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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

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

Partly

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

No available data or inadequate information.

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

Saudi Arabia ratified CEDAW in 2000, with reservations relating to the norms of Islamic law and that the Kingdom does not consider itself bound by Article 9(2) (nationality) and Article 29(1) (dispute resolution).

Constitution

The Basic Law does not include a provision on gender equality or prohibition of discrimination based on sex or gender.

NATIONALITY LAW

NATIONALITY

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

KINGDOM OF SAUDI ARABIA

CRIMINAL LAWS

Domestic violence

Women and girls are protected by the Law on Protection from Abuse 2013. It creates criminal penalties for acts of domestic violence and establishes a process for people to lodge complaints and receive protection. It could be improved by clarifying if the law criminalizes marital rape as a form of abuse.

Marital rape

Marital rape is not criminalized. Rape of a wife by a husband was not traditionally subject to punishment in Sharia courts, but a husband is under a general obligation not to harm his wife.

Rape (other than of a spouse)

Rape is a criminal offence under Sharia law with a wide range of penalties, including flogging and execution.

Exoneration by marriage

Sharia law principles apply. Data was not available to confirm whether courts exonerate rapists who marry their victims.

Abortion for rape survivors

Abortion is generally prohibited under Sharia law, including in the case of rape. Abortion is legal to save the woman's life or if the pregnancy is less than four months old and continued pregnancy gravely endangers the mother's health.

Sexual harassment

Sexual harassment was criminalized in 2018. The law defines "harassment" as any word, act, or sign with a sexual connotation by a person to any other person that harms their body or modesty by any means, including through modern technology.

Honour crimes: Mitigation of penalty

Leniency for perpetrators of 'honour' crimes against women is not codified in Saudi law. Sentencing of men who commit such crimes is at the discretion of the court.

Adultery

Adultery is criminalized by Sharia law (zina offence).

Female Genital Mutilation / Cutting (FGM/C)

There is no legal prohibition. It is not practiced.

Human trafficking

The Anti-Trafficking in Persons Law of 2009 prohibits human trafficking, but it does not address prevention and protection measures.

Sex work and anti-prostitution laws

Prostitution is prohibited by Sharia law.

Sexual orientation

Homosexual conduct between consenting adults is criminalized by Sharia law.

PERSONAL STATUS LAWS

Minimum age of marriage

Sharia does not specify a minimum age for marriage. Girls may marry after reaching puberty with the consent of their guardian.

Male guardianship over women

Women require the consent of a wali (male guardian) to marry. There is a lack of codified legislative protections to prevent forced or early marriage for women and girls subject to guardianship.

Marriage and divorce

Under Sharia principles, the husband is required to financially support his wife. The wife owes obedience to the husband. A husband can divorce by repudiation (talaq). A wife has the right to divorce on specified grounds. She can also apply for a khul'a divorce without grounds if she forgoes financial rights.

Polygamy

Polygamy is permitted.

Guardianship of children

Fathers are the sole guardians of children.

Custody of children

After divorce the mother has custody of children up to the age of seven, but she loses custody if she remarries.

Inheritance

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

LABOUR LAWS

Right to equal pay for the same work as men

The Labour Law does not include a right to equal pay for the same work as men.

Dismissal for pregnancy

Under Article 155 of the Labour Law employers are prohibited from dismissing a woman because she takes maternity leave.

Paid maternity leave

Women are entitled to 10 weeks of maternity leave, which is fully paid by the employer. This is less than the ILO standard of 14 weeks.

Legal restrictions on women's work

The Labour Law prohibits employment of women in hazardous operations or harmful industries. The Minister prescribes occupations and jobs that are deemed harmful to women. The law also prohibits women from working at night, except in situations determined by the Minister.

Domestic workers

Domestic workers are not covered by the full protections of the Labour Law. Council of Ministers Decision No. 310 of 1434 (2013) regulates the employment of domestic workers and sets out minimum entitlements. Employers are required to treat domestic workers with dignity and ensure their safety.