



Bahrain

Gender Justice & The Law

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Bahrain

Gender Justice

Assessment of laws affecting gender equality and protection against gender-based violence

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ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee	UN Committee on the Elimination of Discrimination against Women
ESCWA	Economic and Social Commission for West Asia
FGM/C	female genital mutilation / cutting
GBV	Gender-based violence
ILO	International Labour Organization
IOM	International Organization for Migration
NGO	Non-government organization
OECD	Organisation for Economic Co-operation and Development
SDGs	Sustainable Development Goals
UNDP	United Nations Development Programme
UNESCWA	United Nations Economic and Social Commission for West Asia
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commission for Refugees (UN Refugee Agency)
UNICEF	United Nations Children's Fund
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
WHO	World Health Organization
Arabic terms	
fatwa	Ruling or pronouncement on a point of Islamic law
'idda	The period a woman must observe after the death of her spouse or after a divorce during which she may not remarry
khalwa	Social mingling of men and women who are unrelated
khul'a	Divorce process initiated by the wife requiring return of her mahr
mahr	Mandatory payment by the groom or his father to the bride which then becomes her property
talaq	Repudiation; divorce process whereby the husband repudiates his wife
'urf	Custom
wali	Guardian
wilaya	Guardianship
zina	Unlawful sex, including adultery and sex between two persons neither of whom are married

INTRODUCTION

Scope

UNDP, in partnership with UN Women, UNFPA, and ESCWA, has conducted a study on Gender Justice and the Law to provide a comprehensive assessment of laws and policies affecting gender equality and protection against gender-based violence in the Arab states region.

The study is composed of an introductory piece that describes the background, rationale, analytical framework and methodology, and a total of 18 country profiles. Each country profile maps the country's key legislative and policy developments regarding gender justice.

This country profile presents the findings of the study relating to Bahrain. It provides an analysis of whether the country's laws and policies promote or impede equality between women and men before the law, and whether they provide protection against gender-based violence.

This country profile includes analysis of the following areas of the law:

- Constitutional guarantees of gender equality and constitutional protections against gender-based violence
- Status of penal codes and whether the country has domestic violence laws that address gender-based violence
- Status of personal status codes and how they impact gender equality
- Status of nationality laws and whether they ensure that women and men enjoy equal rights in relation to citizenship
- Status of labour laws and whether they provide protection from discrimination and gender-based violence in the workplace

Methodology and acknowledgements

The study was conducted in two phases:

1. A literature review was conducted between January 2016 and June 2017 of the various laws, regulations, policies, and law enforcement practices related to gender justice in each of the 18 countries, which then formed the basis of draft country profiles.
2. Realizing the limitations of desk-based literature reviews, country validation processes for each of the draft country profiles were led by UN Country Teams and national consultants. Country validation processes took place between September 2017 and August 2018 to ensure the accuracy of each country profile. These sought the views of government partners and other key national stakeholders.

Drafts of the Bahrain country profile were reviewed by the General Secretariat of the Supreme Council for Women in the Kingdom of Bahrain, whose contributions are gratefully acknowledged. We particularly wish to thank Mr. Mohamed Al-Faris, Advisor, International Relations and Monitoring, Supreme Council for Women. The Supreme Council for Women's representative expressed the following reservation to this report: The term 'gender' is understood to be in its natural state and in accordance with the Constitution and laws of the country and shall not interfere with the principles of religious laws and sovereignty over national development. This applies to any terminology incompatible with human nature and the family consisting of a mother, father and children in their natural state.

The literature reviews that formed the basis of the country assessment were authored by consultants John Godwin and Nadya Khalife. They also edited the final drafts for publication after feedback from the Supreme Council for Women in the Kingdom of Bahrain. Their insights and hard work are recognized with gratitude. Nadya Khalife and Amr Khairy translated the outputs of the study into Arabic and English. Gratitude is also extended to John Tessitore for assistance with copyediting in English.



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country's respective Universal Periodic Reviews.

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Bahrain acceded to CEDAW in 2002 and maintains reservations to Articles 2 (policy measures), 9(2) (equal rights with regard to nationality), 15(4) (freedom to choose residence and domicile), 16 (equality in marriage and family life), and 29(1) (administration of the convention; arbitration in the event of a dispute).

Constitution

Article 18 of the Constitution provides that people are equal in human dignity, and citizens are equal before the law in public rights and duties; there shall be no discrimination among them on the basis of sex, origin, language, religion, or creed.

NATIONALITY LAW

NATIONALITY

Women do not have the same rights as men to pass citizenship to their children and spouse. Men can pass citizenship to their children automatically. Bahraini mothers can pass their citizenship to their children if the child is born from an unknown father or born from a father whose legal status has not been proven.

CRIMINAL LAWS

Domestic violence

Women and girls are protected by the Law on Protection against Domestic Violence, Law No. 17 of 2015. The Law could be strengthened by clarifying if marital rape is criminalized as domestic violence.

Abortion for rape survivors

Abortion under medical supervision is permitted by Article 321 of the Penal Code. A woman has the right to an abortion if a doctor certifies that her life is in danger. However, there is no provision permitting abortion in cases of rape.

Female Genital Mutilation / Cutting (FGM/C)

FGM/C is not practiced in Bahrain, although some cases were reported in the past. FGM/C can be prosecuted as assault under Article 337 of the Penal Code.

Marital rape

Marital rape is not criminalized.

Sexual harassment

Although there is no sexual harassment offence in the Labour Law No. 36 of 2012, workplace sexual harassment of government employees is penalized by the Civil Service Law. The Penal Code criminalizes acts of immorality and assault (Articles 344 and beyond of the Penal Code).

Human trafficking

The Anti-Trafficking in Persons Law No.1 of 2008 prohibits all forms of trafficking in persons and provides prison sentences of three to fifteen years.

Rape (other than of a spouse)

The Penal Code Decree-Law No. 15 of 1976 provides the penalty of life imprisonment for any person who sexually assaults a woman without her consent. The penalty is death or life imprisonment if the victim's age is less than 16 years.

Honour crimes: Mitigation of penalty

Article 334 of the Penal Code permits a reduced penalty for a person (male or female) who surprises his or her spouse in the act of adultery and assaults the spouse or the spouse's partner resulting in death.

Sex work and anti-prostitution laws

Prostitution is prohibited by Articles 324–330 of the Penal Code.

Exoneration by marriage

Article 353 of the Penal Code exempts the offender from criminal prosecution for crimes of rape, sexual assault, or immoral acts if the woman who is the victim of the crime marries her offender.

Adultery

Adultery is an offence under Article 316 of the Penal Code.

Sexual orientation

There is no specific prohibition of homosexual conduct in the Penal Code. There is lack of information about the application of criminal laws relating to debauchery or immoral conduct to penalize consensual same-sex conduct or expression of sexual orientation.

PERSONAL STATUS LAWS

Minimum age of marriage

The legal age of marriage is 16 years for females. A girl under the age of 16 may be married with permission from the court, which must verify the suitability of the marriage before granting permission.

Guardianship of children

The father is the guardian of his children.

Male guardianship over women

The Family Code provides protections for women under male guardianship. An adult Shia woman can contract her own marriage. A guardian (wali) cannot force a woman to marry or oppose a marriage without legitimate reason.

Custody of children

Mothers have limited custody rights, which are defined differently for Sunni and Shia communities.

Marriage and divorce

The Family Code, Law No. 19 of 2017, provides for mutual rights and obligations of spouses. The husband has the right to divorce at his own will by repudiation (talaq). A wife has the right to a khul'a divorce, which requires that she forgoes her financial rights, such as giving up her dowry.

Inheritance

According to the Family Code, Sharia rules of inheritance apply. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

Polygamy

Polygamy is permitted by the Family Code. The husband must declare the number of wives in the marriage contract.

LABOUR LAWS

Right to equal pay for the same work as men

Article 39 of the Labour Law states: "Discrimination is prohibited with respect to wages on grounds of gender, origin, language, religion, or creed."

Domestic workers

Migrant domestic workers have some labour rights. A ministerial decree penalizes an employer who withholds a worker's passport. Rights of domestic workers include access to mediation in labour disputes and the right to be provided with a labour contract.

Dismissal for pregnancy

Labour Law No. 36 of 2012 makes it illegal to dismiss workers because of the sex of the worker, family responsibilities, pregnancy, childbirth, or breastfeeding.

Paid maternity leave

Labour Law No. 36 of 2012 provides that women are entitled to maternity leave on full pay for 60 days. This is less than the ILO standard of 14 weeks.

Legal restrictions on women's work

Article 31 of the Labour Law No. 36 of 2012 allows the Minister of Labour to determine the occupations for which the employment of women is prohibited. The Minister's Decision No. 23 of 2013 prohibits the employment of women in work that is not commensurate with the physiological nature of women.

OVERVIEW

Legal framework

International law

Bahrain acceded to Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2002. Upon accession, Bahrain made reservations to Articles 2 and 16 (equality in marriage and family life) where these articles breach the provisions of Islamic law (considering that Article 2 of the Constitution provides that Islam is the religion of the State and Islamic Sharia law is the main source of legislation), and to Article 9(2) (equal rights between men and women in granting citizenship to children), Article 15(4) (freedom to choose domicile and residence), and Article 29(1) (interpretation and application of the Convention and arbitration in case of dispute).¹

In its keenness to implement its obligations under CEDAW and its efforts towards withdrawing or limiting the scope of certain reservations, Bahrain has reformulated some of these reservations. Decree-Law No. 70 of 2014 amended reservations to Articles 2, 16, and 15(4) to fulfil its obligations without violating the provisions of Islamic law. Bahrain has maintained its reservation to Article 29(1) to preserve its sovereignty, and Article 9(2) on equality between women and men to grant their nationality to their children. Bahrain retains the position that it will need to amend its nationality law prior to reviewing this reservation.²

Domestic laws

The main laws relevant to gender justice are:³

- ☒ Constitution of the Kingdom of Bahrain and its amendments
- ☒ Penal Code of 1976 and its amendments
- ☒ Anti-Trafficking in Persons Law No. 1 of 2008
- ☒ Law No. 36 of 2012 issuing the Labour Law
- ☒ Child Law No. 37 of 2012
- ☒ Law No. 17 of 2015 on Protection against Domestic Violence
- ☒ Family Code, Law No. 19 of 2017

Other laws supportive of the rights of women are:

1. The National Action Charter, which provides for basic principles of equality and non-discrimination related to gender and religious belief.
2. Supreme Order No. 44 of 2001 establishing the Supreme Council for Women, an advisory body under auspices of the King, which is responsible for drafting the general policy and acts as a reference on women's affairs for official bodies.
3. Decree No. 5 of 2002 approving the accession to CEDAW and its amendments.
4. Decree No. 14 of 2002 on the exercise of political rights.
5. Law No. 26 of 2005 on political associations.
6. Law No. 34 of 2005 establishing the maintenance fund.
7. Law No. 35 of 2009 regarding the treatment of non-Bahraini women married to Bahraini men and the children of Bahraini women married to non-Bahraini men.
8. Royal Decree No. 14 of 2011 for the establishment and organization of the National Committee to follow up on the implementation of the national model by integrating the needs of women into government work plans and programmes.
9. Royal Decree No. 59 of 2014 concerning the regulations for the appointment of members of the Shura Council. The second clause stipulates that women should be represented.
10. Legislative Decree No. 22 of 2015 amending certain provisions of the Law of Proceedings before Sharia Courts issued by Legislative Decree No. (26) of 1986, which guaranteed the assignment of family disputes to the family conciliation office before presenting them to the Sharia courts.
11. Decree-Law No. 26 of 1986, which guaranteed the referral of family dispute cases to the Family Reconciliation Office prior to submission to the Sharia courts, which contributed to supporting family stability and the prevention of violence.
12. Decision of the Minister of Justice, Islamic Affairs and Endowments No. 1 of 2016 on the development of a list of legally authorized persons and the provisions of documentation of personal status papers.
13. Decree of the Minister of Justice and Islamic Affairs No. 47 of 2016 on the amendment of some provisions of Decree No. 84 of

¹ Bahrain, Decree-Law No. 5 of 2002.

² Decree-Law No. 70 of 2014 amending certain provisions of legislative Decree No. 5 of 2002 approving the accession to the Convention on the Elimination of All Forms of Discrimination against Women.

³ Legislation can be retrieved from the Legislation and Legal Opinion Commission's website: <http://www.legalaffairs.gov.bh/index.aspx>.

2015 regarding the formation of the Family Conciliation Office and the definition of rules and procedures for settling family disputes.

14. The decision of the Minister of Housing No. 909 of 2015, of which Article 3 includes a fifth category (divorced or abandoned woman or widowed and without one or more sons or a single woman who is orphaned) entitled to temporary housing.
15. Royal Order No. 17 of 2017 specifying the rules for the appointment of the Board of Commissioners of the National Human Rights Institution, which stipulates that women shall be properly represented.
16. Decision of the Minister of Labour and Social Development No. 26 of 2017 on the conditions and procedures for the licensing of family counselling centres.
17. Decision of the Minister of Justice, Islamic Affairs and Endowments No. 51 of 2017 on the transfer of family courts and the Court of First Instance and its administrative bodies to the headquarters of family courts in the area of Al-Hunainia from West Riffa.

Constitution

Article 2 of the Constitution provides that the religion of the State is Islam and that Sharia is a principal source for legislation. This provision justifies reservations entered by Bahrain to CEDAW and other international treaties.

Articles of the Constitution relevant to protection from gender-based violence (GBV) include:

- Article 5(b) provide that the State guarantees reconciling the duties of women towards the family with their work in society, and equality with men in political, social, cultural and economic spheres without breaching the provisions of Islamic Sharia.⁴
- Article 18 provides that people are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the basis of sex, origin, language, religion, or creed.
- Article 19(d) provides that no person shall be subjected to physical or mental torture, enticement, or degrading treatment, and the law shall provide penalties for these acts.

Policy framework

The National Plan for the Advancement of Bahraini Women (2013–2022) includes five actions that seek to ensure family stability for women in the context of family cohesion and to protect women from all forms of violence. This is achieved through legislative and executive measures related to family stability, including the provision of services and counselling, and sustaining these measures by reviewing, developing, and activating them, and by unifying and linking sources of knowledge related to the family with a focus on domestic violence.⁵

A joint committee consisting of the Higher Council for Women, the Ministry of Interior, the Ministry of Labour and Social Development, the Ministry of Justice, Islamic Affairs and Endowments, and the Ministry of Health was established to create a unified database on cases of domestic violence.⁶ In 2017, the Supreme Council for Women, in cooperation with the Ministry of the Interior, launched the family violence database and statistics project “*takatuf*” which aims to:⁷

- ☒ Consolidate statistics on violence
- ☒ Monitor and electronically track cases of domestic violence
- ☒ Resolve duplication of figures to serve national and international studies and reports
- ☒ Analyze indicators and interrelationships between different data

Bahrain is committed to the 17 Sustainable Development Goals, including Goal 5.2 on the elimination of all forms of violence against women and girls through the adoption of a *National Strategy to protect women against domestic violence*, launched by the Supreme Council for Women in 2015. The National Strategy aims to prevent domestic violence and promote the empowerment of women of all ages and at all stages of life, and to positively affect changes in the attitudes and behaviours of all members of society towards women, creating a family environment free from violence, and the management of intellectual social, economic, political, and legal structures to prevent violence against women.⁸

The *National Strategy for the Rights of Persons with Disabilities (2012–2016)*, the *National Strategy on Aging of Older Persons (2012)* and the *National Strategy for Children (2013–2017)* are other policies that address the prevention of GBV.

Law No. 17 of 2015 on Protection against Domestic Violence provides for the protection against various types of violence within the family and addresses several protective and preventive measures for the victim. The domestic violence rate decreased from 0.41

4 Constitution of the Kingdom of Bahrain, http://www.wipo.int/wipolex/en/text.jsp?file_id=189442.

5 Supreme Council for Women, National Plan for the Advancement of Bahraini Women (2013).

6 Supreme Council for Women, National report of the Kingdom of Bahrain on the implementation of progress on the Beijing Declaration and Platform for Action +20 (2014).

7 Supreme Council for Women, National database and statistics of domestic violence “*Takatuf*” (2017), <https://www.scw.bh/en/Women-Needs/National-model/Pages/takatuf2017.aspx>.

8 Supreme Council for Women, National Strategy for the Protection of Women from Domestic Violence. Bahrain: Supreme Council for Women (2015).

per cent in 2014 to 0.39 per cent in 2015 following enactment of this law and the beginning of programmes related to the National Strategy for the Protection of Women from Domestic Violence.⁹

The National Model for the Integration of Women's Needs in Development serves as a national plan of action to bridge gender gaps in various sectors. The model has developed mechanisms to achieve gender balance at the national level and has raised awareness on women's human rights, which contributes to prevention of violence against women.

Royal Decree No. 14 of 2011 establishes and regulates the national committee to follow-up on the implementation of the national model to integrate the needs of women into the work programmes of the government under Her Royal Highness Princess Sabeeka bint Ibrahim Al Khalifa, President of the Supreme Council for Women. The national committee has recommended the formation of a coordinating committee between the Supreme Council for Women and the legislative authority to support the integration of women's needs. The committee is working on bridging legislative gaps on the priority laws for women.

The Ministry of Finance issued directives and instructions to prepare the general budget for 2011–2018, which included instructions for the application of the principle of equal opportunity and budgets responsive to women's needs. Instructions were directed to all government agencies, including those concerned with domestic violence, to monitor the gaps in this regard and monitor specialized resources for programmes, services, and qualified workers in the field.

Several laws and decisions of the Ministry of Housing were issued on granting Bahraini women the right to benefit from housing services since the promulgation of the Housing Law of 1976. The Housing Law has developed over several stages; for example, Article 3 of the Ministerial Decree No. 12 of 2004 granted Bahraini women who are pregnant, divorced and widowed the right to benefit from housing services.

Legal and support services¹⁰

The government has supported the establishment of centres for women survivors of domestic violence, the training of judges, and an increase in the number of policewomen. The government is implementing training and awareness programmes on domestic violence, and the Supreme Council for Women has established a hotline providing legal advice and support to survivors.

The services provided to survivors of domestic violence were developed by the following government institutions: Ministry of Health / Ministry of Interior / Public Prosecution Office (Ministry of Justice) / Ministry of Labour and Social Development). The transportation service attends to the treatment of needy cases and provides suitable waiting rooms for families and children. An eight-hour hotline was also established at the Aisha Yatim Family Counselling Centre, a civil society institution.

There are many family counselling and care centres in the Kingdom of Bahrain that provide services for women survivors of violence, such as the Women's Support Centre of the Supreme Council for Women, the Family Counselling Offices in the Social Centres, the Ministry of Social Development, the Family Support Centre of the Bahrain Women's Union, the Aisha Yatim Family Counselling Centre of the Nahdet al Bahrain Society, the Awal Legal Aid Centre of Awal Women's Association, the Batelco Centre for Family Violence, as well as a shelter for the protection of female migrant workers.

The Centre for Child Protection was inaugurated as a governmental and central body that provides health, psychological, legal, and family services to children subjected to violence, physical or psychological abuse and neglect. The Centre also provides monitoring, investigation, treatment and follow-up services to child victims of physical abuse and neglect.

The Women's Support Centre of the Supreme Council for Women provides care to the family before, during and after marriage including social, psychological and legal services. The Centre addresses problems between spouses so as to prevent or eliminate violence.

In 2017, the Family Protection Office was established in the Muharraq Police Directorate that deals with family affairs and takes into consideration the psychological impact, privacy and confidentiality of domestic violence survivors while working to ensure the preservation of family cohesion. The Office also provides fast and effective responses in dealing with family complaints, and plays a humanitarian and social role, increases the level of awareness of domestic violence, and promotes proper behaviour in dealing with family members. It also updates methods of dealing with juveniles, victims of violence and those involved in family matters. Due to the experience of the Muharraq Police Directorate, the Minister of the Interior issued a decision to introduce the establishment of family protection offices in police directorates in all governorates.

The work of law enforcement institutions and the environment for dealing with abused women has improved through the provision of an independent building for family courts and the development of services of the Family Reconciliation Office in the Ministry of Justice, Islamic Affairs and Endowments.

9 "Al-Ansari: The percentage of implementation of strategic programs to protect women from violence reached 46%", Al-Ayam, 28 November 2017, <http://www.alayam.com/alayam/local/693342/News.html>.

10 Supreme Council for Women, Path of the Supreme Council for Women 2001– 2016 (2016).

Other activities promoting the status of women

The Supreme Council for Women, in coordination with the Bahrain Institute for Political Development, has established a general framework for a programme on political participation for women. The programme has included a number of trainings and awareness activities, and facilitated sharing experiences of success, which influenced the experiences and skills of participants in the programme on legal, constitutional and media skills, which had significant results in the 2014 elections.

The Supreme Council for Women implemented training programmes and workshops to improve the efficiency and build the capacity of workers in the field of prevention, protection and the rehabilitation of men and women. This included training of female workers in police stations and social centres.

The Bahraini Women's Development Centre (Riyadat) was established in partnership with the Bahrain Development Bank to affirm the Supreme Council for Women's direction and methodologies related to women's economic participation to create employment opportunities for Bahraini women who wish to set up private enterprise or to scale-up their businesses. The Riyadat Centre is the first economic incubator in the region dedicated to women, providing administrative, training, advisory, and promotional services. Financial portfolios were also allocated to support and develop small and medium enterprises and to provide advisory services and awareness lectures.

The Supreme Council for Women organized a number of lectures and awareness seminars in 2016 related to the *National Plan for the Advancement of Bahraini Women* in addition to its competency in raising awareness on the role of women and their rights and duties. The Council has implemented media campaigns in several areas, including enhancing the image of women in the media, the protection of women from domestic violence, and awareness regarding common health conditions such as breast cancer.

The Supreme Council for Women organizes lectures, workshops and focus groups to activate the *National Strategy on Protection from Domestic Violence*. These include a lecture on "Protection from Domestic Violence" in cooperation with the Bahraini Women's Union, and a focus group on "The Law on the Protection from Domestic Violence" for members of the legislative authority and civil society institutions at the headquarters of the Supreme Council for Women (2016).

In 2016, the Council held its third National Conference, entitled "Women and the Law", during which it stressed the importance of implementing the Law on the Protection from Domestic Violence and of issuing executive decisions, which was one of the recommendations of the conference.

The Human Trafficking Division of the Ministry of the Interior and the Information Authority coordinate to prepare awareness programmes on the human trafficking law and to sensitize law enforcement personnel to the treatment of trafficking survivors before, during, and after an investigation.

In 2012, the Supreme Council for Women presented a training programme for the development of a network of trainers on women's issues, to be conducted in three phases. One of the phases includes addressing conventions related to women, such as CEDAW.

The Council also provided a support programme in 2013, including training courses on such topics as listening to survivors of domestic violence and on listening to children who have survived sexual, physical, and psychological violence.

The opening of an accommodation and services centre for expatriate workers took place in 2015, organized by the National Committee to Combat Trafficking in Persons and the Labour Market Regulatory Authority. The Centre accommodates 120 persons, with the possibility of raising its capacity to about 200 cases for both sexes. The United Nations described the centre as the first of its kind in the Arab region equipped with these specifications. It provides a range of integrated services, including public and psychological health services, legal advice, social services, security protection, and a 24-hour call centre in seven languages.

Government initiatives for migrant domestic workers included a competition on social media for young people to promote respectful treatment of domestic workers, the distribution of booklets in 14 languages on the rights of migrant workers, public transport advertisements on migrant workers' rights, and the establishment of a hotline for women migrant workers. The government distributes mobile phone cards with credit balances for foreign workers arriving at the Bahrain airport.

The Supreme Council for Women participates in relevant conferences and meetings, including the first meeting of the eighth session of the Economic and Social Commission for Western Asia (ESCWA) Women's Committee in Beirut in 2017, which issued the Beirut Declaration on Building Effective Institutions for Empowerment of Women in the Arab Region, including recommendations to tackle violence against women.

PROTECTION FROM DOMESTIC VIOLENCE AND SEXUAL VIOLENCE

The Penal Code, Decree-Law No. 15 of 1976¹¹

The Penal Code provides the penalty of life imprisonment for any person who sexually assaults a woman without her consent. The penalty is death or life imprisonment if the victim's age is less than 16 years. The victim's consent is not considered if she is less than 14 years.¹²

A prison sentence not exceeding 20 years is the punishment for any person who has sex with a female between 14 and 16 years of age with her consent. A prison sentence of no more than ten years is the punishment for a person who has sex with a female who is between 16 and 21 years of age with her consent.¹³

The Penal Code exempts the offender from criminal prosecution in crimes of rape, sexual assault, or immoral acts if the woman declares that she wishes to marry her offender. There is currently a draft proposal with the legislature to abolish this article.¹⁴

Some forms of sexual harassment are covered by provisions of the Penal Code relating to "indecent acts":

A prison sentence for a period not exceeding one year or a fine not exceeding Bahraini Dinars (BD) 100 shall be the penalty for any person who commits in public an indecent act. Any person who commits an act of indecency with a female shall be liable for the same punishment, even though such act is not committed in public.¹⁵

A prison sentence of no more than three months or a fine not exceeding BD 20 shall be the penalty for any person who commits an indecent act, by words or deeds, in a public road or in a place frequented by others. If the said act is committed by telephone, the same punishment shall be applicable.¹⁶

Law on Protection against Domestic Violence, Law No. 17 of 2015

The Law on Protection against Domestic Violence of 2015 provides additional protections and includes the following provisions:

Article 1 [Definitions]

Domestic violence: Every act of abuse committed in the family by one of its members and includes the following types of violence:

1. Physical abuse: Any attack by any means on the body of victim.
2. Psychological abuse: Every action that leads to psychological damage to the victim, including defamation and insults.
3. Sexual abuse: An act of sexual abuse, according to the provisions of this law, the aggressor against the victim as any of the following:
 - (A) Sexual assault, exploitation of the victim by any means to satisfy the sexual desires or the aggressor in order to achieve it with third parties.
 - (B) Exposing the victim to materials or sexual behaviour.
4. Economic abuse: Every action that leads to deprive the victim of his right or freedom to dispose of his money damaging to him.

Protection order: The order issued by the public prosecution, the competent court, or the investigating judge to protect the victim in accordance with the conditions.

Article 2

The Department of Family Counselling shall be established in the Ministry of Labour and Social Development to provide family counselling services and awareness on domestic violence that should be followed by other centres or family guidance offices.

Protection measures for victims of family violence

Article 7

The Ministry of Labour and Social Development shall work to provide services and take the following measures to reduce domestic violence, in cooperation and coordination with all official institutions, each according to its capacity, as follows:

1. Awareness-raising of the general public on family violence.
2. Provide and disseminate adequate information on family counselling services, treatment, rehabilitation, and shelters, how to

¹¹ Penal Code of 1976, Art. 109 provides: The enforcement of the provisions of this Law shall not in any way prejudice personal rights established under the provisions of Islamic law (Sharia).

¹² Penal Code of 1976, Art. 344.

¹³ Ibid., Art. 345.

¹⁴ Ibid., Art. 353.

¹⁵ Ibid., Art. 350.

¹⁶ Ibid., Art. 351.

obtain it and who provides services.

3. Provide necessary shelters to accommodate victims of domestic violence.
4. Provide family counselling, psychological, social, and health services in addition to rehabilitation services to the victim and perpetrator.
5. Provide legal assistance to the victim when needed.
6. Follow-up on criminal cases raised related to domestic violence through the presence of a representative from court hearings.
7. Provide specialized training programmes and lectures on domestic violence to law enforcement officials who will carry out this law, in addition to judges and public prosecution employees.
8. Disseminate data related to domestic violence and its prevention to curb domestic violence without infringing on personal freedoms and privacy.
9. Encourage and support research and studies on domestic violence.
10. Create a hotline to receive reports and complaints about cases of domestic violence.
11. Develop national indicators to monitor and measure cases of domestic violence in cooperation with the concerned authorities.

Article 8

[E]ach victim of domestic violence or any member of the family has the right to file a domestic violence incident complaint, and it is the responsibility of anyone who has knowledge of a domestic violence incident through his/her profession, medical or educational, to forward this information to the public prosecutor or the police station.

Article 9

The public prosecutor and police stations are bound by the following:

1. Ensure the protection of the person who filed an incident complaint on domestic violence, so as not to disclose his/her name and identity, unless judicial proceedings require otherwise.
2. Listen to the parties and witnesses, including children in appropriate separate rooms, and give each the opportunity to testify freely and confidentially.
3. Maintain confidentiality in all communications, correspondence, and procedures related to issues of domestic violence.

Article 10

The public prosecutor or police stations are obligated to receive reports and complaints related to domestic violence and shall take all the necessary legal procedures.

Article 12

The police shall take the following measures related to domestic violence complaints:

1. Transfer victim to the nearest hospital or health centre for treatment if necessary.
2. At the request of an order issued by the public prosecutor, the victim, especially children, shall be transferred to one of the shelters maintained by the Ministry in cases of domestic violence as soon as possible.

Article 13

The General Prosecutor's Office may issue a temporary decision to transfer the victim outside of their family for protection, as long as the case is presented to the small criminal court if he/she is a minor or has no family within two weeks to identify the person who will assume his/her care, either temporarily or permanently.

Article 14

Upon receipt of a notification regarding domestic violence, the public prosecutor must document the following data:

1. The hour, date, and place of receipt of the communication.
2. The name of the person and personal data.
3. The timing of the start of the investigation and completion.
4. The type of violence committed against the victim and the tool used, if any.
5. A statement detailing children's exposure to violence and any incidence that occurred in front of them.
6. Any other report that indicates the occurrence of violence, its causes and consequences.
7. Any relevant document that the victim wishes to include.
8. Any protective measures taken upon receipt of the communication.

Article 15

The public prosecutor may issue a protection order on its own or at the request of the victim, whereby the perpetrator is required to:

1. Remain away from the victim.
2. Remain distant from protection places or any place mentioned in the protection order.
3. Avoid damage to the victim's personal property or those of any of her family members.
4. Enable the victim or his authorized representative to receive his/her necessary personal belongings.
5. The protection order shall not exceed one month, and may be renewed by order of the Lower Criminal Court to not exceed three months in case of infringement or violation of the order by the perpetrator.

6. Any parties to the dispute may appeal the protection order within seven days from the date of its announcement and any repeal or amendment must go through a request before the Lower Criminal Court if the order was issued by the Public Prosecution. If the order was made from the Lower Criminal Court, it shall be appealed before the High Criminal Court.

Article 16

Whoever violates the protective order shall be punished by imprisonment for a period not to exceed one month and/or fined up to one hundred dinars, or either.

Article 17

Without prejudice to any more severe penalty in the Penal Code or any other law, whoever violates the protection order through the use of violence against any members covered under this law shall be punished by imprisonment for a period not exceeding three months and fined not more than two hundred dinars, or either.

Other legal protections

The Family Code (Law No. 19 of 2017) preserves the rights of women in litigation in matters related to Sharia, maintains her and her children, and considers the physical, psychological, and economic harms suffered as reasons for divorce.

Decision No. 7 of 2017 of the Minister of Justice, Islamic Affairs, and Endowments concerning the authorization of some employees of the Ministry of Labour and Social Development as judicial inspectors, stipulates in Article 1 that some employees of the Ministry of Labour and Social Development are entitled to judicial control over crimes within their jurisdiction in contravention of the provisions of Law No. 17 of 2015 on protection from domestic violence.

Decree No. 51 of 2010 addresses the organization of shelters for victims of trafficking in persons and the rules of accreditation for those providing housing for them.

HONOUR CRIMES

Article 334 of the Penal Code permits a reduced penalty for a person (male or female) who surprises his or her spouse in the act of adultery, and immediately assaults the spouse or the spouse's partner resulting in death.¹⁷

The legislator took into consideration the serious provocation of the person, which is assumed to have weakened his or her will, in line with the general rules of the Penal Code and criminal responsibility.

ADULTERY AND SEX OUTSIDE OF MARRIAGE

Adultery is a crime under the Penal Code. The adulterous husband shall be punished by imprisonment for a term not exceeding two years.¹⁸

¹⁷ Freedom House, *Women's Rights in the Middle East and North Africa, Bahrain (2010)*.
¹⁸ Penal Code, Art. 316.

ABORTION FOR RAPE SURVIVORS

The Penal Code allows for abortion under medical supervision (Arts. 321–323). The law and regulations governing medical professions permit abortion when necessary to save a woman's life.¹⁹ Abortion is illegal if the pregnant woman aborts herself without the knowledge or consultation with the doctor, or if another person aborts the woman without her consent. Any woman who has performed an abortion without consultation and assistance of a competent doctor shall be punished by imprisonment for a term not exceeding six months or a fine not exceeding 50 dinars.

FEMALE GENITAL MUTILATION/ CUTTING (FGM/C)

FGM/C is not practiced in Bahrain, although some cases were reported in the past.²⁰ FGM/C can be prosecuted under assault crimes in the Penal Code (Articles 336–344), including in particular the assault on the safety of the body of others. The perpetrator is sentenced to seven years' imprisonment and this sentence may be increased if the offence leads to the separation or amputation of a body part or loss of function (Article 337).²¹

FAMILY MATTERS

Marriage

The Family Code of 2017²² applies to all families without discrimination.

The legal age of marriage is 16 years for females. A girl under the age of 16 may be married with permission from the court, which must verify the suitability of the marriage before granting permission.

The Family Code provides for mutual and shared rights and obligations of spouses based on mutual respect and relationship and other rights of the wife and the rights of the husband.

Divorce

The husband has the right to divorce at his own will.²³ The wife may also divorce if she has stipulated so in the marriage contract. The Family Code allows the wife to apply for divorce (*khul'a*) before the courts for damage that affect the spouses' relationship or because the husband does not provide maintenance, or due to his absence, abandonment, or imprisonment.²⁴

A wife has the right to *khul'a*, but in exchange, she will forgo her financial rights, such as giving up her dowry.²⁵ If the wife agrees to the *khul'a*, she will retain custody of her children as she is not entitled to waive custody.²⁶

Guardianship and custody of children

The father is the guardian of his children, and custody is granted to the mother in accordance to the following provisions of the Family Code.

19 UNESCO, Ethics and Law in Biomedicine and Genetics: An Overview of National Regulations in the Arab States (Cairo, UNESCO, 2011), p. 74.

20 Habib Toumi, "Bahrain shocked by news of five-year-old girl's circumcision," Gulf News, 11 May 2010, <http://gulfnews.com/news/gulf/bahrain/bahrain-shocked-by-news-of-five-year-old-girl-s-circumcision-1.625552>.

21 Decree-Law No. 15 of 1976 on the issuance of the Penal Code.

22 Law No. 19 of 2017 promulgating the Family Code.

23 Ibid., Art. 81(a).

24 Ibid., Arts. 98, 106, 107, 111.

25 Ibid., Art. 95.

26 Ibid., Art. 96.

Article 124:

According to Sunni jurisprudence, a woman's custody of her son ends when he is 15 years old, and for her daughter when she marries. According to the Jaafari jurisprudence, the mother's custody ends when her son or daughter reaches seven years of age. Custody is then transferred to the father.

Article 125:

According to Sunni jurisprudence, if the male reaches 15 years of age, or the female reaches 17 years of age and is not married, they have the option to choose to live with the mother or father or any person who has the right to custody.

According to Jaafari jurisprudence, a female who has reached the age of nine and a boy who has reached the age of 15 may choose to live with the mother or father, with their guidance.

INHERITANCE

Inheritance is governed by Islamic Sharia law, which defines shares to male and female heirs in accordance to Sharia principles of justice.

NATIONALITY

Article 4 of Bahrain's Decree Law No. 12 amending the Bahraini Citizenship Act of 1963 provides that a person shall be deemed a Bahraini national in the following cases:

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

Article 4 allows Bahraini men to pass citizenship to their children automatically. Bahraini mothers can pass on their citizenship to their children under certain conditions. The Bahraini legislator enshrines the right of blood on the mother's side in two cases:

- i. if the child is born from an unknown father; or
- ii. born from a father whose legal status has not been proven.

The lawmaker is keen not to take the right of blood to the mother in an absolute way to avoid cases of dual nationality of children because they hold the nationality of Bahrain and their foreign parent.

Several measures and legislation have been adopted to alleviate the suffering of children of Bahraini women married to foreigners and residents, including:

- ☒ Law No. 35 of 2009 concerning the treatment of non-Bahraini women married to Bahraini men and the children of Bahraini women married to non-Bahraini men, as Bahraini citizens with regards to fees imposed on government health and education services and residence fees.
- ☒ Children of Bahraini women married to foreign spouses are entitled to a visa to enter the country in addition to residence on the basis of the mother's guarantees in accordance with the regulations and standards governing nationality, passports, and residence.
- ☒ The children of a Bahraini mother married to a foreigner benefit from social security and social assistance, as do Bahrainis.
- ☒ Law No. 22 of 2017 amending Article 2 of Law No. 74 of 2006 regarding the care, rehabilitation, and employment of persons with disabilities. Bahraini citizens with disabilities who are married to a foreigner shall benefit from the benefits, care and facilities provided by this law to Bahraini disabled persons.
- ☒ A draft law is still pending before the legislative authority that proposes an amendment to the current nationality law to give children of Bahraini women married to a foreigner Bahraini nationality in accordance with rules and standards that respect the Constitution and preserve the sovereignty of the state.²⁷

LABOUR LAWS

Key provisions of Law No. 36 of 2012 issuing the Labour Law include:

Article 29: Subject to the provisions of this Part, working women shall be subject to all the provisions governing the employment of workers without discrimination between them where their employment conditions are similar.

Article 30: The Minister shall issue a resolution determining work and events where it is not permitted to employ women during the night.

Article 31: The Minister shall, upon obtaining the opinion of the concerned authorities, issue a resolution determining the occupations for which the employment of women is prohibited.

Article 32:

- a) A female worker shall be entitled to maternity leave on full pay for sixty days, which shall include the period before and after her confinement, provided she produces a medical certificate attested by a government health centre or one of the clinics approved by the employer stating the expected date of her confinement. A female worker may obtain an additional leave without pay because of her confinement for a period of fifteen days in addition to the aforesaid leave period;
- b) It shall be prohibited to employ a female worker during the forty days following her confinement. An employment with another employer during the maternity leave shall be subject to the provisions of Article 62 of this Law.

Article 33: It shall be prohibited for an employer to dismiss a female worker or to terminate her contract of employment because of marriage or during maternity leave.

The Kingdom of Bahrain is committed to the provisions of the International Covenant on Economic, Social and Cultural Rights, which provides for the equal rights of men and women to the enjoyment of all economic, social and cultural rights enshrined in the Covenant.

The Constitution, the Civil Service Law and its Executive Regulations, and the Labour Law of 2012 prohibit discrimination in the field of work based on sex.

Article 5(b) of the Constitution of the Kingdom of Bahrain stipulates that “the State guarantees the reconciliation of the duties of women towards the family and their work in society, and their equality with men in the political, social, cultural, and economic fields without prejudice to the provisions of Islamic law.”

Article 13 of the Constitution stipulates that:

- a) Work is the duty of every citizen, deemed dignified and for the public good, and every citizen has the right to work and to choose his type of work in accordance with public order and ethics.
- b) The State shall ensure the provision of employment opportunities to the citizens and the fairness of its conditions.
- c) No one shall be compelled to impose compulsory labour on anyone other than in the cases prescribed by law for national necessity, with a fair remuneration or in the implementation of a judicial decision.
- d) The law shall regulate, on an economic basis and subject to the rules of social justice, the relationship between workers and employers.

The Labour Law of 2012 includes a special section concerning the employment of women. Article 29 states that: “Subject to the provisions of this section, the same provisions regulating the employment of workers shall apply to women workers without discrimination, where working conditions are the same.” With regard to guarantees of non-discrimination in wages, Article 39 states: “Discrimination is prohibited with respect to wages on grounds of gender, origin, language, religion or creed.”

The Labour Law of 2012 makes it illegal to dismiss workers because of the sex of the worker, family responsibilities, pregnancy, childbirth, or breastfeeding.²⁸ Wage discrimination on the basis of sex is also prohibited.²⁹

The Labour Law of 2012 notes the applicability of all the provisions stipulated in the law to working women and male workers without distinction between them when their working conditions are the same.

²⁸ Labour Law of 2012, Art. 39.
²⁹ Ibid., Art. 32.

Special measures for women

In order to protect women's health and physiological nature, there are some special measures on women's work that are aimed at protecting women during pregnancy and motherhood.

The Minister of Labour's Decision No. 32 of 2013 on the definition of work prohibiting the employment of women defines two categories of work that are prohibited for women:

1. work that is not commensurate with the physiological nature of women, and
2. work prohibited for pregnant women to maintain their safety and the safety of the foetus (which is in conformity with international standards and conventions issued in this regard, in particular ILO Convention 89 on the employment of women in night work, 1948).

A project implemented by the Ministry of Labour and Social Development in 2015 encouraged women to enter and remain in the labour market. It succeeded in employing more than 2,000 women.

Civil Service Law

Decree Law No. 48 of 2010 promulgating the Civil Service Law and the decision of the Prime Minister No. 51 of 2012 on the issuance of the executive regulations of the Civil Service Law do not differentiate between the rights of male and female employees. The Civil Service Law and its executive regulations give women special benefits, including maternity leave, lactation leave, and unpaid leave for the care of a child less than six years of age.

Decree of the Prime Minister No. 77 of 2013 on the issuance of a list of salaries, benefits, and entitlements for employees under the Civil Service Law amended the policy on social allowance to include married female employees as it includes married male employees.

The Commission for Equal Opportunities in government agencies was established in 2013. This Committee is concerned with the establishment of regulations, standards, and plans related to the equal opportunities among government employees in recruitment, training, scholarship, and career advancement. It also ensures that the needs of working women are considered, and integrates them into policies and plans.

The Civil Service Authority No. 4 of 2014 concerns the establishment of equal opportunity committees in the government sector. The government sector institutions have formed 45 equal opportunity committees in the public sector and are working towards achieving the principle of equal opportunities for all employees and beneficiaries.

Domestic workers

With regard to the protection and support for female domestic workers who have been subjected to violence, abuse, and exploitation, they are a protected group within the scope of the *National Strategy against Trafficking for Forced and / or Sexual Exploitation* aimed at criminal justice measures to prosecute and punish traffickers, and to protect and rehabilitate survivors of violence. Perpetrators are brought before the courts for prosecution and punishment.³⁰

An employer may not withhold a worker's passport; otherwise he shall be fined under a ministerial decree. Rights of domestic workers include access to mediation in labour disputes and the right to be provided with a labour contract.

Sexual harassment in the workplace

The Labour Law provides that a worker may terminate the contract of employment without notice in any of the following events:

- i. Assault by the employer or his representative against the worker, during or because of the work, by words or deeds that are punishable by law.
- ii. An act considered immoral committed by the employer or his representative against the worker or a member of his family.

Termination of the contract in either of the above events is deemed as arbitrary dismissal by the employer.³¹

The Bahraini Penal Code penalizes sexual harassment in the workplace and other places as it considers them part of acts of immorality and assault (Articles 344 and beyond of the Penal Code). The law also considers the occurrence of such acts by a public official as an aggravating circumstance under the Bahraini Penal Code.

In addition, the Labour Law includes a provision stipulating that a worker may terminate the employment contract without notice due to arbitrary dismissal by the employer and is entitled to compensation. The same applies if an employer or his representative assaults the worker verbally or through an act punishable by law or carries out an indecent act towards the worker or a member of her family.

³⁰ United States Department of State, 2015 Trafficking in Persons Report: Bahrain, <https://www.state.gov/documents/organization/243558.pdf>.

³¹ Public Sector Labour Law, Art. 105.

Cases of sexual harassment by word or deed in the workplace are also penalized through other legislation, such as the executive regulations of the Civil Service Law issued by the Prime Minister's Decision No. 51 of 2012 and the human resource regulations of the Constitutional Court in accordance with the decision of the President of the Constitutional Court No. 22 of 2016.

SEX WORK AND ANTI-PROSTITUTION LAWS

The Penal Code criminalizes the sale of sex and activities related to prostitution.³² Anyone who publicly incites others to commit immoral acts or prostitution shall be punished by imprisonment for a term not exceeding two years.³³

The offences related to prostitution and immorality are regulated by law enforcement officers from the Public Prosecutor's Office and members of the public security forces in accordance with the procedures stipulated in Decree-Law No. 46 of 2002 regarding the issuance of the Code of Criminal Procedure (Articles 43–46).

HUMAN TRAFFICKING

The Anti-Trafficking in Persons Law No.1 of 2008 prohibits all forms of trafficking in persons and provides prison sentences of three to fifteen years.

The Ministry of the Interior, the Ministry of Justice and other law enforcement institutions and agencies have prioritized combating trafficking in persons and have taken the following measures:

- ☒ Restructuring the National Committee to Combat Trafficking in Persons, headed by the Executive Chairman of the Labour Market Authority, in accordance with Resolution No. 7 of 2015. Its members include representatives of the Ministry of Foreign Affairs, Ministry of Interior, Ministry of Labour and Ministry of Social Development; Supreme Judicial Council; Public Prosecution Office of the Ministry of Justice, Islamic Affairs and Endowments; Ministry of Information; and representatives from the labour sector and the field of human rights.
- ☒ A working group has been formed through the Committee to develop a Code of Conduct and Guidelines for dealing with victims of trafficking.
- ☒ The Committee has issued a referral system guide for shelter staff and other bodies responsible for victims. The guide explains how to identify victims, how best to deal with them, and moral and proper conduct when conducting interviews.
- ☒ The Committee is currently working on the formation of a national team of experts to support and coordinate legal training and research efforts in the fight against trafficking.
- ☒ The Committee has developed a strategy and action plan to combat trafficking in persons. The strategy focuses on coordination efforts between the Committee and law enforcement agencies on how to support victims of trafficking in persons, on relevant bilateral and regional relations, and on awareness and training.
- ☒ The Committee opened the shelter for victims of trafficking, with a capacity of 200 under normal conditions, or 250 in an emergency.
- ☒ Special places for domestic and migrant workers were allocated to women and men.
- ☒ Special places for suspected traffickers were also allocated.
- ☒ Courses were carried out for shelter staff on how to deal with victims of trafficking.

³² Penal Code, Arts. 324–330.

³³ Ibid., Art. 329.

FEMALE GENITAL MUTILATION/CUTTING (FGM/C)

The law punishes incitement to debauchery, acts that are indecent or immodest which are committed through publicity, and acts that violate morals in general.

The protections prescribed in the Constitution and laws against violence are enjoyed by all citizens without discrimination on the basis of sex, creed, or affiliation, and therefore acts of aggression committed for any reason (whether the victim is a gay, lesbian, transgender or any other affiliation) are punishable under the Penal Code in the section regarding assault on the safety of persons.³⁴

BAHRAIN: KEY RESOURCES

Legislation

Bahrain legislation can be found on the following website:
<http://www.legalaffairs.gov.bh/index.aspx>.

Constitution of the Kingdom of Bahrain. Available from http://www.wipo.int/wipolex/en/text.jsp?file_id=189442.

Penal Code, 1976. Available from http://www.unodc.org/res/cld/document/bhr/1976/bahrain_penal_code_html/Bahrain_Penal_Code_1976.pdf.

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Family Code, Law No. 19 of 2017.

Private Sector Labour Law, Law No. 36 of 2012. Available from http://www.rrc.com.bh/media/141168/labour_law_2012__1_.pdf.

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³⁴ Ibid.

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United Nations CEDAW Committee, *Concluding observations on the third periodic report of Bahrain*. 10 March 2014. Available from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2fCO%2f3&Lang=en.

