul>
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<sup>52</sup> Articles 95-96 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>53</sup> Article 95(1) of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>54</sup> Article 95(2) of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>55</sup> Article 88 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>56</sup> Article 83 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>60</sup> Cassation Court (Civil) Case No. 83 of Judicial Year 2018 (Holding: 20 February, 2019). The Court analyzed the *khul'* rules in accordance with the prevent Maliki jurisprudence.

<sup>61</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR /3 (2011), para. 152, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f3&Lang=en)

<sup>64</sup> Information obtained from Bahraini advocates, March 2017 and February 2021.

	<p>If a marriage was consummated, the first and second divorces, other than <i>khul'</i> or otherwise a judge-granted divorce, are considered revocable unilaterally by the husband within the time period of <i>iddah</i> (usually 3 months).<sup>57</sup></p> <p>A marriage may also be annulled in court if the contract is deemed invalid, e.g. because of false representation.<sup>58</sup></p>				<p>presence of corrupt practices, with several women testifying that they have faced extortion at the hands of judges.</p> <ul style="list-style-type: none"> <li>• Women tend to choose <i>khul'</i> as the preferred form of divorce, because it is faster and slightly more accessible than other forms of divorce. Despite it being the “easier” form of divorce, women nevertheless face difficulties in exercising their right to a <i>khul'</i> divorce. Men often take advantage of a <i>khul'</i> divorce and,</li> </ul>
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<sup>57</sup> Articles 87, 119-120 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>58</sup> Articles 115-116 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>



					among others, demand that women pay them large sums of money, sometimes, the approximate amount spent during the entirety of the marriage.
	<b>Legislative Framework</b>	<b>Case Law</b>	<b>Policy</b>	<b>Procedure</b>	<b>Practice</b>
<p><b>Women's financial rights after divorce</b></p> <p><i>Is there a legal concept of matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman's role as wife and mother recognised as a contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce</i></p>	<p>Bahraini law does not recognize the concept of matrimonial assets.</p> <p>Generally, upon divorce, a woman is entitled to alimony during the waiting period after the divorce (<i>iddah</i>); financial compensation resulting from a divorce before consummation of a marriage (<i>mut'aa</i>); and a place to reside in, or the equivalent in rent, in addition to alimony for the children, if she was a custodian of children.<sup>66</sup></p> <p>The Family Law specifies:<sup>67</sup></p>		<p>In 2005, the Government of Bahrain established the Alimony Fund, for the purpose of safeguarding the rights of former wives whose former husbands either fail to pay or delay in the payments of court-ordered maintenance.<sup>68</sup> The law was amended in 2009 to facilitate the implementation of the rules pertaining to financial maintenance, expand the Fund's</p>	<p>The amount of financial maintenance due to a wife is determined by discretion of a Shari'ah Court judge. The Family Law provides that all financial and custody matters shall be recorded in the divorce agreement and is subject to expeditious enforcement by</p>	<p>It is difficult in practice to enforce alimony court rulings if a husband claims to lack the financial means to pay the wife. The Alimony Fund has helped alleviate this problem to a certain extent, but remains an inadequate measure, with limited financial means. Bahraini advocates have observed that many</p>

<sup>66</sup> Articles 90-92 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>67</sup> Articles 90-92 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>68</sup> Law No. 34 of 2005 with Respect to the Establishment of the Alimony Fund, <https://www.legalaffairs.gov.bh/HTM/K3405.htm>

<p><i>(mut'ah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<ul style="list-style-type: none"> <li>• The amount of the children's maintenance amount may be agreed mutually and recorded in the divorce certificate or awarded by the court.</li> <li>• The <i>mut'aa</i> compensation for a wife divorced prior to consummation of a marriage for is either half the agreed dowry; or otherwise an agreed amount that is equal to half the comparable dowry generally paid to her "peers" (for Sunnis) or simply in accordance with the husband's means (for Shi'a).</li> <li>• A certain amount of financial compensation for Sunnis (if the marriage was consummated and the wife was not at fault) may be granted by a judge and is evaluated based on the husband's financial means, length of the marriage and the circumstances of the divorce and is subject to a maximum of one year's worth of financial</li> </ul>		<p>resources by adding the return on investment of its funds as a new resource, and oblige the Government to subsidise the Fund in order to ensure that it continues to perform its duties.<sup>69</sup></p>	<p>the force of law.<sup>70</sup></p>	<p>women continue to struggle for years to obtain their basic financial rights following a divorce.<sup>71</sup></p> <p>The limited post-divorce financial rights to women do not account for a woman's contribution to the marriage and the household and often leave women with no means of subsistence following a divorce. Shari'a judges rarely grant women compensation in cases of divorce for harm.<sup>72</sup></p>
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<sup>69</sup> Law No. 33 of 2009 Amending Law No. 34 of 2005, <https://www.nuwab.bh/pdf/القانون-رقم-33-لسنة-2009-بتعديل-بعض-احكام-الفا>

<sup>70</sup> Article 90 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>71</sup> Information obtained from Bahraini advocates, March 2017 and February 2021.

<sup>72</sup> Information obtained from Bahraini advocates, February 2021.

	maintenance. A Shi'a wife is not entitled to any compensation if the marriage was consummated.				
	<b>Legislative Framework</b>	<b>Case Law</b>	<b>Policy</b>	<b>Procedure</b>	<b>Practice</b>
<p><b>Custody of Children</b></p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>Different custody rules apply to Sunni and Shi'a Muslims. A Sunni mother has priority in custody of her children until a son reaches 15 years of age and a daughter is married and her marriage is consummated. Once a son reaches 15 or a daughter reaches 17 years of age and is not married, each is given the option of being under the care of either the mother or father.<sup>73</sup></p>	<p>In 2019, the Cassation Court ruled that a 15-year old boy could not remain in the custody of his mother, even though this was his stated choice, because it was in the "best interests" of a boy his age to learn the moral of men from his father since he had outgrown the need of the service of women.<sup>81</sup></p>		<p>Violating a court-issued custody order is an offense punishable by imprisonment. The Penal Code provides that refusal to surrender a child to the custody of the person to whom a court has awarded custody is punishable by prison time or a fine (unspecified).<sup>82</sup></p> <p>The Penal Code also provides for</p>	<p>The Law gives a judge complete discretion to determine what is in "the best interests of the child" so long as it does not contradict the custody provisions articulated.<sup>84</sup> Best interest analysis is therefore often subject to the view and biases Sharia'h Court male judges, and their negative impressions of a woman's character. Courts in Bahrain have repeatedly utilized the "best</p>

<sup>73</sup> Articles 124-125 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>81</sup> Cassation Court (Civil) Case No. 102 of Judicial Year 2018 (Holding: 20 February, 2019).

<sup>82</sup> Article 318 of Law No. 15 of 1976 Promulgating the Penal Code (hereinafter "Penal Code"), <https://www.lloc.gov.bh/HTM/L1576.htm>

<sup>84</sup> Articles 129-130 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

	<p>A Shi'a mother's right to custody is terminated once a son or daughter turns 7 years old, after which custody is transferred to the father.<sup>74</sup> The option of joining either parent is then given to a daughter upon completing the age of 9 and to a son upon completing the age of 15.<sup>75</sup></p> <p>In all cases, a mother must be Muslim, of sound health and mind, and demonstrate good moral character in order to be awarded custody of her children.<sup>76</sup></p> <p>Article 129 of the Family Law permits a judge to award custody to other relatives or other parties in absence of the parents. Article 130 permits a judge to call experts in psychological and social matters in a custody hearing to assist in the determination of what is in the best interests of the child so long as it does not contradict the custody provisions laid out in the law.<sup>77</sup></p>			<p>prison time or a fine to any parent who “abducts” a child in violation of a Bahraini custody order, whether coercion or violence are involved or not.<sup>83</sup></p>	<p>interests” analysis to deprive a mother of her custody rights.<sup>85</sup></p>
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<sup>74</sup> Article 124 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>75</sup> Article 125 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>76</sup> Article 126 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>77</sup> Articles 129-130 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>83</sup> Article 319 of the Penal Code (1976), <https://www.lloc.gov.bh/HTML/1576.htm>

<sup>85</sup> Information obtained from Bahraini advocates, March 2017, February 2021.

	<p>If the mother remarries, custody of the children reverts to the father, unless a judge determines that it is in the interest of the child for her or him to remain in the custody of the mother.<sup>78</sup> A man does not lose custody of his children upon remarriage.</p> <p>A custodian mother is not permitted to take residency in another country without the permission of the father or male guardian of the children.<sup>79</sup></p> <p>The law provides for visitation rights for a non-custodial parent of a child and, if one parent is deceased, for first-degree relatives of the child, as determined by a judge.<sup>80</sup></p>				
	<b>Legislative Framework</b>	<b>Case Law</b>	<b>Policy</b>	<b>Procedure</b>	<b>Practice</b>
<p><b>Guardianship of Children</b></p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over</i></p>	<p>The granting of custody to the mother is limited to physical care of the child, whereas legal guardianship is reserved to a father or other (male) guardian.<sup>86</sup></p>				<p>A father retains guardianship and authority over all decisions related to his children</p>

<sup>78</sup> Article 127 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>79</sup> Article 134 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>80</sup> Articles 138-139 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>86</sup> Articles 123, 133 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<p><i>the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A father is granted priority in guardianship determination by default, irrespective of custody arrangements, thus retaining full power to make all legal decisions for the child’s upbringing, discipline, education, and guidance until the child reaches the age of majority.<sup>87</sup></p> <p>Bahrain’s Financial Guardianship Law governs guardianship over a minor’s financial assets and property, and provides that a guardian must be male, adult, sane, and of the same religion as the child.<sup>88</sup></p>				<p>automatically, except in cases where a judge appoints an alternative male guardian after determining that father is unable or unwilling to perform guardianship duties.<sup>89</sup></p>
<p><b>Family Planning</b></p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p>	<p>The Family Law provides that neither a husband nor a wife may deny the other the right to have children.<sup>90</sup> Thus, a woman cannot use birth control without the consent of the husband.</p> <p>The Penal Code prohibits abortions that are carried out without the: advice and</p>		<p>The Government of Bahrain has a stated policy of providing mother and child health services to all citizens and residents of Bahrain; these services include “individuals reproductive health.”<sup>93</sup> Bahrain’s Ministry of Health defines</p>	<p>A husband’s permission is required in order for a woman to obtain any reproductive health services; and any medical procedure that may affect a</p>	<p>Anecdotal evidence suggests that women are frequently denied reproductive health services, including in some cases essential medical procedures, in cases where husbands</p>

<sup>87</sup> Article 133 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>  
<sup>88</sup> Article 13 of Law No. 7 of 1986 Promulgating the Financial Guardianship Law, <https://www.legalaffairs.gov.bh/PDF/L0786.pdf>  
<sup>89</sup> Information obtained from Bahraini advocates, February 2021.  
<sup>90</sup> Articles 39, 40 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf0>  
<sup>93</sup> Mother and Child Health and Reproductive Health, Bahrain Ministry of Health, <https://www.moh.gov.bh/Services/MC?lang=en>

	<p>assistance of medical professionals and consent of the woman.<sup>91</sup></p> <p>Article 19 of the Law on Medical and Dental Practice provides that a woman has the right to an abortion if a doctor certifies that her life is in danger and if her husband consents to the abortion.<sup>92</sup></p>		<p>reproductive health as “the ability of people to have children and have the freedom to choose when to do so. It also includes that men and women are aware of safe, effective, affordable and acceptable means of birth control methods and to have a satisfactory and safe sexual lives. Reproductive health also includes a safe pregnancy and childbirth which ensure good health for both mother and child. Reproductive health affects both men and women from childhood to old age.”<sup>94</sup></p>	<p>woman’s fertility is not performed without express consent of a husband, irrespective of a woman’s age, even if a medical necessity requires such a procedure.<sup>95</sup></p>	<p>refuse to grant consent.<sup>96</sup></p> <p>According to World Bank data, the total fertility rate decreased from 7.1 children per woman in 1960 to 1.96 in 2019.<sup>97</sup></p> <p>According to the UN “Contraceptive Use by Method 2019” Data Booklet, an estimated 32.3% of women of reproductive age in Bahrain use contraceptive methods.<sup>98</sup></p>
<p><b>Personal rights of spouses</b></p> <p><i>Does a woman need the consent of her spouse or guardian to work,</i></p>	<p>Article 19 of the Constitution guarantees personal freedom and freedom of movement and residence to all, except as</p>		<p>The Government also launched a National Plan for the Advancement of Bahraini Women</p>	<p>A woman may include certain conditions in the marriage contract</p>	<p>Women retain their birth names upon marriage, as is the societal tradition in</p>

<sup>91</sup> Articles 321-322 of the Penal Code (1976), [https://www.unodc.org/res/cld/document/bhr/1976/bahrain\\_penal\\_code\\_html/Bahrain\\_Penal\\_Code\\_1976.pdf](https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf)

<sup>92</sup> Article 19 of the Practice of Medical and Dental Professions (1989), [http://www.nhra.bh/files/files/NHRA%20Laws/2/02\\_قانون\\_1989-207%20بشأن\\_مِهنة\\_الطَب.pdf](http://www.nhra.bh/files/files/NHRA%20Laws/2/02_قانون_1989-207%20بشأن_مِهنة_الطَب.pdf)


<sup>94</sup> Mother and Child Health and Reproductive Health, Bahrain Ministry of Health, <https://www.moh.gov.bh/Services/MC?lang=en>

<sup>95</sup> Information obtained from Bahraini advocates, February 2021.

<sup>96</sup> Information obtained from Bahraini advocates, February 2021.

<sup>97</sup> World Bank, “Fertility rates, total (births per woman),” <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

<sup>98</sup> Contraceptive Use by Method 2019: Data Booklet, United Nations Economic and Social Affairs, [https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/files/documents/2020/Jan/un\\_2019\\_contraceptiveusebymethod\\_databooklet.pdf](https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/files/documents/2020/Jan/un_2019_contraceptiveusebymethod_databooklet.pdf)

<p><i>choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>provided by law and under judicial supervision.<sup>99</sup></p> <p>Article 13 of the Constitution provides that every citizen has the right to work and to choose the type of work within the bounds of public order and decency.<sup>100</sup></p> <p>The Family Law potentially restricts the personal rights of a married woman within the maintenance-for-obedience legal framework provided for under the Family Law. A married woman is required to obey her husband and may not refuse to take residence in the marital home, nor leave the home without her husband's consent unless it is for a "legitimate reason."<sup>101</sup> She risks losing her financial rights if she disobeys the husband.<sup>102</sup></p>		<p>(2013-2022), spearheaded by the Supreme Council for women, with the stated aim to ensure family stability, empower women to contribute to the nation's progress based on the principle of equal opportunities, and to merge women's needs in development programs.<sup>106</sup></p> <p>Bahrain's Economic Vision 2030 guarantees all citizens equal access to education and healthcare and seeks to ensure equal opportunities for</p>	<p>to secure additional rights for herself, including the right to work or pursue higher education, provided the husband consents to these conditions.<sup>108</sup> The Family Law stipulates that certain conditions "that contradict the purpose and aim of marriage" are considered null and void.<sup>109</sup></p> <p>According to regulations issued</p>	<p>Bahrain.<sup>112</sup></p> <p>Bahraini society broadly encourages women to pursue their education, including higher education. Bahrain has one of the highest female education enrolment rates in the region: in 2020, females represented 52% of students in elementary schools, 50% of students in intermediate schools, 60% of students in secondary schools, and 64% of graduates of higher</p>
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<sup>99</sup> Article 19 of of the Constitution of the Kingdom of Bahrain (2002), <https://www.bahrain.bh/wps/wcm/connect/d749d20a-7545-4900-b64c-5443e6c20cd6/CA9SS7XP.pdf?MOD=AJPERES>.

<sup>100</sup> Article 18 of the Constitution of the Kingdom of Bahrain (2002), <https://www.bahrain.bh/wps/wcm/connect/d749d20a-7545-4900-b64c-5443e6c20cd6/CA9SS7XP.pdf?MOD=AJPERES>.

<sup>101</sup> Article 40 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>. The law does not define legitimate reasons.

<sup>102</sup> Article 54 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>106</sup> National Plan for the Advancement of Bahraini Women, Bahrain Supreme Council for Women, <https://www.scw.bh/en/AboutCouncil/NationalPlan/Pages/default.aspx>

<sup>108</sup> Article 6 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>109</sup> Article 6 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>112</sup> Information obtained from Bahraini advocates, February 2021.



	<p>The Family Law provides that a woman cannot work outside the marital home without the permission of her husband, unless she was already working prior to the marriage or if it is stipulated in the marriage contract that she has the right to work.<sup>103</sup> If a woman works outside the home “in detriment to her husband’s rights” and despite his request that she refrains from doing so, she is determined to be <i>nashez</i> and loses her financial rights.<sup>104</sup> A married woman’s right to pursue higher education after marriage is not guaranteed in the Family Law.</p> <p>Bahraini law recognizes a woman’s financial independence. The Family Law provides that a husband may not interfere in his wife’s private property.<sup>105</sup></p>		<p>Bahrainis in the job market.<sup>107</sup></p>	<p>by the Minister of Justice, a <i>Ma’dhun</i> is required to explain to both the prospective husband and wife their rights and duties in the marriage contract in accordance with Shari’ah, and the permissible/non-permissible conditions that may be included in the marriage contract.<sup>110</sup></p> <p>Under Sunni <i>fiqh</i>, a woman has a right to divorce in the event of a husband</p>	<p>education institutions.<sup>113</sup></p> <p>According to official Government and World Bank data, female labor force participation increased from 28% in 1990 to 32% in the years 2010-2019.<sup>114</sup></p>
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<sup>103</sup> Article 56 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>104</sup> Articles 56 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>105</sup> Article 39(b) of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>107</sup> Bahrain Economic Vision 2030, Bahrain e-Government Portal, <https://www.bahrain.bh/bahrain2030>

<sup>110</sup> Article 9(5) of the Minister of Justice Decision No. 1 of 2016 with Respect to *Ma’dhuns* of Shari’ah and Officiating Personal Status Documents, [https://www.sjc.bh/website/doc\\_print/R0116.pdf](https://www.sjc.bh/website/doc_print/R0116.pdf).

<sup>113</sup> Women in Bahrain, Bahrain e-Government Portal, [https://www.bahrain.bh/new/en/equality-women\\_en.html](https://www.bahrain.bh/new/en/equality-women_en.html)

<sup>114</sup> World Bank, “Labour force participation rate, female (% of female population ages 15+) (modelled ILO estimate)”, <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>; Women in Bahrain, Bahrain e-Government Portal, [https://www.bahrain.bh/new/en/equality-women\\_en.html](https://www.bahrain.bh/new/en/equality-women_en.html)

				breaching a condition of the marriage contract. <sup>111</sup> The law does not guarantee a similar right to a Shi'a woman.	
<p><b>Inheritance rights</b></p> <p><i>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo their inheritance in favour of their mother upon the death of their father?</i></p> <p><u>Applicable CEDAW Provision</u></p>	<p>Article 5(d) of the Bahraini Constitution provides that inheritance is a guaranteed right governed by Shari'ah.<sup>115</sup> Article 909 of the Civil Law states that the provisions of Shari'ah are applied in matters of inheritance and wealth.<sup>116</sup></p> <p>There is no specific legislation governing either inheritance or wills in Bahrain. Civil Courts hear disputes on all inheritance matters and apply the division of inheritance rules of the applicable <i>fiqh</i> school of the parties, broadly Sunni or Shi'a Ja'fari.</p> <p>Generally, inheritance rights</p>		<p>The Government of Bahrain maintains that matters of inheritance are regulated by Islamic Shari'ah, which the law applies with a view to respect different denominations and beliefs.<sup>118</sup></p>		<p>Court cases related to inheritance often face long delays, and certain inheritance disputes take years to be resolved in civil courts, impeding the access (especially of women) to their rightful inheritance rights.<sup>119</sup> Advocates point to the lack of an inheritance law as a primary reason for this inefficiency.</p>

<sup>111</sup> Article 6 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>115</sup> Article 5(d) of the Constitution of the Kingdom of Bahrain (2002), <https://www.bahrain.bh/wps/wcm/connect/d749d20a-7545-4900-b64c-5443e6c20cd6/CA9SS7XP.pdf?MOD=AJPERES>.

<sup>116</sup> Articles 909 Civil Law (2001), <http://www.moj.gov.bh/en/defaultb811.html?action=article&id=1470>

<sup>118</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR/4 (2018), para. 200, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en)

<sup>119</sup> Information obtained from Bahraini advocates, February 2021.

<p>Paras. 34-35 GR21 Paras. 49-53 GR29</p>	<p>between women and men are unequal for Sunnis and Shi'a. In many cases, the prevalent <i>fiqh</i> interpretations in both schools grant women half the share of a man of the same degree of kinship to the deceased (for example, male children inherit double the share of female children).<sup>117</sup></p> <p>For non-Muslims, the civil courts rule in accordance with the applicable religious dictates of the parties or in accordance with the legislation of the state of their nationality.</p>				
	<p><b>Legislative Framework</b></p>	<p><b>Case Law</b></p>	<p><b>Policy</b></p>	<p><b>Procedure</b></p>	<p><b>Practice</b></p>
<p><b>Violence against women in the family</b></p> <p><i>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault and violence that affect a woman's mental health</i></p>	<p>Article 19 of the Constitution provides that no person shall be subjected to physical or mental torture, or inducement, or undignified treatment, and the penalty for so doing shall be specified by law.<sup>120</sup></p> <p>The Domestic Violence Law of</p>	<p>There have been several recent cases in which courts handed down prison sentences for acts of domestic violence. For example, In</p>	<p>The Supreme Council for Women launched a National Strategy for the Protection of Women from Domestic Violence in 2015. The Strategy focuses on prevention of domestic violence, providing protection</p>	<p>Several local attorney have pointed to the problematic practice of requiring the complainant in a domestic violence case to prove the</p>	<p>Several local advocates observed that domestic violence remains prevalent in Bahrain despite the Domestic Violence Law's passage. According to the</p>

<sup>117</sup> Nadjma Yassari, "Intestate Succession in Islamic Countries", in *Comparative Succession Law: Vol. II: Intestate Succession*, eds. Kenneth Reid, Marius de Waal, Reinhard Zimmermann, (Oxford: Oxford University Press, 2015), p. 424

<sup>120</sup> Article 19 of the Constitution of the Kingdom of Bahrain (2002), <https://www.bahrain.bh/wps/wcm/connect/d749d20a-7545-4900-b64c-5443e6c20cd6/CA9SS7XP.pdf?MOD=AJPERES>.

<p><i>which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 &amp; 19 Para. 40 GR21</p>	<p>2015 defines “domestic violence” to include every act of abuse committed in the family by one of its members, including physical abuse, psychological abuse, sexual abuse, and economic abuse.<sup>121</sup></p> <p>Under the Domestic Violence Law, a victim may file an incident complaint with local police or the public prosecutor, and may seek a protection order from the public prosecutor. In receiving a complaint, the Law obligates law enforcement officials to: (1) Ensuring the protection of the person who reports a domestic violence incident, (2) listen to parties and witnesses, and (3) maintain confidentiality of all communications.<sup>122</sup></p> <p>Upon receiving a complaint, police stations are required to transfer the victim to the nearest health center for treatment, if necessary;</p>	<p>2019, the Shari’ah High Court of Appeals ruled in favor of a woman who had filed for judicial divorce based on harm after the husband was witnessed beating her in front of the Ministry of Justice building. The husband had previously been sentenced for 3 years in prison in a separate case for beating his wife in public.<sup>129</sup> In 2018, the High Criminal Court convicted a man for attempted murder and</p>	<p>services, ensuring full implementation of the Domestic Violence Law and seeking to improve the quality of all relevant legislation, raising awareness, conducting research and data collection, and evaluating existing services and measures to ensuring their effectiveness to prevent and combat violence against women.<sup>132</sup></p>	<p>occurrence of violence typically by presenting a medical report or witness testimony. In cases where domestic violence does not cause injury or occurs in private spaces (which the majority of cases), women often find themselves unable to get recourse.<sup>133</sup></p>	<p>U.S. State Department as of 2019, although the Domestic Violence Law provides that police should be contacted about incidents of domestic violence and that the public prosecutor can investigate information it receives from police, in practice, victims of domestic violence “reported difficulty knowing whom to contact or how to proceed when filing a complaint.”<sup>134</sup></p> <p>Shari’ah Courts are also reluctant to issue a divorce order in cases where a wife</p>
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<sup>121</sup> Article 1 of Law No. 17 of 2015 On Protection Against Domestic Violence (hereinafter “Domestic Violence Law”), <https://www.legalaffairs.gov.bh/FullEn/K1715.docx>

<sup>122</sup> Article 9 of the Domestic Violence Law (2015), <https://www.legalaffairs.gov.bh/FullEn/K1715.docx>.

<sup>129</sup> “A Man Beats His Wife Outside the Ministry of Justice and the Court Divorces Her for Harm,” *Al-Ayam*, 21 May, 2019, <https://www.alayam.com/online/local/796162/News.html>.

<sup>132</sup> National Strategy to Protect Women from Domestic Violence, Bahrain Supreme Council for Women, <https://www.scw.bh/en/InformationCenter/Pages/nsdv.aspx>

<sup>133</sup> Information obtained from Bahraini advocate, March 2017, February 2021.

<sup>134</sup> 2019 State Department Report, p. 26.

	<p>and, after issuance of an order by the Public Prosecutor, transfer the victim to a domestic violence shelter, if needed.<sup>123</sup></p> <p>The Law states that the Government shall provide relevant support services to victims, including shelters for domestic violence victims, specialized training programs on domestic violence for law enforcement officers, judges, and prosecutors, and mechanisms to monitor incidents of domestic violence and related criminal proceedings.<sup>124</sup></p> <p>The Domestic Violence Law does not specify penalties for domestic violence acts, but rather enumerates penalties only for violating a protection order (punishable by a prison sentence not exceeding one month and a fine not exceeding one hundred Dinars (USD 265), or both), and relies on the Penal Code for</p>	<p>sentenced him to 7 years in prison for beating his wife on the head with an axe.<sup>130</sup></p> <p>However, in 2017, the Criminal Court issued a light sentence to a man who had been convicted of severely beating his wife and causing her head trauma and severe eye injuries, sentencing him to one year in prison.<sup>131</sup></p>			<p>petitions for it based on domestic violence and are more inclined to only do so where the domestic violence was egregious and has led to severe physical damage.<sup>135</sup></p> <p>Addressing the issue of domestic violence is a challenge in Bahrain. It is a sensitive issue because it is related to the family and generally, it is a taboo to “publicise” family secrets.<sup>136</sup></p> <p>Domestic violence continues to be underreported, primarily because women fear being</p>
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<sup>123</sup> Article 12 of the Domestic Violence Law (2015), <https://www.legalaffairs.gov.bh/FullEn/K1715.docx>.

<sup>124</sup> Articles 7, 11 of the Domestic Violence Law (2015), <https://www.legalaffairs.gov.bh/FullEn/K1715.docx>.

<sup>130</sup> “Seven Years for a Bahraini Who Beat His Wife with an Axe,” (Arabic) *Al-Ayam*, 21 February, 2018, <https://www.alayam.com/alayam/first/712301/News.html>.

<sup>131</sup> “This is the Penalty for the Bahraini Husband of the Battered Syrian Zahraa,” *Al-Arabiya*, 3 October, 2017, <https://www.alarabiya.net/arab-and-world/gulf/2017/10/03/هذه-عقوبة-البحريني-زوج-السورية-المعتقة-من-هراء-صبيحي>.

<sup>135</sup> Information obtained from Bahraini advocate, March 2017, February 2021.

<sup>136</sup> Information obtained from Bahraini advocates, February 2021.

	<p>sanctions of acts of domestic violence.<sup>125</sup></p> <p>The Penal Code contains some general prohibitions and penalties that are applicable to domestic violence acts, including assault and battery, rape and sexual assault (with heavier penalties if the perpetrator is a victim's close relative or guardian), kidnapping, and murder.<sup>126</sup></p> <p>There is no specific criminalization of marital rape in either the Domestic Violence Law nor the Penal Code.</p> <p>The Penal Code punishes "honor crimes" but with more lenient sentences and exempts suspected rapists who marry their victims.<sup>127</sup></p> <p>Article 98 of the Family Law recognizes harm as a grounds to grant a wife a judicial divorce (<i>tatleeq</i>).<sup>128</sup></p>				<p>ignored, questioned, or stigmatised by society.<sup>137</sup></p>
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<sup>125</sup> Article 16 of the Domestic Violence Law (2015), <https://www.legalaffairs.gov.bh/FullEn/K1715.docx>.

<sup>126</sup> Articles 321-322 of the Penal Code (1976), [https://www.unodc.org/res/cld/document/bhr/1976/bahrain\\_penal\\_code\\_html/Bahrain\\_Penal\\_Code\\_1976.pdf](https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf)

<sup>127</sup> Articles 334, 353 of the Penal Code (1976), [https://www.unodc.org/res/cld/document/bhr/1976/bahrain\\_penal\\_code\\_html/Bahrain\\_Penal\\_Code\\_1976.pdf](https://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf)

<sup>128</sup> Article 56 of the Family Law (2017), <https://www.legalaffairs.gov.bh/Publications/Download/049.pdf>

<sup>137</sup> Information obtained from Bahraini advocates, February 2021.

<p><b>Nationality rights</b></p> <p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p> <p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>Bahrain’s Citizenship Law of 1963 imposes significant restrictions that limit Bahraini women’s ability to pass citizenship onto their children or onto their foreign spouses; Bahraini men are not subject to the same limitations.</p> <p>The Citizenship Law provides that a child born to a Bahraini father automatically gains Bahraini citizenship at birth, regardless of birthplace, and regardless of the citizenship status of the mother.<sup>138</sup> However, if a child is born to a Bahraini mother and a non-Bahraini father, the child is a Bahraini citizen at birth only if the identity of the father is unknown or paternity has not been legally established.<sup>139</sup></p> <p>A Bahraini man may pass his citizenship to his non-Bahraini wife after 5 years from the date of marriage, upon filing a request with the Ministry of Interior.<sup>140</sup> No</p>		<ul style="list-style-type: none"> <li>• The Government of Bahrain maintains that the Nationality Act is based on recognition of “the right of blood on the father’s side” and for the purpose of avoiding the acquisition of dual nationality.<sup>141</sup></li> <li>• However, the Bahraini government also informed that:<sup>142</sup></li> <li>• In 2018, the Government of Bahrain indicated that the legislature had been discussing a proposal to amend the</li> </ul>	<p>According to statistics published by the Bahraini Ministry of Justice and Islamic Affairs, 5% of the 5,091 Bahraini women who were married in 2020 wed a non-Bahraini spouse.<sup>144</sup></p> <p>The Citizenship Law leaves children of Bahraini women married to foreign spouses at a heightened risk of statelessness and deportation; and prevents them from accessing basic social services such as social housing, welfare services, and certain healthcare services.</p>
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<sup>138</sup> Article 4 of the Bahraini Citizenship Law of 1963, as amended (hereinafter “Citizenship Law”), <https://www.legalaffairs.gov.bh/FullAr/K0863.docx>

<sup>139</sup> Article 4 of the Citizenship Law (1963), <https://www.legalaffairs.gov.bh/FullAr/K0863.docx>

<sup>140</sup> Article 7 of the Citizenship Law (1963), <http://www.moj.gov.bh/default1d49.html?action=article&ID=872>

<sup>141</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR /3 (2011), para. 118,

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f3&Lang=en)

<sup>142</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR /3 (2011), paras. 118-119, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>144</sup> Marriage & Divorce 2020, <https://www.data.gov.bh/en/ResourceCenter/DownloadFile?id=3556>

	<p>comparable right exists in the law for a woman to pass her citizenship to her foreign husband.</p>		<p>Citizenship Law to allow children of Bahraini women married to foreigners the same access to citizenship as children of Bahraini men married to foreigners.<sup>143</sup> However, the proposal has not been adopted to date.</p>	<p>For example, as foreigners, children of a Bahraini mother and a non-Bahrain father are ineligible for government-issued educational scholarships and cannot own property except in certain specified locations.<sup>145</sup> If a Bahraini mother who has a child with a non-Bahraini spouse passes away, her children might not be able to inherit their family home.<sup>146</sup></p> <p>The Government has taken some positive steps to alleviate the suffering and unequal treatment of children of Bahraini women married to foreigners. For</p>
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<sup>143</sup> Bahrain State party report, U.N. Doc. CEDAW/C/BHR /4 (2018), para. 159, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2f4&Lang=en)

<sup>145</sup> Information obtained from Bahraini advocate, February 2021.

<sup>146</sup> Information obtained from Bahraini advocate, February 2021.



				<p>example, a law was passed in 2009 to extend certain exemptions from government fees to persons born to a Bahraini woman and her non-Bahraini husband, including exemption from fees for government healthcare services, educational services, and residency permits.<sup>147</sup> Nonetheless, many inequalities remain unaddressed.</p> <p>Many Bahraini women who submit applications for citizenship on behalf of their foreign spouses or children report waiting for many years before receiving a decision.<sup>148</sup></p>
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<sup>147</sup> Law No. 35 of 2009 with Respect to Granting the Non-Bahraini Wife of a Bahraini Man and the Offspring of a Bahraini Woman Married to a Non-Bahraini Equal Treatment as a Bahraini Citizen Regarding Certain Fees for Government Services, <https://www.legalaffairs.gov.bh/PDF/K3509.pdf>

<sup>148</sup> Fatima Al-Majid, "Are We Inferior Citizens? Bahrainis Married to Foreigners Demand Citizenship for their Children," *Raseef* 22, 24 January 2021, <https://raseef22.net/article/1081244-هل-نحن-مواطنات-بدرجة-أقل-بحر-بنيات-متزوجات-من-أجانب-يطالبن-بالجنسية-لأبنائهن>; Zainab Al-Tajir, "Bahraini Women Wait for Years to Obtain Citizenship for their children," *Al-Wasaf*, 16 February 2016, <http://www.alwasatnews.com/news/1080438.html>

**ACCESS TO JUSTICE (please include sources to information as much as possible)**

SYSTEM	PROCEDURES	CHALLENGES FOR WOMEN	GOOD PRACTICES IN COURT SYSTEM
<p><i>How are Muslim family law (i.e. marriage and family related) cases administered in your country? (E.g. Do you have a Quazi/Kadhi court system, family courts or civil courts?)</i></p> <p><i>How many courthouses/court rooms around the country that administer Muslim family law cases?</i></p> <p><i>If civil or Kadhi courts - what cases are handled by what courts?</i></p> <p><i>How many Muslim family law-related judges? Are there women working within the court system as judges/marriage registrars e.t.c?</i></p> <p><i>Do lawyers represent clients?</i></p> <p>Family and personal status matters in Bahrain fall under the jurisdiction of Islamic Shari'a Family Courts. The Sunni and Shi'a have their own separate Shari'a Family Courts, consisting of lower Shari'ah Courts and Shari'ah Courts of Appeal.</p>	<p><i>Are the procedures pertaining to family matters (e.g. divorce, maintenance etc) are defined in the family law and/or are there guidelines/policies available for judges/Kadhis?</i></p> <p><i>In general practice do judges/Kadhis follow procedures?</i></p> <p><i>How much judicial discretion do judges/Kadhis have over marriage and family matters?</i></p> <p><i>Are there appeal processes?</i></p> <p>Shari'ah Court proceedings – both in Sunni and Shi's Courts – are governed by the Law of Shari'a Court Procedures, No. 26 of 1986, which specifies procedures related to filing claims, providing evidence and notices, payment of fees, and court hearings.</p>	<p><i>What are some key challenges that Muslim women face in accessing justice on family law matters?</i></p> <p><i>(E.g. lack of accessibility, costly, bad procedures, delayed processes, gender insensitive judges, etc?)</i></p> <p>According to research and testimony by Bahraini family attorneys, Family Shari'ah Court judges in Bahrain are typically conservative Shari'ah-trained judges with a bias towards preserving the control of men over the family unit. It is rare that a woman is able to secure her rights in Family Courts, particularly as the Family Law grants wide discretion to individual judges to make determinations with respect to the "reasonableness" of a woman's claim. The attitude of many judges is said to focus on preserving the unity of the family at all costs.</p>	<p><i>Are there any good practices, procedures or policies that you would like to share pertaining to how courts in your country deal with family law cases?</i></p> <p><i>(E.g. prioritising certain types of cases, timely delivery of decisions, clear procedure, etc)</i></p> <p>The ability to appeal Shari'ah Court judgments to the Cassation Court is a recently-introduced good practice, which enables judicial oversight over Shari'ah Court rulings and adds greater certainty and uniformity to the standards of adjudication and interpretation of the law.</p>

<p>Disputes involving a Muslim family fall under the jurisdiction of the father's denomination by default. All Shari'a Courts are staffed by judges trained primarily as Shari's scholars. All Shari'a Court judges in Bahrain are all men.<sup>149</sup> Parties may be represented by attorneys in Shari'ah Court proceedings, and both male and female attorneys can represent their clients in Shari'ah court.</p>	<p>Judges typically follow the procedures in the law, but are nonetheless granted wide discretion to issue their rulings based on their assessment of the facts and interpretation of the broad provisions of the Family Law.</p> <p>Rulings by both the Sunni and Shi'a High Shari'ah Courts of Appeal may in turn be appealed to the Cassation Court, as per the 2015 amendment to the Cassation Court Law (Decree No. 23 of 2015).</p>		
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<sup>149</sup> Bahraini women can serve as judges in civil and criminal courts.