

BAHRAIN¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES

(Updated as at 31 August 2017)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</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 uncodified? If codified, what are the titles of all the applicable laws? If codified, 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 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.</i></p>	<p>Article 18 of the Constitution provides that people are equal in human dignity and citizens are equal before the law and there is no discrimination on several basis including sex.²</p> <p>Article 5 of the Constitution:³</p> <ul style="list-style-type: none"> Provides that the family is the basis of society, deriving its strength from religion, morality and love of the homeland; and Commits the State to guarantee the reconciliation of the duties of women towards the family with their work in society, and their equality with men in political, social, 		<p>Bahrain has reservations to Articles 2, 15(4), and 16 in so far as they conflict with <i>Shari'ah</i>; and to articles 9(2) and 29(1) of CEDAW.⁷</p> <p>The Government of Bahrain in its 2007 report to the CEDAW Committee explained that Bahrain's reservation stems from the fact that all Bahrainis are not subject to the same personal status</p>		<p>According to the 2016 UNDP Human Development Report, Bahrain ranked 47 on the UNDP Human Development Index and 48 on the UNDP Gender Inequality Index.⁹</p> <p>According to 2015 statistics released by the Bahraini Supreme Council for Women, about 10% of households in Bahrain headed by women.¹⁰</p>

¹ 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

² Article 18 of Bahrain's Constitution (2002), https://www.constituteproject.org/constitution/Bahrain_2012.pdf?lang=en

³ Article 5 of Bahrain's Constitution (2002), https://www.constituteproject.org/constitution/Bahrain_2012.pdf?lang=en

⁷ United Nations Treaty Collection Website, 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

⁹ UNDP, "Human Development Report 2016", Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

¹⁰ Supreme Council for Women, "Bahraini Women in Numbers 2015", Figure 5, p. 11, <https://www.scw.bh/en/MediaCenter/Documents/Final-Numbers-May-2016.pdf>

<p><i>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>cultural, and economic spheres without breaching the provisions of <i>Shari'ah</i>.</p> <p>Matters regarding marriage and family relations of the predominantly Muslim population in Bahrain are governed by the Family Law, No. 19 of 2017, which was recently enacted in July 2017, and applies to all Muslims in Bahrain. The law includes some unified provisions that apply to all Muslims regardless of their sects, as well as provisions that specifically apply to adherents of the Sunni or Shia <i>madhab</i>.⁴</p> <p>Despite the equality guarantee of Article 18 of the Constitution, the Family Law 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. Thus:⁵</p>		<p>provision, and thus, Bahrain's reservation was not intended to entrench gender discrimination but was consistent with the desire to accommodate sectarian differences in personal status matters.⁸</p>		
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⁴ The law abolished a formerly-dual system in Bahrain, where a codified family law (19/2009) applied only to the country's Sunni minority, while family matters of the Shia majority were governed by individual court rulings handed down by Jafari Shari'ah judges who generally followed rules of Jafari jurisprudence (*fiqh*).

⁵ Articles 5, 38-40, and 50 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁸ Bahrain State party report, U.N. Doc. CEDAW/C/BHR/2 (2007), paras. 323, 325, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<ul style="list-style-type: none"> • Article 5 of the Family Law defines marriage as a legitimate contract between a woman and a man to form a family according to certain requirements for eligibility and which results in mutual duties and rights; • Article 38 of the Family Law provides for the mutual rights and duties between the spouses and they include: (i) enjoying each other as a couple; (ii) preserving the family; (iii) respecting each other as well as their parents and relatives; and (iv) caring and upbringing of their children; • Article 39 provides for the rights that a wife can expect from her husband and they include: (i) financial maintenance; (ii) non-interference with her right to manage her own assets; (iii) not to be harmed physically or morally; (iv) fairness in maintenance and time spent if the husband is married to two or more wives; (v) permitting her maintain kinship ties with her family; and (vi) not deprive her from having offspring. 				
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	<ul style="list-style-type: none"> Article 40 provides for the rights that a husband can expect from the wife and they include: (i) taking care of him and obeying him as a head of the family; (ii) taking care of his children and breastfeeding them, absent a medical condition; (iii) to stay faithful and care for his money and his household in his absence; and (iv) not to refrain from procreation unless with his permission or a legitimate excuse; Article 53 provides that a wife's rights to maintenance is forfeited if she refuses to live in the marital home, leaves the marital home without legal justification or does not fulfil her marital duties. <p>Marriage and family relations of Bahraini's non-Muslim minority communities such as the Jews and Christians are governed by their own laws.⁶</p>				
Minimum and equal legal age for marriage	All Bahrainis Article 20 of the Family Law			It is the duty of the registrar (<i>ma'dhun</i>) performing the	According to the 2015 Marriage and Divorce statistics

⁶ Bahrain State party report, U.N. Doc. CEDAW/C/BHR /2 (2007), para. 325, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<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 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>states that that a girl below 16 years of age cannot be married except by permission of the <i>Shari'ah</i> court, upon verifying the suitability of the marriage.¹¹</p> <p>The law is silent on marriage age for males and there is no absolute minimum age of marriage below which a <i>Shari'ah</i> court judge cannot permit marriage.</p> <p>Articles 9(5) and 9(6) of the 2016 Decision of the Minister of Justice with respect to <i>Madhuns</i> also require permission of the <i>Shari'ah</i> court for: (i) marriage of a Bahraini over 60 years old with a foreigner who is not a citizen of any of the Gulf Cooperation Council countries; and (ii) marriage of a Bahraini woman below 20 to a foreigner over 50.¹²</p>			<p>marriage to check the age of both parties at the time of marriage. The <i>ma'dhun</i> must ensure that both parties are at least 16 and must confirm the age using a birth certificate or a similar official document. Marriage of parties below 16 years cannot be performed or certified except by permission of the <i>Shari'ah</i> court.¹³</p>	<p>released by the Ministry of Justice and Islamic Affairs, 11% of Bahrainis who were married in 2015 were below 19, with 20% and 3% of brides and grooms, respectively, being below 19. There were four Bahraini brides below 15.¹⁴</p> <p>According to 2015 statistics released by the Bahraini Supreme Council for Women, the average for women to get married fell from 22.7 in 1991 to 22,1 in 2010 and among males, from 26.4 to 25.8 during the same period.¹⁵</p>
<p>Women's consent to marriage</p> <p><i>Is a marriage valid without the woman's consent? Is the practice</i></p>	<p>Article 17 of the Family Law provides that it is prohibited to force a woman to marry against</p>		<p>The Government of Bahrain in its 2007 report to the CEDAW Committee</p>	<p>Article 11 of the 2016 Ministerial Decision, which is applicable to all</p>	

¹¹ Article 20 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

¹² Articles 9(5), 9(6) of the Minister of Justice Decision No. 1/2016 with Respect to *Ma'dhuns*, <https://goo.gl/56YgCQ>

¹³ Article 12 of the Minister of Justice Decision No. 1/2016 with Respect to *Ma'dhuns*, <https://goo.gl/56YgCQ>

¹⁴ Information and e-Government authority, "Marriage & Divorce 2015", <http://www.data.gov.bh/en/ResourceCenter>

¹⁵ Supreme Council for Women, "Bahraini Women in Numbers 2015", p. 10, <https://www.scw.bh/en/MediaCenter/Documents/Final-Numbers-May-2016.pdf>

<p><i>of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad 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>her will, regardless of her age.¹⁶ Article 25 states that consent of both parties is required, and articles 26 and 27 provide that consent must be expressed in clear understandable terms, either explicitly or implicitly.¹⁷</p> <p>The mandatory registration of marriages is provided for in Article 18 of the Family Law, which requires a marriage to be officially registered. However, non-registration of a marriage does not necessarily invalidate the marriage. Article 18 also provides that a marriage may be proven by evidence in accordance with <i>Shari'ah</i>.¹⁸</p>		<p>explained that the woman's consent is a required for concluding a marriage contract. A marriage contract is not valid without the woman's freely given consent, unmarred by any defect. There are doubtless some cases in which a girl is compelled to marry someone she does not wish to marry. This occurs in social milieus where social legacies and prevailing customs so permit. Nevertheless, compelling a girl or woman to marry a person whom she does not wish to marry violates Islamic law.¹⁹</p>	<p>Bahrainis, requires.²⁰</p> <ul style="list-style-type: none"> • The registration of the marriage contract with the <i>Shari'ah</i> court; • The registrar (<i>ma'dhun</i>) to use the standardised marriage contract form issued by the Ministry of Justice; • Registration of the marriage contract to be made within one week of contracting the marriage. 	
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¹⁶ Article 17 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

¹⁷ Articles 25-27 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

¹⁸ Article 18 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

¹⁹ Bahrain State party report, U.N. Doc. CEDAW/C/BHR /2 (2007), paras. 327, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

²⁰ Article 11 of the Minister of Justice Decision No. 1/2016 with Respect to *Ma'dhuns*, <https://goo.gl/56YqCQ>

<p>Women’s capacity to enter into marriage</p> <p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can 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>Consent of a woman’s guardian (<i>wali</i>) is required to enter into marriage. Article 28 of the Family Law states that a Sunni marriage contract requires presence and consent of a woman’s guardian, regardless of her age or previous marital status. The guardian must be male, and article 15(1) specifies how may be guardian (i.e. father, then paternal grandfather, son, brother, etc.). A judge can act as a Sunni woman’s guardian in the absence of male relatives.²¹</p> <p>Article 15(2) provides that a Shia woman’s guardian is her father or paternal grandfather, and if they are not present, a Shia adult woman may independently contract her own marriage. Article 15(2) also provides that a previously married Shia woman does not require a guardian to be married.²²</p>		<p>The Government of Bahrain in its 2007 report to the CEDAW Committee explained that a woman may establish any condition she wishes in a marriage contract as long as both spouses accept the condition and the condition does not conflict with <i>Shariah</i> or the purposes of the marriage, e.g., a stipulation against living in the matrimonial home or against sexual intimacy.²⁵</p>	<p>Article 10 of the 2016 Ministerial Decision, which is applicable to all Bahrainis, requires that the registrar (<i>ma’dhun</i>) confirms consent of a woman’s guardian before performing the marriage, except when the sect of the parties provides otherwise. If no guardian is available, a judge can take the place of the guardian.²⁶</p> <p>Article 9(4) of the 2016 Ministerial Decision requires the <i>ma’dhun</i> to explain to the wife her right to include conditions in the marriage contract.²⁷</p>	<p>According to a senior Shia judge, although in theory an adult Shia bride does not require the permission of a marital guardian to marry, it is prevalent in the Jafari <i>Shari’ah</i> court for a daughter to give herself in marriage only with her father’s permission.²⁸</p>
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²¹ Article 15(1) of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

²² Article 15(2) of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

²⁵ Bahrain State party report, U.N. Doc. CEDAW/C/BHR /2 (2007), paras. 328, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

²⁶ Article 10 of the Minister of Justice Decision No. 1/2016 with Respect to *Ma’dhuns*, <https://goo.gl/56YqCQ>

²⁷ Article 9(4) of the Minister of Justice Decision No. 1/2016 with Respect to *Ma’dhuns*, <https://goo.gl/56YqCQ>

²⁸ Badria Al Wadi, Sheikh Hameed Al Mubarak, Ahmed Al Attawi, “Women’s Rights in the Kuwait Personal Status Law and Bahraini Shari’a Judicial Rulings (Theory Part), (Bahrain: Freedom House, 2009), p. 84, [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

	<p>For both Sunnis and Shia, a <i>wali</i> cannot force a woman to get married and cannot oppose a marriage without legitimate reason.²³</p> <p>Pursuant to Article 6 of the Family Law, both spouses may stipulate any condition in their marriage contract so long as they are not contrary to the purposes of marriage or against <i>Shari'ah</i> or the law. Conditions are valid only if explicitly stated in the marriage contract or admitted to by the parties. Both parties have the right to request compliance with a condition, and under Sunni <i>fiqh</i>, a woman has a right to divorce in the event of a husband breaches a condition of the marriage contract.²⁴ The law does not guarantee a similar right to a Shia woman.</p>				
<p>Polygamous marriages</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>Both a Shia and Sunni men may marry up to four wives at one time.</p>			<p>Article 9(3) of the 2016 Ministerial Decision requires the registrar (<i>ma'dhun</i>) to confirm the marital status of the prospective husband. If the</p>	<p>According to the 2015 Marriage and Divorce statistics released by the Ministry of Justice and Islamic Affairs,</p>

²³ Article 17 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

²⁴ Article 6 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

<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>Article 19 of the Family Law states that a man must declare his marital status in the marriage contract, and if he is married, the number of current wives must be stated.²⁹</p> <p>Article 39(d) of the Family Law requires a husband to treat multiple wives fairly both financially and in the time he spends with them.³⁰</p>			<p>husband is already married, the <i>ma'dhun</i> must include in the marriage contract the names of the previous wife/wives and their place of residence.³¹</p>	<p>about 6% of marriages in Bahrain are polygamous.³²</p>
<p>Divorce rights</p> <p><i>Is there 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?</i></p>	<p>The Family Law specifies three main ways to seek a divorce:³³</p> <ul style="list-style-type: none"> • <i>Unilateral repudiation of the marriage (talaq)</i>: This can only be initiated by the husband, with or without a reason, unless he has delegated this right to his wife, either in the 		<p>The Government of Bahrain in its 2011 report to the CEDAW Committee informed that a family guidance and reconciliation section has been established in the Ministry of Justice</p>	<p>Article 16 of the 2016 Ministerial Decision provides that divorce must occur before the specialised (<i>Shari'ah</i>) court and be registered at the court.³⁶</p>	<p>According to academic research and information on the ground:³⁹</p> <ul style="list-style-type: none"> • It is not uncommon for judges in both the Jafari and Sunni departments of

²⁹ Article 19 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

³⁰ Article 39(d) of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

³¹ Article 9(3) of the Minister of Justice Decision No. 1/2016 with Respect to *Ma'dhuns*, <https://goo.gl/56YgCQ>

³² Information and e-Government authority, "Marriage & Divorce 2015", <http://www.data.gov.bh/en/ResourceCenter>

³³ Articles 81-114 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

³⁶ Article 16 of the Minister of Justice Decision No. 1/2016 with Respect to *Ma'dhuns*, <https://goo.gl/56YgCQ>

³⁹ Information obtained from Bahraini advocate, March 2017; Bahrain Centre for Human Rights, "Family Law in Bahrain", 2014, p. 6, <http://www.bahrainrights.org/sites/default/files/BCHR%20Report%20on%20Family%20Law%20in%20Bahrain.pdf>

<p>Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (<i>talāq</i>) 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 register a divorce?</p> <p><u>Applicable CEDAW Provision</u></p> <p>Article 16(1)(c)</p> <p>Paras. 17-18 GR21</p> <p>Paras. 34, 39-40 GR29</p>	<p>marriage contract or through subsequent delegation (<i>tafwid</i>). A wife has the right to set a condition with her husband that she will represent herself in divorcing him in situations outlined in the contract.</p> <p>For Shia <i>talaq</i>, the wife must be present and two witnesses are required. In all cases, the divorce must be affected in the presence of a judge and the judge is required to attempt to reconcile the parties. If a Sunni husband pronounces the repudiation outside the court, the repudiation may be proved by evidence or admission.</p> <ul style="list-style-type: none"> • <i>Judicial divorce (tatliq)</i>: The wife can petition for divorce on specific grounds. <p>Valid grounds for seeking a judicial divorce by a wife include a husband's: (i) failure to provide financial maintenance; (ii) severe or incurable illness of which the wife was</p>		<p>and Islamic Affairs, after the Ministry discovered it needed such a spousal reconciliation service to prevent divorce and the resulting social, family and psychological damage.³⁵</p>	<p>A Sunni man may divorce his wife unilaterally, either in writing or verbally, but Article 18 of the 2016 Ministerial Decision provides that for the divorce to be valid, it must be registered with the court and a divorce certificate is then issued. A husband may unilaterally approach the court to register a divorce even if the wife was not present.³⁷</p> <p>Shia men must register a request for divorce with the <i>Shari'ah</i> court. For Shias, a divorce cannot be finalised unless both husband and wife are present before a <i>Shari'ah</i> court and the wife signs the divorce certificate in</p>	<p>the <i>Shari'ah</i> court to decline granting the wife a divorce even if she has valid grounds. The attitude of many judges is to preserve the unity of the family at all costs;</p> <ul style="list-style-type: none"> • 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 the opportunity to take advantage of
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³⁵ Bahrain State party report, U.N. Doc. CEDAW/C/BHR /3 (2011), para. 152, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

³⁷ Article 18 of the Minister of Justice Decision No. 1/2016 with Respect to *Ma'dhuns*, <https://goo.gl/56YqCQ>

	<p>not aware at the time the marriage was concluded; (iii) prolonged absence for more than four years; (iv) imprisonment upon conviction of a crime; (v) addiction to drugs or alcohol. In addition, harm and discord are grounds for divorce.</p> <p>In the case of a divorce petition based on harm and discord, if the claim of harm is proven and reconciliation between the spouses is impossible, the judge will grant a divorce and decide on the amount of compensation due to the wife. If the claim of harm is not proven and the wife insists on her claim, the judge must then begin the reconciliation process stipulated in the law, which include the appointment of appropriate arbitrators. If reconciliation is impossible after all avenues to reconcile the couple have been exhausted, the judge will proceed to make the appropriate ruling based on the report submitted by the arbitrators.</p>			<p>front of the judge.³⁸</p>	<p>a <i>khul'</i> divorce and, among others, demand that women pay them large sums of money, sometimes, the approximate amount spent during the entirety of the marriage.</p>
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³⁸ Information obtained from Bahraini advocate, March 2017

	<p>For Shia <i>tatliq</i>, the arbitrators are required to rule for divorce by the husband and compensation by the wife. For Sunnis, if the main source of the dispute is:</p> <ul style="list-style-type: none"> • the husband, a divorce will be ordered and the wife will fully be entitled to all her marital and divorce rights; or • the wife, a divorce will be ordered together with the amount of the dower (<i>mahr</i>) or other financial compensation to be paid by the wife to the husband. <p>The marriage may also be annulled, generally if the contract is deemed invalid, e.g. because of false representation.³⁴</p>				
<p>Women’s financial rights after divorce</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 contribution to the</i></p>	<p>Generally, upon divorce, a Shia and a Sunni woman may be entitled to: (i) financial maintenance during the waiting period after the divorce (<i>iddah</i>) (ii) financial compensation (<i>mutaa</i>) resulting from a divorce before consummation of a marriage; and (iii) a place to reside in or the equivalent in rent, if</p>		<p>The Government of Bahrain in its 2011 report to the CEDAW Committee explained that Law No. 34/2005:⁴²</p> <ul style="list-style-type: none"> • Establishes an “Alimony Fund” 	<p>Spouses may, in theory, agree to a specific division of assets before marriage; however, this is not common and is not part of the culture or custom.⁴³</p>	

³⁴ Articles 115-116 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁴² Bahrain State party report, U.N. Doc. CEDAW/C/BHR /3 (2011), paras. 45, 140, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁴³ Information obtained from Bahraini advocate, March 2017

<p><i>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 (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>	<p>she was a custodian of the couple's children.⁴⁰ There is no legal concept of matrimonial assets.</p> <p>Under the Family Law:⁴¹</p> <ul style="list-style-type: none"> • The amount of <i>iddah</i> and child maintenance amount may be agreed mutually and recorded in the divorce certificate or awarded by the court; • The <i>mutaa</i> compensation for a wife divorced prior to consummation of a marriage for is either (a) half the agreed <i>mahr</i>; or (b) half a <i>mahr</i> payable to her peers (for Sunnis) or in accordance with the husband's means (Shia). • The amount of financial compensation for Sunnis (if the marriage was consummated and the wife was not at fault) 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 maintenance. A Shia wife is not 		<p>which seeks to safeguard the rights of former wives whose former husbands either fail to pay or delay in the payments of court-ordered maintenance. The amount of court-ordered maintenance is paid directly to the former wives by the executing court (in <i>Shari'ah</i> cases) and then reclaimed from former husbands against whom judgement was made; and</p> <ul style="list-style-type: none"> • Was amended by Law No. 33/2009 to facilitate the implementation of the rules pertaining to financial maintenance, 	<p>The Supreme Council for Women website details some of the application procedure for court-ordered maintenance under the Alimony Fund.⁴⁴</p>	
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⁴⁰ Articles 90-92 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁴¹ Articles 90, 92 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁴⁴ Supreme Council for Women, "Alimony Fund", <https://www.scw.bh/en/WomenFiles/Pages/File2.aspx>

	entitled to compensation if the marriage was consummated.		expand the Fund's resources by adding the return on investment of its funds as a new resource, and stipulate that the Government shall be obliged to subsidise the Fund financially to ensure that it continues to perform its duties.		
<p>Custody of Children</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 re-marriage 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>According to the Family Law:⁴⁵</p> <p>A Sunni mother has priority in custody of her children until a son reaches fifteen years old and a daughter is married and her marriage is consummated. Once a son reaches fifteen or a daughter reaches seventeen years or age and is not married, each is given the option of being under the care of either the mother or father.</p>				

⁴⁵ Articles 124-125, 128 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWba2ZN00>

	<p>A Shia mother has priority in custody of her children until a son or daughter reaches seven years of age, after which custody reverts to the father. Once a son reaches fifteen or a daughter reaches nine years or age, each is given the option of being under the care of either the mother or father.</p> <p>In all cases, a mother must be Muslim and of sound health and mind to have custody of her children.⁴⁶</p> <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.⁴⁷</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. 130 permits a judge to call experts in psychological and social matters in a custody hearing to assist in the determination of what is the best interests of the child so long as it does not contradict the custody provisions laid out in the law.⁴⁸</p>				
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<p>Guardianship of Children</p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over 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>According to articles 133-134 of the Family Law:⁴⁹</p> <p>Fathers have priority right over the guardianship of their children.</p> <p>A father or guardian is responsible for managing the child's affairs, upbringing, and education. A custodian mother may not move outside of Bahrain with the child except by permission of the child's guardian, and a guardian may not move the child to another country without permission of the custodian.</p>				
<p>Family Planning</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>Article 39 and 40 of the Family Law provide that a husband may not deny his wife the right to have children, while a woman cannot take measures to prevent having children without the consent of the husband.⁵⁰</p> <p>The Penal Code prohibits abortions that are carried out without the.⁵¹</p>				<p>According to World Bank data, the total fertility rate decreased from 7.1 children per woman in 1960 to 2.0 in 2015.⁵³</p> <p>According to the UN Population Division's 2015</p>

⁴⁶ Articles 126 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁴⁷ Articles 127 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁴⁸ Articles 129-130 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁴⁹ Articles 133-134 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁵⁰ Articles 39 and 40 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁵¹ 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

⁵³ World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

	<ul style="list-style-type: none"> • Advice and assistance of medical practitioners; • Consent of the woman. <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.⁵²</p>				<p>Trends in Contraceptive Use Worldwide:⁵⁴</p> <ul style="list-style-type: none"> • 66% of married women aged 15-49 are using a method of contraception, with 43% of women using a modern method; • 11% of married women aged 15-49 have an unmet need for family planning services; and • 56% of marriage women aged 15-49 had their demands for family planning satisfied by modern methods of contraception.
<p>Personal rights of spouses</p> <p><i>Does a woman need the consent</i></p>	<p>Article 19 of the Constitution guarantees personal freedom as wells freedom of movement and</p>		<p>The Government of Bahrain in its 2011 report to the</p>	<p>Both a Shia and Sunni wife may stipulate in the</p>	<p>According to World Bank data, female</p>

⁵² Article 19 of the Practice of Medical and Dental Professions (1989), http://www.nhra.bh/files/files/NHRA%20Laws/2/02_1989-207%20قانون%20بشأن%20مهنة%20الطب.pdf

⁵⁴ United Nations Population Division, "Trends in Contraceptive Use Worldwide 2015", Annex Table 1, pp. 36-42, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

<p><i>of her spouse or guardian to work, 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>choice of residence.⁵⁵</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.⁵⁶</p> <p>Despite the constitutional provisions stating otherwise, the Family Law potentially restricts the personal rights of a wife as a result of the maintenance-for-obedience legal framework provided for under the law. Thus:</p> <ul style="list-style-type: none"> • A wife risks losing her financial maintenance if she refuses to live in the marital home, leaves the marital home without legal justification or does not fulfil her marital duties;⁵⁷ and • A wife cannot works outside the marital home without the permission of her husband 		<p>CEDAW Committee explained that:⁵⁹</p> <ul style="list-style-type: none"> • The Constitution ensures complete and unfettered freedom of movement for both women and men; • A husband cannot retain his wife's travel documents to prevent her from moving freely; • Bahrain's reservation to Article 15(4) of CEDAW is, in practice, limited to the question of a married woman's residence. It is a 	<p>marriage contract that she has the right to work after marriage. If the marriage contract is explicit in this manner, her husband cannot legally stop her from working.⁶⁰</p>	<p>labor force participation increased from 28% in 1990 to 39% in 2016.⁶¹ During the same period, male labor force participation rate declined from 88% to 85%.⁶²</p> <p>According to the 2016 UNDP Human Development Report:⁶³</p> <ul style="list-style-type: none"> • 62% of women over 25 have at least some secondary education as compared to 56% of men of the same age group; • Females and males aged 15-24 who are able to read and write
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⁵⁵ Article 19 of Bahrain's Constitution (2002), https://www.constituteproject.org/constitution/Bahrain_2012.pdf?lang=en

⁵⁶ Article 18 of Bahrain's Constitution (2002), https://www.constituteproject.org/constitution/Bahrain_2012.pdf?lang=en

⁵⁷ Article 54 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁵⁹ Bahrain State party report, U.N. Doc. CEDAW/C/BHR/3 (2011), para. 148, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁶⁰ Article 56 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁶¹ 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>

⁶² World Bank, "Labour force participation rate, male (% of male population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>

⁶³ UNDP, "Human Development Report 2016", Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

	unless she was already working prior to the marriage or it is stipulated in the marriage contract that she has the right to work. ⁵⁸		logical consequence of the marriage contract that a married woman should reside in the marital home.		a short simple sentence is almost universal; and • 85% of women are satisfied with their freedom of choice as compared to 86% of men.
<p>Inheritance rights</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> Paras. 34-35 GR21 Paras. 49-53 GR29</p>	<p>Article 5(d) of the Constitution provides that inheritance is a guaranteed right governed by <i>Shari'ah</i>.⁶⁴</p> <p>Article 909 of the Civil Law states that the provisions of <i>Shari'ah</i> is applied in matters of inheritance and wealth.⁶⁵</p> <p>Both Shias and Sunnis have not adopted specific legislation on inheritance.</p> <p>Generally, inheritance rights between women and men are unequal for both Shias and Sunnis. There are subtle differences between the rules of Shia and Sunni <i>fiqh</i> with regard to</p>		The Government of Bahrain in its 2011 report to the CEDAW Committee explained that a superficial interpretation may suggest that <i>Shari'ah</i> , which grants a woman one-half of the inheritance of a man, discriminates against women. However, if the <i>Shari'ah</i> system of inheritance is treated as an integrated one, it is apparent that Islam		

⁵⁸ Article 56 of the Family Law (19/2017), <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=145311#.WacWBa2ZN00>

⁶⁴ Article 5(d) of Bahrain's Constitution (2002), https://www.constituteproject.org/constitution/Bahrain_2012.pdf?lang=en

⁶⁵ Articles 909 Civil Law (2001), <http://www.moj.gov.bh/en/defaultb811.html?action=article&id=1470>

	<p>inheritance. However, based on <i>Shari'ah</i> principles, in a number of instances, e.g. surviving spouse and siblings, a woman is entitled to half the share of a man.⁶⁶</p> <p>With regard to Shias, the exception to the general rule is in cases where a father dies and is succeeded only by daughters. Based on rules of Shia <i>fiqh</i>, in such cases, the daughters are granted all of his assets without sharing with the uncles and males relatives. This is in contrast to the Sunnis, where the assets are divided among all family members.⁶⁷</p>		<p>has not made it a general rule that a woman's inheritance is to be one-half of a man's. In fact, the rule is only applied in certain cases.⁶⁸</p>		
<p>Violence against women in the family</p> <p><i>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of</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.⁶⁹</p>	<p>Courts are reluctant to issue a divorce order in cases where a wife petitions for it based on domestic violence and are</p>	<p>The Supreme Council for Women launched a National Strategy for the Protection of Women from Domestic Violence</p>	<p>According to civil society and media reports:⁷⁵</p> <ul style="list-style-type: none"> Addressing the issue of domestic 	

⁶⁶ 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

⁶⁷ 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), pp. 430-431

⁶⁸ Bahrain State party report, U.N. Doc. CEDAW/C/BHR/3 (2011), para. 80, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁶⁹ Article 19 of Bahrain's Constitution (2002), https://www.constituteproject.org/constitution/Bahrain_2012.pdf?lang=en

⁷⁵ Staff writer, "Majority of men in Bahrain say 'use of force against women justified'", *Arabian Business*, 23 October 2016, <http://m.arabianbusiness.com/majority-of-men-in-bahrain-say-use-of-force-against-women-justified-survey--649906.html>; DT News, "Most of Bahrain's domestic abuse victim remain silent", *DT News*, 13 March 2016, <http://www.newsofbahrain.com/viewNews.php?ppld=16502&TYPE=Posts&pid=&MNU=&SUB=>; DT News, "SCW launches strategy on violence against women", *DT*

<p><i>sexual assault and violence that affect a woman's mental health 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 & 19 Para. 40 GR21</p>	<p>Law No. 17/2015 concerning the protection from domestic violence ('Protection against Domestic Violence Law') criminalizes a number of acts of domestic violence.</p> <p>Article 1 of the Protection against Domestic Violence Law defines "domestic violence" as any act of abuse that falls within the family. Such acts of violence include:⁷⁰</p> <ul style="list-style-type: none"> • Act of physical violence: any sort of violence on the victim's body; • Act of psychological violence: Any act that results in hurting the victim psychologically including (insulting the victim) • Act of sexual violence: Any of the following acts committed by the aggressor: (i) sexual abuse or exploitation of the victim in any means to satisfy 	<p>more inclined to only do so where the domestic violence was egregious and has led to severe physical damage. For instance, in a 2012 case, a woman filed for divorce from her abusive husband of 26 years. She had physical evidence of abuse and the court still denied her request because the husband was on psychotherapy medication. In contrast, in a 2009 case, a wife was granted a divorce where the husband bit her breasts and caused severe bleeding.⁷³</p>	<p>in November 2015. The philosophy behind the strategy is to prevent any abuse as opposed to punishing the abuser. It has six objectives:⁷⁴</p> <ul style="list-style-type: none"> • The first and primary objective is to prevent violence by addressing all the issues that can pose a threat to the family; • To address issues relating to families that are at the risk of abuse e.g. families facing financial difficulties, addiction or 		<p>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;</p> <ul style="list-style-type: none"> • A 2015 survey conducted by the Tafawuq Centre for Women and Gender suggests a high prevalence of domestic violence in Bahrain: (i) The majority of men surveyed believe physical and emotional violence against women is justified
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News, 24 November 2015, <http://www.newsofbahrain.com/viewNews.php?ppId=9455&TYPE=Posts&pid=21&MNU=2&SUB=58>; Bahrain Centre for Human Rights, "Bahrain", *Submission to the CEDAW Committee for the 57th Session*, 2013, pp. 9-10, <http://www.wunrn.com/wp-content/uploads/BCHR.pdf>

⁷⁰ Article 1 of the Protection against Domestic Violence Law (2015), <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101717/122684/F1526654905/K1715.pdf>; Tafawuq Centre for Women & Gender, "Centers Services for Victims of Violence Directory, 2016, pp. 6-7, <http://www.tafawuqbh.com/wp-content/uploads/2016/11/Final-English-Book1.pdf>

⁷³ Information obtained from Bahraini advocate, March 2017; Bahrain Centre for Human Rights, "Family Law in Bahrain", February 2014, p. 16, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BHR/INT_CEDAW_NGO_BHR_16373_E.pdf

⁷⁴ Supreme Council for Women, "Legislative Achievements", <https://www.scw.bh/en/WomenFiles/Pages/File6.aspx>; DT News, "SCW launches strategy on violence against women", *News of Bahrain*, 24 November 2015, <http://www.newsofbahrain.com/viewNews.php?ppId=9455&TYPE=Posts&pid=21&MNU=2&SUB=58>

	<p>the sexual desires of the aggressor or other parties; and (ii) exposing the victim to sexual conduct / matter; and</p> <ul style="list-style-type: none"> • Act of economical violence: Any act that results in depriving the victim from his rights or freedom of using his own money. <p>The Penal Code also contains some general prohibitions that are applicable to domestic violence. For instance:⁷¹</p> <ul style="list-style-type: none"> • Offences against the family e.g. failure to handover the child to the legal custodian or guardian of the child, kidnaping of a child by a parent or grandparent against the person who has obtained a judgement for custody or guardianship, etc. (Articles 317-320); • Murder (Article 333); • Assault and battery and their aggravated forms (Articles 336-343); • Rape and sexual assault 		<p>alcoholism, lack of education and problems with housing, etc.;</p> <ul style="list-style-type: none"> • To improve and create services for women who are subject to abuse; • To study the relevant laws and improve on them; • To raise awareness of the public on the issue of domestic violence, including improving the language in media that puts down women and legitimises and glamorises violence against women; • To evaluate and assess the impact of the plan 		<p>and is a natural reaction to women's behaviour; and (ii) 78% of women surveyed said that they were subjected to more than one form of domestic abuse.</p> <ul style="list-style-type: none"> • Domestic violence is underreported because women fear being ignored, questioned, or stigmatised by society. In addition, institutional support for victims is inadequate.
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⁷¹ 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

	<p>(Articles 344-347). Article 348 provides for heavier penalties if the perpetrator is the victim's close relative, guardian or is responsible for the victim's upbringing or employer or has authority over the victim; and</p> <ul style="list-style-type: none"> • Kidnapping (Article 358). <p>The Penal Code does not specifically criminalise marital rape.</p> <p>The Penal Code: (i) punishes "honour crimes" but with more lenient sentences; (ii) exempts suspected rapists who marry their victims.⁷²</p>		through studies, collation of data.		
<p>Nationality rights</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>A Bahraini man may pass his nationality to his non-Bahraini wife provided certain conditions are met. However, the law does not specifically provide for a Bahraini woman to confer her nationality to her foreign husband.⁷⁶</p> <p>A Bahraini father passes his citizenship to his children wherever they are born. A</p>		The Government of Bahrain in its 2011 report to the CEDAW Committee explained that the State party's reservation to Article (2) of CEDAW is premised on the following: ⁷⁸		According to the Bahraini government, between 2007 and May 2011, Bahraini nationality was granted to 78 sons and daughters of Bahraini mothers and non-Bahraini fathers. ⁸⁰

⁷² 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

⁷⁶ Article 7 of the Bahraini Citizenship Law (1963), <http://www.moj.gov.bh/default1d49.html?action=article&ID=872>

⁷⁸ 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>

⁸⁰ Bahrain State party report, U.N. Doc. CEDAW/C/BHR /3 (2011), para. 119, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>Bahraini mother passes her citizen to her children wherever they are born only if the father is unknown or paternity has not been legally established.⁷⁷</p>		<ul style="list-style-type: none"> • The Bahraini Nationality Act recognises the right of blood on the father's side, a position upheld by experts in private international law on the grounds that such criterion constitutes a presumption of the affirmation of a feeling of national belonging and of the spiritual bond linking a person to the nation to which his forefathers belonged; and • A father can grant his children Bahraini nationality, even if he is married to a foreign woman, while a Bahraini woman married to a foreign man cannot grant 		
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⁷⁷ Article 4 of the Bahraini Citizenship Law (1963), <http://www.moj.gov.bh/default1d49.html?action=article&ID=872>

			<p>Bahraini nationality to her children. This is to avoid the acquisition of dual nationality by the children, as they will acquire the nationality of their foreign father, given that most of the legislation around the world upholds right of blood on the father's side.</p> <p>However, the Bahraini government also informed that that:⁷⁹</p> <ul style="list-style-type: none"> • The Bahraini Nationality Act does adopt the right of blood on the mother's side in the case stipulated by Article 4(b) which states that a person shall be considered to be 		
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⁷⁹ 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>

			<p>Bahraini if born in Bahrain or abroad and the mother is Bahraini at the time of birth, with the proviso that the child is of unknown father or its relationship to its father has not been legally established. This conforms with the human rights principles requiring that such children have the right to acquire nationality;</p> <ul style="list-style-type: none"> • There is a wish on the part of the relevant bodies for conformity between Bahraini legislation on nationality and CEDAW. A proposal to grant nationality on the basis of right of blood on the mother's side is under discussion. 		
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			Until a decision on this proposal is reached, temporary measures are being taken to grant women equal rights with men regarding the naturalisation of their children.		
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