



UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

ISSUE BRIEF:

PERSONAL STATUS AND FAMILY LAW IN THE MIDDLE EAST AND NORTH AFRICA

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To advance international freedom of religion or belief, by independently assessing and unflinchingly confronting threats to this fundamental right.

IMPLICATIONS FOR WOMEN AND RELIGIOUS FREEDOM

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Overview

Since the passage of the International Religious Freedom Act (IRFA) in 1998, freedom of religion or belief (FoRB) in the Middle East and North Africa (MENA) region has undergone some significant shifts—albeit most clearly in terms of discourse rather than actual conditions. Many governments in the region that would have in generations past ignored, decried, or scoffed at the concept of religious freedom have increasingly adopted a more conciliatory approach, particularly through the lens and language of “*religious tolerance*.” However, the separation of legal structures across most of the region into distinct spheres of penal, personal status, and limited civil codes has remained largely in place—even as individual policies in some countries have shown evidence of change.

In contrast to criminal law, which delineates activity the state prohibits and often prescribes associated penalties, personal status law addresses changes in an individual’s legal circumstances—and by extension, the impact of those changes on their immediate or extended families. Personal status is effectively synonymous with family law in the region, and it is most evident for the purposes of this report in several representative categories: marriage, divorce, and child custody; inheritance; and guardianship.

The maintenance or limited reform of personal status and family law across the region is especially relevant for FoRB concerns because MENA governments more commonly establish them on the basis of religion—often, but not exclusively, rooted in some interpretation of *Sharia*—rather than civil or international standards. As USCIRF demonstrated in its 2022 *issue brief*, “A Global Overview of Official and Favored Religions and Legal Implications for Religious Freedom,” governments in nations with an official or favored religion are far more likely than those without them to maintain laws restricting freedom of religion or belief. Within these contexts, if the country does not also maintain clear legal protections to safeguard religious freedom and other related human rights, then these religiously based laws lead to exclusion, discrimination, and repression, particularly for religious minorities, women, and members of other vulnerable groups.

Across the MENA context, such clear legal protections are exceedingly rare in relation to FoRB and its overlap with family law. Family and personal status laws based primarily or exclusively on religion comprise the default framework across the region, including a substantial emphasis on gender distinctions and inequalities. In this sense, these laws have a particular and consequential impact on the rights of women, including their right to religious freedom.

While the specific interpretation and implementation of such religiously based law varies by country and religion, the reliance on religious interpretations remains [predominant](#) in principle and in practice. A wide variety of Middle Eastern countries maintain legal systems that 1) set apart family law—often framed as personal status law—as uniquely based on religious precepts, as distinct from and/or exclusionary of civil law; 2) represent distinctive cultural and religious contexts; and 3) function within the boundaries of an official or favored religion (or in a limited number of cases, religions). Given the topics these laws cover, they significantly [impact](#) all stages of the individual and family lives of citizens of these societies.

This issue brief assesses the religious freedom implications of family and personal status law in the MENA region, with a particular focus on its gendered impact. The report examines illustrative case studies from a range of countries in the areas of marriage and divorce, inheritance, and guardianship. It finds that the compulsion of obedience to officially accepted interpretations of religious law often results in limitations on religious freedom, particularly for women—even in countries in which the population generally faces less religiously repressive conditions than those which USCIRF already recommends for designation as Countries of Particular Concern (CPC) or to the Special Watch List (SWL).

Marriage and Divorce

One of the most central issues to the practical experience of religiously based family law in the MENA region is that of marriage, including the interconnected dynamics of divorce and child custody. Discrepancies of [agency](#) particularly distinguish the gender divide in this category, in the sense of whom the law permits or requires to initiate, approve, or finalize marriage and divorce, as well as under what conditions those steps may take place (e.g., age, with or without stipulations).

Morocco (Official religion: Islam)

In the case of Morocco, the country's 2004 family law code, popularly known as [al-Mudawana](#), governs marriage, divorce, child custody, and other related issues. It resulted from an effort by the government of King Mohammed VI to update and reform the 1958 family law code by raising the legal age of marriage, removing a male guardianship requirement, and limiting the legal parameters for polygamy, among other provisions. However, the traditional religious principle of [repudiation](#)—by which a Muslim man need only unilaterally announce his intention to divorce his wife to

make it legally binding—remained in place, in contrast to a woman's more burdensome requirement to file for divorce by paying financial compensation or providing a specific and limited list of acceptable grievances. Child custody following a divorce, too, has continued to follow the precedent of traditional Islamic jurisprudence in defaulting to the father for children under 15 years of age, or allowing him to reclaim custody for an older child if his ex-wife were to remarry. While international FoRB standards [allow](#) individuals to follow such norms according to their beliefs, Morocco's [Mudawana mandates](#) this clear discrepancy in rights along gender lines, without recourse to civil, non-religious alternatives. It remains to be seen whether a current parliamentary [effort](#) to implement reforms in this system will result in a significant reduction of these shortcomings.

Israel (Official religion: Judaism)

Israel represents a [unique situation](#) in terms of religiously based family law in the MENA region—not only because Judaism defines the religious identity of the country's Jewish majority, or Islam and Christianity for most of its Arab minority, but because it affords access to civil alternatives in some family law issues—such as child custody—while relegating marriage and divorce [exclusively](#) to religious institutions. Within this framework, Israeli law allows and recognizes only [religious marriages](#) (with a recent exception that applies to interreligious marriages performed outside of the country or [online](#)), denies interfaith marriages that involve a Jewish citizen with a non-Jewish partner, and requires individuals seeking divorce to do so through their recognized communities' religious law. For the Jewish majority, this latter requirement means that a woman must obtain her husband's permission to pursue divorce through a Rabbinical Court—regardless of whether her grounds for pursuing this action involve gender-based violence, other forms of abuse, or less egregious complaints. A [get](#), or religious bill of divorce, is subsequently mandatory for any Jewish woman or man to re-marry following the dissolution of a marriage. Crucially, Israel's gender equality laws provide explicit [exceptions](#) for marriage and divorce, applicable to all Jewish and non-Jewish citizens.

The Israeli judiciary recognizes three groups of religious courts for the country's predominantly Arab religious minorities, who represent 21% of the [population](#) at present: eight regional Shari'a courts for Muslims, 10 for each of the country's recognized Christian communities, and one for the Druze population. As with the country's Jewish majority, these courts maintain [exclusive jurisdiction](#) over marriage and divorce while civil courts are permitted to consider other issues of

personal status and family law. This framework allows for broad inconsistency in the law's treatment of Israeli citizens in these matters; for example, as Roman Catholic ecclesiastical tradition entirely forbids divorce, members of that community cannot divorce under any circumstances, including domestic abuse.

Lebanon (Official religion: multiple traditions¹)

Lebanon is home to a religiously diverse population, in which several major faith groups have traditionally maintained an uneasy and often dysfunctional balance of social demography and state representation. Despite such diversity, its legal framework has failed to produce a system of civil courts that would ostensibly provide equal access to family law for all citizens regardless of religion or gender; instead, the country has relegated all personal status issues to 15 religious courts that represent its 18 recognized religious communities from the Muslim, Christian, and Druze traditions. Although these various religious courts may differ in their approaches to gender rights within the family, women generally *fare poorly* in all of them. For example, Sunni Muslim, Shi'a Muslim, and Druze courts grant absolute right of divorce (i.e., without cause) to men while allowing women comparable rights only under specific and limited conditions. Given Lebanon's perennially fragile economic situation and entrenched patriarchal society, this inequality based on religious law places women in an especially vulnerable position. Meanwhile, some of Lebanon's Christian communities allow for the dissolution of marriage within a prescribed set of conditions, but its largest and most influential Christian sect—Maronite Catholic—entirely disallows divorce. None of the 18 recognized religious courts views gender-based violence, including spousal abuse, as sufficient grounds for a woman to obtain divorce.

As with other contexts discussed in this report, the central religious freedom concern presented by Lebanon's complex system of religious courts is not that they exist, to offer guidance to those within their respective communities who consent to their jurisdiction. Indeed, individuals have the right under international standards to adhere to religious norms according to their own convictions, including in terms of how they approach marriage and divorce. Instead, Lebanon's failure in this regard comes by the lack of alternatives; because these personal status issues fall exclusively to religious courts, which have the full judicial authority of the state. Consequently, individuals—especially women, but also

non-religious persons and anyone who disagrees with the religious interpretations that these courts are enforcing—have no alternate recourse to their rulings. Regardless of their religious affiliation, the practical reality of this system forces some women to remain in abusive and violent marriages while it leaves others, whose husbands have unilaterally cut them off from marital support, economically vulnerable and socially stigmatized. And beyond the gender divide, this flawed system holds further implications for religious freedom, such as the requirement that prospective nuptial partners *legally belong* to the same religious community while in some cases, like Israel, tacitly allowing for the recognition of interfaith marriages performed outside of the country (for which Cyprus remains a popular, nearby destination).

Inheritance

Inheritance plays a unique and expansive role in regional family law, largely due to its prominence in Islamic jurisprudence as well as the particular conundrum it presents for non-Muslim minorities amid the centrality of Shari'a in most of the region's constitutions and legal frameworks. Unlike some of the finer points of marriage and divorce, all schools of Islamic jurisprudence typically approach norms of inheritance in a consistent manner. Those norms also carry some key second-order ramifications, such as providing justification for widespread bans on adoption because it would ostensibly create irreconcilable complications for the distribution of inherited assets among natural and adopted children.

Egypt (Official religion: Islam)

Egyptian personal status and family law occupies a middle ground within the regional FoRB context. Article 2 of the country's 2014 *constitution* maintains “the principles of Islamic Shari'a” as “the primary source of legislation,” a clause that then president Anwar al-Sadat instituted in 1980 as part of an ongoing effort to highlight the ostensible religiosity of his administration. Article 3, however, allows Christians and Jews to adhere to their respective religious principles for “personal status, religious affairs, and selection of spiritual leaders.” While the introduction of Article 3 in 2014 represented a significant shift from the Republic's previous constitutions, which afforded no such exceptions from Islamic law, it had little immediate effect on inheritance law as practiced throughout the country. Instead, the legal framework for inheritance continued to universally apply the norms of Islamic jurisprudence by which a

¹ USCIRF's 2022 *report* on official and favored religions excluded Lebanon from its list of countries with official or favored religions due to the complexity of its system of confessional representation. This system, and its corresponding legal framework, formally *recognizes* 18 religious communities: Sunni Muslim, Ja'afari (Twelver) Shi'a Muslim, Isma'ili (Sevener) Shi'a Muslim, Alawi Muslim, Druze, Maronite Catholic, Greek Orthodox, Greek Catholic, Armenian Orthodox, Armenian Catholic, Syriac Catholic, Nestorian Assyrian, Chaldean Catholic, Coptic Orthodox, Roman Catholic, Evangelical Protestant, and Jewish.

woman's right to family assets extend to only half of the value bequeathed to her male siblings. It also continued to present a seemingly impassable barrier to other family-related challenges such as [adoption](#), which remains formally banned under the dominant interpretation of Shari'a—despite the country's persistent struggles with poverty and other economic woes.

Two developments over the past decade began to shift inheritance law within this constitutional framework. First, in 2017, Egypt's parliament [passed a law](#) guaranteeing the right for women to receive their legal inheritance rights; this legislation represented a substantial victory in particular for women in rural areas, where a complex system of patriarchal barriers had often deprived them of even the limited inheritance that Shari'a tradition ostensibly offered. And in 2019, a Coptic Christian human rights lawyer [brought a lawsuit](#) to the Cairo Court of Appeals in her effort to claim an equal share to her brothers of an inheritance from their late father. In doing so, she invoked both Article 3 of the Constitution and personal status codes of the Coptic Orthodox Church—and the Court agreed, handing her the first such successful application of non-Muslim inheritance law in Egypt's modern history. Although this landmark case perpetuated the dominance of religious law and established hierarchies regarding inheritance, rather than carving out a civil alternative, it established a key precedent for recognizing the [distinct rights](#) of certain religious minorities in the country to follow their own traditions in lieu of Shari'a norms.

Oman (Official religion: Islam)

While Omani family law has received far less academic scrutiny or human rights coverage than other regional contexts like Egypt or Saudi Arabia, it is representative of the consistency of approach to inheritance across countries that explicitly adhere to the principles of Shari'a—regardless of sect. Oman's [Basic Law of 1996](#) (amended in 2011) echoes other regional constitutions by stating in Article 2, without qualification, that “the religion of the State is Islam and Islamic Sharia is the basis for legislation.” However, Oman's dominant religion is [Ibadi Islam](#), in contrast to the substantially larger Sunni and Shi'a Muslim populations of the MENA region, and its courts subsequently defer to [Ibadi jurisprudence](#). But while this body of legal interpretation incorporates a unique tradition of jurists and rulings, it aligns with other norms of Shari'a in granting women [half the inheritance rights](#) of their male siblings—despite their access to other property rights such as “absolute right of ownership” to land under a [2008 royal decree](#). Oman's example, then, demonstrates that although religious family law across the region contains a diversity of approaches to

areas such as marriage, divorce, and others, inheritance represents one subfield that applies a widely consistent standard of gender inequality based on religious norms, again without recourse to civil alternatives.

Guardianship

Many countries in the MENA region that identify Islam as the official religion maintain some form of gender-based [guardianship](#), or *wilaya*, with its basis in certain interpretations of Shari'a. While not as widespread as other categories of personal status and family law (as compared to norms of inheritance, for example), guardianship laws hold a particularly heavy and pervasive cost for women, impacting many of their most essential freedoms while infantilizing and depriving them of their agency.

Saudi Arabia (Official religion: Islam)

The Kingdom of [Saudi Arabia](#) has traditionally held fast to its version of a Shari'a-based guardianship system while showing signs of incremental change in recent years. USCIRF's 2020 [issue update](#) on this topic explains that the Saudi version is “based on a unique interpretation of the Hanbali school of Sunni Islam and justif[ies] restricting women's ability to travel, attend university, marry, or obtain medical care without the permission of a male guardian.” The Saudi government takes this framework one step further, however, by actively repressing—through arrest, abuse, and threats—women who openly criticize the guardianship system's deliberate denial of their individual agency and freedom to follow their own religious conscience. And although Saudi Arabia [removed](#) a few of the most egregious guardianship restrictions in 2019, such as requiring a male guardian's permission to work or to travel overseas, the government has also doubled down on its commitment to the system, [affixing](#) many of its tenets in a new personal status code in 2022.

Yemen (Official religion: Islam)

[Yemen](#) shares with several other countries in the MENA region, such as Libya and Syria, a distinct reporting challenge in the form of rival governments and/or authorities following [protracted conflict](#)—in this case an internationally-recognized government in the southern port city of Aden, and a Houthi rebel-led entity that governs the country's north from the capital of Sana'a. For the purposes of this report, Houthi rule provides the ideologically coherent and illustrative context; its movement emerged from the distinct Zaydi (or “Fiver”) Shi'a Muslim tradition in the country's north, but it has fostered increasingly close ties with the once-alooof

Iranian government amid its conflict with rival southern forces and their regional allies in Saudi Arabia and the United Arab Emirates. According to USCIRF's [May 2023 report](#) on religious freedom conditions in Houthi-controlled parts of Yemen, authorities in Sana'a as well as in the adjacent Dhamar, Hudaydah and Hajjah governorates have established and enforced increasingly harsh religiously-based guardianship restrictions on women—for Shi'a Muslim, Sunni Muslim, and religious minority communities alike—that include requiring a male escort, or *mahram*, for travel and employment, often harassing and threatening women who dare to pass checkpoints without such accompaniment.

Houthi authorities have taken [additionally repressive steps](#) regarding women's rights:

[They have] forced women to close their businesses, ordered the closure of organizations that cater exclusively to women, and banned the mixing of men and women in public venues. The Houthis also mobilized all-female police units, called *zeinabiyat*, to suppress, abuse, and arrest women who reject Houthi ideology. These units perpetrated a range of religious freedom violations, including the forced sectarian education of Yemeni women by usurping mosques, private homes, and schools to promote Houthi teachings of Islam.

These violations on the basis of religion prompted a group of United Nations Special Rapporteurs, including the one focusing on FoRB, to send a [formal letter](#) to Houthi leadership in December 2022 that characterized these conditions as “mass civilian harm” and “systematic violations of women's and girls' rights” that have served to restrict women's freedom of movement without a male guardian, enforce gender segregation in public spaces, and reinforce “discriminatory misogynistic attitudes,” among other [challenges](#).

Qatar (Official religion: Islam)

[Qatar](#) enjoys a prominent position as a key Gulf state and major U.S. non-NATO ally, and it has worked hard in recent years to project an international image of economic progress, [religious tolerance](#), and [multicultural engagement](#). However, it has also strived on its domestic front to maintain social and political control through religiously conservative [policies](#), including a unified

system of Shari'a and secular law that applies to all residents. Qatar also maintains a strict guardianship framework that severely restricts the agency and freedom of Qatari women, treating them as [legal minors](#) throughout their lives. For example, in contrast to Saudi Arabia's recent and limited reforms that allow women to travel abroad without the express consent of a male guardian, Qatari law continues to require such permission—as it does for other basic activities such as work, study, or driving, in addition to major life events such as marriage or registering a birth. In other words, Qatar's guardianship system restricts, controls, and infantilizes adult women on the basis of an official interpretation of religious law, without regard to women's own beliefs. Given that unyielding environment, it is worth noting that the World Economic Forum ranked this otherwise prosperous nation at an abysmal 133 out of 146 of the countries it assessed for its [2023 Global Gender Gap Report](#)—a mere 13 spaces above bottom-ranked Afghanistan under Taliban rule.

Conclusion

The adoption of an official or favored religion in countries of the Middle East and North Africa has significant ramifications for the region's complex and institutionalized systems of governmental personal status and family laws. These laws hold special resonance and practical consequences for the region's women, impacting their ability to work, to travel, to marry and divorce, and to share equally in family inheritance, among other areas of daily life. But it is essential to reiterate that gender-based religious traditions themselves do not inherently violate international norms of FoRB; to the contrary, a Muslim, Jewish, or Christian woman who chooses to follow those religious traditions in marrying, in deferring to a lesser share of inheritance, or in requesting permission from her father to travel abroad, should have the religious freedom to do so. The violation of religious freedom rather comes through a given government's legal mandate that a woman must adhere to these traditions even if she disagrees with them, without recourse to civil codes or other legal alternatives distinct from an officially sanctioned interpretation of religious law. This nexus of FoRB, religious-based laws, and gender rights therefore has a clear and direct impact on the real lives and experiences of millions of women in the region and, by extension, their families and societies at large.



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