



**THEMATIC REPORT ON MUSLIM FAMILY LAW AND  
MUSLIM WOMEN'S RIGHTS IN  
YEMEN**

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***Submitted by:***

**Musawah**

15, Jalan Limau Purut, Bangsar Park, 59000 Kuala Lumpur, Malaysia

Tel: +603 2083 0202 Fax: +603 2202 0303

Email: [musawah@musawah.org](mailto:musawah@musawah.org)

Website: [www.musawah.org](http://www.musawah.org)

## I. INTRODUCTION

**Musawah**, the global movement for equality and justice in the Muslim family, submits this Thematic Report to the CEDAW Committee in its review of the Government of Yemen, reporting before the 80th CEDAW Session in October–November 2021.

This is the CEDAW Committee’s combined seventh and eighth periodic engagement with Yemen, which acceded to CEDAW in 1984. Yemen’s last full review before the CEDAW Committee was in 2007, but the socio-economic-political situation on the ground has drastically changed since then.

This report examines Yemen’s legal framework and practices that enforce *de jure* and *de facto* discrimination against Muslim women in the following priority areas:

- Child Marriage
- Forced Marriage
- Violence Against Women
- Inheritance Rights
- Nationality Rights

The report was drafted by Shaza Loutfi in conjunction with a joint team of researchers from Musawah and the International Human Rights Clinic at Harvard Law School. Research and analysis completed prior to drafting, which forms the basis of this report, was also conducted by the International Human Rights Clinic team. We would like to thank Dr. Bilqis AbuOsba and Ghaidaa Motahar for reviewing the report and providing substantive insights on the lived realities of Yemeni Muslim women.

## II. CONTEXT

### Conflict

Originally destabilised by political transition in 2011, Yemen has now been in conflict for nearly seven years. Even before the war, Yemen was the poorest country in the Middle East/North Africa (MENA) and the ongoing conflict has exacerbated the country’s issues exponentially,<sup>1</sup> launching one of the world’s worst humanitarian and human rights crises.

Multiple rounds of peace talks have failed, and the country has fragmented territorially and institutionally. The official government is based outside of the country, with little-to-no influence

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<sup>1</sup> “The World Bank In Yemen: Overview,” *The World Bank*, Mar 25, 2021, <https://www.worldbank.org/en/country/yemen/overview#.1> (“The World Bank”).

on the ground.<sup>2</sup> Government-controlled areas are in practice controlled by unelected officials and armed militias.<sup>3</sup> Other areas are controlled by the Houthis, in whose territory there has been a near-complete breakdown of judicial institutions; they have implemented a myriad of anti-women policies and established the Zainabiyat,<sup>4</sup> tasked with enforcing restrictions on women. The Houthis also retain a firm grip on all activities within their territory, requiring both their permission and the involvement of a member of their group, leading most non-governmental organizations to implement their projects in non-Houthi-controlled areas.<sup>5</sup> Houthis in some areas have instituted additional measures to control women's movement, declaring they may not travel without an accompanying *mahram*, or male kin.

## COVID-19 pandemic

The COVID-19 pandemic has aggravated the country's already-dire socio-economic conditions. A routine survey by the UN's World Food Programme showed households that were able to afford food at the start of the pandemic could no longer do so by the end of 2020, with 40% of households at poor or borderline consumption.<sup>6</sup>

An accurate number of COVID-19 cases and related deaths remains unconfirmed given the country's weak tracking infrastructure. Additionally, both the government and the Houthi rebels allegedly withhold or manipulate pandemic-related data.<sup>7</sup>

The most affected by COVID-19 are the most vulnerable: internally displaced persons have disproportionately lost their unskilled jobs and been blamed for spreading the virus,<sup>8</sup> and the incidents of violence against women from their families and husbands rose to 63% from the war, with many experts linking the increase to the pandemic.<sup>9</sup> In Houthi-controlled areas, traditionally female-operated businesses have been forced to close while men's businesses remain open.<sup>10</sup>

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<sup>2</sup> Gregory D. Johnsen, "The end of Yemen," *The Brookings Institution*, March 25, 2021, <https://www.brookings.edu/blog/order-from-chaos/2021/03/25/the-end-of-yemen>.

<sup>3</sup> "To End Yemen's Tragic Plight, Parties Must Agree on Humanitarian Action, Nationwide Ceasefire, Special Envoy Tells Security Council," *United Nations Security Council*, April 15, 2021, <https://www.un.org/press/en/2021/sc14494.doc.htm> ("UNSC").

<sup>4</sup> A trained and armed women's military faction of the Houthis, who carry out house raids, disperse women-staged demonstrations, and arrest or detain women. See Nabil Abdullah al-Tamimi. "Houthis use all-female battalions to suppress Yemeni women." *Al-Mashareq*, 16 August 2018. [https://almashareq.com/en\\_GB/articles/cnmi\\_am/features/2018/08/16/feature-01](https://almashareq.com/en_GB/articles/cnmi_am/features/2018/08/16/feature-01).

<sup>5</sup> Information received from Yemeni advocate, August 2021.

<sup>6</sup> The World Bank, <https://www.worldbank.org/en/country/yemen/overview#1>.

<sup>7</sup> "Freedom in the World 2021: Yemen," *Freedom House*, <https://freedomhouse.org/country/yemen/freedom-world/2021> ("Freedom House").

<sup>8</sup> Freedom House, <https://freedomhouse.org/country/yemen/freedom-world/2021>.

<sup>9</sup> Information received from Yemeni advocate, August 2021.

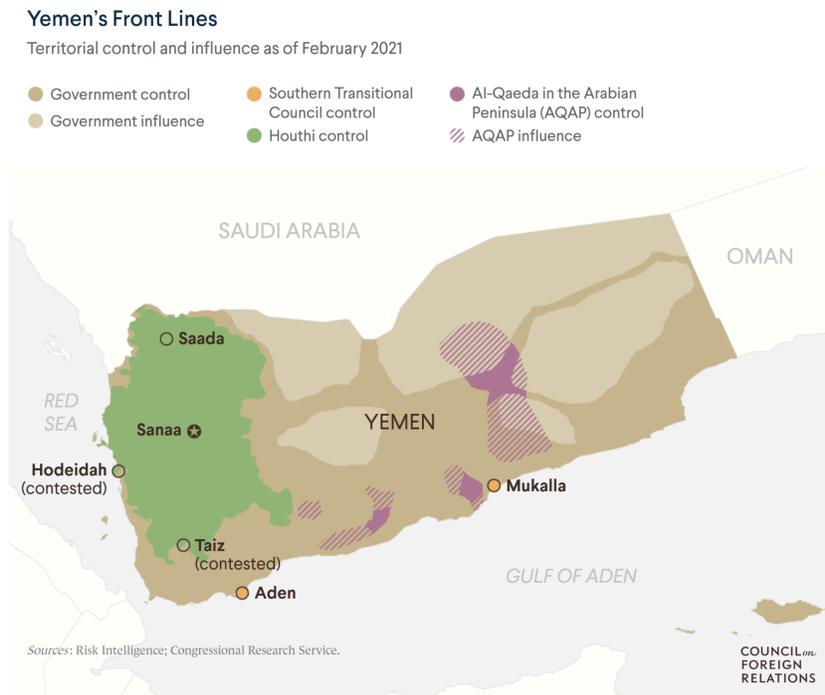
<sup>10</sup> *Ibid.*

### III. LEGAL FRAMEWORK

#### Overview

Yemen can be described simply as currently housing a number of separate legal systems, each corresponding to a distinct context:

- Remote or rural areas lack serious governance as the government faces challenges in implementation and enforcement there.
- Houthi-controlled areas, where the official government maintains little leverage,<sup>11</sup> have their own legal structures, including for taxes and security.<sup>12</sup>
- Government-controlled areas are a mixed-bag, with local authorities sometimes upholding official government policy while neglecting or contradicting them at other times.<sup>13</sup>



#### Constitution

The Yemeni constitutional provisions of equality (Article 24, 25, and 41 for example) are contradicted by other discriminatory provisions in the constitution. Article 3 states that “Islamic law is the source of all legislation,” while Article 31 denotes that, “Women are sisters of men, and their rights are according to Sharia and as stipulated by the law.” Both provisions work against

<sup>11</sup> Kali Robinson, “Yemen’s Tragedy: War, Stalemate, and Suffering,” Council on Foreign Relations, February 5, 2021, <https://www.cfr.org/background/yemen-crisis>.

<sup>12</sup> Dr. Jack Watling, “In Yemen, Competitors Lay the Ground for the Long Haul,” RUSI, June 14, 2021, <https://rusi.org/explore-our-research/publications/commentary/yemen-competitors-lay-ground-long-haul>

<sup>13</sup> UNSC, <https://www.un.org/press/en/2021/sc14494.doc.htm>.

women in Yemen, denigrating them to sisters rather than citizens and allowing for a wide range of interpretations under Islamic law.

A first draft of a new constitution was released in January 2015 by a drafting committee comprising 23.5% women. The draft included gender equality and non-discrimination, a quota of 30% women in government, and prohibited marriage under the age of 18 for both sexes. While there remains room for improvement, especially in guaranteeing equal rights independent of Islamic law perspectives, this draft constitution remains unratified.

## **Family Law**

Yemen's family law is codified as Yemen's Personal Status Law (YPSL, 1992). Despite constitutional provisions emphasising equality, 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 her husband, a wife is expected to obey him: a "maintenance-for-obedience" system. Provisions in the YPSL therefore discriminate against women as it is based on male authority and male guardianship, reinforcing the gender-stereotypical roles of man/husband as head of household and financial provider and woman/wife as the primary caregiver in the home<sup>14</sup>. Given the political situation there is no functioning legal system through which family laws could operate.

## **Access to Justice**

The conflict in Yemen has led to a deterioration in the access to and quality of judicial remedies. The level of this deterioration varies according to the specific area. For example, courts in Taiz and Aden have completely closed their doors, while in other areas the courts may remain open but hire unqualified judges.<sup>15</sup>

Even where women can access the judicial system despite restricted movement, they face logistical obstacles. Cases can take years to be resolved, extending the time a woman must wait before she is able to access her matrimonial assets or gain custody of her children. The cost of going to court can also be prohibitive despite any legal aid programs the government supports.<sup>16</sup> In Houthi-controlled areas, the judge can order a pro-bono lawyer, but this is not always implemented.<sup>17</sup> Finally, outcomes so rarely work in the women's favor that the risk of losing makes the investment of time and money unreasonable.

Given this situation, most women will choose to go to local sheikhs or leaders to help them resolve problems, including divorce, custody, and distribution of matrimonial assets. Yemeni women (both

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<sup>14</sup> "Who Provides? Who Cares? Changing Dynamics in Muslim Families" Musawah, 2018, pp. 11-18. <https://www.musawah.org/resources/who-provides-who-cares-changing-dynamics-in-muslim-families>.

<sup>15</sup> Information received from Yemeni, July 2021.

<sup>16</sup> "Replies of Yemen to the list of issues and questions in relation to its combined seventh and eighth periodic reports," CEDAW/C/YEM/RQ/7-8, July 14, 2020, page 7, para 28.

<sup>17</sup> Information received from Yemeni advocate, July 2021.

urban and rural) find it easier to access these informal actors, as they keep their doors open to the community and female members of a sheikh's family are typically well-known and can serve as a comfortable point of contact for women.<sup>18</sup> However, most often in family-related issues, a local sheikh will suggest the issue be resolved with the men in the family, rendering decisions male-centric by default.

## IV. KEY ISSUES AND RECOMMENDATIONS

### 1. CHILD MARRIAGE

### Article 16

There is no minimum legal age of marriage for females or males in Yemen. YPSL Article 15 only restricts the validity of a girl's marriage (or more specifically, the act of having sex with her or moving her to the marital home) to the time she is ready for sex, broadly understood as the time of her first menstrual cycle. This narrow limitation is respected "even if she exceeds 15 years old." Nevertheless, a marriage contract can be completed at any age. For a young boy, the YPSL states his early marriage is valid only if proven to be beneficial, though no minimum age is specified.

According to UNICEF, Yemen has the highest rate of child marriage in the Middle East. Human Rights Watch estimates that "52% of Yemeni girls are married – often to much-older men – before the age of 18, and 14% before the age of 15,"<sup>19</sup> although some other estimates place these numbers considerably higher.<sup>20</sup> Girls who are married at such a young age "often drop out of school, are more likely to die in childbirth, and face a higher risk of physical and sexual abuse than women who marry at 18 or later."<sup>21</sup>

Though the problem of child marriage existed prior to the war, it has been significantly exacerbated under the conflict and the related socioeconomic difficulties it has engendered, such as high unemployment and poverty rates. Since the beginning of the conflict, the rate of child marriages in Yemen has increased by three times, according to a UN report.<sup>22</sup> Financial pressures are provoking many Yemeni parents into marrying off their young daughters to claim her *mahr* (dower).<sup>23</sup> Although the bride owns the dower by law (YPSL Article 33(2)), it is often used by the family for basic needs. In this sense, child marriage in Yemen has taken on an element of sex trafficking, with reports of young brides "sold" and smuggled across the border into the Sultanate of Oman.<sup>24</sup>

<sup>18</sup> Ghaidaa Motahar, "Gendered Security: Gender-based Violence and Women's Access to State and Non-state Security Provision in al-Dhali," *Yemen Policy Center*, April 2020, <https://www.yemenpolicy.org/gendered-security>.

<sup>19</sup> "Yemen: End Child Marriage," *Human Rights Watch*, April 27, 2014, <https://www.hrw.org/news/2014/04/27/yemen-end-child-marriage> ("Human Rights Watch").

<sup>20</sup> <https://raseef22.net/article/29638-early-marriage-in-yemen>

<sup>21</sup> Human Rights Watch, <https://www.hrw.org/news/2014/04/27/yemen-end-child-marriage>.

<sup>22</sup> *AlArabiya*: <https://tinyurl.com/rt9u8tnd> . حملة توقف زفاف طفلة باليمن وتعيد زواج القاصرات للواجهة

<sup>23</sup> <http://www.nfdhr.org/news/695#.YLQJ5qhKjb1>

<sup>24</sup> Al Shaibany, S. and Al Wasmi, N., "Child marriage on the rise as conflict in Yemen continues", *The National*, 17 April 2018, available at: <https://www.thenational.ae/world/mena/child-marriage-on-the-rise-as-conflict-in-yemen-continues-1.722499>.

Similarly, child marriage is used to settle debts between families. One man was forced to marry his 9-year-old daughter to his creditor's 27-year-old son, accepting the *mahr* as the loans he had borrowed.<sup>25</sup> A girl was also married at age 11 to pay off \$120 her father had borrowed,<sup>26</sup> and another 11-year-old was married to pay back \$90.<sup>27</sup> Given the mounting economic pressures, the rate of child marriage has increased in more urban areas as well as rural.<sup>28</sup> Key voices against child marriage include N., who became the world's youngest divorcee at the age of 10, and D., who escaped being married off at 11 and founded a foundation to fight against child marriage.

### **Recent attempts at law reform**

Although some judges in Yemen have invoked the “*Shari’ah* clause” to invalidate child marriages based on their individual interpretations of *Shari’ah*, permanent changes to the law have been rejected on the basis of *Shari’ah* as well. Attempts were made to amend the laws and raise the minimum age of marriage to 18 years old, but the Yemeni parliament has failed to pass the legislation.

The Government of Yemen must move to consider positive legal developments from other Muslim countries that have raised the minimum age of marriage to 18 years, using Islamic jurisprudential evidence and various tools from Muslim legal tradition, as well as international human rights principles. A few of these are presented below:

MINIMUM AGE OF MARRIAGE	POSITIVE DEVELOPMENTS IN MUSLIM FAMILY LAW GLOBALLY
MINIMUM AGE OF MARRIAGE 18 WITH NO EXCEPTIONS	<p><b>EGYPT</b></p> <p>The minimum age for marriage is 18 for both females and males. The registration of the marriage of a person below 18 is prohibited and penalised.</p>
	<p><b>KENYA</b></p> <p>The minimum age for marriage is 18 for both females and males regardless of religion. Any person who marries or knowingly celebrates or witnesses the marriage of a person below 18 commits an offence and will be liable to a penalty (imprisonment, fine or both).</p>
	<p><b>PAKISTAN (Sindh Province):</b></p> <p>The minimum age for marriage is 18 for both females and males. The law criminalises and penalises the following: (i) males over 18 who contracts a child marriage; (ii) whoever performs, conducts or directs a child marriage; and (iii) parents or guardians who promote a child marriage, permit it to be solemnised or negligently fail to prevent it from being solemnised.</p>

Such a move could help to unify the country's approach to the issue and support efforts combatting child marriage already underway. Early this year in Taiz, the wedding of an 11-year-old girl to a 50-year-old man was halted after a social media hashtag campaign. Security forces—

<sup>25</sup> *AlAraby*: <https://tinyurl.com/2vrxavt7>. "زواج القاصرات في اليمن.. عائلات تبيع بناتها بـ"الديون"

<sup>26</sup> <https://arabic.cnn.com/middleeast/2014/03/08/violence-women-yemen>

<sup>27</sup> <https://raseef22.net/article/29638-early-marriage-in-yemen>

<sup>28</sup> *AlAraby*: <https://tinyurl.com/2vrxavt7>.

principally funded by the government—placed the girl’s father in prison to deter others intending to do the same. They also issued a circular banning underage marriage and punishing violators, while simultaneously ordering security forces to monitor for child marriages.<sup>29</sup> Taiz police are credited with the first-ever intervention to stop a child marriage in Yemen in 2013.<sup>30</sup> At the time, Yemen’s Ministry of Human Rights had made the issue of child marriage a priority, and in 2014 the National Dialogue Conference took decision 167 to establish the minimum age of marriage at 18 years old.

## RECOMMENDATIONS

- Establish a minimum age of marriage of 18 years old.
- Amend the circular issued by the Ministry of Justice to *Shari’ah* officials to instruct them not to officiate any marriages of women under the age of 18 years old, rather than 17 years, and institute penalties for violators.
- Provide targeted training programs to law enforcement officials, the judiciary, healthcare workers, and social workers to respond to reports of child marriages, in order to effectively prevent such marriages where possible, prosecute those responsible, ensure effective penalties, and provide adequate support to victims.

## 2. FORCED MARRIAGE

### Article 16

Child marriage often overwhelmingly coincides with forced marriage, despite YPSL Article 10 prohibiting forced marriages. Consent of a child cannot be considered valid and children lack the capacity and awareness to make marriage decisions. Often, children are lied to or remain uninformed of their fate at the time of marriage, as was the case with N., who was taken to her new husband’s house under the pretext of visiting family and was then left there.<sup>31</sup> YPSL Article 23 allows for a virgin’s silence to be taken as consent, facilitating forced marriage especially where children are involved.

The issue is further compounded by the fact that the family typically takes the bride’s *mahr* (dower), effectively locking her into the marriage against her will, given that initiating a divorce by a woman in Yemen (using the *khul’* mechanism) requires the woman to return the *mahr*, under YPSL Article 54. Although there are exceptions to this, such as a judge finding abuse in the marriage, practical obstacles for a child accessing courts and having her testimony perceived as credible still exist. Lack of consent also exists for older women, as they can be married off by

<sup>29</sup> *AlArabiya*: <https://tinyurl.com/rt9u8tnd> . حملة توقف زفاف طفلة باليمن وتعيد زواج القاصرات للواجهة .

<sup>30</sup> Sebastian Usher, “Yemen police 'stop child's wedding',” *BBC*, November 8, 2013, <https://www.bbc.com/news/world-middle-east-24870526>.

<sup>31</sup> *The Independent Arabia*: <https://tinyurl.com/2m2nv3hv> . الحرب تُعش "زواج القاصرات" في اليمن .

male relatives not only without consent but without even their knowledge, by the guardianship structure set out in the law.

## RECOMMENDATIONS

- Abolish the institution of male guardianship in marriage, which allows for the consent of the guardian to supersede the consent of the woman, enabling forced marriages.
- Require the clear, affirmative consent of the bride for officiating marriages in all cases.
- Enforce penalties for forced marriage and train law enforcement officials and the judiciary to respond effectively to reports of forced marriages and provide adequate protections for women who report such practices.

## 3. VIOLENCE AGAINST WOMEN

Articles 1-5, 16 & 19, & GR35

Currently, there is no general legislation for domestic violence. Article 232 of the Penal Code provides for the punishment of a man convicted of killing or seriously harming his wife upon finding her in the act of adultery; however, it is limited to up to one year's imprisonment. Furthermore, the Penal Code does not criminalise marital rape, and YPSL Article 40(2) in fact requires a woman to provide sex to her husband, creating a significant legal gap for marital rape.

An intricate legal system that fails to criminalise certain acts of violence against women alongside rules of blood money and family pardoning means violence against women goes unpunished, contributing long-term to an environment of increasing domestic violence amid the ongoing conflict and pandemic.

This is exemplified through the story of S., whose brother killed her in front of a judge in a Sana'a courtroom. Despite significant witnesses, her brother remains free to this day. He was only requested to pay penalty blood money, which is for the victim's family, in this case also his own. Furthermore, the victim's immediate family may pardon the murderer, which they chose to exercise in this case as they "considered his crime an attempt to avenge his honor and reputation."<sup>32</sup> This norm is further perpetuated by the social stigma around reporting domestic abuse, which is seen as a domestic matter to be dealt with in the family, leading to lack of pathways to justice for victims, training for law enforcement authorities, and accountability from community adjudicators.

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<sup>32</sup> Fairoz Al-Garadi, "The Case of Guardianship in Marriage in Conceptual Debates and Real Life Stories," *Al-Madaniya*, October 12, 2020, [https://almadaniyamag.com/2020/10/12/guardianship\\_in\\_marriage](https://almadaniyamag.com/2020/10/12/guardianship_in_marriage).

## ***Female Genital Mutilation (FGM)***

FGM is not criminalised and, in some areas in Yemen, is accepted as a cultural practice that is especially suited to curbing girls' sexual drive and preventing shame to the family from early pregnancy.<sup>33</sup> It is practiced mostly in specific areas, especially along the coast in Hodeida and Hadramaut, usually conducted in rural areas by a traditional midwife.<sup>34</sup> The prevalence across Yemen can range from less than 1% to over 80% (Al-Mhrah and Hadramaut).<sup>35</sup> While there had been extensive work by activists to combat its spread, the war superseded their priorities and there is now significant risk of the practice spreading to less remote areas.

In 2014, the National Dialogue Conference took decision 94 to criminalize assault on bodily integrity, including FGM.<sup>36</sup> This should be made into law as soon as possible.

### **RECOMMENDATIONS**

- Enact without delay legislation on violence against women and girls, including domestic violence, to ensure that all violence against women constitutes a criminal offence.
- Amend without delay the Penal Code to criminalise marital rape.
- Adopt legislation criminalising female genital mutilation, and strengthen awareness-raising and educational efforts, targeted at both men and women, with the support of civil society organizations and religious authorities, in order to completely eliminate this practice and its underlying justifications.
- Establish female sections in police stations and hire more female officers to deal with complaints and investigations of violence against women.
- Train law enforcement, the judiciary, healthcare workers, and social workers to respond effectively and provide adequate support to victims of violence.
- Establish government-funded shelters for victims of domestic and sexual violence across the different governorates to safely accommodate survivors and their children, and put into place a comprehensive support system in order to rehabilitate these survivors and reintegrate them into the community.

<sup>33</sup> Information received from Yemeni advocate, August 2021.

<sup>34</sup> "Female Genital Mutilation Dashboard (FGM) - Yemen," UNFPA, <https://www.unfpa.org/data/fgm/YE>.

<sup>35</sup> "FGM in Yemen," *28TooMany*, September 2020, [https://www.28toomany.org/static/media/uploads/Country%20Research%20and%20Resources/Yemen/yemen\\_short\\_report\\_v1\\_\(september\\_2020\).pdf](https://www.28toomany.org/static/media/uploads/Country%20Research%20and%20Resources/Yemen/yemen_short_report_v1_(september_2020).pdf).

<sup>36</sup> "Replies of Yemen to the list of issues and questions in relation to its combined seventh and eighth periodic reports," CEDAW/C/YEM/RQ/7-8, July 14, 2020, page 6, para 23.

- Repeal any discriminatory penal provisions of the Penal Code to ensure that murders committed against women by their husbands or male relatives are prosecuted and punished in the same way as any other murder.

#### 4. INHERITANCE

Articles 15 & 16

Article 23 of the Yemeni Constitution states that, “The right of inheritance is guaranteed according to the Islamic sharia and shall be promulgated by law.” This led to YPSL Articles 299-347, in which women and men in the same degree of relationship to a deceased are not entitled to equal shares in the estate. In many instances, a woman only receives half of the inheritance that a man with the same degree of relationship to the deceased would receive.

For Yemeni women, the most pressing concerns regarding inheritance rights are: unequal inheritance under the law, stolen or refused inheritance, and coercion into methods that keep inheritance lawfully within the family, such as forced marriage to relatives. Stolen or refused inheritance is of particularly significant concern. Protests have been documented of Yemeni women demanding their right to inheritance and sometimes turning to the courts to enforce their rights, especially where men have taken their inheritance by forging their signatures.<sup>37</sup>

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<sup>37</sup> <https://www.facebook.com/watch/?v=10156206556407910>

**Equal right to inheritance**



**Turkey**

**Inheritance law does not discriminate on the basis of gender.**  
Equal division of property and assets acquired during the marriage is the default property regime.

**Divisions of property through bequests, agreement etc.**

**Jordan, Tunisia:**

Bequests can be made in favour of an heir and beyond the one-third limit if other heirs agree to it.

**Malaysia:**

Division of the deceased's property can be changed in whatever manner if all heirs agree to such division.

**Singapore:**

The Islamic Religious Council of Singapore has issued the following three religious rulings (*fatwas*) to protect the financial welfare of Muslim women and their dependants:

- The 2008 *fatwa* on joint tenancy recognises the surviving spouse (or co-owner) as the legal owner of a jointly held property upon the death of the other spouse (or co-owner);
- The 2010 *fatwa* on CPF nominations recognises that when Muslim CPF account holders make a nomination of their CPF savings in favour of their spouse or children upon their death, it is considered a valid gift;
- The 2012 *fatwa* on revocable insurance nominations allows Muslim policy holders to nominate their spouse or dependants to receive the full payout from the insurance company as a valid gift.

**RECOMMENDATIONS**

- Reform provisions on inheritance to grant inheritance on equal grounds for women and men, putting into place additional mechanisms to effectively implement the inheritance rights of women. The State may draw from progressive legislation in other Muslim contexts such as Turkey, Jordan, Tunisia, Malaysia, and Singapore.
- Ensure judicial access to and effective remedies for women whose inheritance has been forcibly taken from them, including instituting proper evidentiary standards in cases of inheritance disputes.

## MUSAWAH JUSTIFICATION FOR REFORMS

Reform of inheritance laws remains a most difficult issue as most Muslims believe that these inequitable shares are specified in the Qur'an and therefore unchangeable. However, the text was revealed within a context when men were sole providers and protectors of the family.

The reality today is that women are co-providers, and even the sole provider and protector of the family. And yet the law has not changed to recognize this changing reality and ensure that justice remains the objective of Islamic law and practice. It is important to note that the Qur'an accords the right of the father and mother of the deceased to inherit equally. So, the possibility for equality in inheritance cannot be considered unIslamic.

<p><b>DIVERSITY OF ISLAMIC LEGAL TRADITION</b></p>	<ul style="list-style-type: none"> <li>• Many modern Muslim nation-states have adapted these rules from one of the major Sunni or Shi'ite schools of law, have combined rules from two or more different schools, or have created modern inheritance laws based loosely on traditional jurisprudence but suited for modern realities.</li> <li>• Because human interpretations have played such a key role in shaping both the traditional inheritance rules and the modern codifications of inheritance laws, the standard articulation of these rules cannot be considered divinely revealed Shari'ah, but rather man-made <i>fiqh</i>/jurisprudence.</li> </ul>
<p><b>QUR'AN RECOGNIZED WOMEN'S FINANCIAL INDEPENDENCE</b></p>	<ul style="list-style-type: none"> <li>• The Qur'an introduced numerous reforms to existing cultural practices relating to financial provisions for women, including allowing women to keep their own property and giving women shares of inheritance.</li> <li>• This was the beginning of a trajectory of reform that, carried forward 1400 years later to reflect the changing times and context, should lead to law reforms that upholds equality between men and women in all areas, including financial matters.</li> </ul>

## 5. NATIONALITY

### Article 9

Article 11 of the Yemeni Nationality Law outlines the conditions allowing a Yemeni man to pass his nationality to a non-Yemeni wife. However there is no such provision for a Yemeni woman to confer her nationality to a non-Yemeni husband, indirectly prohibiting the situation.

The manner in which nationality is passed to a child depends on whether Yemeni nationality will be received from the father or mother, as outlined in Article 3 of the Nationality Law. Article 3 states that "Anyone born to a Yemeni father who enjoys Yemeni Nationality" will have Yemeni nationality, whereas a mother can only pass on her nationality if the father is legally unknown, stateless, or his nationality is unknown. Furthermore, this provision was enacted in 2010 without retroactive effect, unless a request to grant citizenship is submitted within 3 years from the date of the amendment and approved by the Minister, or after a year has passed since the submission

of the request.<sup>38</sup> The committee formed to review these applications received only five to six cases and then stopped its work.<sup>39</sup>

NATIONALITY	POSITIVE DEVELOPMENTS IN MUSLIM FAMILY LAW GLOBALLY
<b>TRANSMISSION OF CITIZENSHIP FROM MOTHER TO CHILD</b>	<b>AFGHANISTAN, ALGERIA, BANGLADESH, INDONESIA, EGYPT, KENYA, MALI, MOROCCO, PAKISTAN, PALESTINE, SINGAPORE, SOUTH AFRICA, TURKEY, YEMEN:</b> Mothers may pass their citizenship to their children regardless of where their children are born. <b>EGYPT, INDONESIA, MALI, PAKISTAN:</b> Laws or procedures specifically confer women married to foreign-born husbands with the right to transmit their citizenship to their children.
<b>TRANSMISSION OF CITIZENSHIP TO FOREIGN-BORN HUSBANDS</b>	<b>AFGHANISTAN, ALGERIA, INDONESIA, IRAQ, KENYA, SINGAPORE, SENEGAL, SOUTH AFRICA, SRI LANKA, TURKEY:</b> A woman married to foreign-born husband can transmit her citizenship to him.

## RECOMMENDATIONS

- Amend the Nationality Law to remove discrimination by permitting a Yemeni woman to pass on her nationality 1) to her children from a foreign spouse in the same way a Yemeni father would, and ensure the provision is applied retroactively and automatically; and 2) to her foreign spouse.

<sup>38</sup> Shadow report of Sisters' Arab Forum for Human Rights/Yemeni NGOs CEDAW Coalition, submitted to the 80th Session of the CEDAW Committee, October 4, 2020, page 16.

<sup>39</sup> Shadow report of Civil Alliance for Rights and Feminism, submitted to the 80th Session of the CEDAW Committee, October 2020, page 13.

## V. ANNEX OF SHORTENED LINKS IN FOOTNOTES

22 and 29) AlArabiya: <https://tinyurl.com/rt9u8tnd>

حملة توقف زفاف طفلة باليمن وتعيد زواج القاصرات للواجهة

<https://www.alarabiya.net/arab-and-world/yemen/2021/01/28/%D8%AD%D9%85%D9%84%D8%A9-%D8%AA%D9%88%D9%82%D9%81-%D8%B2%D9%81%D8%A7%D9%81-%D8%B7%D9%81%D9%84%D8%A9-%D8%A8%D8%A7%D9%84%D9%8A%D9%85%D9%86-%D9%88%D8%AA%D8%B9%D9%8A%D8%AF-%D8%B2%D9%88%D8%A7%D8%AC-%D8%A7%D9%84%D9%82%D8%A7%D8%B5%D8%B1%D8%A7%D8%AA-%D9%84%D9%84%D9%88%D8%A7%D8%AC%D9%87%D8%A9>

25 and 28) AlAraby: <https://tinyurl.com/2vrxavt7>

"زواج القاصرات في اليمن.. عائلات تبيع بناتها بـ"الديون

<https://www.alaraby.co.uk/%D8%B2%D9%88%D8%A7%D8%AC-%D8%A7%D9%84%D9%82%D8%A7%D8%B5%D8%B1%D8%A7%D8%AA-%D9%81%D9%8A-%D8%A7%D9%84%D9%8A%D9%85%D9%86-%D8%B9%D8%A7%D8%A6%D9%84%D8%A7%D8%AA-%D8%AA%D8%A8%D9%8A%D8%B9-%D8%A8%D9%86%D8%A7%D8%AA%D9%87%D8%A7-%D8%A8%D9%80-%22%D8%A7%D9%84%D8%AF%D9%8A%D9%88%D9%86%22>

31) The Independent Arabia: <https://tinyurl.com/2m2nv3hv>

الحرب تُنْعَش "زواج القاصرات" في اليمن

<https://www.independentarabia.com/node/5556/%D8%AA%D8%AD%D9%82%D9%8A%D9%82%D8%A7%D8%AA-%D9%88%D9%85%D8%B7%D9%88%D9%84%D8%A7%D8%AA/%D8%A7%D9%84%D8%AD%D8%B1%D8%A8-%D8%AA%D9%8F%D9%86%D8%B9%D8%B4-%D8%B2%D9%88%D8%A7%D8%AC-%D8%A7%D9%84%D9%82%D8%A7%D8%B5%D8%B1%D8%A7%D8%AA-%D9%81%D9%8A-%D8%A7%D9%84%D9%8A%D9%85%D9%86>