



### Words and Deeds

#### Holding Governments Accountable in the Beijing +15 Review Process

Over sixty years ago, countries adopting the Universal Declaration of Human Rights proclaimed that “all human beings are born free and equal in dignity and rights.” That fundamental right has echoed for decades in conferences, treaties, and declarations. In 1995, in the Platform for Action adopted in Beijing, 189 governments agreed that laws that discriminate against women undermine equality and pledged to “revoke any remaining laws that discriminate on the basis of sex.” Yet inequality, even in its most overt form, has not been vanquished.

In 1999, Equality Now published a representative sampling of explicitly discriminatory laws from 45 countries in our report, *Words and Deeds - Holding Governments Accountable in the Beijing +5 Review Process* (Beijing +5 report). In 2000, the General Assembly reviewed the Platform for Action and established a target date of 2005 for the revocation of discriminatory laws. This target was far from met. Equality Now updated its report in 2004 (Beijing +10 report), highlighting additional laws that discriminated on the basis of sex.

In the Beijing +5 and Beijing +10 reports, Equality Now highlighted explicitly discriminatory laws relating to violence against women, personal status, economic status, and marital status. Such laws demonstrate the clear disrespect of said governments for the fundamental right of women to equality and official endorsement of women as people of lesser worth. However, such laws reflect only a fraction of pervasive discrimination women face on a daily basis in every country in the world. Legal discrimination may result from a variety of factors, including: gender-neutral laws that have a discriminatory effect on women; inadequate enforcement of laws; women’s lack of access to justice; and government failure to institute special measures to redress historic gender inequality.

There has been some progress in removing legal discrimination against women. Equality Now is pleased to report that more than half of a total of 52 countries highlighted in both previous reports have fully or partially repealed or amended the discriminatory laws indicated. Among these countries are Algeria, the Bahamas, Bangladesh, Colombia, Costa Rica, Ethiopia, France, Guatemala, Haiti, India, Jordan, Kuwait, Latvia, Lesotho, Malaysia, Mexico, Morocco, Nepal, Pakistan, Papua New Guinea, Peru, Poland, Republic of Korea, Romania, Serbia and Montenegro, Switzerland, Tonga, Turkey, Uruguay and Venezuela. Such reforms set the example of moving from words to action, demonstrating a commitment to the human rights of women and girls including by fulfilling the obligations undertaken in the Beijing Platform for Action and elsewhere. However, many laws highlighted in Equality Now’s 1999 and 2004 reports (and many others) remain in force and, as most recently demonstrated by the 2009 Shia Personal Status law in Afghanistan, new discriminatory laws continue to be adopted. For the fifteenth anniversary in 2010 of the Beijing Platform for Action, Equality Now has updated its report (Beijing +15 report), highlighting a sampling of sex discriminatory laws that remain in force, denying women and girls the fundamental right to equality.

In his in-depth study on violence against women published in July 2006, the UN Secretary-General stated that “[v]iolence against women is both a cause and a consequence of discrimination against

women and of their inequality and subordination and recommended that States “[r]emove all laws that discriminate against women; review and revise all State policies and practices to ensure that they do not discriminate against women; and ensure that provisions of multiple legal systems...comply with international human rights standards, including the principle of non-discrimination.” The Office of the High Commissioner for Human Rights’ (OHCHR) 2008 report, *Project on a mechanism to address laws that discriminate against women*, stated that “if the UN is to maintain its credibility and not be dismissed as a mere talking shop, then it will have to ensure that the failure to meet what should be a simple pledge, the removal of laws that discriminate against women made in conference documents in 1995 (Beijing), reviewed in 2000 (Beijing +5) and which remained unfulfilled a decade later in 2005 (Beijing +10), is dealt with as a matter of urgency.”

A resolution was passed at the United Nations Human Rights Council in September 2009 requesting OHCHR to report on how the issue of discrimination against women, in law and practice, is addressed in the UN system. This report should form the basis for a half-day discussion at the Human Rights Council in September 2010, which will focus on what further steps might be needed to address the issue. The two previous reports of the Secretary-General as well as the 2008 report from OHCHR all indicated that a dedicated mechanism on the issue of legal discrimination could well provide the impetus needed to effect real change in this area. Equality Now agrees that such a mechanism would spearhead movement to review and amend discriminatory laws.

Without good laws women have no formal recourse when it comes to protecting and promoting their rights and cannot fully participate in society. While not a panacea for achieving equality in all spheres of life, at a minimum legal equality gives women a level playing field from which to build their capabilities and realize their hopes and dreams, positively affecting development of society in general, as recognized by the Millennium Development Goals, Goal 3 of which includes promotion of gender equality.

### **Recommended Actions**

Please write to the heads of state indicated in this report and call on them to ensure that the laws mentioned, and any other discriminatory laws in force, are repealed or amended as a matter of urgency. Urge them to undertake and complete these reforms as a demonstration of their genuine commitment to the words and spirit of the 1995 Beijing Platform for Action. Please call on your government to undertake a comprehensive review, in conjunction with women’s groups, of existing laws to identify and amend any that continue to discriminate against women, as well as those that have a discriminatory impact on women. Appeals should be addressed to your Minister of Justice or Attorney-General, as well as your President or Prime Minister. Please also call on your government’s foreign ministry to support the creation by the Human Rights Council of a special mechanism on women’s equality before the law to accelerate the pace of legal reform around the world. Share this report and your concerns with the media and the general public to enlist their support in the campaign to hold governments accountable to the promises they made in Beijing. You can also sign a petition asking governments to repeal the laws identified in the Equality Now report at [www.equalitynow.org](http://www.equalitynow.org). Please let Equality Now know about any discriminatory laws in your country and steps to change them.

**Please keep Equality Now updated on your efforts and send copies of any replies you receive to:**

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# MARITAL STATUS

## MARRIAGE, DIVORCE, POLYGAMY & WIFE OBEDIENCE

### AFGHANISTAN

#### Shia Personal Status Law of 2009:

Article 133. (1) *The household's supervision is the right of the husband, unless based on the husband's mental deficiency, and by order of the court, it is given to the wife.*

(2) *A wife can leave the house for legal purposes to the extent that local custom allows....*

**NOTE:** In 2009, the government of Afghanistan enacted the Shia Personal Status Law (applicable to the Shia population of Afghanistan), which contains a number of discriminatory provisions, including the ones highlighted above.

Article 22 of the Constitution of Afghanistan: *Any kind of discrimination and distinction between citizens of Afghanistan shall be forbidden. The citizens of Afghanistan, man and woman, have equal rights and duties before the law.*

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### ALGERIA

#### The Family Code of 1984 modified by Ordinance No 05-02 of 27 February 2005:

Article 8. *It is permitted to contract marriage with **more than one wife** within the limits of the Shari'a, if there is a just ground and the conditions and intentions of equity can be fulfilled...*

Article 11. *An adult woman concludes her marriage contract in the presence of her "wali" [guardian] who is her father or close male relative or any other male of her choice.*

Article 30. *...It is equally temporarily prohibited:...The marriage of a Muslim **woman** with a non-Muslim man.*

Article 48. **Divorce** is the dissolution of marriage... It arises from the **will of the husband**, mutual consent of the spouses, or the demand of the wife as provided in articles 53 and 54...

Article 53. The wife can seek a divorce on the following grounds: (i) non-payment of maintenance... (ii) infirmities hindering realization of the objects of marriage; (iii) refusal of the husband to cohabit with his wife for more than four months; (iv) conviction of the husband which is of such a nature as to dishonour the family and render impossible leading of common life and conjugal relations; (v) absence of the husband for more than a year without a valid excuse or maintenance; (vi) violation of provisions of article 8; (vii) an immoral act which is severely reprehensible; (viii) for persistent disagreement between the spouses; (ix) for violation of the clauses stipulated in the marriage contract; and (x) for any recognized legal injury.

Article 54. The wife can separate from her spouse without his agreement, for the payment of a sum...

**NOTE:** In 2009, the Algerian government reformed the Family Code including through repealing Article 39 (mentioned in our Beijing +10 report), which required wife obedience.

Article 29 of the Constitution of Algeria: All citizens are **equal** before the law. No discrimination shall prevail because of birth, race, **sex**, opinion or any other personal or social condition or circumstance.

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## DOMINICAN REPUBLIC

### The Civil Code:

Article 144. Marriage is forbidden for men younger than 18 years old or women under 15 years of age.

**NOTE:** Article 39(4) of the Constitution of the Dominican Republic: **Women and men are equal before the law.** ...The necessary measures shall be promoted in order to ensure the eradication of gender inequality and discrimination.

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## ISRAEL

### Rabbinical Courts Jurisdiction (Marriage and Divorce) Law (5713-1953):

- 1. Matters of marriage and divorce of Jews in Israel, being nationals or residents of the State, shall be under the exclusive jurisdiction of rabbinical courts.*
- 2. Marriages and divorces of Jews shall be performed in Israel in accordance with Jewish religious law.*

### “Plonit v. Ploni”, The High Rabbinic Court, 1995:

*“...even if it is true that she despises him there is no basis on which to **force him to divorce her** as it is written in the Shulchran Aruch [Medieval Compilation of Jewish law] section 37 page 2 ‘if the husband wants to divorce her,’ but there is not anything to obligate him and the authorities specified and it appears in the decrees of the rabbis that even to **obligate him to divorce**, without force, it is **not allowed** and this is from the language of the Shulchran Aruch which says ‘if he wants,’ that **the matter depends only on what he wants**, and we should therefore grant his appeal.”*

### “Plonit v. Ploni”, The Supreme Court of Israel, 1997:

*“...there is no basis for us to intervene, within the confines of this court’s supervisory role, into the decisions of the religious courts. That is to say, we do not sit as a level of appeal for those courts...One must add that, according to Section 2 of the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law 5713-1953, the law that the rabbinical courts should apply with regard to matters of marriage and divorce is the law of the torah [religious law]. The petitioner’s lawyer does not dispute that the rabbinical court did so [applied the religious law], and because the court did so, even if petitioner’s lawyer believes this law is not appropriate, there is no basis for us to intervene.”*

**NOTE:** The Declaration of the Establishment of the State of Israel (May 14, 1948): *The State of Israel...will ensure complete **equality** of social and political rights to all its inhabitants **irrespective of** religion, race, or **sex** ...*

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## JAPAN

### The Civil Code of Japan:

Article 731. *A **man** who has attained **18 years of age**, and a **woman** who has attained **16 years of age** may enter into **marriage**.*

Article 733. *(1) A **woman may not remarry** unless six months have passed since the day of dissolution or rescission of her previous marriage.*

*(2) In the case where a woman had conceived a child before the cancellation or dissolution of her previous marriage, the provision of the preceding paragraph shall not apply.*

**NOTE:** Article 14(1) of the Constitution of Japan: *All of the people are **equal** under the law and there shall be no discrimination in political, economic or social relations because of race, creed, **sex**, social status, or family origin.*

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## MALI

### The Code of Marriage and Guardianship, 1962:

Article 7. *A **woman cannot enter into a second marriage** before the dissolution of the first one. The same provisions apply to men who have opted for a monogamous marriage. However, a man having chosen a monogamous marriage has the ability to revise his contract with the express consent of his wife....*

Article 32. *The husband must give protection to the wife and the **wife obedience** to her spouse....*

**NOTE:** Article 2 of the Constitution of Mali: *All Malians are born and live free and equal in their rights and duties. Any discrimination based on social origin, color, language, race, sex, religion, or political opinion is prohibited.*

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## SUDAN

### The Muslim Personal Law Act of Sudan, 1991:

Section 25(c). *The validity of a marriage contract is conditioned on the existence of a guardian who would conclude the contract [for the woman].*

Section 33. *A guardian of a Muslim woman shall be male, sane, mature and Muslim.*

Section 34. (1) *The marriage of a pubescent woman shall be concluded by her guardian with her permission and consent to the husband and the dowry. Her word regarding her attainment of pubescence shall be conclusive unless it contradicts the obvious.*

(2) *A virgin pubescent woman's express or implied affirmation is necessary if her guardian concluded her marriage contract and informed her later.*

Section 40(3). *The guardian of a minor girl cannot conclude her marriage contract unless there is permission from the judge. The guardian has to prove that the marriage will benefit the minor girl, that the husband is suitable and the husband pays the dowry usually paid to women of her status.*

Section 51. *The wife's rights in relation to the husband shall be:*

- (a) *to be provided with living expenses;*
- (b) *to be allowed to visit her parents and those relatives whom she is prohibited by Shari'a law from marrying and to receive the aforesaid in her home;*
- (c) *the husband must not (i) interfere with her private property, and (ii) harm her financially or emotionally; and*
- (d) *to be treated equally and justly with her co-wife or co-wives.*

Section 52. *The husband's rights in relation to his wife shall be:*

- (a) *to be taken care of and amicably obeyed; and*
- (b) *to have the wife preserve herself and his property.*

Section 91. *Except in situations involving a violation of Shari'a law, a wife shall always obey her husband if he:*

- (a) *has paid her dowry in full,*
- (b) *could be entrusted with her, and*

*(c) provides her with a home that complies with the Shari'a requirement among good neighbors.*

Section 92. *If the wife refuses to obey her husband, her right to be provided with a living ceases to be valid during such refusal.*

**NOTE:** Article 31 of the Constitution of Sudan: *All persons are equal before the law and are entitled without discrimination, as to race, colour, sex, language, religious creed, political opinion, or ethnic origin, to the equal protection of the law.*

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## TANZANIA

### The Law of Marriage Act, 1971, as amended by Act 23/73, Act 15/80 and Act 9/96:

Section 10. Kinds of Marriage.

...

*(2) A marriage contracted in Tanganyika, whether contracted before or after the commencement of this Act shall —*

*(a) if contracted in Islamic form or according to rites recognized by customary law in Tanganyika, be presumed, unless the contrary is proved, to be **polygamous or potentially polygamous**; and*

*(b) in any other case, be presumed to be monogamous, unless the contrary is proved.*

Section 13. Minimum Age.

*(1) No person shall marry who, being **male** has not attained the apparent age of **eighteen** years, or being **female**, has not attained the apparent age of **fifteen** years.*

Section 15. Subsisting Marriage.

*(1) No man, while married by a monogamous marriage, shall contract another marriage.*

*(2) No man, while married by a polygamous or potentially polygamous marriage, shall contract a marriage in any monogamous form with any person.*

*(3) No woman who is married shall, while that marriage subsists, contract another marriage.*

**NOTE:** Article 13(1) of the Constitution of Tanzania: *All persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law.*

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## YEMEN

### The Personal Status Act No. 20, 1992:

Article 40. *A husband has the right to be obeyed by his wife in the interest of the family, especially in regard to the following:*

- 1. She must move with him to the conjugal home, unless she has stipulated in the marriage contract that she must remain in her own home or her family's home, in which case she must permit him to live with her and have access to her;*
- 2. She must permit him to have legitimate intercourse with her when she is fit to do so;*
- 3. She must obey him and refrain from disobedience, and perform her work around the conjugal home, as other women do;*
- 4. She must not leave the conjugal home without his permission, unless for a legitimate excuse or one commonly regarded as not prejudicial to honor or to her duties towards him. She may especially go out to attend to her property interests or to perform a mutually agreed job that does not conflict with Islamic law. A legitimate excuse would be for the woman to take care of her frail parents if she is the only one available to care for either or both of them.*

**NOTE:** Article 40 of the Constitution of Yemen: *Citizens are all equal in rights and duties.*

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# PERSONAL STATUS

## CITIZENSHIP

### BAHRAIN

#### Decree Law No (12) Amending Bahraini Citizenship Act of 1963:

Article 4. *A person shall be deemed a Bahraini national in the following cases:*

*A. If he/she was born in Bahrain or abroad and the **father**, at the time of the birth, was a **Bahraini national**.*

*B. If he/she was born in Bahrain or abroad and the **mother**, at the time of birth, was a **Bahraini national**, providing that the father was either **unknown or paternity was not legally proven**.*

**NOTE:** Article 18 of the Constitution of Bahrain: *People are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the basis of sex, origin, language, religion or creed.*

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### KENYA

#### The Constitution of Kenya:

Section 90. *A person born outside Kenya after 11th December, 1963 shall become a citizen of Kenya at the date of his birth if at that date his **father is a citizen of Kenya**.*

Section 91. *A **woman who has been married to a citizen of Kenya** shall be entitled, upon making application in such a manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Kenya.*

**NOTE:** Kenya is expected to hold a public referendum on its proposed new Constitution in early 2010. While the proposed draft Constitution would repeal the discriminatory sections on citizenship cited above, it would limit equality by stating that “**equality shall be qualified to the extent strictly necessary for the application of Islamic law to persons who profess the Muslim faith in relation to personal status, marriage, divorce and inheritance.**”

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## MONACO

### Law No. 1155 on Nationality (December 18, 1992) as amended by Law no. 1276 (December 22, 2003):

Article 1. *A Monegasque is:*

1. *Every person born of a **Monegasque father**.*
2. *Every person born of a **mother who was born Monegasque and who still has Monegasque nationality on the date of that person's birth**.*
3. *Every person born of a **Monegasque mother and who has a Monegasque-born ancestor on the mother's side of the family**.*
4. *Every person born of a **Monegasque mother** who acquired Monegasque nationality by naturalization, by reestablishment of nationality, or by application of the provisions of the second paragraph of article 6 or the fourth paragraph of article 7 of this law.*
5. *Every person born of a **mother who acquired Monegasque nationality by declaration following a simple adoption**.*

Article 3. *A foreign woman who is **the wife of a Monegasque man** can acquire Monegasque nationality by declaration, after a waiting period of five years from the date of marriage, on condition that the marriage to her Monegasque husband has not ended at the time of the request, except in the case of widowhood which has not been followed by remarriage.*

**NOTE:** While Article 1 of Law No. 1155 was amended in 2003 to expand the categories by which a child can obtain citizenship through his/her mother, Article 1 is still discriminatory in that fathers, unlike mothers, have unconditional rights in passing nationality to their children.

Article 17 of the Constitution of Monaco: *The citizens of Monaco enjoy **equality** before the law. No preferential status or treatment is accorded to any of them.*

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## UNITED STATES OF AMERICA

### The Immigration and Nationality Act:

Section 309. Children born out of wedlock.

*(a) The provisions of paragraphs (c), (d), (e), and (g) of section 301 [granting United States citizenship] shall apply as of the date of birth to a person born out of wedlock if -*

*(1) a blood relationship between the person and the **father** is established by clear and convincing evidence,*

*(2) the **father** had the nationality of the United States at the time of the person's birth,*

*(3) the **father** (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and*

*(4) while the person is under the age of 18 years -*

*(A) the person is legitimated under the law of the person's residence or domicile,*

*(B) the father acknowledges paternity of the person in writing under oath, or*

*(C) the paternity of the person is established by adjudication of a competent court.*

...

*(c) Notwithstanding the provision of subsection (a) of this section, a person born, after December 23, 1952, outside the United States and out of wedlock shall be held to have acquired at birth the **nationality status of his mother**, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year.*

**NOTE:** The law cited above was challenged in *Miller v. Albright*, 523 U.S. 420, but upheld on procedural grounds by the United States Supreme Court in 1998. Justice Ruth Bader Ginsburg wrote in her dissenting opinion:

*“The law at issue might have made custody or support the relevant criterion. Instead, it treats **mothers one way, fathers another**, shaping government policy to fit and reinforce the stereotype or historic pattern. ... Even if one accepts at face value the Government's current rationale, it is surely based on generalizations (stereotypes) about the way women (or men) are... One can demur to the Government's observation that more United States citizen mothers of children born abroad out of wedlock actually raise their children*

*than do United States citizen fathers of such children. As Justice Breyer has elucidated, this observation does not justify **distinctions between male and female** United States citizens who take responsibility, or avoid responsibility, for raising their children.”*

The law was again challenged before the United States Supreme Court in the case *Nguyen v. INS*, 533 U.S. 53 (2001), which held that the law does not violate the equal protection guarantee of the United States Constitution. In her dissenting opinion Justice O’Connor wrote “[i]ndeed, the majority’s discussion may itself simply reflect the stereotype of male irresponsibility that is no more a basis for the validity of the classification than are stereotypes about the ‘traditional’ behavior patterns of women.” This decision exhausts litigation as an avenue of recourse and Congressional legislative reform is now the most likely means to address this discriminatory law.

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## EVIDENCE

### PAKISTAN

#### The Qanun-e-Shahadat Order, 1984 (Law of Evidence):

Article 17. Competence and number of witnesses.

*(1) The competence of a person to testify, and the number of witnesses required in any case shall be determined in accordance with the injunctions of Islam as laid down in the Holy Quran and Sunnah.*

*(2) Unless otherwise provided in any law relating to the enforcement of Hudood or any other special law,*

*(a) in matters pertaining to financial or future obligations, if reduced to writing, the instrument shall be attested by **two men, or one man and two women**, so that one may remind the other, if necessary, and evidence shall be led accordingly; and*

*(b) in all other matters, the Court may accept, or act on, the testimony of one man or one woman or such other evidence as the circumstances of the case may warrant.*

## The Offences of Zina (Enforcement of Hudood) Ordinance, 1979:

Section 8. *Proof of zina [adultery and fornication] liable to hadd [maximum punishment prescribed by the Quran] shall be in one of the following forms, namely: -*

*(a) the accused makes before a Court of competent jurisdiction a confession of the commission of the offence; or*

*(b) at least **four Muslim adult male witnesses**, about whom the Court is satisfied, having regard to the requirements of tazkiyah al-shuhood [the mode of inquiry adopted by a Court to satisfy itself as to the credibility of a witness], that they are truthful persons and abstain from major sins (kabair), give evidence as eye-witnesses of the act of penetration necessary to the offence.*

*Provided that, if the accused is a non-Muslim, the eye-witnesses may be non-Muslims.*

**NOTE:** In 2006, the Pakistan government amended section 8 of the Offences of Zina Ordinance so that it does not apply to rape (*zina-bil-jabr*), as mentioned in our Beijing +10 report. However this section continues to be in force with respect to adultery and fornication (*zina*).

Article 25 of the Constitution of Pakistan: *(1) All citizens are **equal** before law and are entitled to equal protection of law. (2) There shall be no discrimination on the basis of **sex** alone.*

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## TRAVEL

### IRAQ

#### Regulation of the Ministry of Interior (2004):

- 3. An **unmarried Iraqi woman** must have the **approval of her guardian** to obtain a passport....*
- 4. A **married Iraqi woman** must have the **consent of her husband** to obtain a passport....*
- 5. An **Iraqi woman who is a minor** must have the **approval of her guardian** to obtain a passport....*

6. *An Iraqi woman who is widowed or divorced must have the approval of her guardian to obtain her passport....*

**NOTE:** Article 14 of the Constitution of Iraq: *Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.* Article 42 of the Constitution of Iraq: *Each Iraqi has freedom of movement, travel, and residence inside and outside Iraq.*

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## SAUDI ARABIA

### Fatwa on Women's Driving of Automobiles (Shaikh Abdel Aziz Bin Abdallah Bin Baz), 1990:

*...the issue of women's driving of automobiles. It is known that this is a source of undeniable vices, inter alia, the legally prohibited "khilwa" [meeting in private between a man and a woman] and abandonment of "hijab" [women's veil]. This also entails women meeting with men without taking the necessary precautions. It could also lead to committing "haraam" [taboo] acts hence this was forbidden. Pure "Shari'a" also prohibits the means that lead to committing taboo acts and considers these acts "haraam" in themselves... Thus, the pure "Shari'a" **prohibited** all the ways leading to vice... Women's driving is one of the means leading to that and this is self-evident.*

**NOTE:** While the Saudi Arabian government has claimed that there is no legal provision banning women from driving cars, *fatwas*, such as this one, have the force of law in Saudi Arabia.

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# PROSTITUTION

## PHILIPPINES

### The Revised Penal Code:

Article 202. Vagrants and prostitutes; penalty. – *The following are vagrants:*

...

5. *Prostitutes.*

*For the purposes of this article, **women** who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct, are deemed to be prostitutes. Any person found guilty of any of the offenses covered by this article shall be punished by arresto menor [minor arrest] or a fine not exceeding 200 pesos, and in case of recidivism, by arresto mayor [major arrest] in its medium period to prision correccional [correctional prison] in its minimum period or a fine ranging from 200 to 2,000 pesos, or both, in the discretion of the court.*

**NOTE:** Article II, Section 14 of the Constitution of the Philippines: *The State recognizes the role of women in nation-building, and shall ensure the fundamental **equality** before the law of women and men.*

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[http://www.gov.ph/index.php?option=com\\_content&task=view&id=2000358&Itemid=48](http://www.gov.ph/index.php?option=com_content&task=view&id=2000358&Itemid=48)

# ECONOMIC STATUS

## INHERITANCE AND PROPERTY

### CHILE

#### The Civil Code:

Article 1749. *The marital partnership is to be headed by the husband, who shall administer the spouses' joint property as well as the property owned by his wife, subject to the obligations and limitations set forth in this Section and those agreed to at the time of marriage....*

NOTE: Article 19(2) of the Constitution of Chile: *...Men and women are equal before the law.*

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As of 11 March 2010, Sebastián Piñera will take office as the President of Chile. Please refer to the following website for updated contact information after 11 March 2010: <http://www.chileangovernment.cl/>

### SWAZILAND

#### Deeds Registry Act 37/1968:

Section 16(3). *Immovable property, bonds or other real rights shall not be transferred or ceded to, or registered in the name of, a woman married in community of property, save where such property, bonds or real rights are by law or by a condition of a bequest or donation excluded from community.*

NOTE: Article 28 of the Constitution of Swaziland: *Women have the right to equal treatment with men, and the right shall include equal opportunities in political, economic and social activities.*

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## TUNISIA

### Personal Status Code of 1956:

Section 103. *There are three cases that apply to immediate daughters:*

1. *A sole daughter inherits half of the estate;*
2. *Two or more daughters collectively inherit two thirds of the estate;*
3. *Where there are any sons, **the male inherits twice as much as the female.***

**NOTE:** Article 6 of the Constitution of Tunisia: *All citizens have the same rights and obligations. All are equal before the law.*

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## UNITED ARAB EMIRATES

### Federal Law No. 28 of 2005 of the UAE Personal Affairs Law:

Article 334. 1. *Where there is a combination of male and female heirs:*

- (a) *When the deceased has one or more daughters and one or more sons;*
- (b) *When the deceased has one or more granddaughters and one or more grandsons who are of the same degree of descent or lower, if needed to ward off her exclusion; a male of higher ascendancy, however, would exclude her;*
- (c) *When the deceased has one or more sibling sisters and one or more sibling brothers; and*
- (d) *When the deceased has one or more half sisters and one or more half brothers.*

2. *In such cases, **the male inherits twice as much as the female.***

**NOTE:** Article 25 of the Constitution of the United Arab Emirates: *All persons are equal before the law.*

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## EMPLOYMENT

### AUSTRALIA

#### The Sex Discrimination Act of 1984:

Section 43. Combat duties, etc.

*(1) Nothing in Division 1 or 2 renders it unlawful for a person to **discriminate against a woman** on the ground of her sex in connection with employment, engagement or appointment in the Defence Force:*

- (a) in a position involving the performance of **combat duties**; or*
- (b) in prescribed circumstances in relation to combat duties.*

#### CONTACT – AUSTRALIA

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### BOLIVIA

#### The General Labor Law:

Chapter VI. The Work of Women and Minors.

Article 60. *Women and children under the age of 18 shall **only work during the day**, except in the fields of nursing, domestic service and others which shall be determined.*

**NOTE:** Article 8.II of the Constitution of Bolivia: *The State is based on the values of unity, **equality**, inclusion, dignity, freedom, solidarity, reciprocity, respect, complementarity, harmony, transparency, balance, equal opportunities, social and gender equity in participation, common welfare, responsibility, social justice, distribution and redistribution of goods and social goods in order to live well.*

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## CAMEROON

### The Civil Status Registration (Ordinance No. 81-02 of 29 June 1981):

Article 74. (1) *A married woman may exercise a trade different from her husband.*

(2) *The husband may object to the exercise of such a trade in the interest of the marriage or their children.*

(3) *The President of the Court with jurisdiction shall decide by order on such an objection by the husband within ten days of being seized of the matter. His decision shall be rendered free of charge and shall be taken only after the parties have been heard.*

**NOTE:** Preamble to the Constitution of Cameroon: *All persons shall have **equal rights** and obligations... The State shall provide all its citizens with the conditions necessary for their development... The State shall guarantee all citizens of either sex the rights and freedoms set forth in the Preamble of the Constitution.*

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## CHINA

### The Labour Act (1994):

Chapter VII. Special Protection for Female and Juvenile Workers.

Section 59. *It is **prohibited to arrange female workers** to engage in work down the pit of mines, or work with grade IV physical labour intensity as stipulated by the State, or other work that female workers should avoid.*

**NOTE:** Article 48 of the Constitution of China: ***Women** in the People's Republic of China enjoy **equal rights** with **men** in all spheres of life, in political, economic, cultural, social and family life. The state protects the rights and interests of women, applies the principle of equal pay for equal work to men and women alike and trains and selects cadres from among women.*

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## LATVIA

### The Labour Law:

Section 138. Night Work.

...

*(6) It is prohibited to employ at night persons who are under 18 years of age, pregnant women and women for a period following childbirth up to one year, but if a woman is breastfeeding then during the whole period of breastfeeding if there is a doctor's opinion that the performance of the relevant work causes a threat to the safety and health of the woman or her child.*

**NOTE:** Latvia has amended Sections 53(2) and 136(6) of the Labour Code (highlighted in Equality Now's Beijing +10 report), which banned pregnant women and women for a period of one year following childbirth from working overtime or traveling for work.

Article 91 of the Constitution of Latvia: *All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realized without discrimination of any kind.*

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## MADAGASCAR

### The Labor Code (Law N° 2003-44 of 28 July 2004):

Article 85. ... *Women, regardless of age, shall not be employed at night in any industrial establishment of any kind, public or private, secular or religious, nor in any annex of one of these establishments even if these establishments are of a professional or charitable character, except for establishments where the only ones employed therein are members of one same family.*

**NOTE:** Article 8 of the Constitution of Madagascar: *All individuals shall be **equal** under the law, enjoying the same fundamental liberties protected by law without discrimination based on **sex**, education, wealth, origin, race, religious belief or opinion.*

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**UNITED KINGDOM**

**Sex Discrimination Act of 1975:**

Section 85(4). *Nothing in this Act shall render unlawful an act done for the purpose of ensuring the combat effectiveness of the naval, military or air forces of the Crown.*

**Revised Employment Policy for Women in the Army - Effect on the Royal Marines:**

Paragraph 2(b). *In a small corps, in times of crisis and manpower shortage, all Royal Marines must be capable at any time of serving at their rank and skill level in a commando unit... **Employment of women** in the Royal Marines will not allow for interoperability.*

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# VIOLENCE

## RAPE

### ARGENTINA

#### The Penal Code:

Article 132. *For the offenses set out in Articles 119: 1st, 2nd and 3rd paragraphs; 120: 1st paragraph; and 130 [all three articles concern crimes relating to sexual abuse], the victim may request the exercise of a public prosecution with the advice or representation of official institutions or private nonprofit institutions that protect or assist victims. **If she is older than sixteen she may propose a settlement with the accused.** In exceptional cases, the Court may accept such a proposal, which has been made freely and in full equality, when, taking into consideration the special and proven pre-existing emotional relationship, it considers it a more equitable way to reconcile the conflict to better safeguard the interest of the victim. In this case **the criminal action will be extinguished**; or in the instant case the appropriate application of the provisions of articles 76 ter and 76 quater of the Criminal Code may also be ordered.*

**NOTE:** Section 16 of the Constitution of Argentina: *The Argentine Nation admits neither blood nor birth prerogatives: there are neither personal privileges nor titles of nobility. **All its inhabitants are equal before the law**, and admissible to employment without any other requirement than their ability. Equality is the basis of taxation and public burdens.*

#### CONTACT – ARGENTINA

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### BAHAMAS

#### The Sexual Offences and Domestic Violence Act, 1991:

Section 3. *Rape is the act of any person not under fourteen years of age having sexual intercourse with another person **who is not his spouse***

- (a) without the consent of that other person;*
- (b) with consent which has been extorted by threats or fear of bodily harm;*
- (c) with consent obtained by personating the spouse of that other person; or*
- (d) with consent obtained by false and fraudulent representations as to the nature and quality of the act.*

**NOTE:** Article 15 of the Constitution of the Commonwealth of the Bahamas: *Whereas every person in the Bahamas is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following namely – (a) life, liberty, security of the person and the protection of the law...*

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## LEBANON

### The Penal Code:

Article 522. *In the event a **legal marriage is concluded** between the person who committed any of the crimes mentioned in this chapter [including rape, kidnapping and statutory rape], and the victim, **prosecution shall be stopped** and in case a decision is rendered, the execution of such decision shall be suspended against the person who was subject to it.*

*Prosecution or the execution of the penalty shall be resumed before the lapse of three years in cases of misdemeanors and five years in cases of felonies, in the event such marriage ends by the divorce of the woman without a legitimate reason or by a divorce which is decided by court in favor of the woman.*

**NOTE:** Article 7 of the Constitution of Lebanon: *All Lebanese are **equal** before the law. They equally enjoy civil and political rights and equally are bound by public obligations and duties without any distinction.*

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**Penal Code:**

Chapter XVI. Offences Affecting the Human Body.

Article 375. Rape.

(1) Any man who penetrates the vagina of a woman with his penis —

- (a) without her consent; or
- (b) with or without her consent, when she is under 14 years of age, shall be guilty of an offence....

...

(4) **No man shall be guilty of an offence under subsection (1) against his wife, who is not under 13 years of age, except where at the time of the offence:**

- (a) his wife was living apart from him —
  - (i) under an interim judgment of divorce not made final or a decree nisi for divorce not made absolute;
  - (ii) under an interim judgment of nullity not made final or a decree nisi for nullity not made absolute;
  - (iii) under a judgment or decree of judicial separation; or
  - (iv) under a written separation agreement;

(b) his wife was living apart from him and proceedings have been commenced for divorce, nullity or judicial separation, and such proceedings have not been terminated or concluded;

(c) there was in force a court injunction to the effect of restraining him from having sexual intercourse with his wife;

(d) there was in force a protection order under section 65 or an expedited order under section 66 of the Women's Charter (Cap. 353) made against him for the benefit of his wife; or

(e) his wife was living apart from him and proceedings have been commenced for the protection order or expedited order referred to in paragraph (d), and such proceedings have not been terminated or concluded.

(5) Notwithstanding subsection (4), **no man shall be guilty of an offence under subsection (1)(b) for an act of penetration against his wife with her consent.**

Article 376A. Sexual Penetration of Minor Under 16.

(1) Any person (A) who

- (a) penetrates, with A's penis, the vagina, anus or mouth, as the case may be, of a person under 16 years of age (B);...

...

(5) **No man shall be guilty of an offence under subsection (1)(a) for penetrating with his penis the vagina of his wife without her consent, if his wife is not under 13 years of age, except where at the time of the offence —**

- (a) *his wife was living apart from him —*
- (i) *under an interim judgment of divorce not made final or a decree nisi for divorce not made absolute;*
  - (ii) *under an interim judgment of nullity not made final or a decree nisi for nullity not made absolute;*
  - (iii) *under a judgment or decree of judicial separation; or*
  - (iv) *under a written separation agreement;*
- (b) *his wife was living apart from him and proceedings have been commenced for divorce, nullity or judicial separation, and such proceedings have not been terminated or concluded;*
- (c) *there was in force a court injunction to the effect of restraining him from having sexual intercourse with his wife;*
- (d) *there was in force a protection order under section 65 or an expedited order under section 66 of the Women’s Charter (Cap. 353) made against him for the benefit of his wife; or*
- (e) *his wife was living apart from him and proceedings have been commenced for the protection order or expedited order referred to in paragraph (d), and such proceedings have not been terminated or concluded.*

**NOTE:** Article 12(1) of the Singapore Constitution: *All persons are **equal** before the law and entitled to the equal protection of the law.*

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## **DOMESTIC VIOLENCE**

### **NIGERIA**

**The Penal Code of Northern Nigeria:**

Section 55. Correction of Child, Pupil, Servant or Wife.

(1) **Nothing is an offence** which does **not** amount to the infliction of **grievous hurt** upon any persons which is done:

- (a) by a **parent** or guardian for the purpose of **correcting his child** or ward...
- (b) by a **schoolmaster** for the purpose of **correcting a child...**

(c) by a **master** for the purpose of **correcting his servant** or apprentice...  
(d) by a **husband** for the purpose of **correcting his wife**, such husband and wife being subject to any native law or custom in which such correction is recognized as lawful.

**NOTE:** Article 42(1) of the Constitution of Nigeria: *A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person: - (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject...*

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## HONOR KILLINGS

### EGYPT

#### Penal Code No. 58, 1937:

Article 237. *Whoever surprises **his wife** in the act of adultery and **kills her** on the spot together with her adulterer-partner shall be punished with detention instead of the penalties prescribed in articles 234 and 236.*

**NOTE:** Article 237 of the Egyptian Penal Code allows for a lesser punishment for men who kill their wives than for other forms of murder.

Article 40 of the Constitution of Egypt: *All citizens are **equal** before the law. They have equal public rights and duties without discrimination due to **sex**, ethnic origin, language, religion or creed.*

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## SYRIA

### The Penal Code:

Article 548. *He who catches his **wife, sister, mother or daughter** by surprise, engaging in an **illegitimate sexual act** and kills or injures them unintentionally must serve a minimum of two years in prison.*

**NOTE:** In 2009 Syria amended Article 548, which previously exempted men who killed their female relatives for 'honor' from punishment. This amended law, rather than treating honor killings as any other murder, merely imposes a minimum two year prison sentence.

Article 45 of the Constitution of Syria: *The state **guarantees women all opportunities** enabling them to fully and effectively participate in the political, social, cultural, and economic life. The state removes the restrictions that prevent women's development and participation in building the socialist Arab society.*

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## STATE SANCTIONS

## IRAN

### The Islamic Penal Code:

Article 74. ***Adultery**, whether punishable by **flogging or stoning**, may be proven by the testimony of **four just men** or that of **three just men and two just women**.*

Article 75. *If adultery is punishable **only** by **flogging** it can be proven by the testimony of **two just men and four just women**.*

Article 76. *The **testimony of women alone** or in conjunction with the testimony of only one just man shall **not prove adultery** but it shall constitute false accusation which is a punishable act.*

Article 100. *The **flogging of an adulterer** shall be carried out while he is standing upright and his body bared except for his genitals. The lashes shall strike all parts of his body - **except his face, head and genitals** - with full force. The **adulteress** shall be **flogged** while she is seated and her clothing tightly bound to her body.*

Article 102. *The **stoning** of an adulterer or adulteress shall be carried out while each is placed in a hole and **covered with soil, he up to his waist and she up to a line above her breasts.** [Under Islamic law, a person is either stoned to death or manages to escape, in which case he or she will be allowed to go free.]*

Article 300. *The **blood money** for the first- or second-degree **murder** of a Muslim woman is **half** that of a murdered Muslim man.*

Article 638. ***Women** who appear in public without **prescribed Islamic dress** (hejab-e-shar'i), shall be sentenced to either imprisonment of between 10 days and 2 months, or a fine of between 50,000 and 500,000 rials.*

**NOTE:** Article 20 of the Constitution of Iran: *All citizens of the country, both **men and women, equally** enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria.*

#### **CONTACT – IRAN**

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