

YEMEN¹

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</i></p>	<p>Article 24 of the Constitution guarantees equal opportunities for all citizens in the fields of political, economic, social and cultural activities.²</p> <p>Article 25 of the Constitution declares that Yemeni society is based on social solidarity, which in turn is based on justice, freedom and equality according to the law.³</p> <p>Article 26 of the Constitution declares the family as the basis of society and its pillars are religion, customs and love of the homeland.⁴</p> <p>Article 31 of the Constitution states that women as sisters of men, and they have rights and duties, which are guaranteed and</p>		<p>Yemen has a reservation to Article 29 of CEDAW.¹⁰</p> <p>The Government of Yemen in its 2007 and 2014 reports to the CEDAW Committee acknowledged the need to amend the PSL to harmonise it with the provisions of the CEDAW.¹¹</p>		<p>According to the 2016 UNDP Human Development Report, the UAE ranked 168 on the UNDP Human Development Index and 159 on the UNDP Gender Inequality Index.¹²</p> <p>According to Yemen's 2013 Demographic and Health Survey, about 8% of households in Yemen headed by women.¹³</p> <p>According to a civil society report and information on the</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 Yemen country table, we would also like to thank Divya Srinivasan and Kierra Jones from Harvard Law School, and Ali Al-Agri for their inputs in its preparation.

² Article 24 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

³ Article 25 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁴ Article 26 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

<p><i>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>assigned by <i>Shari'ah</i> and stipulated by law.⁵</p> <p>Article 41 of the Constitution states that every Yemeni is equal in rights and duties.⁶</p> <p>The Yemeni Personal Status Law No. 20/1991 (YPSL) is the main codified law that governs matters relating to marriage and family relations of the predominantly Muslim population of Yemen.⁷ The YPSL applies to all Yemeni regardless of religion.⁸</p> <p>Despite the equality guarantees under the Constitution, the YPSL 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</p>				<p>ground:¹⁴</p> <ul style="list-style-type: none"> • Although the law states that all citizens are equal, in practice minorities, including Jews, are marginalised and refugees suffer from inequality and some level of discrimination. Female members of these groups face a higher level of discrimination; • Cultural practices limit women's ability to realise and/or defend
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¹⁰ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

¹¹ Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), Table 45, pp. 94-98, Yemen State party report, U.N. Doc. CEDAW/C/YEM /6 (2007), Table 33, pp. 72-74, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹² UNDP, "Human Development Report 2016", Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

¹³ Ministry of Public Health and Population, Central Statistical Organisation, Pan Arab Program for Family Health and ICF International, "Yemen Demographic and Health Survey 2013", Table 2.8, p. 16, <http://dhsprogram.com/pubs/pdf/FR296/FR296.pdf>

⁵ Article 31 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁶ Article 41 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁷ Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), para. 16.1, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁸ Information obtained from Yemeni Advocate, February 2017. Yemen has a predominantly Muslim population with a small and shrinking Jewish minority as the community's migration to Israel and the US continues

	<p>her husband, a wife is expected obey him. Thus:⁹</p> <ul style="list-style-type: none"> • Article 6 of the YPSL defines marriage as a commitment between the two spouses based on a legal contract by which a woman becomes legally permissible to a man. The purpose of marriage is to strengthen chastity and establish cohesive families; • Article 40 specifies that a wife must obey her husband and cannot leave the home without his permission. If she disobeys him or goes out without his agreement, he is entitled to make her return to the matrimonial home; • Article 41 identifies five key rights for the wife that a husband is obligated to provide: (i) appropriate housing; (ii) finance support (<i>nafakah</i>) and clothing; (iii) equality in treatment in case the husband is married to more than one wife, (iv) avoiding touching/controlling her own properties, and (v) avoiding 				<p>their rights.</p>
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¹⁴ Elham Manea, "Yemen", in *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin (New York: Freedom House, 2010), p.6, https://freedomhouse.org/sites/default/files/inline_images/Yemen.pdf

⁹ Articles 6, 40, 41, 152 of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM/7-8 (2014), para. 16.1.1, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Amnesty International, "Yemen", *Submission to the UN Human Rights Committee for the 104th Session*, 2012, p. 6, <http://www.refworld.org/pdfid/4f48e4382.pdf>

	<p>harming her physically or emotionally;</p> <ul style="list-style-type: none"> Article 152 provides that a woman loses her right to financial maintenance if she refuses to move with her husband (unless stipulated otherwise), if she leaves the home without a valid cause (for example, caring for her ill parents), if she works outside the home without her husband's consent, or if she refuses to travel with her husband without an excuse. 				
<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>Yemen does not have a specified minimum legal age for marriage for either females or males.</p> <p>Article 15 of the YPSL states the marriage of a little girl is legally valid but she is not to be wedded until she's ready for sex, even if she exceeds 15 and marriage of a little boy is not legally valid unless it is proven for the good.¹⁵</p>	<p>Judges have invoked the "Shari'ah clause" to invalidate some child marriages based on their individual interpretations of Shari'ah.¹⁶</p>	<p>The Government of Yemen in its 2007 report to the CEDAW Committee informed that in 204, the Women National Committee (WNC) recommended that the minimum legal age for both females and males be 18.¹⁷</p> <p>In 2009, Yemen's Amran Governorate piloted the Safe Age</p>	<p>According to UNICEF's State of the World's Children 2016 report, 32% of women aged 20- 24 in Yemen were first married by 18 and 9% by 15.¹⁹</p> <p>According to UN World Marriage Data 2015, the average of first marriage among Yemeni females rose from</p>	

¹⁵ Article 15 of the Personal Status Law (1991); Inter-Agency Network on Women and Gender Equality, "Yemen", *Country Assessment on Violence against Women*, 2010, p. 11, http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country_Assessment_on_Violence_against_Women_August_2_2010.pdf

¹⁶ Laila Al-Zwaini, "The Rule of Law in Yemen: Prospects and Challenges", *Hiil Rule of Law Quick Scan*, September 2012, p. 43, http://www.hiil.org/data/sitemanagement/media/QuickScan_Yemen_191212_DEF.pdf

¹⁷ Yemen State party report, U.N. Doc. CEDAW/C/YEM/6 (2007), Table 33, p. 73, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁹ UNICEF, "The State of the World's Children 2016", Table 9, pp. 150-153, https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

<p>Applicable CEDAW Provision Article 16(2) Paras. 36-39 GR21</p>			<p>of Marriage project in 2009. The project covered communities in Al-Sawd and Al-Soodeh districts, where only 8% of girls aged 15-17 attended school.¹⁸</p>		<p>22.7 in 2006 to 23.0 in 2013 and among males, from 25.3 to 26.1 during the same period.²⁰</p> <p>According to Girls Not Bride, factors that contribute to the high prevalence of child marriage in Yemen include poverty, the practice of dowry and strict social and religious traditions and norms, all of which are being exacerbated by the ongoing conflict in Yemen.²¹</p> <p>There have been a couple of attempts to legislate the minimum age for marriage:</p> <ul style="list-style-type: none"> • In 2009, a proposed bill to set the minimum age of marriage at 17 was rejected by the
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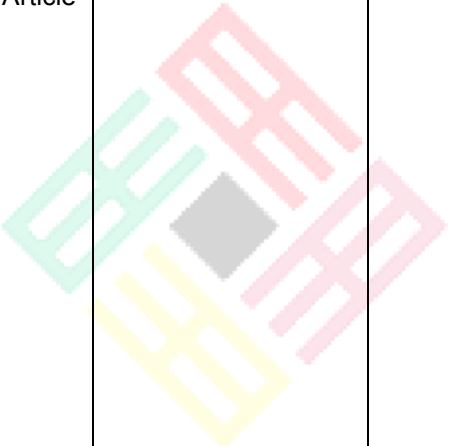
¹⁸ Girls Not Brides, “Yemen”, *Child marriages around the world*, <http://www.girlsnotbrides.org/child-marriage/yemen/>
²⁰ United Nations Population Division, “World Marriage Data 2015”, <https://esa.un.org/ffps/Index.html#/maritalStatusData>
²¹ Girls Not Brides, “Yemen”, *Child marriages around the world*, <http://www.girlsnotbrides.org/child-marriage/yemen/>

					<p><i>Shari'ah</i> Legislative Council on the basis the <i>Shari'ah</i> does not prescribe a minimum age of marriage;²²</p> <ul style="list-style-type: none"> In 2015, Yemen once again tried to set the minimum age for marriage, this time at 18, in a new Constitution. However, as of to date, it has yet to be ratified because of the war in Yemen.²³
<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</i></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 10 of the YPSL states that marriage is invalid if either spouse is coerced into the marriage.²⁴</p>			<p>There is a standardised marriage contract. The Ministry of Justice has made the contract authentication and registration procedures</p>	<p>Media reports suggest that forced marriages in Yemen are not uncommon especially among young brides. For instance.²⁸</p> <ul style="list-style-type: none"> In 2013, a media

²² Anne K. Bang, "Unfulfilled hopes: The quest for a minimum age in Yemen 2009-2014", (CMI Report, 3, 2016), <https://www.cmi.no/publications/5817-unfulfilled-hopes>

²³ Sudarsan Raghavan, "Yemen war: The girl forced to marry at 11 whose story exposes the conflict's toll on children", *The Independent*, 2016, <http://www.independent.co.uk/news/world/middle-east/yemen-war-the-girl-forced-to-marry-at-11-whose-story-exposes-the-conflicts-toll-on-children-a7125151.html>

²⁴ Article 10 of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), para. 16.1.1, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<p><i>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>Article 23 of the YPSL requires the consent of a woman to her marriage and provides that the silence of a virgin indicates consent while the consent of a previously married woman must be expressed.²⁵</p> <p>The mandatory registration of marriages is provided for in Article 14 of the YPSL.²⁶</p>			<p>available on its website.²⁷</p>	<p>report narrated the personal story of a 35-year-old who was married off at 11 to a distant cousin three times her age. She was not fully aware of what was happening on her wedding day and suffered violent abuse during her marriage;</p> <ul style="list-style-type: none"> In 2013, it was reported that an eight-year old child bride died of internal bleeding sustained during her wedding night after being forced to marry a man five times her
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²⁸ Mail Foreign Service, "Child bride, 13, dies of internal injuries four days after arranged marriage in Yemen", 6 March 2016, <http://www.dailymail.co.uk/news/article-1264729/Child-bride-13-dies-internal-injuries-days-arranged-marriage-Yemen.html>; Nabila Ramdani, "After the wedding, fear set in: a Yemeni child bride's story", *The Guardian*, 1 October 2013, <https://www.theguardian.com/lifeandstyle/2013/oct/01/story-yemen-child-bride>; Matt Blake, "Yemeni child bride, eight, dies of internal injuries on first night of forced marriage to groom five times her age", *Daily Mail*, 9 September 2013, <http://www.dailymail.co.uk/news/article-2415871/Yemeni-child-bride-8-dies-internal-injuries-night-forced-marriage-groom-40.html>

²⁵ Article 23 of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM/7-8 (2014), para. 16.1.1, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Human Rights Watch, "Yemen", *Submission to the CEDAW Committee for the 62nd session*, 2015, Footnote 6, p. 2, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf

²⁶ Article 14 of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM/6 (2007), Table 33, p. 73, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

²⁷ Ministry of Justice, "Notarization Services", *Ministry of Justice*, <http://www.moj-yemen.net/tawthegservicemain.asp>

					<p>age;</p> <ul style="list-style-type: none"> In 2016, it was reported that a 13-year-old child bride died of internal injuries four days after she was married off in a “swap” marriage to a man twice her age. “Swap marriage” is a traditional practice in which two men marry each other’s sisters to avoid having to pay expensive bride-prices.
<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 per-</i></p>	<p>Regardless of her age, a prospective bride requires the consent of a marital guardian (wali) to enter into marriage. The guardian must be a Muslim and a male relative of the prospective bride (father, son, brother etc.).²⁹</p>			<p>Nothing in the YPSL prohibits a woman from negotiating her rights prior to marriage and including stipulations in the marriage contract.³³</p>	<p>According to academic research and a civil society report.³⁴</p> <ul style="list-style-type: none"> There was an instance where a woman who

²⁹ Articles 7, 16 of the Personal Status Law (1991)

³³ Laila Al-Zwaini, “The Rule of Law in Yemen: Prospects and Challenges”, Hiil Rule of Law Quick Scan, September 2012, p. 43, http://www.hiil.org/data/sitemanagement/media/QuickScan_Yemen_191212_DEF.pdf

³⁴ Human Rights Watch, “Yemen”, *Submission to the CEDAW Committee for the 62nd session*, 2015, p. 2, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf; Laila Al-Zwaini, “The Rule of Law in Yemen: Prospects and Challenges”, Hiil Rule of Law Quick Scan, 2012, p. 43, http://www.hiil.org/data/sitemanagement/media/QuickScan_Yemen_191212_DEF.pdf

<p><i>mission 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>A marriage without a <i>wali</i> is invalid. A judge can act as guardian in the absence of male relatives. In addition, if the guardian opposes the marriage, the prospective bride may seek authorisation of a judge to get married. The judge may authorise the marriage after determining that the prospective bride's guardian's objections are unreasonable.³⁰</p> <p>A guardian may conclude a marriage between himself and the woman under his guardianship, if she consents.³¹</p> <p>Pursuant to Article 7(4) of the PSL, both spouses may stipulate any condition in their marriage contract so long as they are based on legitimate intent of a spouse and they are not contrary to the purpose of marriage.³²</p>				<p>married without the consent of her parents was charged with adultery and imprisoned;</p> <ul style="list-style-type: none"> • While it is possible for Yemeni women to insert stipulations in the marriage contract to preserve her rights, most Yemeni women are unaware of their ability to do so and/or the practice is strongly discouraged.
<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</i></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.</p>				<p>According to Yemen's 2013 Demographic and Health Survey, 6% of marriages in Yemen are polyga-</p>

³⁰ Articles 16-22 of the Personal Status Law (1991)

³¹ Articles 21, 23 of the Personal Status Law (1991)

³² Article 7(4) of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), para. 16.1.1, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Laila Al-Zwaini, "The Rule of Law in Yemen: Prospects and Challenges", HiIL Rule of Law Quick Scan, September 2012, p. 43, http://www.hiil.org/data/sitemanagement/media/QuickScan_Yemen_191212_DEF.pdf

<p><i>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>Article 12 of the PSL provides a man has the right to marry up to four wives provided: (i) he is able to be just; (ii) he has financial capability; and (iii) he informs his existing wife or wives.³⁵</p> <p>Article 41 of the PSL provides that a man may not house two wives in the same residence without the consent of both wives and that the wives may withdraw their consent at any time.³⁶</p> <p>A wife in a polygamous marriage may seek divorce only if it is shown that the husband is unable to provide financially (or provide a home) for each wife.³⁷</p> <p>Temporary marriages are not recognised.³⁸</p>				<p>mous. The survey also found that:³⁹</p> <ul style="list-style-type: none"> Older women were more likely than younger women to have co-wives. For instance, 11% of married women aged 45-49 reported having co-wives, as compared with 3% of women aged 20-24; Urban women were more likely to report having co-wives than rural women (7% versus 6%); Women living in richer households
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³⁵ Article 12 of the Personal Status Law (1991), Yemen State party report, U.N. Doc. CEDAW/C/YEM/6 (2007), Table 33, p. 73, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

³⁶ Article 41 of the Personal Status Law (1991)

³⁷ Article 53 of the Personal Status Law (1991), Immigration and Refugee Board of Canada, "Yemen: Woman's ability (in practice) to obtain a divorce because her husband has married a second wife without her consent or because of spousal abuse; whether she would retain custody of younger children; whether shelters for battered women exist' whether battered women have access to legal advice; woman's ability to take her children out of the country without her husband's consent; if she does so penalty, YEM36386.E, 7 March 2001, <http://www.refworld.org/docid/3df4bec74.html>

³⁸ Article 6 of the Personal Status Law (1991); Information provided by Yemeni advocate, February 2017; Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), para. 16.1.1, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

³⁹ Ministry of Public Health and Population, Central Statistical Organisation, Pan Arab Program for Family Health and ICF International, "Yemen Demographic and Health Survey 2013", Table 4.2, p. 39, <http://dhsprogram.com/pubs/pdf/FR296/FR296.pdf>

					<p>were more likely than women living in poorer households to have co-wives. For instance, 6.3% of women living in households in the highest wealth quintile reported having co-wives, as compared with 5.5% of women living in households in the lowest quintile; and</p> <ul style="list-style-type: none"> • Lower educated women were slightly more likely to report having co-wives than higher educated women. For instance, 8% of married women with no education reported having co-wives, as compared with 7% of women who has attained secondary or higher education.
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<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? 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>The YPSL provides for three different mechanisms for divorce: (i) unilateral repudiation (<i>talaq</i>); (ii) judicial divorce; and (iii) redemptive divorce (<i>khul'</i>). The marriage may also be annulled.</p> <p>A husband may unilaterally repudiate a marriage without much restrictions.⁴⁰</p> <p>A husband may delegate his unilateral right to divorce to his wife (<i>isma</i>) through a stipulation in the marriage contract,⁴¹ thus permitting her to pronounce <i>talaq</i> upon herself (<i>talāq-i-tafwid</i>).</p> <p>Valid grounds for seeking judicial divorce by a wife include a husband's: (i) serious disease; (ii) refusal to financially support his family; (iii) absence for more than six months; (iv) addiction to alcohol or drugs; or (v) marrying multiples wives without treating them equally. A woman may also obtain judicial divorce for the reason of hating her husband, but only if the couple first undergoes a mediation process. If the mediation process fails, the wife</p>			<p>Divorce must be registered and authenticated, and there is a required divorce form as per the Ministry of Justice guidelines that are available on its website.⁴⁴</p>	<p>According to a media report, it is not uncommon for men to use their right to unilaterally divorce to pressure their wives (or others) to abide by their wishes.⁴⁵</p>
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⁴⁰ Articles 58-59 of the Personal Status Law (1991)

⁴¹ Article 60 of the Personal Status Law (1991)

	<p>must return the marriage dower (<i>mahr</i>) to the husband.⁴²</p> <p>A woman seek redemptive divorce (<i>khul'</i>) divorce by paying back the dower (<i>mahr</i>) to the husband and forgoing all her financial rights. A <i>khul'</i> divorce requires the agreement of the husband.⁴³</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</i></p>	<p>Generally, upon divorce, a woman may be entitled to financial maintenance during the waiting period after the divorce (<i>iddah</i>). The <i>iddah</i> period depends on the woman's situation e.g. whether she is menstruating or pregnant and ranges from three months to one year.⁴⁶</p>				

⁴⁴ Ministry of Justice, "Notarization Services", <http://www.moj-yemen.net/tawthegservicemain.asp>

⁴⁵ Amal Al-Yarisi, "The daily threat of divorce", *Yemen Times*, 12 September 2013, <http://www.yementimes.com/en/1711/report/2883/The-daily-threat-of-divorce.htm>

⁴² Articles 46-55 of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), para. 16.1.2, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁴³ Articles 72-74 of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), para. 16.1.2, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁴⁶ Article 151 of the Personal Status Law (1991)

<p><i>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>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 remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A mother has priority right over the custody of her daughter until she reaches 12 and her son until he reaches nine. Thereafter, the child may choose to live with either of his/her parents based on the interest of the child. In the event of a custody dispute, a judge is make a decision based on the child's interest.⁴⁷</p> <p>A mother is prohibited from forfeiting her priority right to custody over her child unless he/she accepts another custodian. In addition: (i) should the mother remarries, her new husband cannot prevent her from maintaining custody over her children where there is no other custodian; and (ii) the mother's immorality will not bar her right to</p>				<p>According to Human Rights Watch, custodian mothers are placed under onerous conditions because any misstep mistake on her part with regard to her children can result in her losing custody over her children. For instance, if a woman remarries or is deemed to not raise her children under the "appropriate standards" she can lose custody. Men do not face the similar restrictive conditions.⁵⁰</p>

⁴⁷ Article 142, 148 of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), para. 16.1.3, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<p>custody until her children reaches the 5.⁴⁸</p> <p>A mother loses custody of her child if she (i) is deemed incompetent; (ii) is insane or suffers from a serious disability or illness; or (iii) marries a man who is not a close blood relative of the children.⁴⁹</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>Applicable CEDAW Provision Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A father has priority right over the guardianship of his children.⁵¹</p>				
<p>Family Planning</p> <p><i>Do women require the consent of</i></p>	<p>Abortion is strictly prohibited unless it is to save a pregnant woman's life.⁵²</p>				<p>According to World Bank:</p>

⁵⁰ Human Rights Watch, "Yemen", *Submission on Yemen to the CEDAW Committee for the 62nd Session*, 2015, pp. 2-3, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf

⁴⁸ Article 141 of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), para. 16.1.3, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁴⁹ Articles, 141, 143 of the Personal Status Law (1991); Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), para. 16.1.3, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Human Rights Watch, "Yemen", *Submission on Yemen to the CEDAW Committee for the 62nd Session*, 2015, Footnote 15, p. 3, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf

⁵¹ Article 144 of the Personal Status Law (1991); Human Rights Watch, "Yemen", *Submission on Yemen to the CEDAW Committee for the 62nd Session*, 2015, p. 3, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf

⁵² Article 239-240 of the Penal Code (1994), <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/83557/92354/F1549605860/YEM83557.pdf>; Centre for Reproductive Rights,

<p><i>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>					<ul style="list-style-type: none"> • The total fertility rate decreased from 7.4 children per woman in 1960 to 4.0 in 2015;⁵³ • Women have limited control in familial decision making including child bearing.⁵⁴ <p>According to Yemen's 2013 Demographic and Health Survey:⁵⁵</p> <ul style="list-style-type: none"> • The median birth interval in Yemen is 31.8 months, with 30% of children being born less than 24 months after their siblings; • 29% of married women have an unmet need for
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⁵³ "The World's Abortion Laws", 2014, <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap2014.PDF>

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

⁵⁴ World Bank, "Republic of Yemen: The Status of Yemeni Women: From Aspiration to Opportunity", 2014, pp. 17, 40,

<http://documents.worldbank.org/curated/en/640151468334820965/pdf/878200REVISED00Box0385200B00PUBLIC0.pdf>

⁵⁵ Ministry of Public Health and Population, Central Statistical Organisation, Pan Arab Program for Family Health and ICF International, "Yemen Demographic and Health Survey 2013", Tables 5.5, 7.1, 7.3, 7.10, pp. 46, 58, 60, 67, <http://dhsprogram.com/pubs/pdf/FR296/FR296.pdf>

					<p>family planning services, with 15% having an unmet need for spacing and 14% an unmet need for limiting of children;</p> <ul style="list-style-type: none"> • 34% of married women are using a method of contraception, with 30% of women using a modern method; and • Knowledge of at least one method of family planning is high (98%) among married women in Yemen.
<p>Personal rights of spouses</p> <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</i></p>	<p>Article 48 of the Constitution obligates the State to guarantee the personal freedom of every Yemeni.⁵⁶</p> <p>Article 29 of the Constitution guarantees provides that work is</p>				<p>According to Yemen's 2013 Demographic and Health Survey:⁶²</p> <ul style="list-style-type: none"> • Only 10% of married Yemeni

⁵⁶ Article 48 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁶² Ministry of Public Health and Population, Central Statistical Organisation, Pan Arab Program for Family Health and ICF International, "Yemen Demographic and Health Survey 2013", Tables 14.1, 14.2, 14.6, 14.7, pp. 175-176, 180-182, <http://dhsprogram.com/pubs/pdf/FR296/FR296.pdf>

<p><i>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>a right, an honour and a necessity for society's progress and provides that that every Yemeni has the right to choose their appropriate work within the law.⁵⁷</p> <p>Article 54 of the Constitution declares that education is the right for all Yemenis.⁵⁸</p> <p>Article 57 of the Constitution guarantees the freedom of movement of all citizens.⁵⁹</p> <p>Despite the constitutional provisions stating otherwise, the YPSL could potentially restrict the personal rights of a married woman as a result of the maintenance-for-obedience legal framework provided for under the law. Thus:⁶⁰</p> <ul style="list-style-type: none"> • A wife is obligated to obey her husband, live with him in the same home, make herself sexually available to him, not leave the home without his consent, or travel abroad without consent unless she had stipulated otherwise in her marriage contract;⁶¹ 				<p>women were employed at the time of the survey;</p> <ul style="list-style-type: none"> • 54% of married women earning cash made independent decisions on how to spend their earnings; • 42% of married women participate either alone or jointly with their husband in making decisions pertaining to their own healthcare, and major household purchases; and • 49% of women aged 15-49 accept at least one reason as a justification for wife beating.
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⁵⁷ Article 29 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁵⁸ Article 54 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁵⁹ Article 57 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁶⁰ Articles 40, 152 of the Personal Status Law (1991)

⁶¹ Article 40 of the Personal Status Law (1991)

	<ul style="list-style-type: none"> A wife will lose her financial maintenance if she refuses to move with her husband, leaves the marital home, works outside the marital home or refuses to travel with her husband unless she has the consent of her husband or she has a legitimate excuse; 				<p>Women are most likely to agree that if a wife goes out without telling her husband, it justifies wife beating (36%).</p> <p>According to World Bank data, female labour force participation increased from 16% in 1990 to 26% in 2016.⁶³ During the same period, male labour force participation decreased slightly from 74% to 73%.⁶⁴</p> <p>According to the 2016 UNDP Human Development Report:⁶⁵</p> <ul style="list-style-type: none"> 16% of women over 25 have at least some secondary education as compared to 33% of men of the same age
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⁶³ 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>

⁶⁴ 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>

⁶⁵ 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

					<p>group;</p> <ul style="list-style-type: none"> • 83% of females aged 15-24 are able to read and write a short simple sentence as compared to 98% of males in the same age group; and • 60% of women are satisfied with their freedom of choice as compared to 63% of men. <p>According to reports by the World Bank and civil society, Yemeni women face restrictions in their mobility and decision-making both in law and in practice.⁶⁶</p> <p>According to information on the ground, neither the</p>
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⁶⁶ World Bank, “Republic of Yemen: The Status of Yemeni Women: From Aspiration to Opportunity”, 2014, p. 2, <http://documents.worldbank.org/curated/en/640151468334820965/pdf/878200REVISED00Box0385200B00PUBLIC0.pdf>; Amnesty International, “Yemen”, *Submission to the UN Human Rights Committee for the 104th Session*, 2012, p. 6, <http://www.refworld.org/pdfid/4f48e4382.pdf>

					law nor practice in Yemen implies that women lose their birth names upon marriage. Usually wives maintain their birth and family names after marriage. ⁶⁷
<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.</p> <p>Article 23 of the Constitution provides that the right of inheritance is based on <i>Shari'ah</i>.⁶⁸</p> <p>Articles 299-347 details the inheritance shares among beneficiaries. In many instances, a woman only receive half of the inheritance that a man with the same degree of relationship to the deceased would receive.⁶⁹</p>				<p>According to Human Rights Watch:⁷⁰</p> <ul style="list-style-type: none"> In rural areas, women are often not given their inheritance because of prevailing customs and traditions. This issue was also highlighted by the Yemeni government in its 2014 State party report to the CEDAW Committee.⁷¹

⁶⁷ Information obtained from Yemeni Advocate, February 2017

⁶⁸ Article 23 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁶⁹ Articles 299-348 of the Personal Status Law (1991); Human Rights Watch, "Yemen", *Submission on Yemen to the CEDAW Committee for the 62nd Session*, 2015, p. 3, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf

⁷⁰ Human Rights Watch, "Yemen", *Submission to the CEDAW Committee for the 62nd session*, 2015, p. 3, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf

⁷¹ Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), p. 72, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

					<ul style="list-style-type: none"> In an attempt to preserve family assets and wealth, families often forbid daughters to marry outside of the family or will withhold inheritance if they do so.
<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</i></p>	<p>Article 30 of the Constitution obligates the State to protect mothers and children.⁷²</p> <p>Article 48 of the Constitution obligates the State to guarantee the preservation of the dignity and security of every Yemeni.⁷³</p> <p>Yemen has not adopted specific legislation to criminalise acts of domestic violence.</p> <p>The Penal Code contains some general prohibitions that are applicable to domestic violence. For instance: murder, kidnapping, assault and battery as well as rape and sexual assault.⁷⁴</p>		<p>Yemen has developed a Women Development Strategy, Poverty Reduction and Development Plan to combat violence against women.⁷⁶</p> <p>A ministerial decree prohibited female genital mutilation from being performed in public health facilities.⁷⁷</p>		<p>According to reports by the World Bank and the OECD. Domestic violence is.⁷⁸</p> <ul style="list-style-type: none"> Believed to be common in Yemen but accurate figures on its prevalence are not available; Viewed as a strictly private matter and a source of shame for women for not

⁷² Article 30 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁷³ Article 48 of Yemen's Constitution (1991), <http://www.refworld.org/pdfid/3fc4c1e94.pdf>

⁷⁴ Articles 232-238, 241-245, 246-252, 269, 273-276 of the Penal Code (1994), <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/83557/92354/F1549605860/YEM83557.pdf>

⁷⁶ Inter-Agency Network on Women and Gender Equality, "Yemen", *Country Assessment on Violence against Women*, 2010, p. 33, http://www.un.org/womenwatch/ianwge/taskforces/vaw/Country_Assessment_on_Violence_against_Women_August_2_2010.pdf

<p><i>or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19 Para. 40 GR21</p>	<p>The Penal Code does not specifically criminalise marital rape.</p> <p>Article 232 of the Penal Code states that a man convicted of killing or seriously harming his wife upon finding her in the act of adultery (honour killing) would only be sentenced to a year's imprisonment or fined.⁷⁵</p>				<p>abiding by their proper roles at home. Consequently, women are generally reluctant to report their abuse. In addition, they lack of confidence in the police and judicial processes. There have been instances where women who report domestic violence to the police are themselves incarcerated, and only released if a male relative comes to collect them.</p> <p>According to Yemen's 2013</p>
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⁷⁷ OECD Development Centre, "Yemen", *Social Institutions and Gender Index*, 2014, p.4, <http://www.genderindex.org/sites/default/files/datasheets/YE.pdf>

⁷⁸ World Bank, "Republic of Yemen: The Status of Yemeni Women: From Aspiration to Opportunity", 2014, p. 41, <http://documents.worldbank.org/curated/en/640151468334820965/pdf/878200REVISED00Box0385200B00PUBLIC0.pdf>; OECD Development Centre, "Yemen", *Social Institutions and Gender Index*, 2014, <http://www.genderindex.org/sites/default/files/datasheets/YE.pdf>; Human Rights Watch, "Yemen", *Submission to the CEDAW Committee for the 62nd session*, 2015, pp. 7-8, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf

⁷⁵ Article 232 of the Penal Code (1994), <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/83557/92354/F1549605860/YEM83557.pdf>

					<p>Demographic and Health Survey:⁷⁹</p> <ul style="list-style-type: none"> • Over 94% of married women understood domestic violence to mean: (i) physical abuse; (ii) denial of education; (iii) forced marriage; (iv) rape; and (v) sexual harassment; • Over 80% of married women understood domestic violence to mean: (i) lack of participation in decision-making in household matters; (ii) lack of participation in decision making for children; and (iii) better treatment of males than females; • Only 68% of
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⁷⁹ Ministry of Public Health and Population, Central Statistical Organisation, Pan Arab Program for Family Health and ICF International, "Yemen Demographic and Health Survey 2013", Tables 14.12, 14.13, pp. 186-187, <http://dhsprogram.com/pubs/pdf/FR296/FR296.pdf>

					<p>married women were of the opinion that failure to meet basic living costs constitute domestic violence;</p> <ul style="list-style-type: none"> Women were of the opinion that the common perpetrator of violent acts against women are: father or mother (37%); brother or sister (35%); son or daughter (19%); and husband (3%).
<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 Yemeni man may pass his nationality to his non-Yemeni wife, provided she meets various conditions.⁸⁰ However, the law does not specifically provide for a Yemeni woman to confer her nationality to her foreign husband.⁸¹</p> <p>A woman does not lose her citizenship upon marrying a Muslim foreigner, unless she</p>				<p>According to Human Rights Watch, although there is no such specification under the law, it is not uncommon for authorities to require women to have the authorisation of their male guardian (usually their</p>

⁸⁰ Article 11 of the Nationality Law (1990), <http://www.refworld.org/docid/3ae6b57b10.html>

⁸¹ Human Rights Watch, "Yemen", *Submission to the CEDAW Committee for the 62nd session*, 2015, p. 3, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf

<p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>indicates a desire to surrender her Yemeni nationality.⁸²</p> <p>Both a Yemeni mother and father may pass their citizenship to their children regardless of where the children are born.⁸³</p>				<p>husband or father) in order to obtain an identity card or passport.⁸⁴</p>
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⁸² Article 10 of the Nationality Law (1990), <http://www.refworld.org/docid/3ae6b57b10.html>

⁸³ Article 3 of the Nationality Law (1990), <http://www.refworld.org/docid/3ae6b57b10.html>; Yemen State party report, U.N. Doc. CEDAW/C/YEM /7-8 (2014), p. 32, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁸⁴ Human Rights Watch, "Yemen", *Submission to the CEDAW Committee for the 62nd session*, 2015, p. 3, https://www.hrw.org/sites/default/files/related_material/2015_HRW%20CEDAW%20Submission_Yemen.pdf