

MAURITANIA

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES

(Updated as at 31 May 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 uncoded? 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 uncoded, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g.</i></p>	<p>Article 1 of the Constitution states that all citizens are equal before the law and prohibits discrimination on the several basis including sex.¹</p> <p>The Preamble to the Constitution declares the family as a basic unit of Islamic society. Article 16 of the Constitution obligates the State to protect the family.²</p> <p>The Mauritanian Personal Status Code (PSC) is the main codified law that governs matters relating to marriage and family relations of the predominantly Muslim population in Mauritania.³ In the absence of codified laws that sufficiently address a particular matter of personal status of Muslims, generally, the rules of Maliki jurisprudence (<i>fiqh</i>) applies.⁴</p>		<p>Mauritania “has approved and do approve [the provisions of CEDAW] in each and every one of its parts which are not contrary to <i>Shari’ah</i> and are in accordance with our Constitution”. In July 2014, Mauritania partially withdrew its reservations to Article 13(a) and 16 of the Convention.⁶</p> <p>The Government of Mauritania in its 2013 report to the CEDAW Committee informed that in collaboration with civil society</p>		<p>According to the 2016 UNDP Human Development Report, Mauritania ranked 157 on the UNDP Human Development Index and 147 on the UNDP Gender Inequality Index.⁸</p> <p>According to Mauritania’s 2011 Multiple Cluster Indicator Survey, about 27% of households in Mauritania are headed by women.⁹</p>

¹ Article 1 of Mauritania’s Constitution (1991), https://www.constituteproject.org/constitution/Mauritania_2012.pdf
² Preamble, Article 16 of Mauritania’s Constitution (1991), https://www.constituteproject.org/constitution/Mauritania_2012.pdf
³ Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
⁴ Article 311 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
⁶ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

<p><i>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>Despite the equality guarantee under Article 1 of the Constitution, the PSC provides for a marital framework based on ‘reciprocal’ or ‘complementary’ rights (as opposed to ‘equal’ rights) between the two spouses that in turn is based on the concept of male guardianship over women and children. Thus:⁵</p> <ul style="list-style-type: none"> • Article 1 of the PSC defines marriage as a legal contract by which a woman and man come together to create a lasting conjugal life, the aim of marriage being fidelity and procreation through the founding, on a sound basis and under the husband’s direction, of a home that allows the spouses to fulfil their reciprocal obligations with affection and mutual respect; • Article 55 provides that a valid marriage gives rise to the maintenance and housing as well as the preservation of 		<p>organisations, it is actively raising awareness of the rights that women have in PSC and to encourage women to access justice in the courts.⁷</p>		
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⁸ UNDP, “Human Development Report 2016”, Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf
⁹ Mauritanian National Statistical Office et. al, “Mauritania Multiple Indicator Cluster Survey 2011”, Table HH.3, p. 31, https://mics-surveys-prod.s3.amazonaws.com/MICS4/West%20and%20Central%20Africa/Mauritania/2011/Final/Mauritania%202011%20MICS_French.pdf
⁵ Articles 1, 55, 56 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>
⁷ Mauritania State party report, U.N. Doc. CEDAW/C/MRT/2-3 (2013), para. 114, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<p>honour, the duty of fidelity and mutual assistance;</p> <ul style="list-style-type: none"> Article 56 provides that the husband is the head of the family while the wife is to assist him in the management of the family. 				
<p>Minimum and equal legal age for marriage</p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there 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>The minimum legal age for marriage is 18 for females and males as per Article 6 of the PSC. However:¹⁰</p> <ul style="list-style-type: none"> Article 6 also permits a guardian to affect the marriage of a minor (or one who lacks capacity) under his guardianship, if he determines that it is in the minor's interest. Article 7 of the PSC provides that if a guardian authorised the marriage of the minor (or incapacitated person) purely in the interest of the guardian and not in the interest of the minor, the guardian would be subject to the penalties provided in the Penal Code; 		<p>Mauritania has a policy against child marriages and has established a multi-sectorial committee to combat child marriage in 2014. The committee has launched awareness-building campaigns and programs across Mauritania to explain the social and health risks of child marriage.¹¹</p>		<p>According to UNICEF's State of the World's Children 2016 report, 34% of women aged 20- 24 in Mauritania were first married by 18 and 14% were first married by 15.¹²</p> <p>According to UN World Marriage Data 2015, the average age of first marriage among Mauritanian females decreased slightly from 21.8 in 2001 to 21.6 in 2011. In 2001, the average age of first marriage among</p>

¹⁰ Articles 6-8 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

¹¹ Jamal Mustafa Omar, "Mauritania Launched Campaign to Combat the Phenomenon of Child Marriage", DW, 6 December 2014, <http://www.dw.com/ar/موريتانيا تطلق حملة لمكافحة ظاهرة زواج الأطفال/a-18112390>

¹² UNICEF, "The State of the World's Children 2016", Table 9, pp. 150-153, https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

	<ul style="list-style-type: none"> Article 8 of the PSC states that an under-aged marriages is only valid if approved by the guardian or a judge if necessary. <p>The law does not stipulate an absolute minimum age below which a marriage may not be authorised.</p>				<p>Mauritanian men was 29.4.¹³</p> <p>According to reports by the World Bank, US Department of State and civil society:¹⁴</p> <ul style="list-style-type: none"> Child marriage in Mauritania is associated with lower wealth, lower education levels, and higher labour force participation; Despite the law stating that the minimum age for marriage is 19, there is a high prevalence of such marriages because of lack of enforcement of the law coupled with abuse of the legal provision
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¹³ United Nations Population Division, "World Marriage Data 2015", <https://esa.un.org/ffps/Index.html#/maritalStatusData>
¹⁴ Chata Male and Quentin Wodon, "Basic Profile of Child Marriage in Mauritania", *World Bank HNP GP Knowledge Brief*, 2016, <http://documents.worldbank.org/curated/en/909451468198012021/pdf/106405-BRI-ADD-SERIES-PUBLIC-HNP-Brief-Mauritania-Profile-CM.pdf>; US Department of State, "Mauritania", *County Reports on Human Rights Practices*, 2015, p. 20, <https://www.state.gov/documents/organization/252917.pdf>; Equality Now, "Protecting the girl child: Using the law to end child, early and forced marriage and related human rights violations", 2014, p. 26, http://www.equalitynow.org/sites/default/files/Protecting_the_Girl_Child.pdf

					<p>that allows guardians to consent to the under-aged marriages.</p> <p>According to reports by the Mauritanian government, civil society groups as the media, the high prevalence of child marriages is associated with harmful practices against young girls including:¹⁵</p> <ul style="list-style-type: none"> • Girls being forced fed ('leblouh' or 'gavage') in preparation for early marriage because forced fattening accelerates puberty and makes younger girls appear more womanly and
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¹⁵ Mauritania State party report, U.N. Doc. CEDAW/C/MRT/2-3 (2013), para. 51, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Equality Now, "Protecting the girl child: Using the law to end child, early and forced marriage and related human rights violations", 2014, pp. 22, 43. , http://www.equalitynow.org/sites/default/files/Protecting_the_Girl_Child.pdf; Layan Sherif, "Bad Cultures: Force feeding young girls for marriage in Mauritania", 18 November 2016, <http://wordpress.clarku.edu/id125-womansrightshealth/2016/11/18/bad-cultures-force-feeding-young-girls-for-marriage-in-mauritania/>; Sukaina Asneed, "Clandestine marriages on the rise in Mauritania", *Al Arabiya News*, 24 June 2010, <https://www.alarabiya.net/articles/2010/06/24/112179.html>; Abigail Howarth, "Forced to be fat", *Marie Claire*, 20 July 2011, <http://www.marieclaire.com/politics/news/a3513/forcefeeding-in-mauritania/>

					<p>ready for marriage. This practice is common in rural areas where 24% of girls are affected by the practice and continues in the cities where 19% of girls are affected by the practice; and</p> <ul style="list-style-type: none"> • Girls are being married off to wealthy Middle Eastern men through “temporary” or “secret” marriages (‘siriya’). These marriages are unregistered, reported to be potentially linked to human trafficking or prostitution and are demeaning to women, with “brides” being rejected once they reach puberty or become pregnant.
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<p>Women's consent to marriage</p> <p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad 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>Regardless of their age, both prospective brides and grooms must consent to the marriage. Consequently, <i>ijbar</i> marriages are prohibited.</p> <p>Article 5 of the PSC provides that the basic tenets of a marriage are: (i) the two spouses; (ii) the marital guardian (<i>wali</i>); (iii) the dower (<i>sadaq or mahr</i>); and (iv) formula (<i>sigha</i>).¹⁶</p> <p>Article 9 provides that a woman who has reached the age of majority may not be married without her consent and the consent of her guardian, but states that "the silence of a young girl equates consent."¹⁷</p> <p>Article 26 provides that a marriage is validly concluded with the consent of both spouses.¹⁸</p> <p>The mandatory registration of marriages is provided for in Article 75 of the PSC. Non-registration of a marriage does not necessarily invalidate the marriage. Marriages</p>			<p>A marriage contract must be concluded in front of a civil status officer and requires registration of a marriage contract under the supervision of the marriage officer within three months of concluding the marriage.²⁰</p> <p>A marriage certificate is issued upon registration of the marriage. The marriage certificate must include the dower amount, any previous marriages (and divorces), and any stipulated conditions of the marriage. All entries must be signed by the two spouses or their representatives, the <i>wali</i>, the two witnesses to the</p>	<p>While the law prohibits forced marriages, in reality, according to information and research compiled by the Immigration and Refugee Board of Canada and civil society reports, forced marriages, which is closely related to child marriages, is common in Mauritania:²²</p> <ul style="list-style-type: none"> • A 2015 Walk Free Survey data reveals an estimated 23,000 victims of forced marriage in Mauritania (or 53% of marriages); • The three main types of forced marriage in
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¹⁶ Article 5 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
¹⁷ Article 9 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
¹⁸ Article 26 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

	<p>that are not registered may be provide by a court order.¹⁹</p>			<p>marriage and the marriage officer.²¹</p>	<p>Mauritania are: (i) A girl being forced to marry her cousin, in a practice known as <i>maslaha</i>, even if she does not love him, so that she will be well supported by him; (ii) A girl from a poor family is forced to marry a rich man for financial purposes, even if she does not love him' and (iii) A girl is forced into a polygamous relationship with an influential man, such as a notary, a nobleman, or a marabout;</p>
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²⁰ Article 75 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
²² Immigration and Refugee Board of Canada, "Mauritania: Prevalence of forced marriage; information on legal status, including state protection; ability of women to refused a forced marriage", 27 June 2012, <http://www.refworld.org/docid/5035f2ea2.html>; Immigration and Refugee Board of Canada, "Mauritania: Prevalence of forced marriage; information on legal status, including state protection; ability of women to refused a forced marriage; state protection", 10 August 2006, <http://www.refworld.org/docid/46fb72fb1e.html>; Johana Higgs, "Surviving Violence in The Sahara: Mauritania", *HuffPost UK*, 2 February 2017, http://www.huffingtonpost.co.uk/johanna-higgs/surviving-violence-in-the_b_14807932.html; Walk Free Foundation, "Mauritania", *Global Slavery Index*, 2016, <http://www.globalslaveryindex.org/country/mauritania/>; IRIN, "Child marriage tradition turns into trafficking", *IRIN*, 28 December 2008, <http://www.irinnews.org/report/81891/mauritania-child-marriage-tradition-turns-trafficking>
¹⁹ Article 75 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
²¹ Article 76 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

					<ul style="list-style-type: none"> As with the case of child marriages, forced marriages is deeply rooted in patriarchal values and has given rise to cultural practices that subordinate women to the will of men, thereby contributing to the high prevalence of force marriage in Mauritania. Such practices include girls as young as six being sold by urban families to wealthy families in marriage.
<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?</i></p>	<p>Regardless of her age, a prospective bride requires the consent of a marital guardian (<i>wali</i>) to enter into marriage. The guardian must be a Muslim and a male relative of the prospective bride (the son or grandson, followed by father or legal guardian, brother, nephew, paternal grandfather, paternal uncle, cousins, financial sponsor,</p>				

<p><i>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>then finally a judge or a Muslim guardian.²³</p> <p>If the guardian insists on withholding his consent without legitimate reason, the prospective bride may seek the authorisation of a judge to get married.²⁴</p> <p>Pursuant to Article 28 of the PSC, both spouses may stipulate any condition in their marriage contract so long as they are not contrary to the purposes of marriage. Examples of valid conditions that a wife may stipulated by based on Article 28 are: (i) the husband cannot take on another wife; (ii) the husband cannot be absent for more than a specific period; (iii) the husband must allow her to continue to study.²⁵</p> <p>Article 29 provides that a breach or a partial of the contract by the husband entitles the wife to seek divorce and compensation (<i>mut'ah</i>), the amount of which is to be determined by the judge.²⁶</p>				
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²³ Articles 8-11 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>
²⁴ Articles 8, 13 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>
²⁵ Article 28 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>
²⁶ Article 29 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>

<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 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>A Muslim man may marry up to four wives at one time. He is not required by law to seek the permission of the court or his existing wife or wives to enter into a polygamous marriage.²⁷</p> <p>Articles 28 and 29 of the PSC provides that a woman may stipulate in the marriage contract that her husband cannot take another wife. If the husband breaches this term of the marriage contract, the woman has the right to petition for divorce and is entitled to the amount of <i>mut'ah</i> compensation that the judge determines.²⁸</p> <p>Article 48 of the PSC prohibits temporary marriages.²⁹</p>		<p>Government awareness programmes on the PSC encourage women to obtain a contractual agreement at the time of marriage stipulating that the marriage will end if the husband takes a second wife.³⁰</p>	<p>The marriage certificate must list the names of all persons a prospective bride or groom is currently married to (groom only) as well as their former and deceased spouses.³¹</p>	<p>According to Mauritania's 2015 Multiple Cluster Indicator Survey, 8% of marriages in Mauritania are polygamous.³²</p> <p>According to a media report, many Mauritanian women and their families are stipulating that their husbands cannot have multiple wives. However, religious are condemning the practice on the pretext that it is against Islamic teachings.³³</p>
<p>Divorce rights</p> <p><i>Is there equal right to divorce be-</i></p>	<p>The PSC provides for three different mechanisms for divorce: (i) unilateral repudiation (<i>talāq</i>); (ii)</p>			<p>Divorce must be registered in court, as per article 83 of</p>	<p>According to media reports, divorce rates are on the rise</p>

²⁷ Article 45 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>

²⁸ Articles 28-29 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>

²⁹ Article 48 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>

³⁰ US Department of State, "Mauritania", *County Reports on Human Rights Practices*, 2015, p. 19, <https://www.state.gov/documents/organization/252917.pdf>

³¹ Article 76 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>

³² Mauritanian National Statistical Office et. al, "Mauritania Multiple indicator Cluster Survey 2015: Key Findings", p.18, https://mics-surveys-prod.s3.amazonaws.com/MICS5/West%20and%20Central%20Africa/Mauritania/2015/Key%20findings/Mauritania%202015%20MICS%20KFR_French.PDF

³³ Sukaina Asneeb, "Mauritanian women say no to polygamy", *Al Arabiya*, 31 October 2010, <https://english.alarabiya.net/articles/2010/10/31/124364.html>

<p><i>tween women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>judicial divorce; and (iii) redemptive divorce (<i>khul'</i>). The marriage may also be annulled.</p> <p>A husband may unilaterally repudiate a marriage, which must generally be effectuated in court. A judge is required to summon the wife and attempt reconciliation. If a husband rejects reconciliation attempts, the judge registers the divorce in court and makes the necessary court order in terms of the divorce.³⁴</p> <p>A husband may delegate his unilateral right to divorce to his wife (<i>isma</i>) either through a stipulation in the marriage contract,³⁵ thus permitting her to pronounce <i>talāq</i> upon herself (<i>talāq -i-tafwid</i>).</p> <p>Valid grounds for seeking a judicial divorce by a wife include a husband's: (i) failure to meet his conjugal obligations; (ii) prolonged absence for more than one year; (iii) failure to provide maintenance. In addition, a wife may seek divorce on the basis of harm that makes it impossible to</p>			<p>the Personal Status Law.⁴⁰</p>	<p>in Mauritania,⁴¹ with 74% of divorced woman in Mauritania remarrying.⁴²</p>
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³⁴ Article 83 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

³⁵ Articles 95-96 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

	<p>continue living together as spouses.³⁶</p> <p>If a wife petitions for divorce on the basis of harm, and such harm is not proven in court, the judge is required to summon two mediators (one from the wife's family and one from the husband's family) to reconcile the two spouses. If reconciliation was not possible, the judge then can rule for a divorce upon payment of compensation by the wife if she is at fault, and without compensation by the wife if the husband was at fault.³⁷</p> <p>A woman may seek a redemptive divorce (<i>khul'</i>) by petitioning a court and pledging to pay compensation to the husband or forfeiting her financial rights. A judge can confirm <i>khul'</i> but returns to a woman the amount she paid if he determines that she asked for <i>khul'</i> due to harm or mistreatment by the husband. A minor's father or guardian may affect <i>khul'</i> on her behalf if they</p>				
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⁴⁰ Personal Status Law, No. 52 of 2001, art. 83, <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
⁴¹ Nico Colombant, "Confusion Reigns as Mauritanian Men Straddle Tradition, Modern Pursuits in Marriage", VOA News, 1 November 2009. <http://www.voanews.com/a/a-13-2008-06-26-voa25/405176.html>
⁴² Aishah Abd Daim, "Mauritanian Women Celebrate Their Divorce", *Mic of Youth Project*, http://www.qu.edu.qa/micyouth/?page_id=589
³⁶ Articles 102-110 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
³⁷ Article 102 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

	<p>determined that it is in her interest.³⁸</p> <p>The mandatory registration of a divorce is provided for by the PSC, and a standard procedure must be followed.³⁹</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 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</i></p>	<p>Generally, upon divorce, a woman may be entitled to:</p> <ul style="list-style-type: none"> Financial maintenance during the waiting period after the divorce (<i>iddah</i>). The <i>iddah</i> period ranges from three months to a maximum of one year and depends on the woman's situation e.g. whether she is menstruating or pregnant;⁴³ A consolatory gift or compensation (<i>mut'ah</i>), the amount of which is determined by the court.⁴⁴ <p>There is no legal concept of matrimonial assets. However:⁴⁵</p> <ul style="list-style-type: none"> Article 73 of the PSC provides 				

³⁸ Articles 92-94 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

³⁹ Article 83 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

⁴³ Articles 61, 84, 111-119 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

⁴⁴ Articles 29, 84 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

⁴⁵ Articles 73, 74 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

<p><i>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>that in the case of a dispute on assets, and no evidence was present with regard to individual ownership, then the wife’s claim shall be accepted with respect to assets “typically belonging to women.” If the disputed assets relate to a commercial activity, their ownership goes to the party engaged in the commercial activity.</p> <ul style="list-style-type: none"> • Article 74 provides an exception allowing for either a husband or wife to obtain ownership of assets typically belonging to the opposite sex if they can prove these assets were acquired with their own money. <p>The law does not specify what goods typically belong to either men or women.</p> <p>Following a divorce, the father is responsible for the financial maintenance of his children if the children do not have funds of their own.⁴⁶</p>				
<p>Custody of Children</p>	<p>During marriage both parents have custodial rights over their</p>				

⁴⁶ Articles 73, 74 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

<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>children. In the event of a divorce, a mother has priority right over the custody of her daughter until she is married and her son until reaches age of majority. A judge may award the father custody of the son as early as when he reaches seven if it is in the son's best interest to do so.⁴⁷</p> <p>A mother loses custody of her child if she: (i) is deemed to be insane, untrustworthy or immoral; (ii) has a contagious disease which puts the health of the child at risk; (iii) is unable to adequately care and nurture the child; (iv) is violent towards the child; or (iv) remarries and her new husband is not closely related to the child.⁴⁸</p>				
<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)</p>	<p>A father has priority right over the guardianship of his children. As guardian, he is responsible for the child's education and discipline in addition to the child's property.⁴⁹</p>				

⁴⁷ Articles 123, 126 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
⁴⁸ Articles 122, 129-130 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>
⁴⁹ Articles 133, 178 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

Paras. 19-20 GR21					
<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>Abortion is strictly prohibited by law, except when it is necessary to save the pregnant woman's life.⁵⁰</p>				<p>According to World Bank data, the total fertility rate decreased from 6.8 children per woman in 1960 to 4.5 in 2015.⁵¹</p> <p>According to Mauritania's 2015 Multiple Cluster Indicator Survey:⁵²</p> <ul style="list-style-type: none"> • 34% of married women have an unmet need for family planning services; and • 18% of married women are using a method of contraception, with 16% of women using a modern method.
Personal rights of spouses	Article 10 of the Constitution			A wife may stipulate	According to World

⁵⁰ Article 293 of the Penal Code (1983), <http://www.refworld.org/pdfid/491c1ffc2.pdf>; Centre for Reproductive Rights, "The World's Abortion Laws", 2014, <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap2014.PDF>

⁵¹ World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

⁵² Mauritanian National Statistical Office et. al, "Mauritania Multiple indicator Cluster Survey 2015: Key Findings", p.11, https://mics-surveys-prod.s3.amazonaws.com/MICS5/West%20and%20Central%20Africa/Mauritania/2015/Key%20findings/Mauritania%202015%20MICS%20KFR_French.PDF

<p><i>Does a woman need the consent 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>Applicable CEDAW Provision Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>guarantees the personal freedom of all Mauritians, including freedom of movement and choice of residence within Mauritania.⁵³</p> <p>The PSL and FRL could potentially restrict the personal rights of married women in Mauritania as a result of the inherent concept of male guardianship over women and children that is built into the law. Thus:</p> <ul style="list-style-type: none"> • Article 57 of the Personal Status Law states that a married woman has the right to choose their own profession, within the bounds permitted by <i>Shari'ah</i> (without further explaining what these bounds are),⁵⁴ • Article 58 of the PSC gives a married woman the right to manage her property, but her husband can intervene if she decides to give away more than 1/3 of her assets.⁵⁵ 			<p>in the marriage contract that she has the right to work, study, etc. If her husband stops her from exercising stipulated rights in the contract, the wife may seek a divorce and be entitled <i>mu'tah</i> compensation.⁵⁶</p> <p>Married women in Mauritania may retain their maiden names or take their husband's surname.⁵⁷</p>	<p>Bank data, female labour force participation increased from 25% in 1990 to 29% in 2016.⁵⁸ During the same period, male labour force participation decreased from 67% to 65%.⁵⁹</p> <p>According to the 2016 UNDP Human Development Report:⁶⁰</p> <ul style="list-style-type: none"> • 11% of women over 25 have at least some secondary education as compared to 24% of men of the same age group; • 55% of females and 70% of males aged 15-24 are able to
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⁵³ Article 10 of Mauritania's Constitution (1991), https://www.constituteproject.org/constitution/Mauritania_2012.pdf

⁵⁴ Article 57 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

⁵⁵ Article 58 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

⁵⁶ Articles 28-29 of the Personal Status Code (2001), <http://www.justice.gov.mr//IMG/pdf/statutpersonnelarabe.pdf>

⁵⁷ Mauritania State party report, U.N. Doc. CEDAW/C/MRT/2-3 (2013), para. 113, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁵⁸ 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>

					<p>read and write a short simple sentence; and</p> <ul style="list-style-type: none"> • 50% of women are satisfied with their freedom of choice as compared to 36% 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>Generally, inheritance rights between women and men are unequal. Articles 244-310 of the PSC specify the inheritance rules, and in many cases a woman is entitled to half that of a man.⁶¹</p>				

⁵⁹ 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>
⁶⁰ 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
⁶¹ Article 244-310 of the Personal Status Code (2001), <http://www.justice.gov.mr/IMG/pdf/statutpersonnelarabe.pdf>; Mauritania State party report, U.N. Doc. CEDAW/C/MRT/2-3 (2013), para. 111, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<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 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>Article 13 of the Constitution declares that no one shall be submitted to torture and other cruel, inhuman or degrading treatments. These practices constitute crimes against humanity and are punished as such by law.⁶²</p> <p>Mauritania has not adopted specific legislation to criminalise acts of domestic violence.⁶³</p> <p>The Penal Code contains some general prohibitions that are applicable to domestic violence. For instance, murder, assault, battery and other forms of physical violence as well as rape and other forms of sexual violence.⁶⁴</p> <p>The Penal Code does not specifically criminalise marital rape.⁶⁵</p>		<p>Mauritania has a National Sexual and Gender Based Violence Strategy.⁶⁶</p>	<p>According to Mauritania's 2014 Multiple Cluster Indicator Survey, about 27% of women aged 15-49 stated that a husband is justified in hitting or beating his wife in at least one of the following circumstances: (i) she goes out without telling him; (ii) she neglects the children; (iii) she argue with him; (iv) she burns the food.⁶⁷</p> <p>According to reports by the Mauritanian government, US Department of State, civil society</p>
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⁶² Article 13 of Mauritania's Constitution (1991), https://www.constituteproject.org/constitution/Mauritania_2012.pdf

⁶³ Mauritania State party report, U.N. Doc. CEDAW/C/MRT/2-3 (2013), para. 55, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁶⁴ Articles 285, 295, 309-310 of the Penal Code (1983), <http://www.refworld.org/pdfid/491c1ffc2.pdf>

⁶⁵ Mauritania State party report, U.N. Doc. CEDAW/C/MRT/2-3 (2013), para. 54, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁶⁶ UNHCR, "Mauritania", *Submission for the United National Universal Periodic Review*, 2016, p. 7, <http://www.refworld.org/country,,UNHCR,,MRT,,563861198,0.html>

⁶⁷ Mauritanian National Statistical Office et. al, "Mauritania Multiple indicator Cluster Survey 2015: Key Findings", p.18, https://mics-surveys-prod.s3.amazonaws.com/MICS5/West%20and%20Central%20Africa/Mauritania/2015/Key%20findings/Mauritania%202015%20MICS%20KFR_French.PDF

					<p>groups and the media:⁶⁸</p> <ul style="list-style-type: none"> • Wife beating can be a source of pride among Mauritanian women; • Most cases of domestic violence are unreported, and the government does not enforce the law effectively; • Convictions for rape are rare for reasons that include, ambiguity in the law and high burden of proof (four witnesses or admission of the rapist). Many judges find rape victims themselves guilty of “zina” (sexual
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⁶⁸ Mauritania State party report, U.N. Doc. CEDAW/C/MRT/2-3 (2013), para. 54, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; US Department of State, “Mauritania”, *Country Reports on Human Rights Practices*, 2015, p. 17, <https://www.state.gov/documents/organization/252917.pdf>; Africa for Women’s rights, “Mauritania”, p. 2, http://www.africa4womensrights.org/public/Dossier_of_Claims/Mauritania-UK.pdf; Thomson Reuters Foundation, “In Mauritania, Some Women “Still Proud” of Wife-Beating”, *Global Citizen*, 27 February 2017, <https://www.globalcitizen.org/en/content/mauritania-domestic-violence-act-of-love/>

					relations outside of marriage), resulting in a prison sentence of two to five years.
<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><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>A Mauritanian man may pass his nationality to his non-Mauritanian wife upon marriage. However, the law does not specifically provide for a Mauritanian woman to confer her nationality to her foreign husband. Her foreign husband may obtain Mauritanian citizenship through naturalisation.⁶⁹</p> <p>A Mauritanian woman who marries a non-Mauritanian may retain her Mauritanian nationality unless she renounces it.⁷⁰</p> <p>A Mauritanian father passes his citizenship to his children wherever they are born. A Mauritanian mother may only confer her citizenship on her child if: (i) the child was born in Mauritania; or (ii) the father's nationality is unknown. Children born abroad to a Mauritanian mother and a non-Mauritanian father may opt for Mauritanian</p>		<p>The Government of Mauritania in its 2013 report to the CEDAW Committee acknowledged the unequal nationality rights between women and men noting that:⁷²</p> <ul style="list-style-type: none"> • With respect to children born abroad to a Mauritanian mother and a non-Mauritanian father, under Article 13 of the Nationality Code, Mauritanian nationality is not acquired by the child automatically, but on request, 		

⁶⁹ Article 16 of the Nationality Code (1961), <http://www.refworld.org/country,,,MRT,,3ae6b5304,0.html>

⁷⁰ Articles 32, 72 of the Nationality Code (1961), <http://www.refworld.org/country,,,MRT,,3ae6b5304,0.html>

	<p>citizenship a year before their age of majority.⁷¹</p>		<ul style="list-style-type: none"> • Non-Mauritanian husbands of Mauritanian women acquire Mauritanian nationality only after 10 years of marriage. 		
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⁷² Mauritania State party report, U.N. Doc. CEDAW/C/MRT/2-3 (2013), paras. 77, 78, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>
⁷¹ Articles 8, 9, 13 of the Nationality Code (1961), <http://www.refworld.org/country,,,MRT,,3ae6b5304,0.html>; UNCHR, "Gender Equality, Nationality Laws and Statelessness 2014", p. 4, <http://www.unhcr.org/4f5886306.pdf>