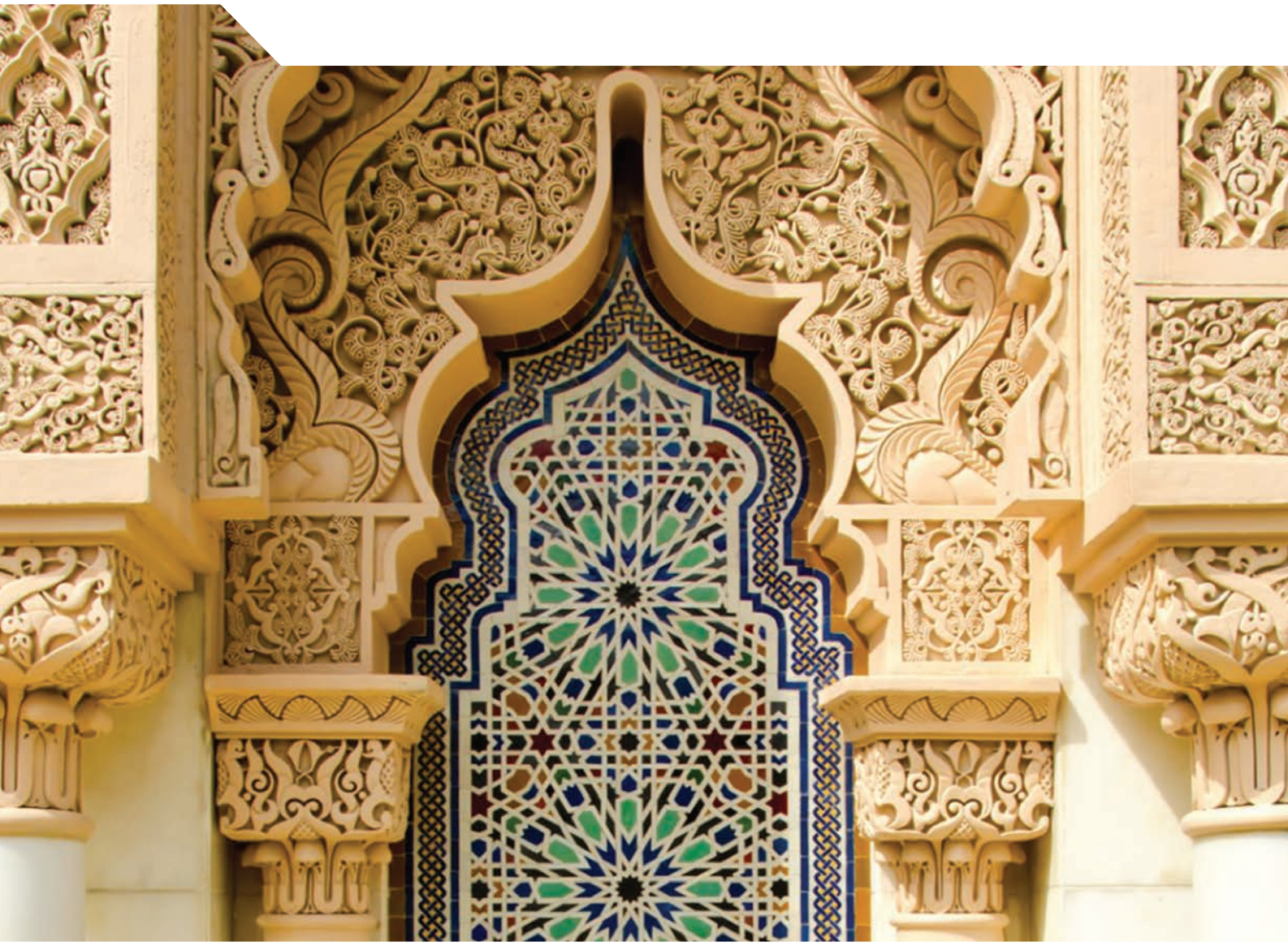
Women in Public Life

GENDER, LAW AND POLICY IN THE MIDDLE EAST AND NORTH AFRICA



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Foreword

While governments around the world are taking steps to advance gender equality, it continues to remain a global challenge. Women continue to have unequal access to opportunities in both their public and economic lives, including in the Middle East and North Africa (MENA) region. To address this challenge, the OECD introduced an OECD Gender Initiative in 2010 and adopted the 2013 Recommendation on Gender Equality in Education, Employment and Entrepreneurship. In addition, in 2014, the OECD Global Forum on Women's Leadership in Public Life and the OECD report *Women, Government and Policy Making in OECD Countries: Fostering Diversity for Inclusive Growth* called for the establishment of guidelines for gender equality in public life, which would both address the need for effective institutions for promoting gender equality and for enabling gender diversity in public institutions for better and more gender-responsive policies and services.

Gender equality has also been recognised as a priority issue for the MENA Initiative on Governance and Investment for Development, as part of the activities of its two pillars: the MENA-OECD Governance Programme and the MENA-OECD Investment Programme, which respectively established in 2009 the Gender Focus Group, also known as the Women in Government Platform, and the OECD-MENA Women's Business Forum (WBF). The situation of women in the MENA region has witnessed uneven developments over the past decades. In some areas, such as education and employment, there has been clear progress, while in others, such as the family law, progress has been limited. Women serve as the primary untapped resource in the MENA region on its path towards stronger and more inclusive growth. Maximising women's potential and empowerment in both public and economic lives will be essential for MENA countries to increase their competitiveness and develop better, more inclusive policies and laws for better lives. Equal access to opportunities in both public and economic life is also critical for achieving a more equitable society, respect for human rights, and more informed and inclusive policy making. These conclusions were reaffirmed at the 2014 OECD Meeting of the Council at Ministerial Level on "Resilient Economies and Inclusive Societies – Empowering People for Jobs and Growth", which underlined the importance of tackling inequalities and people empowerment of both men and women in order to achieve inclusive growth.

This report undertakes a cross-country legal and policy analysis of women's rights in public and private life in the MENA region, based on international benchmarks, including the Convention on Elimination of All Forms of Discrimination against Women; the OECD Recommendation on Gender Equality in Education, Employment and Entrepreneurship; as well as OECD comparative policy benchmarks. It also aims to identify the main drivers for legal and institutional reforms, and active policy measures that enable greater equality between women and men. It provides actionable recommendations to achieve and sustain gender equality in the region, supported by examples of good practices from MENA and OECD countries. While the report

highlights practices and laws in a set of selected MENA countries, it is does not aim to provide an exhaustive assessment of the situation in all MENA countries.

This report argues that action is required on three levels in the MENA region to close participation gaps in public life, namely eliminating discriminatory provisions in national laws and policies, adopting policies to enable equal access to opportunities in public life, and mainstreaming gender into policy making and the budget cycle. These actions have to be supported by the robust institutional frameworks necessary to enable their effective implementation. Importantly, however, this report underlines that the remaining legal and social barriers in the private sphere, including family law, freedom of movement, access to justice and gender-based violence, continue to serve as major impediments for realising women's full potential in public life.

In addition, the forthcoming OECD report on "Supporting Women as Economic Actors during the Transition Period", developed with the support of OECD-MENA Women's Business Forum members and tested via broad national consultations, will further explore how the legal environment influences women's private sector employment and entrepreneurship in six MENA countries (Algeria, Egypt, Jordan, Libya, Morocco and Tunisia). It will further the understanding of the interplay of constitutional provisions, personal status law, labour law, inheritance law, banking legislation and security and allow for the formulation of policy recommendations to advance women's economic empowerment.

This report serves as an evidence-based contribution to the OECD Gender Initiative. It also supports the OECD Inclusive Growth agenda and OECD Development and Global Relations strategies by advancing the global debate on the role of women in public life. It underlies the OECD's commitment to promoting gender equality in the MENA region in support of countries' efforts to foster inclusive growth and national competitiveness. It is also aligned with the Beijing Process, launched by the UN in 1995, which will be celebrating its 20th anniversary next year. Finally, the report aims to support the implementation of the UN Women Beijing + 20 Action Plan by highlighting key achievements and outstanding challenges in women's empowerment, and by promoting policy dialogue in advancing equality in public life in the MENA region.

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This report has been jointly prepared by the Women in Government Platform (former Gender Focus Group) of the MENA-OECD Governance Programme, within the OECD Public Governance and Territorial Development Directorate (GOV), in collaboration with the Centre for Arab Women for Training and Research (CAWTAR), Tunisia. The mission of the OECD GOV Directorate is to help governments at all levels to design and implement strategic, evidence-based and innovative policies to strengthen public governance, respond effectively to diverse and disruptive economic, social and environmental challenges and to deliver on governments' commitments to citizens. The CAWTAR's mission is to generate knowledge to provide evidence for policy dialogue, planning and advocacy for change, as well as to enhance technical and institutional capacity in the region. The preparation of the report has been supported by the Arab Administrative Development Organisation (ARADO), which aims to contribute to administrative development in the Arab States in a way that serves comprehensive Arab development issues.

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Acronyms and abbreviations

ARADO	Arab Administrative Development Organisation
CAWTAR	Centre for Arab Women for Training & Research
CEDAW	Convention for the Elimination of All Forms of Discrimination Against Women
CoG	Centre of Government
CRC	UN Convention on the Rights of the Child
CSO	Civil society organisation
ECOSOC	United Nations' Economic and Social Council
EEOC	Equal Employment Opportunity Commission (United States)
EOU	Equal Opportunities Unit (Egypt)
FGM	Female genital mutilation
FVI	Family Violence Initiative (Canada)
GCC	Gulf Co-operation Council
GIA	Gender impact assessment
GID-DB	*Gender, Institutions and Development Database*
GII	Gender Inequality Index
GOV	Public Governance and Territorial Development Directorate
GRB	Gender-responsive budgeting
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICT	Information and communication technology
ILO	International Labour Organisation
IPU	Inter-Parliamentary Union
MENA	Middle East and North Africa
MoF	Ministry of Finance
NCW	National Council for Women (Egypt)
NGO	Non-governmental organisation
NZCASS	New Zealand Crime and Safety Survey

OECD	Organisation for Economic Co-operation and Development
OSH	Out-of-school-care services
RIA	Regulatory impact assessment
SIGI	Social Institutions and Gender Index
STEM	Science, technology, engineering, mathematics
UAE	United Arab Emirates
WCLAC	Women's Centre for Legal Aid and Counselling (Palestinian Authority)
WRC	White Ribbon Campaign
WRCATI	Promoting Women's and Children's Rights through Access to Information

Executive summary

Gender equality remains an important challenge in the MENA region. While recent decades have seen many positive trends in health and education, the existence of social barriers, discriminatory practices, insufficient institutional and legal protection for women are blocking women's empowerment in public and economic lives.

One of the main factors influencing the promotion of gender equality is compliance with international gender equality standards, including the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW, 1979); and the 2013 OECD Recommendation on Gender Equality in Education, Employment and Entrepreneurship.

Overall, conformity with these standards varies across the region. While all Arab countries except Somalia and Sudan have ratified the CEDAW, the majority have established reservations to some of the main provisions of the convention. The ratification of other conventions is uneven. Moreover, the domestic laws in the MENA region are not always consistent with the gender equality principles set by international law, including the CEDAW. As such, clear and effective measures are needed to provide a non-discriminative legal framework and effective safeguards that will enable the implementation of gender equality commitments.

Importantly, the elimination of legal discrimination serves only as a first step. Legal frameworks must be supported by effective public institutions to ensure the sustainability of gender equality policies. While most countries have established institutions to deal with women's issues, they often focus on the traditional roles of women. In addition, monitoring and oversight of gender equality initiatives are uneven across the region. Additional efforts are needed to develop such tools as gender impact analysis and gender-responsive budgeting to integrate gender considerations into the mainstream policy cycle. The effective use of these tools is contingent upon the existence and reliability of data systems that generate gender-disaggregated data needed for policy and planning in all sectors of government.

Gender balance in public institutions is another critical component for developing inclusive and gender-responsive policies. Although women's participation in the representative and political executive bodies in the MENA region has improved, it still remains well below the world average. In the judicial sector, the presence of women in Ministries of Interior and Justice, as well as among judges, has increased over the past decade, nearing the global average in cases like Algeria, Jordan, Morocco and Tunisia. The public sector also remains the prominent employer of women in the region, although women tend to be concentrated in traditional "female" occupations, such as health and education and at the lower levels of the career ladder.

Countries in the region are already taking steps to close remaining participation gaps, such as reserving seats or introducing quota requirements in parliaments. Tunisia has introduced a gender parity principle in elected councils in its Constitution and electoral law, which represents an important achievement for the region and the world.

Yet, women's public participation in the MENA region continues to be hampered by the remaining barriers, including persistent discrimination, gender stereotypes and weak institutions. Persistent discriminations still remain in family law, such as women's rights in marriage contracts, divorce and inheritance; custody of children; and transfer of nationality to children. Other areas of concern include restrictions on women's freedom of movement, uneven access to justice and violence against women, which continue to constrain women's access to opportunities in public and economic life. As such, much more comprehensive, focused and sustainable action is needed to eliminate the remaining legal barriers for gender equality in private life. In addition, it will be critical to strengthen the quality of the legal framework, data collection and awareness-raising efforts to guarantee the physical integrity of women and their equal access to justice.

Assessment and recommendations

Overall, while generally improving, gender equality developments have been uneven in the MENA region in recent decades. Thus, while there have been positive trends in such areas as education or employment, discriminatory practices, social barriers and insufficient institutional and legal protections continue to block women's progress. As such, despite advancements, achieving gender equality will require significant reforms in key agendas of institutional, legal and public policy reform.

Compliance with international conventions

An international gender equality framework includes a set of international conventions such as the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and most notably the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979). Most recently, in 2013 the OECD adopted a Recommendation on Gender Equality in Employment, Education and Entrepreneurship.

The CEDAW, as the most comprehensive of conventions – commonly referred to as the "bill of women's human rights" – provides a benchmark for reform in gender equality. All Arab countries except Somalia and Sudan have ratified it, although the majority of MENA countries[1] have expressed reservations about several key provisions of the convention. Yet, the integration of these provisions into national legislation remains sparse across the region. Legal frameworks in many MENA countries still do not provide sufficient support to eliminate discrimination against women. Equality under the law, equality of opportunity and equality of (political) voice have not yet been fully achieved in many MENA countries. Despite a number of steps taken, women in the MENA region continue to have a rather low level of legal protection against gender-based discrimination. The domestic laws in MENA countries are not always consistent with the gender equality principles set by international law, including the CEDAW.

While the national constitutions of many MENA countries prohibit discrimination based on gender, only a few countries have included explicit gender equality guarantees. In fact, in several countries, women still face multiple legal challenges, which restrict their civil liberties, political and economic rights, and physical integrity. Clear and effective safeguards are needed to enable the implementation of these rights to realise gender equality, and sensitise prosecutors and judges to enforce these rights equitably and consistently. Looking ahead, and to achieve genuine economic and political empowerment of women across the region with a view of fostering inclusive growth, it would be important for MENA countries to review the provisions of existing laws and to take a pro-active approach by lifting reservations to international conventions as well as to ensure implementation of international provisions through the national legislation and action plans.

Government tools for gender equality

The ability of public authorities to act in an integrated manner is crucial for advancing gender equality reforms. This implies a need for a shared vision and strategy for women's empowerment and gender equality, which should be supported by an effective institutional framework with clear roles and responsibilities and specific mechanisms to embed gender considerations in all policies, programmes and budgets in a systematic and evidence-based manner. Most countries in the MENA region have reported developing a gender equality vision and strategy. Yet, these documents do not uniformly integrate international standards nor they are supported by effective implementation capacities.

Clarity of institutional roles and strong capacities across involved institutions are critical for implementing a gender equality vision and strategy and advancing gender equality reforms. In most MENA countries,[2] responsibility for gender equality is located primarily in a single institution, most often in close proximity to the Centre of Government. While there is no uniform institutional set up for gender issues across the MENA region, those institutions involved would strongly benefit from clarifying and strengthening the mission and the mandate for advancing gender equality and ensuring sufficient human and financial resources and organisational capacities. In addition, strengthening mandates of gender equality oversight mechanisms, including ombudsman, human rights or gender equality commissions, would advance the protection of women's rights and enable more effective implementation of equality strategies.

In addition, effective co-ordination is pivotal to the implementation of gender equality policies in a coherent manner both across the central government and levels of government. Yet while MENA governments increasingly adopt co-ordinated approaches, examples of co-operation across the region remain limited. The existing approaches to co-ordination appear insufficient to achieve policy coherence and a "whole-of-government" approach to gender equality in MENA countries.

Next, ensuring equal access to services – including health, education and finance – and developing gender-sensitive and responsive policies should be a central objective of any governmental gender equality strategy. Designing this type of strategy requires the use of a rigorous process to embed gender considerations in policy and programme design and delivery (i.e. gender mainstreaming). For this purpose, OECD countries are increasingly using such tools as gender impact analysis and gender-responsive budgeting to implement gender mainstreaming and to evaluate the different effects of any policy, legislation or practice on gender equality. MENA countries are also increasingly undertaking a gender analysis of their strategies, policies and laws, yet further efforts would be needed to ensure a systematic, robust and evidence-based approach to conducting gender analysis. In fact, while several countries employ some form of gender analysis, the Palestinian Authority is the only country in the region that has established mechanisms for regular assessment of impacts of all draft laws and policies.

The effective use of these tools is contingent upon the existence and reliability of data systems that generate gender-disaggregated data needed for policy and planning in all sectors of government. Sufficient good quality data provide the basis for sound performance measurement, monitoring and evaluation activities. While MENA country governments reported an availability of around 50% of gender-disaggregated statistics across the themes of gender discrimination, gender-based violence, reconciliation of professional and private life, women's economic empowerment and representation in the

public service, the quality of data and indicators, coverage of statistics and efforts to collect gender-disaggregated data require significant strengthening.

Lastly, in order to ensure that policies, laws and regulations reflect citizens' needs, it is important to consider the views and opinions of various groups of society through public consultations. MENA countries are increasingly recognising the need and importance of consulting with various stakeholders in the policy making process. Nevertheless, the general practice of citizen engagement and public consultation remains limited and sporadic, and often involves only certain stakeholders within or outside the government (see OECD, 2013).

Women in political decision making and public life

Across the MENA region, women's participation in representative bodies has significantly improved with Algeria and Tunisia leading the way with 31.6% and 28.1% of women's representation in parliament respectively. Yet it remains limited, with most countries still far from reaching the 30% critical benchmark (with a participation rate of 15.9% on average in MENA countries).[3]

Similarly, in the political executive, although it is improving, the proportion of women ministers remains low. In September 2012, the share of women that were in cabinet across the MENA region averaged 8%. This ranges from 0% in Lebanon to 23% in the Palestinian Authority. In addition, when women do serve as ministers, they are often responsible for "soft" portfolios focusing on social policy issues and sectors associated with the "traditional female role", with limited access to key economic positions. Equal access to public office also remains a challenge.

In the justice sector, the presence of women in Ministries of Interior and Justice has increased over the past decade and their rate of participation as jurists, at 25%, nears the global average. Some countries are making notable progress in closing the gender gap in the judiciary (UN Women, 2011: 60), with Tunisia boasting 28% women judges, Algeria 23.5%, Jordan and Morocco 20% although women judges in Gulf nations are much more rare. Nonetheless, there are significant variations across the region. Although women's legal rights have improved over the past century and women's participation in law schools has increased, women continue to remain unequally represented in the judiciary, both horizontally across judicial institutions and vertically, within institutions. In response to these challenges, countries have started to adopt policies aimed at increasing gender diversity in public life, ranging from the constitutional requirement for equal representation in the legislative bodies in Tunisia to quotas in Algeria and Morocco, although further effort to ensure impact and sustainability of these reforms would be necessary.

Overall, while improving, women's participation in public life continues to be hampered by the remaining barriers, including reservations to international conventions (e.g. regarding nationality, freedom of movement and family laws). Such reservations also influence the implementation of principles of gender equality, non-discrimination and freedom of movement and hinder the protection of women against the violation of basic civil and political rights. Other restrictions relate to differences in access to opportunities in public life, employment and leadership. These reservations diminish the legitimacy and implementation power of the CEDAW as a benchmark for the basic rights for women. Additional difficulties for women in the MENA region arise due to a weakened state of rule of law, limited rights for political congregation, limited

institutional support for non-discrimination practices (such as ombuds offices or complaints bureaus) and non-uniform civic legal education, awareness and information.

Women's participation in public employment

Following worldwide trends, the rate of female labour force participation in the MENA region has increased over the past two decades. The average female employment to population ratio in 2012 was about 27% in selected countries of the region, which demonstrates an increase from 22% in 1990 (World Bank, 2011a). This can be partially attributed to the improved educational opportunities and achievements across the region. Yet, the improvements in education rates and increasing potential of women in the MENA region have not yet created an equal access of women to economic and public opportunities. Current rates for women's labour participation remain the lowest among other regions worldwide.

Inconsistencies also remain in provisions of labour laws and their implementation that have an impact on women's employment and economic participation. For example, most countries still must review the legislation on maternity leaves to comply with ILO standards in this area (e.g. length of leave of 14 weeks). In addition, such measures as paternity, parental and sick care leaves are largely untapped resources for improving women's participation in the labour force.

The public sector remains a prominent employer of women in the MENA region as it is associated with certain benefits, work-life balance arrangements and is a more culturally accepted employment environment for women. However, women still tend to work in the traditionally feminised areas within the public sector and remain over represented in the service sector. While women are increasingly reaching middle management positions in the civil service, they are less represented in senior decision-making positions in the MENA region and tend to earn generally lower salaries than men. Not unlike in the private sector, such discrepancies tend to be due to a wide range of persisting social, political, economic and legal barriers, often linked to the traditional gender paradigm, are likely to hinder women's full participation in higher levels of government and the labour market in the MENA region.

Women in private life

A country's institutional and legal arrangements define the environment in which men and women operate and the right to access resources, opportunities and information. They can determine the constraints and the enabling factors that drive gender equality as well as women's incentives or capacity to participate in the community, the labour market and political life. Thus legal differentiations (or discriminations) between men and women that are linked to private life – such as accessing institutions, using property, getting a job, providing incentives to work, building credit and going to court – can serve as a strong detriment to women's participation in the public sphere.

While a number of MENA countries have declared equality between males and females in their respective constitutions, a number of discriminatory provisions remain in personal status laws, including marriage contracts, divorce and inheritance, custody of children and the transfer of nationality to children. To ensure compliance with international standards, it will be important for MENA countries to ensure that women are enabled by law and practice to make free choices about their future, as well as given equal rights and responsibilities in family relations, including the distribution of duties

between spouses. Countries are encouraged to consider developing principles and rules with regard to polygamy, as well as effective institutions to protect the rights of all concerned parties, particularly women and children. Additional safeguards are needed to protect women from arbitrary divorce. Women should also be granted the right to submit a request for divorce. Child custody is another area where a number of MENA countries may need to make further adjustments to achieve full equality, for example, by granting equal rights to both parents for child custody, both during marriage and in the case of divorce.

In addition, access to justice is a central issue that can either facilitate or hinder gender equality in all areas of public life.[4] Limited access to justice is a detriment to progress in women's equality as it not only perpetuates existing inequalities but also reinforces impunity and a lax judicial framework for the protection of women's rights. While access to justice is, in principle, assured for all citizens in MENA countries, in practice, several barriers to accessing justice continue to exist for women, such as differences in legal capacity and social considerations (particularly for unmarried women, but also for married women). While much of the persistence of the *de facto* difficulties in access to justice is due to unequal legal capacities of men and women, particularly in relation to criminal, civil and personal laws, there also remains a clear gender discrimination in facilitating administrative and litigation processes. In addition, legal inequalities (e.g. custody of children, division of property following divorce, inheritance rights) influence overall women's ability to protect their rights by reducing their bargaining power within the family.

Access to justice is determined as much by official government institutions as by social institutions and by limited awareness and understanding of legal rights. In the MENA region, cultural trends indicate an overwhelming hesitance for women to access the legal system, including justice for protection against discrimination, abuse and violence. Furthermore, the lack of women in the justice system discourages the use of judicial services by women, while historically law enforcement authorities have tended to divert women from accessing justice. Fear and stigma of accessing the state justice system frequently creates barriers for women to access justice. Some countries in the MENA region have taken positive steps towards addressing this issue, yet more support for civil society organisations and clear steps for reducing barriers to access to justice need to be taken.

Finally, guaranteeing the physical integrity of women remains a significant challenge in the MENA region. In line with the CEDAW provisions, which recommend state parties to establish mechanisms to protect women from violence and collect data on its incidence, many MENA countries recognise that violence against women is a breach of human rights, which limits women's full capacities and constitutes a destabilising force for families and societies. Still, while some countries in the region have developed national action plans to address violence against women, measures taken and their impact across countries are uneven. An insufficient legal framework, lack of data, low level of awareness and a general acceptance by men and women of violence against women in many MENA countries still pose a major challenge. Addressing this issue requires a comprehensive response, going beyond the revisions of the legal framework. It requires effective mechanisms for horizontal collaboration and co-ordination to enable a government- and society-wide response. It also calls for a transparent dialogue between the government and civil society, robust data collection and monitoring, as well sound law enforcement, and responsive and gender-sensitive legal services.

Table 0.1. **Key recommendations**

Towards gender-sensitive laws and effective institutions	Compliance with international standards and elimination of discrimination	– Lift reservations to the CEDAW provisions to enable genuine adoption of the principle of gender equality and close compliance gaps with international conventions in the area of gender equality and human rights. – Undertake a systematic review of the legislation to eliminate all forms of discrimination in the legal system and ensure that the international norms related to gender equality are fully embedded in the national legislative framework. – Establish effective mechanisms to monitor and improve the commitment to the implementation of international norms related to gender equality. – Consider adding to constitutions and relevant legislation an explicit reference to the principle of equality between men and women and ensure that references to women are framed in a gender-neutral manner. – Ensure incorporation of a definition of gender-based discrimination into the constitution and other relevant domestic legislation in line with Article 1 of the CEDAW and an explicit prohibition of such discrimination to reinforce conformity with international standards and ensure progress toward gender equality in law and practice. – Recognise in constitutions the civil, political, economic, social, cultural and environmental rights for men and women and provide for equality in rights and duties, equality in law.
	Strengthening the vision and strategy for promoting gender equality and mainstreaming	– Increase the prominence of the civil, political and economic rights of women in national visions and strategies in the MENA region. – Embed international gender equality standards into national gender equality visions and strategies more prominently, including those specified in the CEDAW. – Strengthen government-wide capacities for effective implementation of gender equality visions and strategies, including developing the necessary skills and knowledge, raising awareness on the high-level objectives and providing the necessary resources.
	Improving institutional framework, resources and policy coherence for the advancement of gender equality	– Improve the effectiveness of institutional frameworks for advancing gender equality in the MENA region, including clarifying roles and responsibilities and bolstering the capacities, mandate, authorities and resources of central gender institutions and gender focal points across the government. – Expand mechanisms for oversight over the implementation of gender equality reforms, including legislative committees or independent commissions on gender equality to ensure a comprehensive approach in promoting and overseeing the implementation of gender initiatives.
	Advancing the implementation and co-ordination of gender equality/mainstreaming policies	– Strengthen co-ordination mechanisms across government bodies and levels of government to support effective implementation of gender equality and mainstreaming initiatives. – Accompany gender equality and mainstreaming strategies with effective accountability, monitoring and evaluation mechanisms for embedding gender equality within the public service and in public policies and raise awareness on gender mainstreaming.
	Advancing gender mainstreaming	– Ensure the development and implementation of a gender mainstreaming strategy, either within the main gender equality strategy or as a stand-alone strategy. This would allow for gender mainstreaming to be taken into consideration more strategically and ensure buy-in at all levels of government as well as raise awareness of gender mainstreaming. – Develop a systematic and comprehensive approach to integrate gender analysis (gender impact assessment) into the policy and programme development process. – Build capacity within government institutions to develop gender-sensitive policies, budgets and programmes in MENA countries to address the current gaps in the understanding of and the limited skills in applying gender impact assessment. – Raise awareness of the difference between gender-sensitive and gender-neutral policy making to help create an understanding of the importance of accounting for different impacts that policies and regulations may have on men and women across the region.

Table 0.1. **Key recommendations** (*cont.*)

	Strengthening collection and use of gender-disaggregated data	– Strengthen the development and implementation of data collection strategies and expand the scope and depth of gender-disaggregated statistics to support evidence-based decision making in this area. – Increase co-ordination among data collecting and producing bodies to develop an efficient statistical system and ensure a coherent and government-wide approach to collecting gender-disaggregated data. – Improve access to gender-disaggregated data through online dissemination or statistical yearbooks to support more effective national and international decision making.
	Introducing systematic and inclusive approaches to public consultation	– Improve the clarity, regularity and transparency of the consultation process for policy making, including on policies related to gender equality. Strengthen mechanisms for systematic consultations. Consultation efforts should include efforts to reach out to both women and men facing various participation barriers ("willing but not able"), as well as those who have limited interest in consultation ("able but not willing") by creating an enabling environment to ensure that government policies and programmes are reflective of and respond to the views of various groups of the population. – Increase opportunities for women's organisations to participate in the policy making process in an inclusive and transparent manner, for example, by including them in advisory bodies that are regularly consulted by the government.
	Implementing a robust approach to gender-responsive budgeting	– Adopt a systematic and comprehensive approach to gender-sensitive budgeting, which should be accompanied by capacity-building programmes and awareness-raising campaigns. – Strengthen national systems to track and make public allocations for gender equality and women's rights and report on these efforts through the post-Busan gender equality indicator.
Women in public life	Increasing women's participation in representative and executive bodies	– Establish measures such as quotas (voluntary or legislative) to improve the representation of women in parliaments and the political executive; adopt measures to strengthen equal access of women and men to public office. – Advance the use of leadership development programmes to strengthen women's leadership capabilities. – Adopt policies for greater work-life balance and for greater "women-friendliness" of legislatures, including instituting gender-sensitive parliamentary practices and procedures. – Support the establishment of cross-party women's caucuses to provide support networks for women in legislatures and encourage peer co-operation. – Take active steps to prevent, identify and address political harassment and violence experienced by women when in public office. – Take steps to strengthen women's access to high-level executive posts by creating an enabling environment and institutional mechanisms that provide support and access to female leaders, including networking among female leaders.
	Advancing women's representation in the judiciary	– Remove legal restrictions preventing women from entering judicial and related justice sector professions, including those related to restrictions in the areas of work, night work and freedom of movement. – Encourage women to opt for judicial and legal careers through positive reporting (in the media, schools and universities) on women's contribution to fair decisions and adjudications, and equal access to justice and courts. – Strengthen the capacities of judges and prosecutors to interpret and apply laws in a gender-sensitive manner in order to avoid arbitrary decisions. – Bolster oversight mechanisms for appointments in the judiciary to ensure the adherence of legal requirements and equality measures within the process of judicial appointment.
	Enhancing women's ability to raise their voice and participation in civil society	– Take steps to foster an active and vibrant civil society and support women's participation in and their access to leadership in these organisations. – Provide technical skills to maximise open dialogue on the virtual level among women and activists in order to exchange ideas, including social media. – Build women's capacity to communicate with officials, defend their rights, and develop organisational and leadership skills. – Provide media training on removing gender stereotypes.
	Enabling freedom of movement	– Remove discriminatory restrictions to freedom of movement in compliance with international treaties and conventions.

Table 0.1. **Key recommendations** (*cont.*)

Women's participation in public employment	Ensuring consistency of national labour legislation with international standards	– Ratify the outstanding International Labour Organisation (ILO) conventions, including the Night Work Convention, Maternity Protection Convention and Hours of Work Convention. – Ensure incorporation of the ILO standards into the national legislations across the region, including embedding the principle of gender equality into the general provisions of the legislation, as well as equality with regard to all elements of remuneration. – Remove unnecessary restrictions on the occupations of women and review the definition of "hazardous or dangerous jobs" in light of international standards in this area; amend labour law provisions based on the standards of Articles 1 and 2 of the ILO C171 Night Work Convention (1990) and either abolish the prohibition to employ women at night or reduce the number of "night work" hours. – Consider reinforcing regulations protecting all categories of workers, including agricultural, domestic and similar types of workers.
	Improving work-life balance	– Extend maternity leave provisions to ensure they are in accordance with the international standards, including Articles 4 and 6 of the ILO C183 Maternity Protection Convention (2000). This means ensuring a period of no less than 14 weeks of maternity leave with a 6-week post-natal compulsory leave after childbirth. In addition, salary and benefits should be ensured for a sum of no less than two-thirds of the woman's previous earnings. – Review maternity leave provisions to: *i)* ensure that employers do not bear the costs of these leaves directly and that indirect financing mechanisms are used (e.g. social insurance funds), so as to not associate these costs with employing women; *ii)* ensure that the length of maternity leave does not significantly exceed the level recommended by the ILO C183 Maternity Protection Convention (2000); and *iii)* complement maternity leaves with parental and paternity leaves so as to dissociate the costs of childrearing with women as much as possible (see following recommendation). – Consider introducing parental and paternity leaves to facilitate sharing childcare between both parents and a balanced approach to family planning. – Facilitate effective childcare solutions, including hours of operation and availability of places to support female labour force participation. – Design other policies that allow employees the flexibility to balance their private and public lives, such as compressed work weeks, telework and job sharing either through government regulations and/or by building incentives for employers to provide these types of flexible solutions. – Incorporate work-life balance measures into legislation and regulations in both the public and private sectors.
	Strengthening HRM institutions, processes and employment conditions in the public sector	– Strengthen oversight and enforcement mechanisms to ensure effective implementation of legal provisions with regard to the public sector appointment system. – Reinforce standardised and merit-based recruitment processes to support the recruitment of staff with the right skills and competences and to ensure equal access by both men and women to public employment opportunities. – Adopt affirmative action programmes or specific measures, such as quotas or targets, to improve gender balance, as a temporary solution to increase women's representation – Provide women and men with leadership development opportunities to enable equal access to senior posts through career counselling services, coaching and mentoring programmes. – Improve employment conditions both in the public and the private sectors by ensuring pay equality and equity in practice, establishing and reinforcing existing social protection policies, and formalising dispute prevention and resolution processes to settle work grievances.

Table 0.1. **Key recommendations** (*cont.*)

Women in private life	Ensuring gender equality in family relations	– Provide women with a greater ability to design their futures, including the free choice of their partner and marriage at the appropriate age, in compliance with the gender equality principles outlined by the CEDAW. – Ensure an equitable distribution of duties between spouses in the Personal Status Law, which is fully consistent with the Islamic principle of mutual aid and support between spouses. – Enable women's protection from arbitrary divorce and grant them the right to file for divorce. – Guarantee the right of both parents to child custody during and after the marriage until the child, girl or boy, reaches majority/adulthood, as per the recommendations of the CEDAW and the UN Convention on the Rights of the Child (CRC). – Consider practices from other countries that provide principles and rules on polygamy, with a view to protecting the rights of all the concerned parties, particularly women and children, while conforming to the essence of the tolerant Islamic *sharia*. – Reconsider inheritance laws to remove discriminatory provisions against women.
	Ensuring equality in nationality rights	– Enable full equality between the mother and the father in their ability to transfer their nationality to their child(ren). – Provide for full equality between men and women with regard to the privileges in obtaining and attributing their nationality by marriage, as recommended by the CEDAW.
	Eliminating violence against women	– Develop framework laws on violence against women (e.g. domestic violence, female genital mutilation, trafficking of women, prostitution and violence outside the home) and promote understanding of the relationship between violence and gender discrimination, including through criminalisation of acts of domestic violence and sexual abuse. These laws should be supported by a comprehensive and horizontal strategy to prevent and combat violence against women. – Repeal discriminatory provisions in criminal law, in particular the laws on adultery and crimes against women in the name of honour; ensure the equal treatment of women before the law and the abolition of the diluted criminal law liability, and strengthen the penalties imposed on men who commit so-called "crimes of honour". – Promulgate laws to protect female workers from being subject to trafficking or abuse and design measures to protect categories of women in precarious situations, such as domestic workers and refugees. Help them learn about their human rights and enable them to keep their families safe. – Facilitate provision of public and social services that seek to protect women from violence or help victims (e.g. hotlines, shelters, centres and counselling services for women victims of violence, hospital referrals). – Strengthen law enforcement and the capacity of actors involved in the prevention, identification and suppression of violence against women, including human trafficking. Establish in the justice system and in courtroom procedures additional safeguards that ensure the anonymity, privacy, dignity and autonomy of victims of violence. Simplify procedures of proof for gender-based violence. – Intensify awareness-raising and advocacy actions against gender-based violence targeting the public at large and opinion leaders, including improvements in research and data collection. – Strengthen non-judicial mechanisms for the protection of women and human rights, i.e. human rights commissions, a Gender Equality Commission and/or an ombuds office, which can also support women's access to justice (see Chapter 3). – Address social barriers that impede access to justice in cases of gender-based violence by changing organisational behaviours towards women who report incidents to the police and judiciary, particularly through the use of media campaigns and educational institutions.

Table 0.1. **Key recommendations** (*cont.*)

Women in private life (*cont.*)	Improving equal access to justice for men and women	– Ensure complete equality before the law, especially in instances concerning the marriage contract, nationality, child custody and alimony and simplify the procedures involved in access to justice through specifically targeted mechanisms and financial aid. – Make courts more accessible, including through the provision of affordable legal aid services in areas related to family and civil law based on needs assessments. – Strengthen non-judicial mechanisms to protect women's and human rights, such as a Human Rights and Gender Equality Commissioner or Ombudsman, and encourage independent women's advocates to help women understand their rights, how the system works and how to fight for justice. – Enhance awareness of legal rights through a range of methods, including free legal advice, information dissemination via commonly used media and childhood education programmes. – Address social barriers to accessing justice by changing institutional behaviour towards women who report incidents to the police and judiciary, through criminalising all forms of discrimination or violence against women, launching an anti-stigma media campaign, and using the educational institutions and the media to build women's confidence of the police, judicial and law enforcement processes.

Notes

1. Nearly all Arab countries have expressed reservations about the CEDAW, except Comoros and Djibouti. A number of Arab countries (e.g. Algeria, Jordan and Morocco) have announced or plan to remove some or all reservations to the CEDAW, in line with the legal and policy reforms in which they are currently engaged.
2. This refers to the nine MENA countries that participated in the OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership.
3. OECD calculations based on 2014 data of the Inter-Parliamentary Union.
4. The need for legal and justice services varies depending on individual demographic characteristics such as gender and cultural characteristics as well as geographic location (rural or urban) and socio-economic characteristics (level of income, social welfare, education and health status). These differences in needs come as a result of intrinsic and extrinsic inequalities and trends in societal roles for each demographic, whether in regards to men and women, or in regards to different minorities or regional populations. Accordingly, it is evident that inequalities in access to justice due to capacities, knowledge, physical accessibility or societal norms is often integrated into the legal and institutional framework (Chiongson et al., 2011).

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Chapter 1

Towards women's empowerment in public life in the MENA region

Addressing gender-based discrimination and closing the remaining gaps in women's participation in public life have been identified as a key priority for the MENA region to strengthen competitiveness and foster inclusive growth and better policies. This chapter maps the developments in the MENA region over the past decades and highlights the outstanding challenges to achieving gender equality. It outlines the rationale for the current study, its objectives and methodology.

Rationale for the study

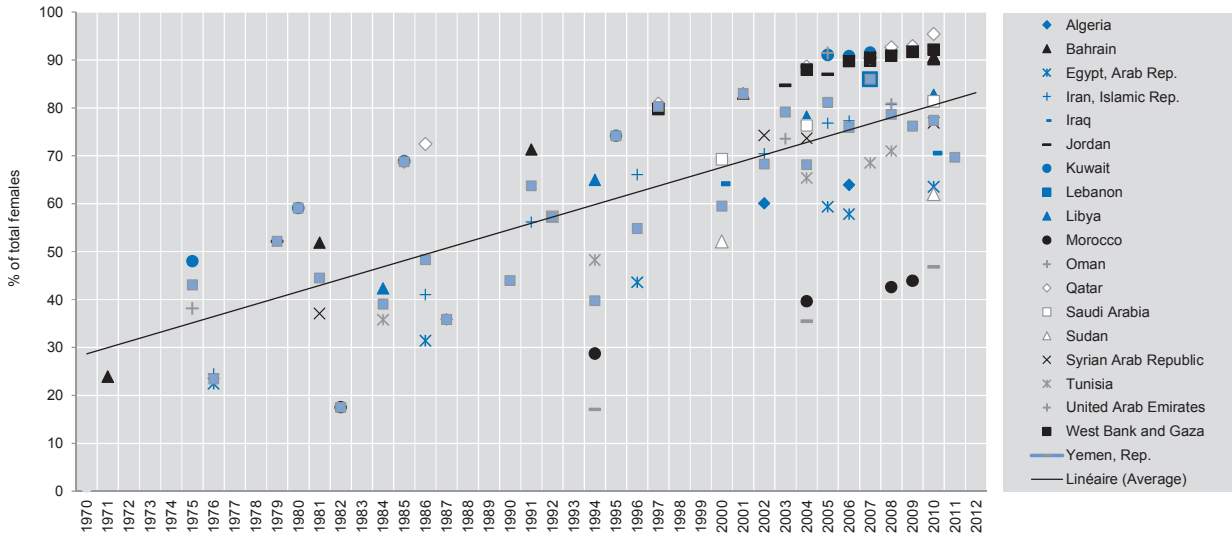
The past years in the MENA region have been marked by citizen calls for greater openness and integrity of the public sector, gender equality and inclusive growth. Indeed, MENA countries face many structural challenges including high unemployment, limited competition, pervasive corruption and gaps in equality between men and women. Yet the ability of countries to achieve inclusive growth and address these structural issues strongly depends on their capacity to mobilise and maximise the full potential of the available talent in the region, half of which is women. The OECD work indeed shows that greater gender equality in labour markets and education can contribute to economic growth, national happiness and well-being (OECD, 2012a). This volume, therefore, reviews the conformity of MENA countries with international gender equality standards, identifies the main drivers for closing persistent gender gaps in public life, including removing any remaining gender-based discriminations in the legal and policy frameworks, and strengthening institutions and tools of government for promoting gender equality. It offers policy recommendations and good practices from OECD and MENA countries to support countries in the region in developing inclusive and gender-sensitive policies and closing the outstanding gender gaps to foster inclusive growth and competitiveness.

Overall, the situation of women in the Arab region has witnessed uneven developments in recent decades. While there have been positive changes in such areas as education or employment, significant further action is needed to achieve genuine gender equality. Positive change shows an important potential for progress that has to be supported with effective policy measures. Since the 1970s, many MENA countries have recorded the fastest rates of global progress in human development (World Bank, 2013: 31; United Nations Development Programme, 2010), including improvements in infant mortality and life expectancy. According to the World Development Indicators, infant mortality rates dropped from 98.7 deaths per 1 000 live births on average[1] in 1970 to 17 deaths per 1 000 live births in 2011. Likewise, life expectancy at birth rose from 58.5 years in 1970 to 75.2 years in 2012, with women living on average 2 years longer than men in both 1970 and 2011.

Growing educational rates of women are contributing to improvements in gender equality across the MENA region. In fact, literacy rates in the MENA region for females has jumped a little more than 10 percentage points, from approximately 61% in 2000 to 72% in 2011[2] (Figure 1.1), with significant improvements in gross tertiary enrolment in Egypt and Lebanon and in literacy rates in Jordan, the Palestinian Authority and Qatar.

In addition, women's participation in the economic life of the MENA region has been improving, although the level is still low. In 1990, the ratio of female-to-male labour force participation rate in 1990 was approximately one female to every four males (0.264),[3] whereas in 2011 the ratio was one female per every three males (0.342).[4] This ratio is not homogenous across the region, however, as marked differences in female participation rates persist within some countries. For example, the Gulf countries of Bahrain, Kuwait and Qatar report higher levels of education (secondary, not shown), labour force participation and literacy (as noted in Figure 1.1), than some of their neighbours in the region.

Figure 1.1. **Female literacy rates in the MENA region**



Source: World Bank DataBank, Gender Statistics.

The political participation of women has been affected very differently by developments in the Arab region in the last years, where women also played a critical role. Some countries that experienced the Arab uprisings have since adopted new constitutions which guarantee gender equality and set the basis for a more balanced involvement of women. Other countries have seen some setbacks for gender equality and women's rights, including the exclusion of women from the decision making in the political transition. Yet overall, a surge in political activism can be seen across the region. Increased networking and communications opportunities derived from technological advances and social media have been offering women and men new possibilities to express their opinions and participate in political life. As a consequence, some countries have since seen an emergence of new civil society organisations which focus on promoting good governance and play a key role in advancing the ongoing democratic transition.

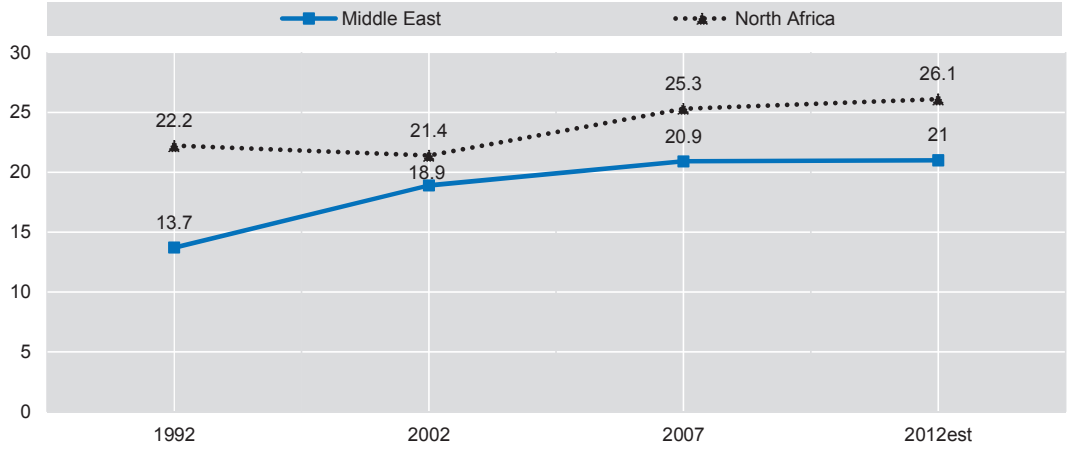
These trends are also visible in the representation of women in decision-making bodies. In 2000, there were only 3.8% of women in a single house or lower house of legislative bodies in Arab countries (Inter-Parliamentary Union, 2000). By 2014, this number had reached 12%. In both houses of legislature this figure reached 15.9%. In 2000, the Inter-Parliamentary Union recorded zero female parliamentarians for several countries, including Djibouti, Jordan, Kuwait and the United Arab Emirates (UAE),[5] with the highest levels of women as political representatives found in Tunisia, with 15 women (11.5%), and Iraq, with 19 (7.6%) (Inter-Parliamentary Union, 2000). By 2014, each of the countries mentioned above that did not have any women in parliament in 2000 had increased these numbers: Djibouti increased the representation of women in its legislative branch to 7 (12.7%); Jordan's female legislative representation grew to 18 women (12%); the United Arab Emirates now has 7 women (17.5%); 1 woman (1.5%) serve as legislators in Kuwait. Currently, Algeria has the highest number of women in the legislature (31.6%).

These improvements in women's lives are reflected in several international indicators. For example, in comparison to the year 2000, 2010 registered a 12 percentage point drop

in adolescent fertility rates (15-19 years of age) across to region.[6] The OECD Social Institutions and Gender Index (SIGI) indicated improvements in social institutions (family law, physical integrity, preference for male children, access to resources and civil liberties) for most countries. According to the SIGI, Jordan demonstrated overwhelming improvements for women in civil liberties (public spaces and political voice). Algeria, Bahrain, Iraq and Saudi Arabia also showed improvements in legislation related to women's access to resources (land, credit, etc.), while physical integrity laws improved in Egypt and Iraq. Similarly, according to the Gender Inequality Index,[7] the loss related to gender inequality in labour market outcomes, empowerment and reproductive health was reduced from 65% in 2000 to 45.7% in 2012. Overall, multiple sources (OECD, 2012a, 2012b, 2014; International Labour Organisation, 2012) show that gender inequalities in the MENA region's labour force participation decreased between 1990 and 2010 (OECD, 2012a: 151; OECD, 2012b; International Labour Organisation, 2012).[8]

Nonetheless, despite progress in the MENA region on many issues, the educational gains achieved by women have yet to translate into greater empowerment and participation in public life. Although trending positively (OECD, 2014), women's economic and public participation in the MENA region remains the lowest in the world (International Labour Organisation, 2012; Figure 1.2).[9] Labour force inequalities rank higher than in any other region. South America, Central Asia and Southern Asia reduced their gaps by 13.4%, 12.2% and 9.2% respectively between 1990 and 2010. These regions demonstrated the fastest three rates of closing the gender gap. In contrast, the MENA region improved by 7.4% over the same 20-year span, but remained the region with the highest inequalities in access to labour markets (OECD, 2014; OECD, 2012a: 151; OECD, 2012b; International Labour Organisation, 2012).[10] The World Economic Forum's Global Gender Gap, which measures economic participation and opportunity, educational attainment, health and survival as well as political empowerment, demonstrates that the MENA region, on average, has a deep gender gap, with a score of 0.75,[11] as compared to the world-wide performance of approximately 0.60.[12]

Figure 1.2. **Estimated trends in female adult labour force participation rates, Middle East and North Africa, 1992-2012**

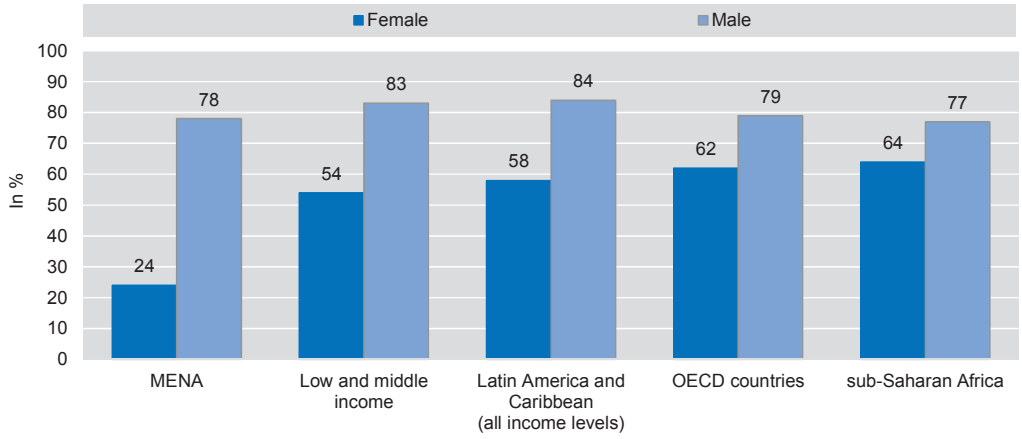


Note: The age cut-off for adulthood is not defined but appears to be 15 years.

Source: OECD (2014), *Women in Business 2014: Accelerating Entrepreneurship in the Middle East and North Africa Region*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264213944-en based on ILO Global Employment Trends for Women, 2012, Table 5.

Figure 1.3. **Male and female labour force participation rates, 2011**

Selected regions of the world



Source: OECD (2014), *Women in Business 2014: Accelerating Entrepreneurship in the Middle East and North Africa Region*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264213944-en based on World Bank Gender dataset based on ILO Key Indicators of the Labour Market.

Such persistent gender inequalities incur high costs for the region. International evidence suggests that gender inequalities in rights, access to services and resources, economic opportunities and political voice hamper a country's ability for sustainable economic growth and good governance (World Bank, 2001; OECD, 2012a: 24-30). Strengthening women's empowerment in MENA countries can support inclusive growth by fostering investment in human capital, as well as stimulating female labour force participation, and hence women's contribution to growth as business actors and consumers. Indeed, women represent an important and still largely untapped source of vital human capital for the region. The *World Development Report 2012* argues that gender equality is a core development objective in itself, and, in addition, it is simply smart economics. Gender equality is a multiplier for any other development objective, while gender inequality hinders development. Improving gender equality can enable productivity gains, inter-generational benefits through household transfers that enhance the benefits for children and more representative and responsive decision making (World Bank, 2011). As such, facilitating the participation of well-educated women in the labour force and decision-making processes can help capitalise on a country's available talent pool and increase innovation and competitiveness while bringing a different set of policy concerns to the political agenda.

Yet there are many remaining factors that still hinder gender equality across the MENA region, including:

- Roll-backs in gender equality. The rise in extremist movements in MENA countries contributed to roll-backs in gender equality achievements. For example, developments in some countries in the past years show how women's rights and gender equality can be easily side-lined or, in some instances, reversed during periods of conflict and transition. In these cases, the role of women's movements, other civil society organisations and activists is critical. For example, in Egypt and Tunisia, civil society has prevailed in preserving as many gender equality achievements as possible. In fact, Tunisia has adopted a constitution that is very advanced in terms of gender equality, although further efforts are necessary to ensure its effective implementation.

- Discriminatory laws and social institutions. Gender stereotypes frequently are reflected in social institutions that discriminate against women across the region. For example, according to the SIGI, laws in Egypt Morocco, Tunisia and Yemen reveal setbacks or contribute to stagnancy of women's physical integrity.[13] While legislation and *de facto* access to resources are vital for women's autonomy and empowerment, estimates from countries in the region show recent reversals in laws and *de facto* access to resources. In fact, the MENA region has been the lowest performing region in the OECD SIGI study, with major problems in freedom of movement, access to public space, family code, restricted physical integrity, restricted resources and assets. Progress in the area of civil liberties also continues to be an important focal point for policy action, with most countries in the region demonstrating increased austerity in the liberties afforded women to facilitate their participation in the civic sphere, including the lack of quotas to enable women's political participation (OECD Development Centre/OECD, 2012, 2009).[14,15]
- Traditional gender norms, which represent a set of rules that can formally and informally direct the decisions and opportunities to which women have access. These are based on cultural, historical and religious contexts. Gender norms can shape incentive systems and support current institutions that restrict women's rights, freedoms and protection. In most cases, although largely unfavourable for women, traditional gender norms are upheld by both men and women. For example, pressure to participate in early marriage or forced marriage is often endorsed by female heads of households, who are often single mothers, as a way to uphold traditional values. This practice can be an important factor in restricting women's chances for completing a high level of education and developing professional skills in the labour market.
- Demographic changes. Over the last few decades, the MENA region has witnessed a series of demographic and cultural changes that have levelled a substantive impact on the progress of women in the region. A mixture of high fertility rates with a decreasing mortality rate have resulted in an increase in the population aged 15-64. Since 1980, this demographic group has grown, from 55% of the population to 66% of the population in 2011. Such disequilibrium in demographics caused by high population growth has been one of the factors driving the changing environment in the MENA region. In addition, a youth "bulge" in the economy, coupled with the global economic crisis, has placed extraordinary pressure on the labour market to provide employment opportunities (World Bank, 2013: 119). Given that men traditionally are regarded as the main breadwinners, there is increased pressure to provide jobs to men. Moreover, the youth bulge reinforces the skills mismatch given that women are achieving higher levels of education in the region but unable to enter the labour force due to stereotypes on breadwinners. This, in turn, generates a high risk of using traditional norms to justify women's role in the home and thus reduce pressure on the labour market.
- Remaining high rates of illiteracy. While the past two decades have been marked by a positive trend in access to education for women, the rate of adult literacy remains low. While the literacy rate of the female youth population (15-24 years of age) is relatively high, the illiteracy among the female adult population (24 years and above) is still of concern, particularly in some countries (World

Bank, 2007). For example, the recent statistics issued by the High Commission for Planning in Morocco show that 41.3% of Moroccan women are illiterate, and in rural areas, this percentage reaches as high as 58%. In Yemen, the rate of illiteracy for women remains at over 60%.[16]

To address these gaps and other social, legal, political and economic barriers discussed in this report, the role of public institutions is pivotal. Public institutions can help remove discriminatory norms and practices within the legislative framework as well as traditional barriers to women's participation. The call for social justice reforms observed across the region in the past years could be considered as a potential to drive the political and social changes needed to attain gender equality. There is also a high risk of setbacks in women's rights in the region at the moment, so strong attention is needed to ensure that the gains made by women have not been reversed. Steps need to be taken to ensure that the progress *aquis* are protected and that women's continued progress will occur through carefully designed and implemented actions that respond to the call for inclusive and sustainable development for women and men.

Further advances in gender equality are critical to the overall well-being of the region and achieving global competitiveness. This requires both compliance with international commitments and the elimination of legal provisions that are discriminatory in nature. Yet while important, reviewing legislation and amending discriminatory laws and regulations are insufficient to overcome gender inequality in practice. International evidence suggests that proclaiming equality between women and men and giving it a legal basis (*de jure* equality) has not always resulted in the achievement of *de facto* equality. Gender equality must include equal rights but also demands for equal access to services and resources, economic opportunities and political voice. A premise of this report, therefore, is that gender equality should not be addressed at the periphery, but rather as a central policy concern. Unless public policies, services, legislation and resources benefit all citizens – women as well as men – good governance cannot be fully achieved (OECD, 2010). This report, therefore, encourages governments across the region to analyse their policies and services through a gender lens to ensure that they reach out and respond to the specific needs of women and men. Governments play a critical role in creating the right conditions for empowering women and enabling their access to opportunities across sectors, from health and education to employment and business development. Yet governments cannot do it alone. Other players such as civil society, women's movements, the private sector and citizens should actively participate in the decision-making process for generating inclusive policies and services.

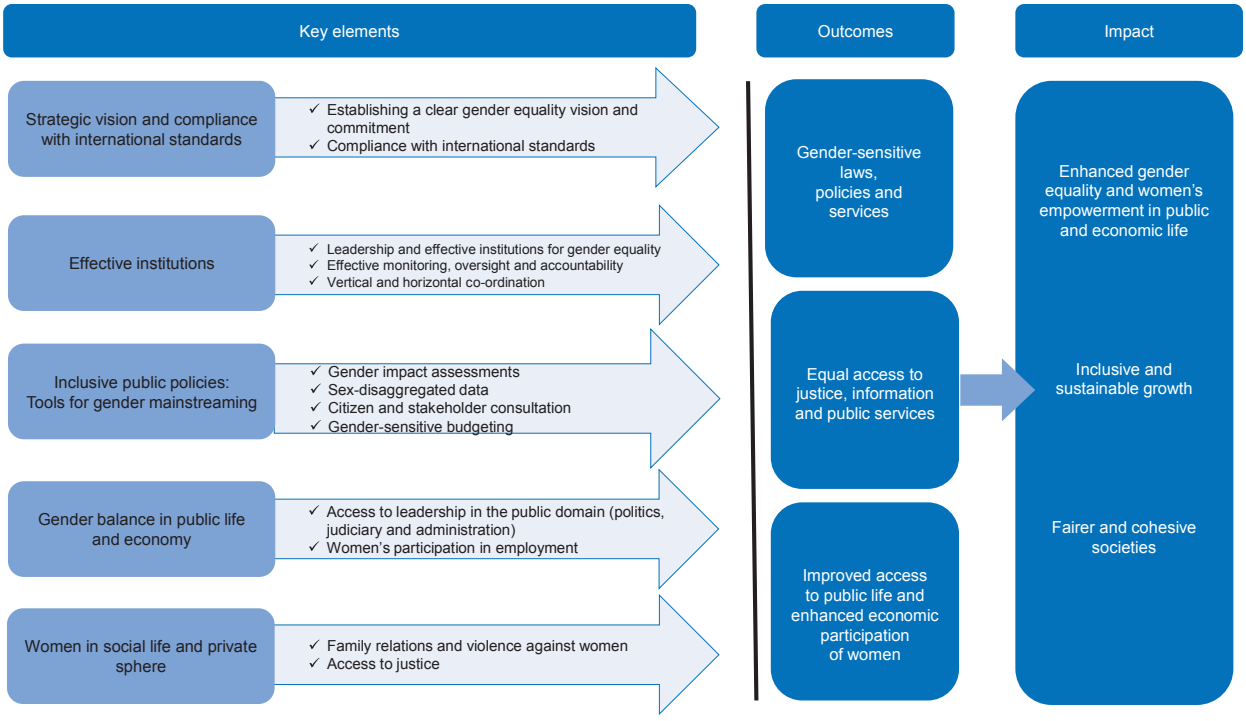
Study objectives and approach

To this end, this report undertakes: *i)* a comparative legal review of the legislation to identify any discriminatory gender norms and assess compliance with international standards; and *ii)* a comparative evaluation of institutional arrangements and the strategic capacity of the public sector in the MENA region to develop and implement gender-sensitive policies and programmes, as well as broader governance arrangements related to gender equality.

Specifically, this assessment aims to identify key achievements, challenges and potential solutions for designing, implementing and monitoring gender initiatives and reforms in the MENA region by analysing legislation, gender strategy and public policy with regard to:

1. compliance with international standards, including the Convention on the Elimination of All Forms on Discrimination Against Women (CEDAW) and OECD Recommendation on Gender Equality in Education, Employment and Entrepreneurship (2013), in the areas affecting women's participation in public life, including civil liberties and political rights; employment (labour law and public employment); education and training; family, nationality and social policy; violence, physical integrity and health; and access to justice
2. the strategic capacity of the state and overall institutional design of the public sector to reduce gender disparities and contribute to women's empowerment
3. mechanisms to mainstream gender into policy, programme and budget cycles for greater inclusiveness and gender responsiveness
4. women's access to top public positions and public employment
5. norms guiding women's private life, including physical integrity, access to justice and family laws that have a critical impact on women's participation in economic and public life (Figure 1.4).

Figure 1.4. **Framework for advancing gender equality**



Source: Developed by the OECD, 2014.

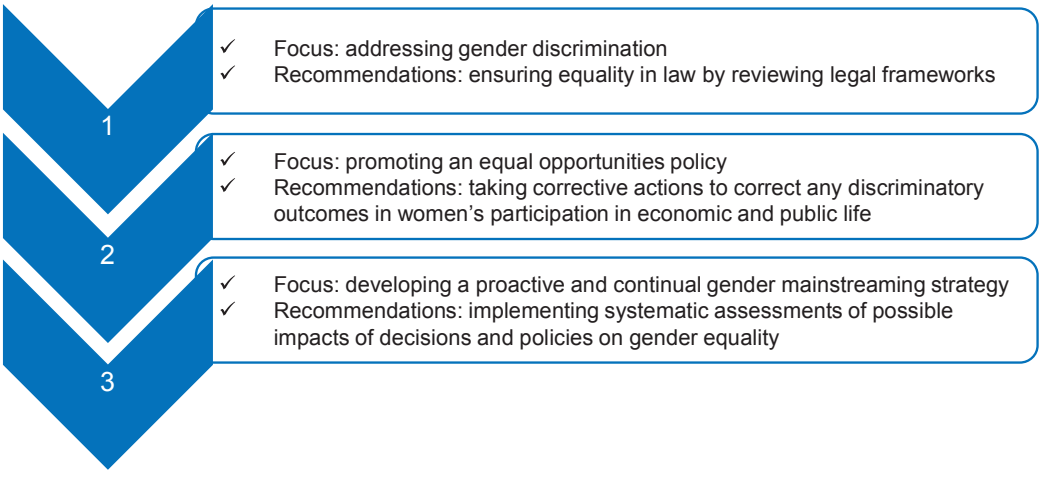
This report focuses on identifying the key elements required to achieve and sustain gender equality in practice across the region, clustered around three levels of action (Figure 1.5):

1. The first level of action is to address legal gender discrimination and ensure equality in law. Achieving this objective requires thorough assessment of the existing legal frameworks to eliminate any gender-based discriminatory

provisions. The next chapter highlights some of the main trends in MENA countries' compliance with international standards, with more detailed thematic analysis found across the report and in particular in Chapters 5, 6 and 7.

2. The second level of action is the promotion of an equal opportunities policy to correct for any unequal outcomes in women's participation in economic and public life. More detailed assessment of the situation in MENA countries is found in Chapters 5 and 6.
3. The third level of action is the development of a proactive and continual gender mainstreaming strategy, which seeks to ensure that the principle of gender equality is operationalised in a systematic manner. Policy recommendations in this area suggest systematically assessing the possible impact of public policies on gender equality before their implementation to ensure that these policies do not treat women and men unequally. A description of the gender mainstreaming approach in the MENA region is provided in Chapters 2 and 4.

Figure 1.5. **Levels of action in achieving gender equality**



Source: Developed be the OECD, 2014.

Methodology

This report draws on the OECD's expertise with public governance reviews, gender and public policy reviews; the OECD's ongoing gender work; the OECD's *Government at a Glance* series; and the legal and regional expertise of the Centre for Arab Women Training and Research.

This report was peer reviewed by gender and governance experts from several OECD as well as MENA countries, which contributed to a mutual learning process, the assessment and policy recommendations by drawing on their expertise and knowledge.

Information for this report was gathered through:

- Several cross-country surveys, including the MENA-OECD 2011 Survey on National Gender Frameworks, Gender Public Policies and Leadership, which was updated in 2014. This survey was conducted with the participation of government officials and in collaboration with national and international civil society organisations.

- Legal assessments, focusing on comparative assessment of compliance of national legislation and regulations in MENA countries with international standards. The report highlights both the outstanding conformity gaps, advancements made by countries in addressing gender discrimination in law and examples of good practices from MENA countries as a benchmark.
- Technical consultations with MENA countries held in Tunisia in 2013 that convened government officials, legal experts and civil society representatives to discuss findings from the survey and the report and to provide expert advice on the recommendations drawn from the study.
- Policy dialogue with OECD and MENA experts through the MENA-OECD Women in Government Platform (former Gender Focus Group) sessions; the conference "Women Driving Change: The Role of Women in Advancing Good Governance and Inclusive Development", held 2-3 July 2012 in Alexandria, Egypt, in collaboration with ARADO (the Arab Administrative Development Organisation); the high-level conference on "Women in Government: Engendering Public Policies in the MENA Region", held 1-2 December 2011 in Granada, Spain; and the conference organised in collaboration with Adetef (the French international technical assistance agency of the Ministry of Economy, Budget and Sustainable Development), entitled "Co-operation for Economic Governance with Gender Balance", held 19 March 2013 in Paris, France – to obtain first-hand information on the attitudes, perceptions, level of awareness, knowledge and understanding, as well as experiences of both men and women in the areas affecting gender equality policy. Representatives of the MENA-OECD Women's Business Forum have also contributed to the policy dialogue as part of their participation in the above-mentioned events.
- Civil society consultation. Interviews with eight country-level and regional civil society organisations were conducted at the end of 2013 to nuance the findings of the report, progress made and remaining barriers to women's empowerment in the MENA region.
- Interviews and discussions with legislators, parliamentarians, legal experts and managers from the public and non-governmental sector, held throughout the process of this review, ensured an up-to-date focus on important issues and complex settings in the context in the MENA region. These interviews helped to better understand leaders' and managers' knowledge, experiences with and perceptions of women's human and legal rights, participation in decision making, employment opportunities in the public and private sectors, and access to justice.

This report is divided into seven chapters. The first chapter provides a general overview of the approach and the methodology used to create this report. The second chapter analyses trends in compliance with international conventions for integrating the gender dimension into the policy and decision-making processes and the active promotion of gender equality and non-discrimination. Chapter 3 highlights the role of the state in promoting gender equality and reviews the institutional frameworks and tools available to governments in this area. Chapter 4 focuses on aspects related to integrating gender considerations into the policy- and service delivery processes. Chapter 5 focuses on women's access to decision-making positions (legislative, executive and judiciary) while Chapter 6 focuses on legal trends and practices in MENA countries to promote women in economic and public participation, including compliance with international standards in

this area. Finally, Chapter 7 considers compliance of domestic legislation with international standards protecting women's physical integrity and access to justice and family law, and highlights policy actions undertaken by governments to address the remaining gaps in these areas.

Notes

1. The World Development Indicators are from http://databank.workbank.org. The indicators of average "Infant mortality rates per 1 000 live births" and "Life expectancy at birth" are unweighted. They consist of an average across several MENA countries for which data were available during the years of 1970 and 2011. These countries include: Algeria, Bahrain, Djibouti, Egypt, Arab Republic, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Malta, Morocco, Oman, Qatar, Saudi Arabia, Tunisia, the United Arab Emirates, West Bank and Gaza Strip, and the Yemen Republic. Life expectancy at birth indicates the average number of years a new-born infant would live. The child mortality rate is the probability of dying between the exact ages of one and five, if subject to current age-specific mortality rates. The probability is expressed as a rate per 1 000.
2. World Bank, World Bank Database: Gender Database, http://databank.workbank.org, accessed 5 August 2013.
3. The ratio is 0.264 females to 1 male.
4. The ratio is 0.342 females to 1 male.
5. No data were available for Libya.
6. In 2000, the non-weighted average adolescent fertility rate for the MENA region (births per 1 000 women aged 15-19) was 42.5176. The MENA region includes Algeria, Bahrain, Djibouti, Egypt, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Lebanon, Palestinian Authority, Oman, Qatar, Saudi Arabia, Tunisia, United Arab Emirates and Yemen (UNDP and UNDESA, 2012).
7. The United Nations Development Programme's Gender Inequality Index (GII) is made up of a composite of indicators of reproductive health (maternal mortality, adolescent fertility); empowerment (as measured by educational attainment above secondary level and parliamentary representation); and labour force participation.
8. The estimates are unweighted averages for countries in the MENA region. The countries grouped in this region for this estimate for which data were available include: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestinian Authority, Qatar, Saudi Arabia, Tunisia, United Arab Emirates and Yemen.
9. Labour force participation rate, female-male ratio.
10. For further information on regional groupings, please see Annex II.A1 of OECD (2012a).
11. In this case, it is noted that a higher score indicator points to a wider gender gap.

12. Other regions include Asia and the Pacific, sub-Saharan Africa, Latin America and the Caribbean, Europe and Central Asia, and North America (World Economic Forum, 2012).

13. Yemen is the worst performing country in the 2014 edition of the SIGI. Saudi Arabia is not included in the ranking.

14. The *Gender, Institutions and Development Database* (GID-DB) presents comparative data on discriminatory social institutions related to gender inequality. The database includes the 14 variables of the 2012 Social Institutions and Gender Index (SIGI) as well as the overall rankings and scores for the SIGI and its sub-indices.

15. The SIGI measures discrimination in several different conglomerated areas in order to more adequately capture the barriers to freedoms that are constructed by social institutions. These institutions include discrimination towards women in family code (legal age of marriage, early marriage practices, requirements for parental authority in marriage and after divorce, inheritance laws towards daughters and widows); restricted physical integrity (violence against women [rape, domestic violence, sexual harassment]); the practice of female genital mutilation; domestic violence (attitudes and lifetime prevalence); reproductive integrity (the percentage of women aged 15-29 with the unmet need for family planning); son biases (the phenomenon of missing women and fertility preferences); restricted resources and entitlements (access to land, access to credit and access to property other than land); restricted civil liberties (access to public spaces and political voice as measured through political participation and quotas).

16. See Global Women's Leadership Initiative (2013).

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Chapter 2

Towards gender-responsive laws and policies in the MENA region

Ensuring conformity with international standards in the area of gender equality and eliminating gender-based discriminations are the first steps necessary for achieving gender equality. This chapter presents the data on the conformity of MENA countries with international gender equality standards, and highlights the remaining CEDAW reservations and gaps with international standards. It reviews the integration of gender equality provisions in the constitutions across the MENA region and identifies a set of good practice examples in this area. Finally, the chapter highlights a concept of gender mainstreaming as the mechanism necessary to ensure a gender-sensitive approach to policy making. It concludes by offering concrete recommendations to policy makers in the region to enhance compliance with international standards in gender equality and to reduce gender-based discrimination in domestic legislation.

Key findings

- While most MENA countries have adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), many governments in the region have retained a number of important reservations which may hinder gender equality in practice.
- Most constitutions in MENA countries provide for equality before the law. Yet some do not explicitly include the principle of equality between women and men, nor do they contain a definition of discrimination against women in the constitution. In addition, many other domestic laws tend to restrict women's rights in a wide range of areas (e.g. family law, freedom of movement).
- Some constitutions lack gender-sensitive language, with main references to women provided in the context of protection of "childhood and motherhood".

Introduction

International standards in the area of gender equality provide a set of benchmarks and policy guidance for adhering countries to improve women's empowerment in all areas of life. As such, compliance with these standards represents the minimum level of effort required on the part of adhering countries. To this end, this chapter reviews countries' conformity with international conventions, including the integration of gender equality principles in the constitutions of countries in the MENA region. In addition, the chapter provides a high-level overview of the gender mainstreaming concept and approaches as tools to remove hidden discrimination and integrate gender considerations into policies affecting all areas of life to achieve genuine women's empowerment. It concludes with targeted recommendations to support policy makers in their efforts to advance equality and ensure effective implementation of international standards in domestic laws and regulations.

Eliminating discrimination in the MENA region

The level of adherence to international standards and degree of legal discrimination vary from country to country in the MENA region. Reducing such disparities and enabling women to have rights and freedoms equal to those of men constitute an important priority for action for governments in the region.

Adhesion to international instruments and standards in the area of gender equality

Several international instruments and standards provide for the equality between men and women and establish the requirement of non-discrimination, based on gender. On 10 December 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights.[1] The preamble of the declaration as well as Articles 1 and 2 include the commitment to gender equality and prohibition of all forms of discrimination including gender-based discrimination:

> Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom (...)

> Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
>
> Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. (...)

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) apply equally to men and women but both contain a special article (Article 3), which requires states to "ensure the equal right of men and women" to enjoy the rights set out in those treaties.

More than 20 international legal instruments dealing specifically with women's rights have been adopted to improve the status of women in various fields. Some of these instruments were adopted on a universal level by the United Nations, the International Labour Organisation (ILO) or UNESCO, while others were drafted on the regional level. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) is devoted exclusively to the elimination of all forms of sex-based discrimination and the realisation of gender equality. The CEDAW is a landmark international agreement that affirms the principles of fundamental human rights and equality for women around the world.

The CEDAW is one of the international conventions with the largest number of ratifications (out of 193 countries), as more than 90% of the member states of the United Nations have joined it. Only seven countries have not ratified it;[2] all the Arab countries (except Somalia and Sudan) have ratified it. The CEDAW is a practical blueprint for each country that has ratified the treaty to achieve progress for women and girls. In addition to being a global pact for women's rights, the importance of this convention stands out as an action programme from requiring the governments that ratified it to ensure the enforcement of those rights by undertaking all appropriate procedures, actions and measures to combat and eliminate discrimination against women.

While MENA countries have generally adhered to the CEDAW Convention, the majority of them expressed reservations about several of its provisions (see Chapter 7), primarily due to religious constraints, specifically: §2 of Article 9 on women's equal rights with men with respect to the nationality of their children; §2 of Article 15 on women's equal legal capacity; §1 of Article 16 on gender equality in all matters relating to marriage and family relations; and §1 and 2 of Article 29 relating to the administration of the CEDAW (Table 2.1).

Other conventions were drafted to address specific areas where women's status was particularly unequal when compared with men, like political participation, work, education, nationality or marriage. Few of them have been ratified by MENA countries.

The International Conference on Women, Peace and Development (1995) in Beijing has also been an important milestone for women's rights. Many MENA countries actively participated in this conference and it resulted in what is referred to today as the Beijing Declaration. The Beijing Platform for Action identifies 12 critical areas of concern in respect to the advancement of women and the achievement of gender equality, aiming to remove the obstacles to the active participation of women in all spheres of public and private life through a full and equal share in economic, social, cultural and political

decision making. The Beijing Declaration reaffirmed from 1995 the commitments of the CEDAW which sets up an agenda for national action to end discrimination against women.

Table 2.1. **Ratifications and reservations to the CEDAW by MENA countries**

Country	Date of ratification, accession (a), succession (d)	Reservations	Optional protocol
Algeria	22 May 1996	Articles 2, 15(4), 16, 29	
Bahrain*	18 June 2002 (a)	Articles 2, 9(2), 15(4), 16, 29(1)	
Djibouti	2 December 1998 (a)	No reservations	
Egypt	18 September 1981	Articles 2, 16, 29	
Iraq	13 August 1986 (a)	Articles 2(f),(g), 16, 29(1)	
Jordan	1 July 1992	Articles 9(2), 16(1c) (1d) and (1g)	
Kuwait	2 September 1994 (a)	Articles 9(2), 16(f), 29(1)	
Lebanon	21 April 1997	Articles 9(2),16(1c) (1d) (1f), 29(1)	
Libya	16 May 1989	Articles 2 and 16	June 2004
Morocco	21 June 1993 (a)	Articles 2, 15(4), 29	Declared accession in March 2006
Oman	7 February 2006 (a)	Articles 9(2),15(4), 16(1a, c, f), 29(1)	
Palestinian Authority			Ratification without any reservation as a non-member state
Qatar	29 April 2009 (a)	Articles 2(a),9(2), 15(1), 15(4), 16(1a) (1c) (1f), 29(1).	
Saudi Arabia	7 September 2000	Articles 9(2), 29(1)	
Somalia			
Sudan			
Tunisia	23 September 2008 (a)	No reservations	June 2008
United Arab Emirates	6 October 2004 (a)	Articles 2(f), 9, 15(2), 16, 29(1)	
Yemen	30 May 1984 (a)	Article 29(1)	

Notes: * The Cabinet of Ministers agreed on 16 March 2014 to reformulate some of Bahrain's reservations of the CEDAW, and therefore the draft law was transferred to the Legislative Authority. The proposed amendment states "The Kingdom of Bahrain is committed to implement the provisions of Articles (2), (15) para (4) and (16) of the CEDAW without prejudice to the provisions of the Islamic *sharia*". The reservation on Article (29) para (1) is not under consideration as it conflicts with the principle of the state's sovereignty. Information provided by the government of Bahrain.

Source: CEDAW website, www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx.

Gender equality and empowerment of women and girls are also increasingly recognised as essential for the achievement of the Millennium Declaration and Development Goals (MD-MDGs). The Millennium Development Goals and the post-2015 policy agenda for international development represent an opportunity for increasing the focus on national-level implementation of the Beijing Platform for Action, and – through the specific targets and indicators established – for measuring progress and outcomes.

Finally, the "Earth Charter Initiative"[3] is a broad-based, voluntary, civil society effort which aims to promote the transition to sustainable ways of living and a global society founded on a shared ethical framework, including universal human rights and respect for diversity. Participants include leading international institutions, national governments and their agencies, university associations, non-government organisations and

community-based groups, city governments, faith groups, schools and businesses – representing millions of individuals.

Principle 11 of the Earth Charter calls to "affirm gender equality and equity[4] as prerequisites to sustainable development and ensure universal access to education, healthcare and economic opportunity." With this principle, the Earth Charter emphasises, as a central element of its vision, the need to both provide well-being and equal opportunities and to incorporate the equal and inalienable rights of all women and men, including the following sub-principles:

- secure the human rights of women and girls and end all violence against them
- promote the active participation of women in all aspects of economic, political, civil, social and cultural life as full and equal partners, decision makers, leaders and beneficiaries
- strengthen families and ensure the safety and loving nurture of all family members.

Countries that ratify international conventions undertake to review their legislation and amend their discriminatory laws and regulations. While almost all MENA countries have ratified the CEDAW convention, review of their national legislation, however, shows that despite a number of steps taken to promote gender equality and address gender discrimination in law, most MENA countries do not fully comply with their international commitments.

Box 2.1. **Compliance with international regulations**

Most of the countries in the MENA region have ratified international conventions on women's rights.

Algeria ratified the 1952 United Nations Convention on the Political Rights of Women by Presidential Decree No. 04-126 in 2004. The 1966 International Covenant on Civil and Political Rights was ratified in 1989 and the CEDAW in 1996.

Egypt ratified the UN Convention on the Political Rights of Women in 1981, the International Covenant on Civil and Political Rights of 1966 and the International Covenant on Economic, Social and Cultural Rights in 1982, with reservations on the provisions which are in conflict with the principles of Islamic *sharia*. The CEDAW was ratified in 1981.

Morocco has ratified the main universal instruments of human rights law: the UN Convention on the Political Rights of Women in 1976; the International Covenant on Civil and Political Rights in 1979; the International Covenant on Economic, Social and Cultural Rights, the CEDAW in 1993; the Beijing Declaration and Platform for Action; the Millennium Declaration and the Millennium Developments Goals; and other main instruments that strive to protect human rights. In 2012, the Council of Government and the Council of Ministers adopted a project of law relative to the adherence of Morocco to the optional protocol of the CEDAW.

Tunisia ratified the UN Convention on the Political Rights of Women in 1968, the International Covenant on Civil and Political Rights in 1969, the Optional Protocol to the International Covenant on Civil and Political Rights by Decree No. 551 in 2011, the CEDAW (1979) in 1985, and the Optional Protocol to the CEDAW in 2008. In 2011, the Tunisian interim government lifted its reservations on the CEDAW. Despite requests from civil society, the Tunisian government has not yet notified the United Nations concerning the lifting of its reservations.

Box 2.1. **Compliance with international regulations** (*cont.*)

The United Arab Emirates ratified the CEDAW in 2004 and the UN Convention on the Rights of the Child in 1997. It has also signed the UN Charter and the Universal Declaration of Human Rights, the Beijing Declaration and the Convention on Equal Pay for Male and Female Workers.

Djibouti ratified the CEDAW in 1998, the Convention on Equal Remuneration, the Convention on Discrimination in the Workplace, the African Charter on Human and Community Rights, and the Optional Protocol thereto on the Rights of Women (Maputo Protocol) in 2005.

Kuwait ratified the International Covenant on Civil and Political Rights of 1966 and the International Covenant on Economic, Social and Cultural Rights in 1996 and the CEDAW in 1994.

Lebanon ratified two conventions in 1972: the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights. Lebanon ratified the UN Convention on Women's Political Rights in 1955 and in 1964 the UNESCO Convention against Discrimination in Education. The CEDAW was ratified in 1997.

Bahrain ratified the International Covenant on Civil and Political Rights in 2006, the International Covenant on Economic, Social and Cultural Rights in 2007 and the CEDAW in 2002.

In 1987, Yemen ratified the United Nations Convention on the Political Rights of Women of 1952, the International Covenant on Civil and Political Rights in 1987 – without reservations – and the CEDAW in 1984.

At the 2000 Millennium Summit, eight goals (the Millennium Development Goals) and seven main objectives in the areas of peace and security, disarmament and development, environmental protection, human rights, democracy, good governance and the protection of vulnerable people in order to meet the particular needs of Africa and for the reinforcement of the United Nations were adopted by all 192 United Nations member countries.

Source: CEDAW www.un.org/womenwatch/daw/cedaw, ILO www.ilo.org/global/lang--en/index.htm websites.

Finally, the 2013 OECD Recommendation on Gender Equality in Education, Employment and Entrepreneurship, adopted by the OECD Council, provides a set of guidelines to ensure gender equality in education, employment and entrepreneurship. It serves as an overarching framework for further, more issue-specific guidance in various areas and contains a number of important provisions related to women's participation in public life and the necessary institutional tools and preconditions. While MENA countries have not yet adopted this recommendation, its provisions may serve as useful guidance for focused action to close the remaining gaps in the region (Box 2.2).

Box 2.2. **OECD Recommendation on Gender Equality in Education, Employment and Entrepreneurship (2013)**

The Council, on the proposal of the Employment, Labour and Social Affairs Committee in consultation with other competent OECD committees:

RECOMMENDS that through a whole-of-government approach and through means such as appropriate legislation, policies, monitoring and public awareness campaigns, members:

Box 2.2. **OECD Recommendation on Gender Equality in Education, Employment and Entrepreneurship (2013)** (*cont.*)

- Adopt practices that promote gender equality in education by:
  1. Ensuring that boys and girls have equal access to good-quality education, equal rights and opportunities to successfully complete schooling and in making educational choices.
  2. Reviewing and where necessary adapting school and early childhood education curricula, teaching and school practices to eliminate gender discrimination and stereotyping.
  3. Making the study of science, technology, engineering, mathematics (STEM) financial and entrepreneurship issues, as well as education, arts and the humanities, equally inclusive and attractive for both boys and girls; promoting the development of stronger reading habits among boys and girls.
  4. Campaigning and raising awareness among young men and women, parents, teachers and employers about gender-stereotypical attitudes towards academic performances and the likely consequences of overall educational choices for employment and entrepreneurship opportunities, career progression and earnings.
  5. Encouraging more women who have completed STEM studies to pursue professional careers in these areas, for example by means of career counselling, adult education, internships, apprenticeships and targeted financial support.
- Promote family-friendly policies and working conditions which enable fathers and mothers to balance their working hours and their family responsibilities and facilitate women to participate more in private and public sector employment by:
  1. Designing tax-benefit systems so that both parents have broadly similar financial incentives to work.
  2. Securing availability of and access to affordable good-quality early childhood education and care as well as affordable long-term care for other dependants, including, for example, disabled children or elderly relatives.
  3. Providing employment-protected paid maternity and paternity leave to working mothers and fathers.
  4. Encouraging working fathers to take available care leave, for example by reserving part of the parental leave entitlement for the exclusive and non-transferable use by fathers.
  5. Providing incentives to fathers to use flexible work entitlements, promoting a more temporary use of part-time work among men and women, providing incentives for women to participate more hours in the labour force, and raising awareness of gender stereotypes to encourage a more equal sharing of paid and unpaid work (household responsibilities) between men and women.
  6. Ensuring that all parents can participate in the labour market regardless of their partnership status, providing ample employment supports to sole parents.
  7. Ensuring that policies that address the problem of unemployment do not discriminate either directly or indirectly against women.
  8. Improving employment conditions and access to social support for informal workers, especially those in the most vulnerable categories, such as home-based and domestic workers.
- Increase the representation of women in decision-making positions by:
  1. Encouraging measures such as voluntary targets, disclosure requirements and private initiatives that enhance gender diversity on boards and in senior management of listed companies; complementing such efforts with other measures to support effective board participation by women and expand the pool of qualified candidates; continuing to monitor and analyse the costs and benefits of different approaches – including voluntary targets, disclosure requirements or boardroom quotas – to promote gender diversity in leadership positions in private companies.

Box 2.2. **OECD Recommendation on Gender Equality in Education, Employment and Entrepreneurship (2013)** (*cont.*)

2. Introducing mechanisms to improve the gender balance in leadership positions in the public sector, such as disclosure requirements, target setting or quotas for women in senior management positions; strengthening the flexibility, transparency and fairness of public sector employment systems and policies; and monitoring progress of female representation in the public sector.
3. Encouraging greater participation and representation of women at all levels of politics, including in government, parliament, local authorities and the judiciary system.

- Eliminate the discriminatory gender wage gap by: strengthening the legal framework and its enforcement for combating all forms of discrimination in pay, recruitment, training and promotion; promoting pay transparency; ensuring that the principle of equal pay for equal work or for work of equal value is respected in collective bargaining and/or labour law and practice; tackling stereotypes, segregation and indirect discrimination in the labour market, notably against part-time workers; promoting the reconciliation of work and family life.
- Promote all appropriate measures to end sexual harassment in the workplace, including awareness and prevention campaigns and actions by employers and unions.
- Reduce the gender gap in entrepreneurship activity by:
  1. Designing appropriate responses to gaps and market failures, including: policies to reduce barriers to women entrepreneurship, administrative burdens on firms and excessive regulatory restrictions; policies to support firm growth, internationalisation and innovation; support for the development and implementation of awareness campaigns, training programmes, mentoring, coaching and support networks, including professional advice on legal and fiscal matters.
  2. Ensuring equal access to finance for female and male entrepreneurs through actions that influence both the supply of and demand for finance by: easing access to finance for viable businesses owned by men and women; taking steps to improve the knowledge and attitudes of financial institutions; increasing the awareness of finance sources and tools among women entrepreneurs; and, encouraging more women to join business angel networks or venture capital firms.
- Pay attention to the special needs of women from disadvantaged minority groups and migrant women in relation to the aims set out above.
- Reduce the gender gap in financial literacy by developing and implementing initiatives and programmes aimed at addressing women's financial literacy needs, and in particular at fostering their awareness, confidence, competencies and skills when dealing with financial issues.
- Mainstream the gender equality perspective in the design, development and evaluation of relevant policies and budgets, for example by conducting systematic gender-impact assessments and generating appropriate data and evidence to build a benchmark for future assessments as well as a compilation of best practices for governments and government agencies.
- Strengthen accountability mechanisms for gender equality and mainstreaming initiatives across and within government bodies.

Source: OECD (2013), *OECD Recommendation on Gender Equality in Education, Employment and Entrepreneurship*, OECD, Paris, www.oecd.org/gender/C-MIN(2013)5-ENG.pdf.

Non-discrimination and gender-equality provisions in laws and policies

International standards require explicit commitment on the part of the governments to ensure equality between men and women and non-discrimination based on sex and gender and enshrine these rights within their legal systems, including the fundamental law

of the country. Yet, while the national constitutions of several MENA countries prohibit discrimination based on gender, only a few countries have included explicit gender equality guarantees (Box 2.3). The level of commitment finds its expression in the chosen formulation that can be classified in the following categories (International Development Research Centre, 2007):

- Formulation 1: The duty to make positive measures to promote gender equality. Some constitutions do establish the duty of the government to carry out all necessary measures to ensure gender equality (e.g. Egypt, Morocco and Tunisia).
- Formulation 2: Gender as an enumerated ground of non-discrimination. Most MENA countries recognise the right to equality on the basis of gender (e.g. Egypt, Tunisia) but do not explicitly recognise the duty of the state to promote and ensure these rights (e.g. Palestinian Authority).
- Formulation 3: Gender as an enumerated ground in relation to narrow set of rights. Some jurisdictions explicitly promote women's rights in relation to a particular set of rights (e.g. Algeria, Egypt).
- Formulation 4: General right to equality, no enumerated grounds recognised. Some MENA countries' constitutions recognise the right to general equality in law without enumerated grounds and hence make no explicit reference to sex (e.g. Kuwait, Lebanon).
- Formulation 5: Gender specifically excluded as an enumerated ground in non-discrimination provisions. Another group of MENA countries have constitutions which guarantee equality as a general matter and then set out grounds of non-discrimination which exclude gender (e.g. Jordan).
- Formulation 6: Gender equality or women rights explicitly tied to Islam. Some constitutions contain a potentially self-restricting clause by recognising gender equality to the extent consistent with Islamic law (e.g. Yemen).
- Formulation 7: No guarantee (e.g. Saudi Arabia).

Some Arab countries have managed to incorporate full awareness of the importance of guaranteeing the civil and political rights of women into their constitutional and legal texts. For instance, the Republic of Djibouti holds that discrimination regarding the rights between men and women is in itself a crime. Such a unique commitment may cause difficulties in the application of these provisions within Djibouti, but it reveals the will on the part of the legislative authorities to strengthen the rights and liberties of women.

In addition, most MENA countries have enshrined the principle of gender equality in participation in public life and political and civil rights into their constitutions. For instance, Article 29 (Equality, Human Dignity, Personal Liberty) of the Kuwaiti Constitution, stipulates that, "(1) All people are equal in human dignity and in public rights and duties before the law, no discrimination between them shall be based on sex, origin, language or religion." Article 29 of the Algerian Constitution, Article 2 of the Djibouti Constitution, Article 18 of the Bahraini Constitution, Article 19 of the Moroccan Constitution and Article 9 of the Palestinian Basic Law also call for such equality; and, most recently, Article 46 of the Tunisian Constitution providing commitment to strive to achieve parity of men and women in all elected assemblies and protect women from gender-based violence.

Most legal and constitutional texts across the countries in the region also provide for legal and civil equality between men and women in conducting legal procedures and signing contracts, in accessing health and education, and in receiving equal pay, which may in turn enhance women's civil and political rights.

Yet there are examples of constitutions in the region which, while implying a principle of equality between men and women, do not clearly indicate it. While the constitutions in these countries state that all citizens are equal, they do not visibly and indisputably prohibit discriminating on the basis of sex or integrate definitions of such discrimination. For instance, Article 25 of the United Arab Emirates Constitution stipulates that, "All individuals are equal before the law, without distinction between citizens of the union in regard to race, nationality, religious belief or social status."

Lebanon follows suit in Article 7 of its Constitution and Jordan in Article 6, which stipulates that, "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion." Lack of specific mention of women, however, often limits the enforcement of such constitutional texts to men and may depend on the legal interpretation of individual judges. Lack of specific references to the prohibition of discrimination based on sex may also limit the grounds for eliminating such discrimination in laws and daily practices and for protecting women's rights.

The Yemeni Constitution, in turn, contains a text that differs from other constitutions in the region. Thus, while Article 24 of the Constitution notes that "The state shall guarantee equal political, economic, social and cultural opportunities for all citizens" and Article 41 that "All citizens are equal in public rights and duties", Article 31 stipulates that "Women are equal to men; they shall have the rights and duties as guaranteed and required by *sharia* and the law." This text can be considered as deviating from the principle of gender equality, particularly when compared with the previous 1991 Yemeni Constitution, which clearly stipulated in Article 27 that "All citizens shall be equal before the law. They shall be equal in public rights and duties. They shall not be discriminated against on the basis of sex, colour, origin, language, profession, social status or creed."

In addition, the constitutional texts and legislations of the MENA countries related to the ruling positions such as the presidency or the laws regulating access to the throne in kingdoms usually do not mention women's rights to occupy such positions.

Box 2.3 shows that most constitutions in the MENA region do not distinguish between citizens, except in Yemen. All are equal before the law and enjoy the same rights and freedoms, which is in compliance with the CEDAW. There are, nonetheless, some areas that could be subject to misinterpretation to the disadvantage of gender equality and empowerment of women, as summarised below:

- While most constitutions provide for equality before the law, some countries do not explicitly include the principle of equality between women and men, nor do they contain a definition of discrimination against women in accordance with Article 1 of the CEDAW. Some constitutions also do not prohibit sex/gender-based discrimination (e.g. Jordan, United Arab Emirates).
- In some countries of the region, the language used in the constitution lacks sufficient gender sensitivity (grammatically) and women are only referred to in the context of protection of "childhood and motherhood"; similarly constitutional provisions in some countries of the region often seem to reinforce traditional gender distribution of labour and roles, as well as gender stereotypes (fragility of

women who need protection). This is re-iterated in several other laws and national policies (United Arab Emirates, Yemen).

- While constitutions tend to provide equality and non-discrimination, other domestic laws tend to restrict their rights in many areas.

Box. 2.3. **Gender provisions in constitutions in the MENA region**

The Algerian 1996 Constitution recognises the right to equal treatment and equal benefit of the law on the basis of gender. It is one of the few constitutions in the MENA region which further establishes the duty of the state to ensure gender equality. Article 31 requires the state to remove "the obstacles which hinder progress of human beings and impede the effective participation of all in political economic, social and cultural life."

Bahrain's Constitution stipulates that all citizens are equal before the law in rights and obligations, and guarantees protection for maternity and individual family members. It also lays emphasis on the state's support for women's rights and equality with men in all fields, including political ones. In this regard, the 2002 Constitution recognised the rights of both men and women to exercise political rights. Article 1(e) states that citizens, both men and women, are entitled to participate in public affairs and may enjoy political rights, including the right to vote and to stand for elections, in accordance with this constitution and the conditions and principles laid down by law. No citizen can be deprived of the right to vote or to nominate oneself for elections except by law.

A constitutional referendum was held in Egypt on 14 and 15 January 2014. The new constitution was approved by 98.1% of voters. According to Article 11: "The state shall ensure the achievement of equality between women and men in all civil, political, economic, social and cultural rights in accordance with the provisions of this constitution. The state shall take the necessary measures to ensure the appropriate representation of women in the houses of representatives, as specified by law. The state shall also guarantee women's right of holding public and senior management offices in the state and their appointment in judicial bodies and authorities without discrimination."

Article 6 of the Jordanian Constitution guarantees equality as a general matter: "Jordanians shall be equal before the law". Yet, it sets out grounds of non-discrimination which exclude gender: "There shall be no discrimination between them as regards their rights and duties on grounds of race, language or religion." No specific protection against gender-based discrimination is hence enshrined in the Jordanian Constitution.

Article 7 of Kuwait's Constitution recognises the principle of equality among its citizens regardless of "race, origin, language or religion". However, it does not mention gender as a specific ground for equality. Moreover, Kuwaiti's laws still treat women as dependents of men rather than individuals with equal rights and responsibilities (for example the Welfare Law 22/1987).

The preamble to the Lebanese Constitution declares that "Lebanon is a social democracy based on social justice and equality in rights and duties between all citizens without discrimination or preference." It further recognises that "[a]ll Lebanese are equal before the law. They equally enjoy civil and political rights and equally are bound by public obligations and duties without any distinction." It recognises the right to general equality in law without enumerated grounds and hence makes no explicit reference to sex. Unlike in most other MENA countries, Islamic law does not constitute the main source of legislation.

The Moroccan Constitution (2011) calls for equal status of women and men as citizens; a ban on discrimination and a commitment to fight it; a commitment to government action to advance the "freedom and equality of all citizens and their participation in the political, economic, cultural and social spheres." In addition, the constitution created the Authority for Equality and the Fight against All Forms of Discrimination, which aims to empower women to participate in public life and ensure the compliance of national laws with international standards.

Box. 2.3. **Gender provisions in constitutions in the MENA region** (*cont.*)

Article 17 of the Omani Basic Law prohibits discrimination on grounds of "gender, origin, colour, language, religion, sect, domicile or social status". By enumerating gender as a ground against discrimination, the Omani Basic Law is therefore providing protection against gender-based discrimination. However, this provision does not apply to non-citizens. Since foreign guest workers constitute over a quarter of Oman's population, many residents remain hence without legal protection.

The Palestinian Basic Law recognises the right to equality on the basis of gender but does not explicitly recognise the duty of the state to promote and ensure these rights. Article 9 of the Basic Law (amended in 2003) declares that "all Palestinians shall be equal before the law and the judiciary, without discrimination based upon race, sex, colour, religion, political views or disability." The constitution explicitly ensures women rights and equality with men, including active participation in social, political and cultural life. The law strives to abolish restraints that prevent women from participating in the building of family and society. The constitution also stipulates that women shall have the same rights, basic liberties and duties as men.

In Qatar's Constitution (2003) gender represents an enumerated ground of non-discrimination in relation to the general right to equality. Article 18 states that "the Qatari society shall be based on justice, kindness, freedom, equality and morals" and Article 34 states that "all citizens are equal in general rights and duties". Article 35 declares that "all people are equal before the law. There shall be no discrimination on account of sex, origin, language or religion". However, most rights in the constitution such as rights related to employment and property ownership do not apply to non-citizens. Hence, a lot of residents remain without any legal protection since Qatari citizenship is difficult to acquire.

According to the new Tunisian Constitution adopted in January 2014, the rights to election, voting and candidacy are guaranteed in accordance with the law. The state seeks to guarantee women's representation in elected councils (Article 34). The state shall commit to protecting women's achieved rights and seek to support and develop them. The state shall guarantee equal opportunities between men and women in the bearing of all the various responsibilities in all fields. The state shall seek to achieve equal representation for women and men in elected councils. The state shall take the necessary measures to eliminate violence against women (Article 46).

The Constitution of the United Arab Emirates guarantees the equality of all citizens in their rights and duties. According to Article 25, all citizens are equal, "without distinction between citizens of the union in regard to race, nationality, religious beliefs or social status". However, it contains no protection against gender-based discrimination. However, Article 15 states that the family is the basis of society and this article is sometimes interpreted to designate women as "the basis of the society", leading to views that the constitution does not differentiate between men and women.

All legislation in Yemen is based on Islamic law according to Article 3 of the 1994 Constitution. Article 40 stipulates that citizens are all equal in rights and duties and Article 31 undermines this by stating that women are the "sisters of men". However, this expression indicates a cultural attitude in which women are protected by their brothers and in which they are weaker and have less worth. The Personal Status Law, the Penal Code, the Citizenship Law, the Evidence Law and the Labour Law contain provisions discriminating on the basis of gender.

Source: CAWTAR-OECD analysis based on national legislations in the MENA region.

Although most MENA countries have endeavoured on the international and constitutional levels to protect women's rights, not all governments have undertaken required legal reforms to comply with their commitments. A comparative legal review of the legislation of MENA countries presented in this report shows that women in the region continue to have a rather low level of legal protection against gender-based

discriminations. If in some countries like Tunisia, clear progress has been made toward gender equality in family law and the right to nationality, only a few countries have explicitly integrated international and constitutional standards into their national strategies and policies.

Discriminatory gender norms can still be found, in particular in areas affecting women's family rights, their participation in public life, nationality, freedom of movement or employment (see Chapter 5, 6, 7). Discriminatory provisions are embedded in particular in family laws (duty of obedience, polygamy, repudiation, matrimonial guardianship, custody, etc.), on the basis of conservative religious interpretations. Such provisions are often reinforced by common practices and social norms derived from patriarchal views seeing politics as the domain of men, which in turn affect the ability of women to fully participate in the economic and public spheres.

Sustaining gender equality in the MENA region requires the elimination of legal provisions discriminatory in nature both in constitutions and in all other legal frameworks. This report undertakes an assessment of the current legislation across many MENA countries, which can serve as a first step in this regard. However, countries need to review the totality of their legislation to eliminate any possible gender gaps. It would also be important to ensure that future laws do not contain any discriminatory provisions through the process of gender mainstreaming (see next section). Affirmative or positive action measures may also be adopted, and preferences temporarily granted to women to undo the effects of past discriminatory provisions and practices. The CEDAW (Article 4) provides that temporary special measures aimed at accelerating *de facto* equality between men and women and measures aimed at protecting maternity shall not be considered discriminatory.

Box 2.4. **Specific examples of good practices ensuring gender equality and non-discrimination in MENA constitutions**

Part IV of the 1996 Constitution of the People's Democratic Republic of **Algeria** specifies principles of non-discrimination based on sex and refers to citizens by specifying men and women, their rights and duties as detailed below:

- Article 29 (equality before the law, non-discrimination): All citizens are equal before the law. No discrimination shall prevail because of birth, race, sex, opinion or any other personal or social condition or circumstance.
- Article 31 (equality): The aim of the institutions is to ensure equality of rights and duties for all citizens, men and women, by removing the obstacles that hinder the progress of human beings and impede the effective participation of all in political, economic, social and cultural life.
- Article 32 (fundamental rights and liberties): Fundamental human and citizen's rights and liberties are guaranteed. They are a common heritage of all Algerians, men and women, whose duty is to transmit them from one generation to another in order to preserve them and keep them inviolable.
- In November 2008, the Algerian Constitution was amended to integrate, among others, Article 31 ("bis") to reinforce women's enjoyment of their rights: "The state shall work to promote women's political rights in order to increase their access to representation in elected assemblies."

Box 2.4. **Specific examples of good practices ensuring gender equality and non-discrimination in MENA constitutions** (*cont.*)

In Bahrain, the amended Constitution of 2002 contained provisions that overtly confirm the equality of citizens regardless of their sex, origin, language or faith, which is a principled recognition of equality that promotes the values of citizenship and democracy and makes all citizens equal before the law in both their duties and rights. According to Article 4, "Freedom, equality, security, trust, knowledge, social solidarity and equality of opportunity for citizens are pillars of society guaranteed by the state." Furthermore, Article 18 stipulates 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." In addition, paragraph (b) of Article 5 indicates that "The state guarantees reconciling the duties of women towards the family with their work in society, and their equality with men in political, social, cultural and economic spheres without breaching the provisions of Islamic canon law (*sharia*)", which openly confirms equality of men and women in all fields.

The 1973 Constitution deprived women from political rights if the principles of equality between "citizens" were seen as exclusive to men. However, the 2002 Constitution granted them political rights, as voters and candidates. According to paragraph (e) of Article 1, "Citizens, both men and women, are entitled to participate in public affairs and may enjoy political rights, including the right to vote and to stand for elections, in accordance with this constitution and the conditions and principles laid down by law." However, this provision may not apply to non-citizens, which account for a majority of the Bahraini population.

The constitution ensures all Bahraini citizens the right to work and participate in all economic activities, without discrimination, which allows women to take part in the production process within their society, as outlined in paragraph (b) of Article 16 which asserts that "Citizens are equal in the assumption of public posts in accordance with the conditions specified by law." The conditions are described in Article 13 as follows:

- Work is the duty of every citizen, is required by personal dignity and is dictated by the public good. Every citizen has the right to work and to choose the type of work within the bounds of public order and decency.
- The state guarantees the provision of job opportunities for its citizens and the fairness of work conditions.
- Compulsory work cannot be imposed on any person except in the cases specified by law for national exigency and for a fair consideration, or pursuant to a judicial ruling. The law regulates the relationship between employees and employers on economic basis while observing social justice.

The Palestinian Authority amended its draft Constitution in 2003. Article 9 currently stipulates: "Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, colour, religion, political views or disability." The constitution explicitly ensures women rights and equality with men, including active participation in social, political and cultural life. The law strives to abolish restraints that prevent women from participating in the building of family and society. The constitution also stipulates that women shall have the same rights, basic liberties and duties as men.

The Permanent Constitution of the State of Qatar (2003) includes in its Part 3 related to Public Rights and Duties the principles of equality and non-discrimination between men and women:

- Article 34: "The citizens of Qatar shall be equal in public rights and duties."
- Article 35: "All persons are equal before the law and there shall be no discrimination whatsoever on the grounds of sex, race, language or religion."

Box 2.4. **Specific examples of good practices ensuring gender equality and non-discrimination in MENA constitutions** (*cont.*)

The above examples of the Arab constitutions illustrate how the principle of equality and non-discrimination can be ensured. These examples provide references for mainstreaming the principle of equality between men and women while protecting the family, motherhood and childhood in respect of their culture and social values. They also comply with the Universal Declaration of Human Rights (1948), Article 3 of the International Covenants of 1966 and Article 2 (a) of the CEDAW (1979).

In Morocco in 2011, 5 of the 18 members of the Consultative Commission to review the constitution and deliver recommendations for democratic reform were women. The constitutional changes on behalf of women included: calling for equal status for women and men as citizens; a ban on discrimination and a commitment to fight it; a commitment to government action to advance the "freedom and equality of all citizens and their participation in the political, economic, cultural and social spheres." Other relevant articles included:

- Article 6: "the law is the supreme expression of the will of the nation" and declares that "all physical or moral persons, including the public powers, are equal before it and held to submit themselves to it. The public powers work to create conditions to assure the effectiveness of the freedom and equality of all citizens and their participation in political, economic, cultural and social life".
- Article 19: "men and women enjoy equal human rights and freedoms in civil, political, economic, social, cultural and environmental spheres outlined in this article and other provisions of the constitution... the Moroccan government is working to achieve parity between men and women. It has created for this purpose, an Authority for Equality and the Fight against All Forms of Discrimination"
- Article 22: "the physical or moral integrity of any citizen cannot be undermined under any circumstances whatsoever by any person whomsoever, public or private…"
- Article 30: "…The law provides provisions to promote equal access of women and men to elective offices…."
- Article 115: "…representation of women judges [in the Superior Council of the Judiciary] shall be secured among the ten elected members, in proportion to their representation in the body of the judiciary…"
- Article 146: "…the electoral system and provisions should ensure greater participation of women in these [regional and local] councils".

In addition, the constitution created an Authority for Equality and the Fight against All Forms of Discrimination, which aims to empower women to participate in public life and ensure the compliance of national laws with international standards. In 2011, Morocco also announced its will to withdraw its reservations to the CEDAW.

Source: CAWTAR-OECD analysis based on national legislations in the MENA region.

Gender mainstreaming

While important, adopting laws that explicitly provide for gender equality is not fully sufficient to ensure that the overall government legal and policy framework is promoting gender equality. Thus, it is essential to ensure that all laws and policies reflect gender equality considerations, through a process called gender mainstreaming, which constitutes the third level of action to promote gender equality (Figure 1.4).

Gender mainstreaming is based on the anticipation and assessment of the possible impact on the equality of women of decisions and policy measures. It was established in the 1995 Beijing Platform for Action as a new approach and global strategy to promote gender equality. The platform called for the promotion of gender mainstreaming, stating that "governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes, so that before decisions are taken, an analysis is made of the effects on women and men, respectively." This statement created an important foundation for embedding gender considerations in national laws, policies and services. Partner governments endorsed the gender mainstreaming strategy for policy design and public service delivery contained in the Platform for Action, which emphasises the responsibility of all government agencies in addressing issues of gender inequality. The gender mainstreaming approach responds to evidence that policies and programmes generally will have a different impact on women and men because men and women tend to have different responsibilities, needs and resources.

In 1997, gender mainstreaming was defined by United Nations' Economic and Social Council (ECOSOC) as "the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension in the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality."[5]

As further addressed in Chapter 4, gender mainstreaming requires that gender perspectives be incorporated into public policies at all levels and all stages and be central to all activities. It adopts a prospective and preventive logic by evaluating the impact of these policies to guide the adoption of new measures. Governments commit themselves to ensure that a gender perspective is reflected in all policies and programmes, and their implications for women assessed. The participation of women in decision-making processes at all levels and in all areas is considered a means to improve their empowerment.

Most policy making processes across the MENA region do not yet have a process for integrating gender considerations in a systematic manner (see Chapter 4). However, government ministries and agencies that do not pay enough attention to gender equality run the risk of inadvertently discriminating against women without taking into account the differentiated impacts of policies and programmes on men and women. This lack of attention may be related to gaps in knowledge and skills, to limited understanding that gender neutrality does not necessarily imply gender equality, or may have more ideological dimensions, where senior decision makers or professional staff resist the changes entailed by gender equality.

Overall, gender equality has not yet been achieved in many MENA countries in terms of equality under the law, equality of opportunity and equality of voice. Women and men are not systematically treated equally in laws and policies, and do not always have equal access to resources and services within families, communities and society at large.

Ending discrimination against women, while respecting religious norms, is a particularly complex challenge in the MENA region, where the Islamic *sharia* remains the basis of most legal frameworks. In several MENA countries, women still face multiple challenges, which restrict their civil liberties, political and economic rights, and

physical integrity. These impediments also reduce women's professional opportunities and personal choices. However, legal settings, policies, conditions and institutions are evolving in the region as governments and civic activists campaign to improve women's legal status. Eliminating legal discrimination against women and enabling their full empowerment to participate in public life requires focused action at multiple levels: from ensuring compliance with international standards, eliminating discriminatory provisions from laws and policies, and mainstreaming gender considerations into all policies and programmes. This action should be supported by efforts to improve the effectiveness of public institutions to promote equality and to promote a deep culture change across societies necessary to reverse deeply rooted discriminatory attitudes.

Summary recommendations

- Lift reservations to the CEDAW provisions to enable genuine adoption of the principle of gender equality and close compliance gaps with international conventions in the area of gender equality and human rights.
- Undertake a systematic review of the legislation to eliminate all forms of discrimination in the legal system and ensure that the international norms related to gender equality are fully embedded in the national legislative framework.
- Establish effective mechanisms to monitor and improve the commitment to the implementation of international norms related to gender equality.
- Consider adding to constitutions and relevant legislation an explicit reference to the principle of equality between men and women and ensure that references to women are framed in a gender-neutral manner.
- Ensure incorporation of a definition of gender-based discrimination into the constitution and other relevant domestic legislation in line with Article 1 of the CEDAW and an explicit prohibition of such discrimination to reinforce conformity with international standards and ensure progress toward gender equality in law and practice.
- Recognise in constitutions the civil, political, economic, social, cultural and environmental rights for men and women and provide for equality in rights and duties in law.

Notes

1. General Assembly Resolution 217 A (III) of 10 December 1948.
2. Iran, Nauru, Palau, Somalia, Sudan, Tonga and the United States.
3. www.earthcharterinaction.org/content.
4. Gender equality is equal visibility, empowerment, and participation of men and women in all spheres of public and private life; often guided by a vision of human rights, which incorporates acceptance of equal and inalienable rights of all women and men. Gender equity is a set of actions, attitudes and assumptions that provide opportunities for both women and men; recognises differences and accommodates them in order to prevent the continuation of an inequitable status quo; and emphasises fairness in process and outcome.
5. ECOSOC, agreed conclusions 1997/2 of 18 July 1997.

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Chapter 3

MENA government tools for gender equality

This chapter discusses the strategic state capacities and institutions necessary to promote gender equality in the MENA region. It is mainly based on the MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership in the MENA region. The chapter notes that most MENA countries have adopted national strategies for gender equality, which reflects the political commitment to the empowerment of women. Yet, those strategies tend to focus on traditional areas, including health, education and social protection. The chapter also assesses the quality of institutional frameworks for promoting gender equality in the region and underlines the need for strengthening oversight and monitoring of the implementation of the gender equality agenda. Finally, the chapter provides an overview of the mechanisms used in the MENA region to promote a co-ordinated and whole-of-government approach to gender equality and outlines a set of good practices and recommendations to support governments in advancing the gender equality agenda in their countries.

Key findings

- While national strategies for gender equality reflect the political commitment to advance the status of women across the region, they tend to primarily focus on women's role in traditional areas such as health, education and social protection.
- Only a few countries in the region reported to explicitly align their gender equality strategies with international standards, including the CEDAW and the UN World Plan of Action. Public sector capacities for effective strategy implementation also remain uneven across the region.
- Gender institutions in the MENA countries assume different forms and structures, yet most would benefit from clarifying mandates, ensuring adequate budget, resources and staff. Monitoring and oversight mechanisms are not systematic and can be strengthened.
- While the role of legislatures in promoting gender equality is increasing, adopting measures to promote greater gender balance in and gender-sensitiveness of parliaments could further support this objective.
- MENA countries report a range of co-ordination mechanisms to implement gender equality strategies, yet overall coherence and co-ordination of initiatives in this area remains uneven.

Good governance, strategic state capacities and sound public management are a driving force behind the effective, impactful and sustainable implementation of government reforms, including gender equality. Gender equality related reforms and good governance collectively reinforce each other. Planning and implementation of gender equality reforms will only succeed if there are sound planning, monitoring and implementation processes for the public sector at large. Good governance enables effective design and implementation of gender equality reforms and the materialisation of gender equality objectives, while the implementation of gender equality is an important aspect of supporting good governance reforms through balanced decision making and resulting better policies and programmes, including in the area of governance. If there are no channels for the government to obtain structured input from civil society organisations and the population at large, it would have a detrimental impact on the ability of women's organisations to influence public policies. As such, gender equality objectives cannot be attained without the support of good governance policies; and gender equality reforms reinforce good governance within the context of building a strategic state.

One of the prime principles of good governance is related to the capacity of governments to attain government-wide objectives in a co-ordinated and effective manner. The OECD public governance as well as the gender equality reviews confirms that the ability of governments to act in a "whole-of-government" manner is crucial for advancing gender equality reforms. Governments must have the capacity to identify clear directions, priorities, objectives and incentives as well as to establish effective co-ordination mechanisms to support women's full empowerment and mobilisation. This requires the following three elements:

- a shared vision and strategy for women's empowerment and gender equality, and a commitment among key stakeholders to its coherent implementation
- a sound public sector capacity and institutional framework with clear roles and responsibilities for advancing gender equality, both in general and in gender-specific terms, to enable government-wide development and

implementation of gender-sensitive policies and services and to ensure the non-discriminatory treatment of women and men

- mechanisms to embed gender considerations in all policies and programmes in a systematic and evidence-based manner (OECD, 2014).

This chapter comparatively analyses the extent to which the first two elements are in place within the MENA region and identifies the main trends, barriers, challenges and opportunities based on the OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership and discussions with women, men and civil society in MENA countries. The next chapter focuses on the third element – mechanisms to enable effective gender-sensitive policy making and gender mainstreaming.

The chapter is organised into two main sections:

- an assessment of the extent to which MENA countries have established a vision and a strategy for advancing gender equality
- an overview of institutional frameworks for gender equality, including the design and responsibilities of gender institutions, as well as mechanisms for accountability and compliance with gender equality requirements.

Vision and strategy for gender equality in the MENA region

An important step towards achieving gender equality is the development of a clear, concise and compelling vision for gender equality, supported by a sound strategy to realise that vision (OECD, 2014). The vision can define directions and shape understandings that, in turn, impact the expectations and behaviours of both men and women, while the strategy can help set the tone and guide the development of concrete policy actions across the government to enable a comprehensive and sustainable development and implementation of gender equality reforms. The strategy can also help put in practice international standards related to gender equality. To achieve genuine empowerment for women, the vision and strategy for gender equality should focus on all aspects of equality, including equality under the law, equality of opportunity and equality of voice to provide both men and women with fair and equal access to information, services, justice, resources, benefits and responsibilities.

Developing a gender equality vision and strategy can have a dual benefit. A vision statement and the accompanying strategic plan of action can guide reforms and be used in communications and calls for action. At the same time, the process of developing a vision and strategy can engage a wide range of stakeholders in defining the approach to promoting gender equality (e.g. involving women's organisations, key decision makers across government at both federal and local levels, as well as male and female citizens).

The Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) furnishes the basis for developing a comprehensive gender equality and mainstreaming strategy that contains the necessary measures for implementing a vision and effectively involving the participation of women in social and economic development. The strategy could incorporate important elements of legal, regulatory and institutional reforms in a comprehensive and coherent manner in order to ensure that obstacles to equitable, sustainable development are removed. This strategy also may incorporate the participation of women in strategic areas and positions of power as well as facilitate support for gender impact analysis and the collection of gender-disaggregated data.

Most OECD countries have developed a vision and strategy for gender equality (OECD, 2014; and see Box 3.1). Overall, these strategies tend to:

- address non-discrimination or gender equality in employment, education and health
- establish horizontal objectives and identify linkages to improve co-operation between state structures, and national and international organisations
- assess and disseminate information on women's rights legislation, including reforms as appropriate
- develop and apply tools and methodologies as well as training for conducting gender analysis
- design indicators to assess progress made toward gender equality, the collection and use of gender-disaggregated data and evaluation of the effectiveness of gender initiatives.

Box 3.1. **Spain's Strategic Plan for Equal Opportunities 2008-2011**

Spain's Strategic Plan for Equal Opportunities 2008-2011 developed the mandate of the Act for Effective Equality between Women and Men, in line with Spain's previous equal opportunities measures and based on EU equality plans. Together with concerned ministries, women's associations and organisations from across Spain participated in the preparation of the strategic plan in order to incorporate their views in a collaborative policy making process.

The Strategic Plan for the period 2008-11 was inspired by the basic principles of non-discrimination and equality. It elaborated four governing principles: citizenship, empowerment, gender mainstreaming and innovation. These principles informed the plan's 12 key lines of action: 1) political and social participation; 2) economic participation; 3) co-responsibility; 4) education; 5) innovation; 6) science; 7) health; 8) communication and media; 9) diversity and social inclusion; 10) violence; 11) foreign and development co-operation policy; and 12) guarantee of the right to equality.

Each of these lines of action contained an explanatory theoretical framework, an assessment of the present situation in Spain, strategic objectives and proposed measures. The previous Ministry for Equality (2008-10) and the Women's Institute monitored the development of the measures and actions included in the plan.

Source: Information provided by the government of Spain; OECD (2010), "Addressing gender in public management", in: OECD, *Report on Progress in Public Management in the Middle East and North Africa: Case Studies on Policy Reform*, OECD Publishing, Paris, pp. 233-264, http://dx.doi.org/10.1787/9789264082076-14-en; Secretary of State in charge of Family, Children and Persons with Disabilities (2008), "National Strategy for Equity and Gender Equality Through Mainstreaming a Gender Approach in Policy and Development Programs"; Ministry for Social Development, Family and Solidarity (2008), Strategic Plan 2008-2010.

In the MENA region over the past decade, many countries have developed national strategies and action plans that specifically address gender equality as their main (or one of their main) components (Table 3.1 and Box 3.2). For example, the Palestinian Authority adopted the Cross-Sectoral National Gender Strategy 2011-2013, which serves as a cornerstone for the elaboration of the Palestinian Development Plan for the next three years. Study participants emphasised the critical importance of these strategies as a means to uphold and safeguard women's rights in the aftermath of the Arab Spring and fast-track women into politics and public service.

In some cases, donors and international bilateral agencies have supported the development of such visions and the elaboration of strategies. In a number of countries, strong civil society activism and women's rights movements also have provided important leadership in promoting gender-related reform. Overall, however, the adoption of strategies for gender equality reflects a political commitment to advancing the status of women across the region.

Table 3.1. **National gender equality strategies in MENA countries**

Country	Name of strategy
Bahrain	National Plan for the Advancement of Bahraini Women (2013-2022)
Egypt	Egyptian National Council for Women (NCW) Strategy for Gender Equality
Jordan	National Strategy for Women in Jordan (2012-2015)
Lebanon	National Strategy for Women in Lebanon (2011-2021); National Action Plan (2013-2016)
Morocco	Agenda gouvernemental pour l'égalité 2011-2015
Palestinian Authority	Cross-Sectorial National Gender Strategy 2011-2013
Tunisia	Stratégie de la lutte contre la violence à l'égard des femmes au sein de la famille et de la société
United Arab Emirates	National Strategy for the Advancement of Women (2002-2014)
Yemen	National Strategy for Women Development (2006-2015)

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Strategic documents in MENA countries focus mainly on preventing gender-based discrimination, combating gender-based violence and strengthening the economic empowerment of women. A few countries focus on work-life balance (Bahrain, Egypt, Jordan and Morocco) or the enhancement of diversity and gender equality in the public service (Bahrain, Egypt, Jordan, Lebanon, Morocco and the Palestinian Authority). Some of these strategies exist as independent "explicit" gender equality strategies, while others are embedded within different strategies.

In addition, according to the OECD Survey on National Gender Framework, Leadership and Public Policies, most of the MENA countries reported having a strategy with a relatively comprehensive mandate (Figure 3.1), including:

- outlining principles of gender equality in the country (eight out of nine countries)
- establishing specific objectives for promoting gender equality (eight out of nine countries)
- promoting a "whole-of-government" approach (five out of nine countries)
- identifying specific initiatives or policies for promoting gender equality (six out of nine countries).

Yet, while relatively broad, in many cases, the vision and strategy either focus narrowly on protecting women's status related to their maternal functions and reproductive roles or, alternatively, lack specific standards and objectives for promoting gender equality and/or principles of gender equality. Women's empowerment is often defined in terms of traditional areas, including health, education and social protection, with less emphasis on access to public life and economic opportunities. Such an emphasis, however, risks narrowing women's role in the society, which may pose constraints for women's empowerment in economic and public life.

Box 3.2. **Gender equality strategies in MENA countries**

Morocco's gender equality strategy

The National Strategy for Gender Equality through the Integration of Gender Objectives in Public Policies and Development Programmes was adopted in 2006 as the first national strategy for the protection and empowerment of women. The vision of this national gender equality strategy is to build a future that promotes progress "towards a human, sustainable and fair development based on equity and equality between the two sexes." Its two strategic objectives are: *i)* to promote the participation of men and women in the elaboration, analysis and direction of policies in a just and equal manner; *ii)* to ensure that women and men benefit equally and fairly from government policies and development programmes. The strategy covers five areas of intervention, including civil rights; equal representation and participation in decision making; respect of all social and economic rights; changing social and individual behaviour; and anchoring gender objectives in institutions and public policies.

The strategy translated into ministry-specific plans with the issuance in 2007 of a circular by the Prime Minister on mainstreaming gender in all sectoral public policies. Several ministries developed strategic medium-term action programmes aimed at gender equality. In addition to ministries generally associated with gender-related issues, other ministries also implemented the national gender equality strategy. For example, the Ministry of Communication worked to achieve gender equality in newsrooms and combat press reports that reinforce stereotypes; the Ministry of Economy and Finance was the first in the MENA region to implement gender-responsive budgeting. It publishes a gender report that summarises all of the programmes and actions regarding gender equality, such as the Action Plan for the Integration of the Gender Approach in Rural Politics.

Following its initial strategy, the government of Morocco approved a new gender equality approach, the National Strategy for Gender Equality and Equity 2012-2016, in order to institutionally anchor gender equality, equal access to education and health, the elimination of violence and all forms of discrimination against women, women's equal access to decision-making positions in government. Several ministries have elaborated ministry-specific strategies within the framework of this new overall gender strategy.

The Palestinian Authority's gender equality strategy

One of the most often updated strategies for gender equality is that of the Palestinian Authority, which is elaborated every two years after mid-term evaluations.

The last medium-term strategy, "Cross-sectoral National Gender Strategy: Promoting Gender Equality and Equity, 2011-2013", was conducted with support from UN Women and incorporated consultation with civil society organisations (CSOs), other local organisations, the private sector, government ministries and donor support organisations. It later came under the review of the Ministry of Planning and Administrative Development (MoPAD). The strategic plan is a horizontal gender plan that works towards incorporating a whole-of-government approach by first identifying key ministries such as the Ministry of Economics, the Ministry of Agriculture or the Ministry of Labour and mainstreaming this process within other ministries. The strategy lists objectives, targets specific policies for reform and proposes interventions for each objective as well as indicators for monitoring and evaluation.

Its strategic objectives include: action towards legislative reform and the production of new programmes and initiatives that ensure equality; combating violence; promoting women's political involvement and roles in decision making; promoting women's involvement in the labour market; and mainstreaming gender in other ministries.

Egyptian National Council for Women (NCW) Strategy for Gender Equality

As part of Egypt's commitment to the Convention on the Elimination of All Forms of Discrimination against Women, the NCW formulated a practical strategy covering up to the year 2015. This strategy was designed to empower women comprehensively; it also stresses achievement of the third Millennium Development Goal – promoting gender equality and empowering women – to which Egypt has been committed.

Box 3.2. **Gender equality strategies in MENA countries** (*cont.*)

The vision of the NCW strategy is to improve the human and socio-economic conditions of Egyptian women and to increase the ratio of their participation in the development of their local communities and hence the development of society as a whole.

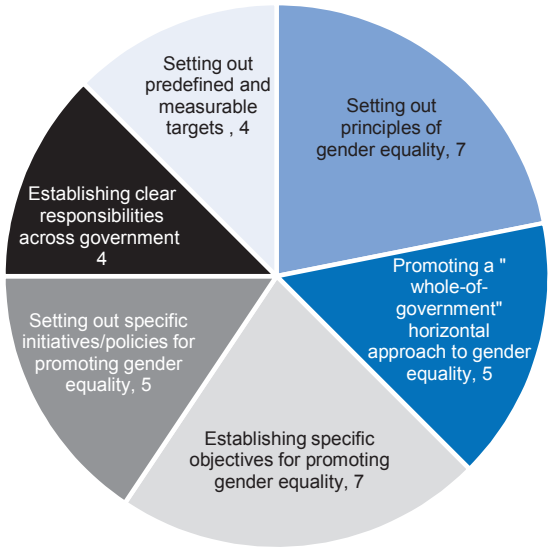
The strategy covers all areas of the NCW's mandate to target gender equality, including: preventing gender-based discrimination; combating gender-based violence; strengthening women's economic empowerment; ensuring compliance with legal and regulatory provisions related to gender equality; enhancing diversity, including women's representation in the public services; and raising social awareness of the role, rights and duties of women.

Aside from the council's ongoing strategy and work plan to empower women economically, socially and politically, it has formulated a strategy to integrate women and mainstream gender issues into the National Socio-Economic Development Plan 2012-2017 to solve problems impeding women's participation in the development of their society and create an enabling media environment which endeavours to change the image of women and their self-perception as well as the way they are perceived by others through their local communities.

Note: 1. See National Strategy to Combat Violence against Women 2011-2019 MOWA.

Source: National technical consultations with government officials; MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Figure 3.1. **Objectives of gender strategies in MENA countries**



8 out of 8 relevant country respondents

Note: Countries responded as follows: Setting out predefined and measurable targets – Bahrain, Egypt, Morocco, Palestinian Authority; Setting out principles of gender equality - Yemen, Egypt, Lebanon, Jordan, Tunisia, Bahrain, Palestinian Authority; Promoting 'whole-of-government' horizontal approach to gender equality – Egypt, Jordan, Morocco, Palestinian Authority, Yemen; Establishing specific objectives for promoting gender equality – Bahrain, Egypt, Jordan, Lebanon, Morocco, Tunisia, Palestinian Authority; Setting out specific initiatives/policies for promoting gender equality – Bahrain, Egypt, Morocco, Tunisia, Palestinian Authority; Establishing clear responsibilities across government – Bahrain, Egypt, Morocco, Palestinian Authority.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014)

Moreover, the process for the development of national strategies and action plans is important as it provides an opportunity to bring all stakeholders together and ensure that the document reflects various views. As such, a bottom-up component in the development of the plan would ensure the participation of women and men from across the country.

Yet, while strategies and action plans are important, they are not sufficient on their own. They should also be aligned with international standards related to gender equality, including the CEDAW and the UN World Plan of Action. It appears, however, that only some countries have aimed to explicitly integrate international standards – particularly those regarding women's rights, such as the articles from the CEDAW, the objectives from the Beijing Platform for Action, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) – into national visions and strategies. Most countries (88% of respondents to the OECD survey) report mainly focusing on compliance with national, general legal/regulatory provisions and standards related to gender equality, as opposed to international standards. Even those countries that specified the need to comply with international standards (Egypt, Lebanon and Yemen) have made reservations in relation to laws that govern nationality, family law and divorce (in Egypt), in addition to articles referring to the settlement of disputes which may arise during the interpretation and implementation of the CEDAW (Lebanon and Yemen). See Table 2.1 for the list of countries that have ratified the CEDAW and the remaining reservations.

> The [g]overnment signs most of the international conventions; however, they are not fully implemented on the ground. Some government parties use religion as a reason to not comply with these conventions, but that is not necessarily the case. (NGO, a MENA country)

> There is uneven political will… Ministries that are supported by foreign donors [implement recommendations such as gender units], otherwise, they would not [implement international standards.] (NGO, a MENA country)

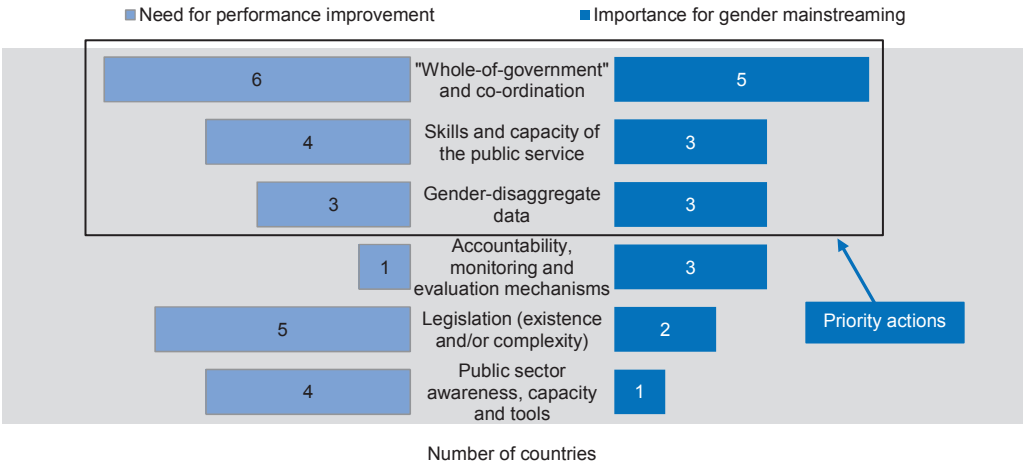
As such, there is room to align gender equality visions and strategies with international standards. Clearer visions and strategies for *de facto* gender equality as defined by international standards would facilitate improvements for gender equality objectives, including the CEDAW. MENA countries can build on the existing strategies to expand them to include the civic, political and economic rights of women more prominently. Indeed, the institutional history of social rights within OECD countries demonstrates that while rights associated with women initially were upheld in relation to maternal functions and reproductive roles, these protections later expanded to include protections for equality in public life and economic opportunities.

Finally, to be effective, national strategies and plans must be supported by sound implementation capacities, such as sufficient co-ordination mechanisms, appropriate skills and competencies, and robust accountability measures. Effective implementation is critical to ensure that gender strategies go beyond declarative statements and are translated into concrete actions. Yet the technical capacity and the implementation of the strategies remain uneven across the region. Even though strategies for gender equality exist in most of the surveyed countries, the implementation of the strategies and governments' capacity to provide technical support for such implementation are not apparent in all cases.

Overall, MENA countries recognise the importance of sound public sector capacities for the implementation of a gender equality strategy and related reforms. The study participants indicated that the most important factors for effective implementation include

the ability of governments to act in a "whole-of-government", co-ordinated manner; the necessary skills and capacities of the public sector; the availability of gender-disaggregated data; and effective accountability, monitoring and evaluation mechanisms. Yet, at the same time, these areas were seen as those with the lowest performance in the region, which would require major improvements, and hence are the biggest priority for action (Figure 3.2). Therefore, further positive action by MENA governments would be necessary to enhance the impact of high-level political documents on gender equality to drive women's empowerment in all areas of life and to enable full conformity with international standards.

Figure 3.2. **Importance for gender mainstreaming vs. performance matrix: Gaps between the most important factors for gender equality reforms and their actual performance**



Notes: Country-level officials responded to this survey on the perceptions of areas of improvement and major success factors. Participating countries include Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, the Palestinian Authority, Tunisia and Yemen. Responses have been aggregated to create this representation. Countries that responded twice within a category were only counted once, avoiding double-counting for the same category.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Institutional framework for gender equality in the MENA region

An effective institutional framework, with clearly defined roles for all actors to advance gender equality and co-ordination mechanisms to ensure sound implementation of gender equality visions and strategies, is critical to the achievement of gender equality objectives. These two elements exert a significant impact on the effectiveness of gender-related strategies and gender equality outcomes.

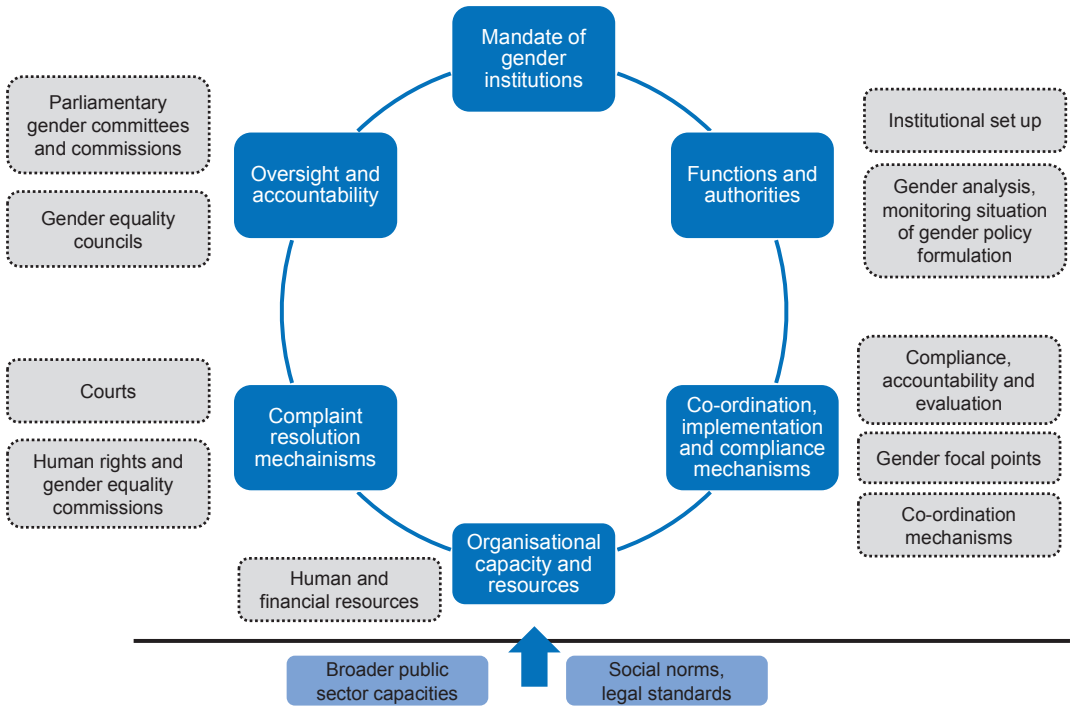
Institutional framework

The effectiveness of gender equality reforms highly depends on the quality of public institutions for promoting gender equality (OECD, 2014). These public institutions involve authorities responsible for gender issues, mechanisms at the ministerial level, Centre of Government (CoG), independent oversight institutions such as parliaments and gender equality commissions. The government-wide institutional framework should involve clear roles and responsibilities for designing, planning, implementing, monitoring

and evaluating gender-equality initiatives and embedding gender considerations into all policy and service delivery cycles.

The experience of OECD countries shows the importance of ensuring capacities in line ministries and agencies to design and implement relevant gender initiatives and analyse the gender impacts of their mainstream policies and initiatives (Figure 3.3). Gender-related institutions, such as gender equality ministries, play an important role in providing advice to line ministries and the CoG, checking the quality of gender analysis and designing specific gender initiatives. Centres of government, such as Cabinet offices and Ministries of Finance, are critical to verify and ensure that line ministries and agencies undertake gender impact assessments in designing their policies, initiatives and budgets. Effective institutions also require sufficient checks and balances, resources and accountability mechanisms (OECD, 2014). As such, independent monitoring mechanisms, such as gender equality or human rights commissions, have the responsibility to provide independent recourse to complaints related to gender-based discrimination and oversee the implementation of the gender equality commitments of the government. Finally, parliaments and parliamentary committees can help provide checks on various government entities and also contribute to the longevity and sustainability of gender equality reform during periods of change in the political environment (OECD, 2014).

Figure 3.3. **Key elements of effective gender institutions**



Source: Developed by the OECD, 2014.

The ability to implement and co-ordinate gender equality initiatives efficiently is influenced significantly by the overall governance and managements capacities of the public sector. Indeed, public sector capacities required for embedding gender equality can only be as effective as the general government capacities, including planning,

policy making, human resources management, data collection, evaluation and horizontal co-ordination. As such, the successful implementation of the recommendations provided in this report also depends on strengthening broader public sector capacities in the MENA region beyond gender-related aspects.

Additionally, General Recommendation 6 of the CEDAW Committee stresses the need to establish and/or strengthen national machinery, institutions and procedures at a high level of government, and with adequate resources, commitment and authority to:

1. advise on the impact on women of all government policies
2. monitor the situation of women comprehensively
3. help formulate new policies and effectively implement strategies and measures to eliminate discrimination.

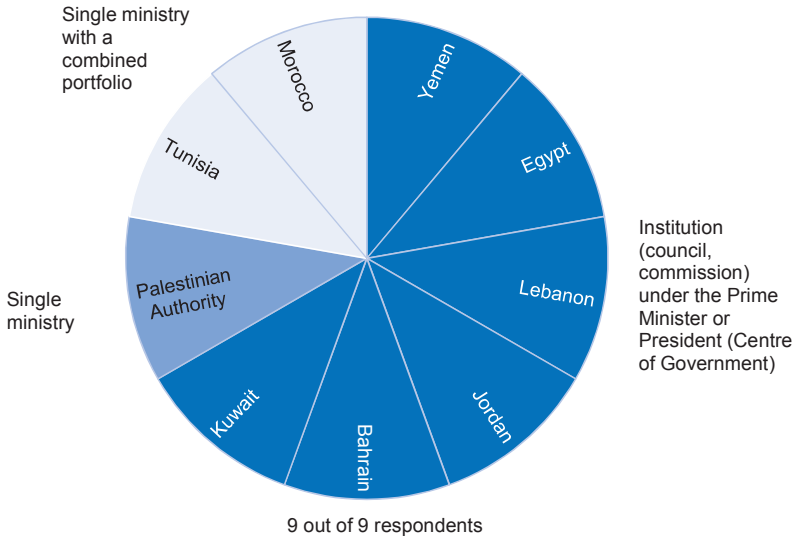
The 1995 United Nations Fourth World Conference on Women in Beijing also reinforced the need and role for national women's machinery. According to the Beijing Declaration, "a national machinery for the advancement of women is the central policy co-ordinating unit inside government. Its main task is to support government-wide mainstreaming of a gender equality perspective in all policy areas" (United Nations, 1995). Moreover, the conference established that all government ministries and agencies share responsibility for progress toward equality between women and men.

The following sections analyse the institutional gender frameworks in the MENA region, including central gender institutions, ministerial gender equality units and oversight mechanisms.

Central gender institutions in the MENA region

Similar to OECD countries, there is no uniform institutional design to deal with gender issues across the MENA region, as is evident from Figure 3.4.

Figure 3.4. **Institutions for promoting gender equality and mainstreaming in MENA countries**



Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Overall, gender institutions across the region assume different forms and structures; generally, however, institutions are designed as follows:

- Single ministries or agencies: The Palestinian Authority is the only country in the region with a ministry specifically focusing on gender equality issues (Ministry of Women's Affairs). In OECD countries, this approach was chosen by Belgium, Chile, France, Korea, Luxembourg and New Zealand. In the Palestinian Authority, the ministry's mandate is to facilitate gender mainstreaming across the government and to carry out monitoring and evaluation of programmes and policies aimed at advancing women's situation. Single ministries with a minister for gender equality bring visibility and enable advocacy for gender equality concerns in the Cabinet. Yet, it is essential to ensure clear and powerful mandates, sufficient resources and political leadership for these institutions to place gender considerations effectively at the top of the policy agenda.
- Combined portfolios: Algeria, Morocco and Tunisia established institutions that manage combined portfolios including women's affairs, mostly including social welfare or family affairs (e.g. Tunisia's Ministry of Women and Family Affairs). About half of OECD countries also deal with gender issues as part of the broader portfolios in ministries (e.g. the Czech Republic, Finland, Germany, Greece, Ireland, Norway, the Slovak Republic, Spain, Sweden and Switzerland). In Algeria, an administratively centralised main gender institution co-ordinates with geographically decentralised sections. At the local level, social section bureaus exist in every *wilaya* (province) in Algeria for the purpose of enhancing the situation of families and women. This type of institution can promote co-ordination and coherence in policy development and facilitate implementation, particularly within portfolio areas.
- Institutions linked to the Centre of Government: Six MENA countries participating in the study (Bahrain, Egypt, Jordan, Kuwait, Lebanon and Yemen) established quasi-governmental or semi-governmental advisory institutions under the head of government, which provide advisory services to other ministries, inform legislation on gender issues, develop women-specific programmes and represent the country in international fora (e.g. CEDAW). OECD countries, such as Israel and the United States, also established gender institutions in the seat of government (i.e. in the office of the head of state or government) to facilitate co-ordination, monitoring, policy development and accountability at the highest level (Box 3.3). In the MENA region, these institutions most often are located outside of the executive branch of government, but have an opportunity to submit proposals for consideration by the head of government or the state. In some cases, these institutions include non-governmental members to represent the broader society. For example, in Egypt, the National Council for Women is mandated to propose policies to government institutions aimed at enhancing the status of women and their participation in the sustainable development of the society. In Jordan, the National Committee for Women is a semi-governmental institution that is responsible for elaborating the national strategy, defining policies related to women in all areas and formulating national plans, strategies, policies and legislation related to women.
- Such proximity to the Centre of Government can facilitate visibility and high-level support for gender equality and adoption of important measures to promote the advancement of women in the country. Yet, in the absence of a

minister for gender equality, this institutional arrangement may curtail the visibility of gender issues both in the seat of government and across government departments. These institutions may find themselves outside of the mainstream decision-making process, which may sideline women's equality concerns and make it difficult to promote gender mainstreaming on a "whole-of-government" basis. Furthermore, without appropriate checks on nominations and responsibilities associated with the position, the gender equality and mainstreaming agenda may not attain the enabling environment and overall vision needed to accomplish its goals. Strengthening links with civil society can further enhance the legitimacy of, and public trust in, these institutions.

Box 3.3. **The United States White House Council on Women and Girls**

In March 2009, President Obama signed an Executive Order creating the White House Council on Women and Girls. The council continues the work of the post-Beijing Interagency Council and the White House Office for Women's Initiatives and Outreach. It aims to provide "a co-ordinated federal response to the challenges confronted by women and girls" and to ensure "that all Cabinet and Cabinet-level agencies consider how their policies and program[me]s respond to women and girls' needs and impact them."

The council is located in the White House to provide a central point for co-ordination and co-operation of existing efforts and programmes for women and girls. It serves as a resource and forum for agencies, aiming to achieve a comprehensive federal government approach to policy on women and girls. Council members are the heads of every federal agency and major White House office, reinforcing the statement of former Secretary of State Madeleine Albright that in "our government, responsibility for the advancement of women is not the job of any one agency, it's the job of all of them." After analysing each federal agency's focus on women, the council works to ensure that each agency is directly improving the economic status of women, as well as developing and evaluating policies that establish a balance between work and family. The council has also focused on finding new ways to prevent violence against women through co-operation with the Vice President and the Justice Department's Office of Violence Against Women. In this endeavour, it has also worked towards building healthy families and improving women's healthcare.

The council works across executive departments and agencies to provide a co-ordinated federal response to issues that have a distinct impact on the lives of women and girls, including assisting women-owned businesses to compete internationally and working to increase the participation of women in the science, engineering and technology workforce, and to ensure that federal programmes and policies adequately take those impacts into account. The council is responsible for providing recommendations to the President on the effects of pending legislation and executive branch policy proposals; for suggesting changes to federal programmes or policies to address issues of special importance to women and girls; for reviewing and recommending changes to policies that have a distinct impact on women in the federal workforce; and for assisting in the development of legislative and policy proposals of special importance to women and girls. The functions of the council are advisory only. The council includes not only federal agencies, but also various offices of the White House, which are working together to advance the work of the council and to support the administration's work on women and girls.

The council is chaired by the Senior Adviser and Assistant to the President for Intergovernmental Affairs and Public Liaison. Council members include, among others, the Secretaries of Treasury, Interior, Agriculture, Commerce, Labour, Health and Human Services, and Education; the Representative of the United States of America to the United Nations; the Director of the Office of Management and Budget; the Chair of the Council of Economic Advisers. The council convenes regularly and conducts outreach to representatives of non-profit organisations, state and local government agencies, elected officials and other stakeholders.

Source: The White House website on the Council on Women and Girls, www.whitehouse.gov/administration/eop/cwg.

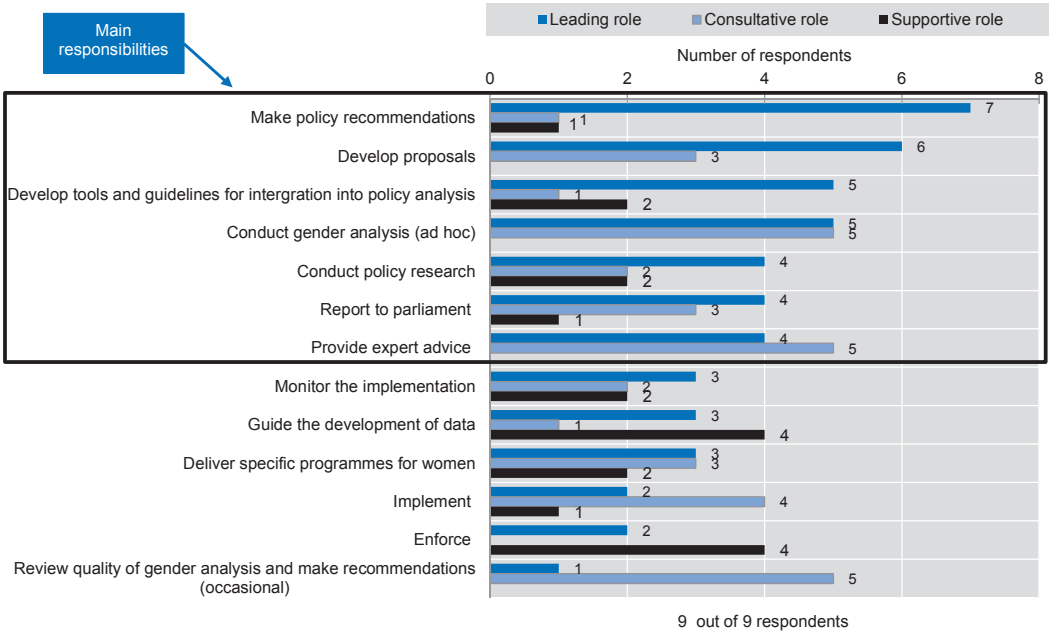
Yet, regardless of their structure, gender equality institutions often face issues related to a lack of authority, visibility and leverage required to pursue a coherent government approach effectively across various policy areas. Moreover, it is important that gender equality not be equated only with issues that concern family and children's affairs as that risks confining women narrowly to their roles as mothers and caregivers.

Some of the lessons learnt from the experiences of OECD countries and beyond in establishing women's machineries suggest that the following factors are necessary to ensure the effective functioning of such institutions:

- Clearly defined mandates and authority. Clarity of the mission and the mandate of these institutions, including cross-sectoral authorities to promote gender equality and mainstreaming are also critical to ensure the effectiveness of these institutions. In terms of the responsibilities, not unlike in OECD countries, the primary focus is on the policy functions of developing policy proposals, providing expert advice and making policy recommendations (Figure 3.5). Yet few gender institutions in the MENA region are involved in guiding the development of gender-disaggregated data, monitoring the implementation, enforcing gender-related policies and conducting research. As OECD experience shows, strengthening the capacities of these institutions to monitor gender equality programmes and gender mainstreaming to enable effective results-based accountability and promote the development of gender-disaggregated data and the use of gender analysis is critical to ensure their effectiveness and sustainability over time. In addition, mandates derived from constitutions or enshrined in law afford national mechanisms a greater sense of political legitimacy and stability, accompanied by a sufficient resource base, than do mandates originating from a governmental decree.
- Adequate budget, resources and staff with competence in policy analysis, advocacy, communication and monitoring to implement the mandate. Ensuring sufficient human and financial resources tends to be a challenge for most types of institutions, particularly those outside of the Gulf Co-operation Council (GCC)[1] region. In Egypt, Lebanon, the Palestinian Authority and Tunisia, for example, funds for the central gender institutions are susceptible to first rounds of austerity measures and omission from new government negotiations, yet the level and quality of resources are critical for gender agencies to be able to achieve their mandates effectively. Limited capacities and budgets can significantly constrain the ability of gender institutions to support the government-wide commitment of delivering on gender equality. This situation is similar to that of OECD countries and highlights the importance of strong links to decision making to ensure that gender concerns are not sidelined due to the limited resources.
- Strong political commitment. National gender institutions can maximise their effectiveness when harmonisation occurs among government action plans and policies, and they enjoy political commitment at the highest level (OECD, 2014). For example, Chile's National Service for Women, SERNAM, benefitted from a Chair with ministerial status. In this case, the gender institution's leadership, along with a sector-specific approach to gender mainstreaming, improved its capacity to influence inter-sectoral dialogue with line ministries and the national gender institution advocated successfully for legislation on domestic violence and gender discrimination, including childcare for seasonal day workers and maternity leave for domestic employees (OECD, 2014).

- Location at the highest possible level of government. The Beijing Platform of Action of 1995 indicates that responsibility for the advancement of women should be vested in the highest possible level of government, if possible at the level of a Cabinet minister, so as to ensure sufficient authority to advance a government-wide approach to gender equality.

Figure 3.5. **Policy making responsibilities of central gender institutions in MENA countries***



Notes: * The country responses received are as follows: Develop proposals for legislation, regulations: leading role: Egypt, Jordan, Morocco, Palestinian Authority, Tunisia and Yemen; consultative role: Bahrain, Kuwait and Lebanon; Implement legislation, regulations, policies and programmes related to gender equality: leading role: Morocco and Tunisia; consultative role: Egypt, Kuwait, Palestinian Authority, Yemen; supportive role: Bahrain; Enforce legislation, regulations and policies related to gender equality: leading role: Morocco and Palestinian Authority; supportive role: Bahrain, Egypt, Tunisia and Yemen; Conduct gender analysis on draft legislation regulations, policies and programmes prepared by other public bodies: leading role: Jordan, Morocco, Palestinian Authority, Yemen; consultative role: Bahrain, Egypt, Lebanon, Tunisia; Review quality of gender analysis for draft legislation, regulations, policies and programmes prepared by other public bodies and make recommendations: leading role: Egypt; consultative role: Bahrain, Kuwait, Lebanon, Morocco, Palestinian Authority; Monitor the implementation of governmental gender initiatives: leading role: Egypt, Palestinian Authority, Yemen; consultative role: Jordan, Lebanon; supportive role: Bahrain, Morocco; Conduct policy research on gender issues: leading role: Bahrain, Egypt, Lebanon, Palestinian Authority; consultative role: Jordan, Yemen; supportive role: Kuwait, Tunisia; Make policy research on gender issues: leading role: Bahrain, Egypt, Jordan, Lebanon, Palestinian Authority, Tunisia, Yemen; consultative role: Kuwait; supportive role: Morocco; Guide the development of gender-disaggregated data: leading role: Egypt, Tunisia, Yemen; consultative role: Palestinian Authority; supportive role: Bahrain, Jordan, Lebanon, Morocco; Develop tools and guidelines to assist in integrating gender considerations into policy analysis: leading role: Bahrain, Egypt, Lebanon, Tunisia, Yemen; consultative role: Jordan; supportive role: Morocco, Palestinian Authority; Report to parliament on the state of gender equality: leading role: Lebanon, Morocco, Tunisia, Yemen; consultative role: Bahrain, Egypt, Kuwait; supportive role: Jordan; Provide expert advice to other public bodies on issues related to gender equality: leading role: Bahrain, Egypt, Morocco, Yemen; consultative role: Jordan, Kuwait, Lebanon, Palestinian Authority Tunisia; Deliver specific programmes for women: leading role: Bahrain, Egypt, Tunisia; consultative role: Jordan, Kuwait, Yemen; supportive role: Lebanon, Palestinian Authority.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Gender equality units

While central leadership for gender equality is critical, adequate institutional mechanisms at the ministerial level are needed to ensure policy and programme implementation across government in all public institutions. If gender considerations are not integrated into the activities of all gender institutions, gender equality efforts risk being marginalised. Conclusions 1999/2 adopted by the United Nations Commission on the Status of Women in 1999 argued that "the effectiveness and sustainability of national machineries are highly dependent on how embedded they are in the national context, the political and socio-economic system and the needs of and accountability to women" (United Nations, 2005). The single-agency framework may hinder the progress of gender equality by addressing these issues only in a sole institution, rather than emphasising the importance of increased ownership of gender equality by other public institutions. The challenge, therefore, is to ensure that these gender institutions have sufficient mandate, authority and resources to ensure the integration of gender considerations across the government. Moreover, support at the highest political level is critical to enable the effective performance of these organisations.

To embed gender considerations across the government and strengthen the capacities of line ministries and agencies to develop effective gender-related initiatives, most MENA countries reported establishing gender equality units and staff in line ministries across the government, which often have a direct relationship to the central gender institutions. For example, the Jordanian National Committee for Women has established gender focal points in several public institutions, including the Ministry of Planning, Ministry of Finance, Ministry of Education, the Department of Statistics and all other agencies. The central co-ordinating Gender Unit located in the Ministry of Planning works closely with the committee to empower these focal points. In Egypt, there are "equal opportunity units" that report to ministers and meet with the National Council for Women for co-ordination and consultation purposes. These focal points also act as ombudsmen. In Lebanon, there is similar system of gender focal points established by decree from the Prime Minister. In the Palestinian Authority, gender units were also established through a ministerial decision. Further information on gender units in Egypt and in the Palestinian Authority is available in Box 3.4.

This trend is consistent with the OECD countries as well, with over 40% of countries participating in the 2014 OECD study appointing permanent staff members to deal with gender issues across the government at all levels. While the creation of ministerial gender units may create extra layers of administrative hierarchy and may slow down decision making, it is perhaps an important transitional measure to boost gender equality reforms at the ministerial level. The gender unit acts as the focal point for ensuring that questions of gender equality and mainstreaming are brought to the executive table, and for supporting the executive in exercising its leadership on this issue. To fulfil its mandate, the co-ordinator requires ready access to the executive team. Gender units may form an inter-agency network and can participate in government-wide working groups established by the gender equality hub to discuss documents to be adopted at the inter-agency level.

Yet, the capacities of focal gender points and their ability to influence decisions at the highest level seem to be uneven. Countries reported the lack of the will and commitment to implement the decisions in some ministries, thus hindering the gender units; a limited number of qualified staff, capacity and skills in gender mainstreaming, as well as inadequate budget allocations. The staff of gender units is also often excluded from

Box 3.4. **Gender equality and mainstreaming units in OECD and MENA countries**

Spain

In order to integrate the principle of gender mainstreaming into all public policies, Spain introduced equality units in all ministries through Act 3/2007 of 22 March 2007 for Effective Equality Between Women and Men (Article 77). All ministries, in the scope of their areas of competence, entrust one management body with duties relating to the principle of equality between women and men, and, in particular, with:

- providing gender-relevant statistical information
- conducting surveys to foster equality between women and men in their respective areas of activity
- advising the ministry's competency bodies on the formulation of the gender impact report
- improving employees' understanding of the scope and significance of the principle of gender equality
- overseeing compliance policies to implement Act 3/2007 and the principle of gender equality effectively.

The Women's Institute supplies training courses for staff working in the equality units, which have become the focal points to monitor the progress of gender equality and mainstreaming measures in the state administration. With the University Reformation Act 4/2007, universities also started to create equality units. Nearly 30 equality units have been formed in different public universities. In addition, the Women's Institute organised a summer course in August 2010 to evaluate progress on gender equality at the university level (presence of women and men in educational centres' control and governing organs; introduction of new subjects with a gender perspective; creation of specific postgraduate courses, etc.).

Palestinian Authority

A strategic document prepared by the Ministry of Women's Affairs (MoWA) and UN Women, states:

> In order to ensure gender mainstreaming across different sectors, women's units were created in all ministries by the Council of Ministers' Decision No. 15/12/09/CM/AQ of 2005. On 28 July 2008, based on a request from the MoWA, Decision No. 08/65/12/CM/SF was issued to amend the earlier decision, changing the title of women's units to gender units and spelling out the tasks, responsibilities and organi[s]ational structures of these units, in order to contribute to and monitor the mainstreaming of gender issues in ministerial policies, plans and program[me]s. Governmental commitment towards gender issues was also reflected in the issuing of the Council of Ministers' Decision No. 01/05/13/CM/SF in 2009, dealing with the government's and ministries' adoption of gender-sensitive budgets.

Egypt[1]

The National Council for Women has established an Equal Opportunities Unit in every ministry except the Ministry of Defense, which affirms women's exercise of their right to constitutional equality and addresses any discriminatory practices against women in the workplace. Thirty-two units were established in 29 ministries and 3 were established in the administrative apparatus. Several hundred such cases have been resolved. The Equal Opportunities Enit at the Ministry of Finance has been particularly successful in integrating a gender perspective in the general budget. The head of each equal opportunities unit answers to the office of the minister. In the Ministry of Finance, the unit is a core part of the organisational structure with 7 staff members and another 18 representing the unit in other branches of the ministry. Since its inception in 2005, the Equal Opportunities Unit at the Ministry of Finance has conducted a successful project to integrate a gender perspective both in the general budget and in such areas as health, education, employment and social security.

Box 3.4. **Gender equality and mainstreaming units in OECD and MENA countries** (*cont.*)

Bahrain

As part of the Supreme Council for Women's efforts to mainstream women's needs in development, the First National Conference for Bahraini Women was held on 8-10 November, 2010. The theme of the conference was "Mainstreaming Women's Needs in Comprehensive Development Programmes: The Role of National Efforts, Equal Opportunities, Justice and Progress for All". Objectives of the National Conference included: highlighting national efforts, both governmental and civil in dealing with the concepts of mainstreaming women's needs in development and discussing means of implementation; integrating the National Strategy for the Advancement of Bahraini Women into the governmental work programme; the formulation of a national model to mainstream women's needs into development through the government's work programme. This model of gender mainstreaming, which is in accordance with the Bahrain's requirements for gender mainstreaming, outlines the structure and processes of integrating women's needs in the development process. It includes the following pillars: policies, training, awareness and education, partnership, follow up and evaluation

The model emphasised two main procedures to mainstream the needs of women in the government's work programme:

- develop gender sensitive budgeting as a mechanism to regulate and control government spending
- establish equal opportunity units in ministries and official institutions.

Note: 1. In regards to the situation of Egypt, the Constitutional Declaration of 18/01/2014 is applicable until the modifications of the current Constitution of 201;, the Constitution of 1971 is no longer applicable.

Source: Information provided by the government of Spain; MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014); technical consultation of the MENA-OECD Gender Focus Group Report: "Gender, Law and Public Policy: Trends in the Middle East and North Africa"; Palestinian National Authority, *Cross-Sectoral National Gender Strategy: Promoting Gender Equality and Equity (2011-2013)*; information on Bahrain was provided by the government of Bahrain, based on the webpage of the Supreme Council of Women, www.scw.bh/page.aspx?page_key=ma&lang=en.

participation in mainstream ministerial planning and budgeting. Most countries also reported conflicting demands on the scarce time and resources of these focal points. In addition, the prevailing culture within ministries is often not supportive of gender issues, thus leading to a low level of co-ordination and co-operation between gender units and the other directorates and units within their respective ministries.

> The government introduced gender units in ministries as a tool to have [some] gender equality in the government. The role of the unit is to look at the programmes, ensure they are available for both genders equally and to have a gender-sensitive budget. But in reality, [while] the units have been introduced, they do not have any authority to [make] any changes. (NGO, a MENA country)

> The government has established anti-discrimination units in each ministry or governmental institution. The aim of these units is to observe any acts of discrimination in the activities and dealings of the respective ministry (i.e. recruitment or hiring experts, dealing with vendors or service providers, among others). However, slow and minor improvement has been observed since the inception of these units. The reason may be the fact that staff members of these units do not receive the proper training or do not acquire the knowledge on gender-sensitive issues or practices. In general, women's equality is not a top priority on the government political agenda, therefore, there is no effective action plan or implemented tools or mechanisms

followed by the government to eradicate discrimination against women in the public sector. (NGO, a MENA country)

Yet, the success of gender equality initiatives and mainstreaming in the ministries is clearly dependent on institutional capacities as well as the effectiveness of implementation and co-ordination. As such, strengthening the capacities of gender focal units to ensure that individuals are assigned on a systematic manner and have the appropriate knowledge, skills, resources and time to mainstream gender equality initiatives within the ministry would be a critical step in this regard.

Monitoring and oversight

Independent oversight and accountability mechanisms serve as a way to ensure that gender equality initiatives have their intended impact. The presence of sound accountability and oversight that involves reporting to the highest possible level of government maximises the opportunity for gender mainstreaming initiatives to be successful and sustainable, and for gender equality to remain a legislative priority. Oversight bodies should have sufficient authority over governmental institutions to both ensure a comprehensive approach to promoting gender initiatives and keep gender concerns on the legislative agenda (OECD, 2014).

Many OECD countries have oversight mechanisms that act both as pre-emptive/oversight institutions or "corrective" institutions (institutions of recourse) (OECD, 2014). Similarly, some MENA countries have also established oversight mechanisms that act both as "corrective" institutions (institutions of recourse, such as ombudsmen or judicial commissions that adjudicate claims) or pre-emptive/oversight institutions (parliaments or parliamentary committees, commissions in political executives or advisory councils to ministries or the political executive), as depicted in Table 3.2.

Table 3.2**. Institutions responsible for gender equality oversight in the MENA region**

	Yemen	Egypt	Lebanon	Jordan	Tunisia	Morocco	Bahrain	Palestinian Authority	Kuwait
Ombuds office		x	x				x	x	
Commission in the political executive (committee appointed by the Prime Minister, President or government)									
Independent permanent human rights commission established by law								x	
Independent permanent gender equality commission established by law									
Parliament						x			x
Parliamentary committee dedicated to gender equality/women's affairs	x		x				x		x
Judicial body: commission or office located in the Ministry of Justice or that adjudicates claims or advocates in court			x					x	
Advisory council: lay panel advisory to ministries or political executive								x	
Other	x	x			x		x	x	
Total	2	2	3	-	1	1	3	5	2

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

- Civil society and non-governmental organisations play an important role in promoting accountability for gender equality reforms. Civil society organisations usually operate independently from any government. In the MENA region, half of the respondents (Egypt and Tunisia for example) stressed the importance of an active civil society to monitor government activities in the area of gender equality.
- Parliaments and parliamentary committees have proven quite effective in some contexts to oversee the gender equality agenda. Committees are set up within the legislative system with clearly defined mandates to carry out in-depth analysis and review public policy and legislature with regard to gender equality. Five countries in the MENA region reported the use of either the legislature or a committee in the legislature to perform oversight functions (Bahrain, Kuwait, Lebanon, the Palestinian Authority and Yemen).
- Ombuds offices usually represent institutions, acting as an impartial intermediary between the public and government to resolve disputes. Bahrain, Egypt, Lebanon and the Palestinian Authority report establishing an ombuds office to address violations of women's rights. For more information on the Egyptian Ombudsman, see Box 3.5. Similarly, judicial bodies serve as important mechanisms to protect women's rights. Four countries report that these bodies serve as the primary accountability mechanisms.
- Human or women's rights commissions usually serve as independent arms to oversee the respect for human, including women's, rights and resolve any disputes and gender-based discrimination complaints. These may be located within the executive or legislative branch (OECD, 2014). Ombuds offices (such as Norway's Anti-Discrimination and Equality Ombud) or equality boards are increasingly active in all regions. In the MENA region, the Palestinian Authority reported the establishment of an independent Human Rights Commission.

While these institutions play an important role in promoting and monitoring the implementation of gender equality reforms, they are not present in all countries across the region. In comparison, most OECD countries have put in place "pre-emptive" gender equality oversight institutions, and 68% of countries have institutions that use "corrective" methods for addressing gender equality grievances. Establishing and fortifying legislatures as gender equality oversight institutions that also can address human rights and gender equality violations such as human rights commissions, gender equality commissions and ombudsmen would further support MENA countries in their efforts to embed gender equality in practice.

Parliamentary committees on gender equality in the MENA region

OECD experience shows that legislatures play a critical role in championing gender equality. Without sufficient and effective oversight by the legislature, gender equality work can stall and may fade from the legislative agenda. Legislatures could help ensure that gender-related concerns are addressed in the legislative agenda and that laws and policies aiming to promote gender equality are effectively implemented across the region. Gender-responsive legislative oversight can facilitate the development of inclusive, needs-based laws and policies and reinforce gender equality in resource allocation through its role of budgetary oversight. Establishing and strengthening women's caucuses across the legislature can also support this objective.

Box 3.5. **Egyptian Complaints Bureau**

In 2001, a Complaints Bureau for women's issues was established within the National Council for Women. Its tasks were to monitor, examine and address the obstacles to women's effective participation in public life. First based at the council's headquarters, the bureau established branches across the country. It has no judicial or executive powers; instead, it provides guidance, seeks voluntary solutions or directs cases to the appropriate authorities. Recurring complaints are referred to the Secretary-General of the National Council for Women, and thence to the head of government or to parliament. At the time of writing, the government was finalising the establishment of an independent body with all of the recognised prerogatives of an ombuds office.

Equal opportunities units address cases referred to them by the Complaints Bureau. Some 70% of those cases involve social security or pensions, and over the previous four years, 65% of cases have been resolved. The remaining 30% concern employees of the Ministry of Finance who have been dismissed, passed over for promotion or arbitrarily transferred. Each equal opportunities unit meets periodically with the National Council for Women. Every six months, the units meet with each other to ensure co-ordination and a report on the work of the units is prepared annually. Community-based associations, the Family Affairs Bureau under the Ministry of Social Security, equal opportunities units in ministries, committees concerned with women in professional associations and trade unions all handle complaints relating to discrimination against women. The Ombudsman's Office serves as a link between the NCW and Egyptian women who have encountered any form of discrimination or unequal opportunities by identifying through first-hand experience the actual problems facing women.

The mission of the Ombudsman's Office is to help solve the problems facing women that impede their full participation and advancement, and to support them in obtaining their rights as stipulated by the Egyptian Constitution, laws and the international conventions ratified by Egypt.

The goals of the Ombudsman's Office include:

1. monitor women's problems and needs in view of the complaints received by the office
2. assist women in overcoming the problems facing them
3. highlight the problems facing women in society
4. identify women's problems in the public sphere and take the necessary measures to avoid them
5. develop a database of the types of complaints received and the frequency of their occurrence.

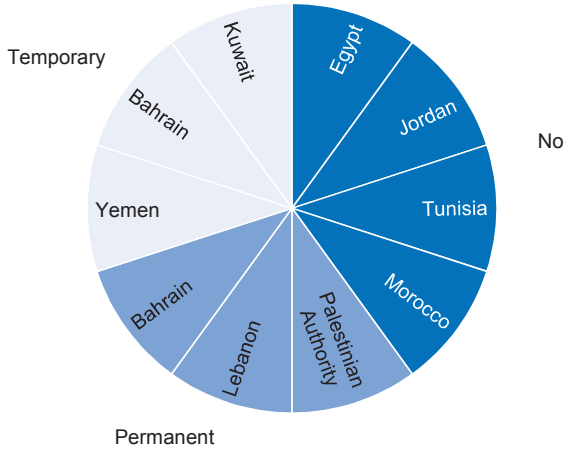
The Ombudsman's Office provides the following services:

1. receives complaints via telephone, hotline, postal service, mail, fax and in-person meetings
2. provides legal and social counselling through specialists in those fields
3. refers women's complaints to the relevant authorities and follows up on them
4. assists female complainants, if needed, to approach specialised attorneys, as well as attorneys working pro bono with the Ombudsman's Office
5. conducts research and studies into issues arising from complaints received by the office.

Any woman who has been subject to any form of discrimination in public life or in personal status affairs can contact the NCW to file a complaint.

Source: National consultations; MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Figure 3.6. **Legislative committees on gender equality in the MENA region**



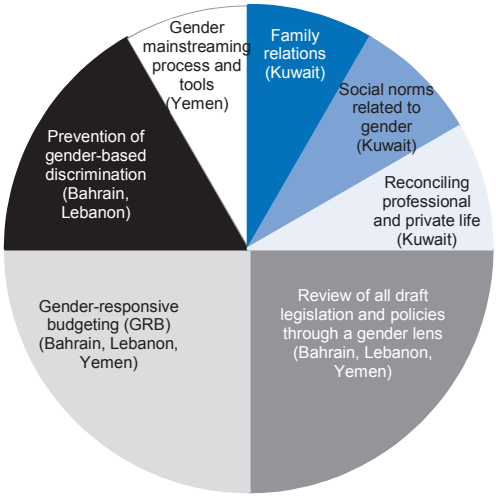
Notes: Bahrain has both a permanent and a temporary legislative committee. Lebanon has a legislative commission that addresses gender equality as well as social rights/children's rights. Tunisia used to have a similar committee before the Jasmin Revolution, but only has a temporary Committee on Social Affairs within its Constitutional Convention, as of 27 May 2013.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Given that the role of parliaments varies across the region, their prominence in advancing the gender equality agenda is also not uniform. Bahrain, Kuwait, Lebanon, Tunisia and Yemen reported establishing committees in the legislatures that deal with women's issues on a permanent or temporary basis (Figure 3.7. and Box 3.6). In most cases, these committees focus either only on women's issues or consider them as part of a portfolio generally related to human rights, social affairs and children's protections (Figure 3.7). Bahrain, Kuwait and Yemen reported that gender committees focus on preparing legislative proposals and examining policies and budgets in terms of their impacts on gender. In addition, in Kuwait and Yemen, gender committees are active in supervising compliance with relevant national and international standards and disseminating relevant information. Additionally in Bahrain and Kuwait, gender committees also examine individual complaints. In Bahrain, the committee supports the integration of women's needs in the government's work plan. It has a mandate to follow and evaluate mainstreaming women's needs in national policies and supporting the production of budgets sensitive to the needs of women. In the Palestinian Authority, the situation is different due to the fact that the split between Hamas and Fatah has impeded the functioning of the Palestinian Legislative Committee since 2007.

While membership of these committees varies in gender distribution, size and selection process, as shown in Table 3.3, enabling a more balanced representation would help reflect a diversity of views in relation to gender initiatives.

Figure 3.7. **Top issues dealt with by parliamentary committees on gender equality in the MENA region**



4 out 4 possible respondents who reported having a parliamentary committee on gender equality

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Table 3.3. **Legislative committees on women's issues in the MENA region**

Country	Gender distribution	Size	Selection process
Bahrain	– Committee in the representative council: 3 males and 2 females – Committee in the Shura Council: 4 males and 3 females – Additional joint committee: 5 males and 4 females	– Committee in the representative council: 7 members – Committee in the Shura Council:[1] 7 members – Additional joint committee: 9 members	Members in the different parliamentary committees are nominated
Kuwait	4 males	4 members	Members are elected
Yemen	6 males and 28 females		– Members are selected by the government based on their qualifications – Committee leadership is nominated by the Cabinet

Note: The Shura Council is the upper house of the National Assembly, the main legislative body of Bahrain.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Overall, while the role of legislatures in promoting gender equality is advancing in the MENA region, much more can be done. To strengthen the legislature's role in this area, countries may increase women's representation in legislatures, which is known to increase attention to gender issues and strengthen the mandates of parliamentary committees to oversee the progress of women's empowerment. In addition, countries may consider making the operations of the legislatures more gender sensitive to support women's access to public office (Box 3.7). Supporting the establishment of women's caucuses and networks could also provide a support net to women seeking legislative mandates (OECD, 2014).

Box 3.6. **Legislative gender equality committees in selected OECD and MENA countries**

In Bahrain, a joint committee was recently established between the Supreme Council for Women (central national gender institution) and the two chambers of parliament. Its mandate is to support equality and gender mainstreaming. The committee facilitates the integration of women's needs in the government's work plan as well as monitors and evaluates the mainstreaming of women's needs in national policies. Furthermore, it also supports the creation of gender-sensitive budgets. The committee conducts studies and reviews the impact of policies on women and men.

The Canadian parliament (House of Commons) created a Standing Committee on the Status of Women in 2004. It is composed of parliamentarians from all political parties and includes a chair, two vice-chairs and eight members who study, evaluate and report on matters and bills relating to the status of women. The committee has prepared several studies, reports and government responses to concerns related to maternal and child health, violence against women, the participation of women in politics and non-traditional occupations, and pay equity.

In Kuwait, the Parliamentary Committee on Women's Affairs was established on a temporary basis in October 2005. Its mandate includes gender impact assessments on women's affairs, proposing legislation, and monitoring and evaluating the implementation of legislation related to gender equality.

In Lebanon, a permanent parliamentary commission is in charge of both women's and children's affairs. It works with both the Cabinet and parliament to review laws and budgets as well as monitor the compliance of national and international standards, draft bills and advise the government.

The Norwegian parliament (*Storting*) includes a Standing Committee on Family and Cultural Affairs that deals with policies and laws related to families, gender equality, children and youth, consumer affairs and cultural affairs. It corresponds to the Ministry of Culture and the Ministry of Children and Equality, and comprises 13 members. During its proceedings, the committee can convene hearings to obtain information from ministry representatives, organisations or individuals. Reciprocally, organisations and individuals can request to appear before the committee to present their insights. The committee submits recommendations and proposed decisions on relevant affairs to the parliament, which is responsible for taking final decisions, but usually follows the recommendations of the committee.

In Yemen, the Parliamentary Committee is temporary. While supervision of issues related to women's rights falls within the mandate of the Supreme Council for Women, the accountability for these issues in within the mandate of the Parliamentary Committee. The status of women is explicitly part of the mandate of the Supreme Council of Women that supervises and reports on compliance with relevant national and international standards, prepares legislative proposals, examines policies and budgets, and provides advice to the government.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Finally, countries that are fragile or in transition face a different set of constraints and opportunities, for instance countries that were involved in the Arab Spring revolutions. These countries need to develop gender-specific strategies or committees in legislative bodies while adopting and building consensus on new national constitutions. In Tunisia, for example, a commission in charge of social affairs exists within the body of the Constitutional Convention, but its relation to the Ministry of Women's and Family Affairs remains to be clarified. The demonstration of initiatives to combat violence

against women, however, is a *forte* of the current Tunisian gender institution. The National Council for Women in Egypt has created good governance units that work as a network to produce a road map and strategy for a good governance development framework that incorporates gender equality as well as other good practices. The Palestinian Authority, with significant support from donor agencies, has successfully crafted a series of strategic plans that are evaluated on a two-year basis and open to public consultation with a large selection of actions in key sectors and organisations, including civil society. While suffering from budget restrictions, the Palestinian Ministry of Women's Affairs has been able to conduct, in collaboration with partners, a series of gender audits and advance mainstreaming of gender equality initiatives in both the public and private sectors.

Box 3.7. **The Inter-Parliamentary Union's Action Plan for Gender-Sensitive Parliaments**

The Action Plan for Gender-Sensitive Parliaments developed by the Inter-Parliamentary Union (IPU) calls for gender mainstreaming in parliaments. Gender mainstreaming involves the following activities: obtaining gender-disaggregated data and qualitative information on the situation of men and women; conducting a gender analysis which highlights the differences between and among women, men, girls and boys in terms of their relative distribution of resources, opportunities, constraints and power in a given context; and instituting gender-sensitive monitoring and evaluation mechanisms, including the establishment of indicators to gauge the extent to which gender equality objectives are met and changes in gender relations are achieved. Parliaments should adopt one or more of the following mechanisms that are best suited to their own context:

- A dedicated parliamentary committee on gender equality entrusted with reviewing government policies, legislation and budgets from a gender perspective, where committee members question a broad range of groups and individuals, including public agencies, academics and private organisations, about their views on the effectiveness of government programmes and activities, and where strong links are forged between the committee and national women's groups, civil society organisations (CSOs), research institutes and universities.
- Mainstreaming gender throughout all parliamentary committees, so that all committee members – men and women – are mandated to address the gender implications of policy, legislative and budgetary matters under their consideration as appropriate, supported by parliamentary research staff with gender expertise.
- A women's parliamentary caucus with a special remit for gender equality concerns, composed of women (and men, if desired) working on a commonly agreed agenda. An effective caucus relies on strong links with national women's groups, CSOs, and research institutes and universities.
- A speaker's reference group on gender equality composed of men and women parliamentarians from across the political spectrum, which reports to the Speaker directly and sets the parliament's gender equality direction and agenda.
- Technical research units on gender equality or library/research staff with gender expertise who have access to up-to-date information, books, computers and online databases and who can assist with gender-based analyses.

Source: Inter-Parliamentary Union (IPU) (2012), *Plan of Action for Gender-Sensitive Parliaments*, IPU, Geneva, www.ipu.org/pdf/publications/action-gender-e.pdf.

Policy co-ordination, implementation and accountability

To be effective, gender equality reforms must be accompanied by sound co-ordination, implementation and accountability mechanisms. Policy co-ordination is essential to ensure that gender reform remains on track. This co-ordination should take place horizontally (across federal government entities) and vertically (between levels of government). Given that achieving gender equality and mainstreaming can include a number of cross-cutting initiatives which permeate many policy areas, all levels of government need to implement elements of the gender equality vision and strategy in order to improve communication and co-operation across government. This may also require ensuring the proper incentives to meet policy objectives for all stakeholders.

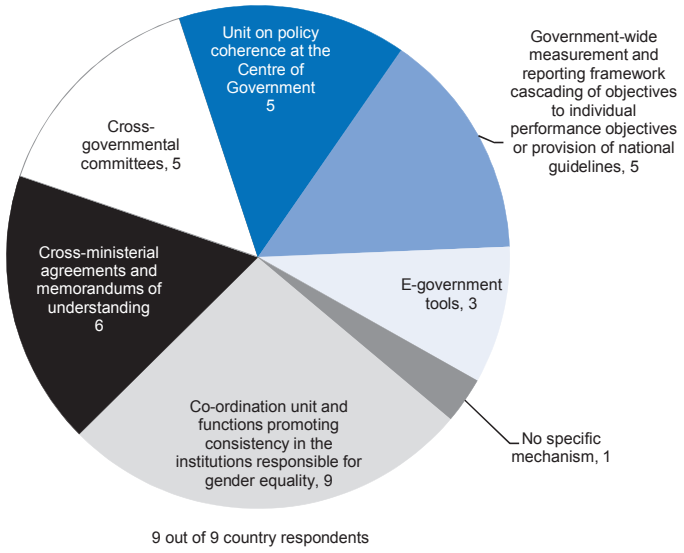
Moreover, monitoring and evaluating progress in achieving gender equality and women's empowerment can provide assurance about implementation efforts. Both monitoring and evaluation are required to track both the implementation of gender-related activities and to identify their impacts on advancing gender equality.

International experience shows that formalised co-ordination and central monitoring mechanisms are essential to keep gender reforms moving forward and to ensure that individual initiatives are aligned with the broader gender vision and strategies.

In the MENA region, some of the reported co-ordination practices include:

- Co-ordination units and functions promoting consistency in the central gender institutions. This is the most common co-ordination mechanism used in the MENA region. Thus, most MENA countries report the establishment of a co-ordination unit in the central gender institution (Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, the Palestinian Authority, Tunisia and Yemen).
- Co-ordination units on policy coherence within the Centre of Government, which is one of the most prominent mechanisms in OECD countries. In the MENA region, Bahrain, Egypt, Lebanon, Morocco and the Palestinian Authority report establishing such units at the CoG to promote a whole-of-government approach to gender equality.
- Cross-governmental committees at different levels are regularly used both in OECD and MENA countries. Examples of these committees in the MENA region come from Bahrain and Morocco at the ministerial level and from Morocco and Yemen at the level of a director.
- Cross-ministerial agreements and memoranda of understanding (Bahrain, Jordan, Morocco, the Palestinian Authority, Tunisia and Yemen).
- Monitoring and accountability through government-wide measurement and reporting frameworks for promoting coherence across gender equality initiatives, provision of guidelines and tools for gender mainstreaming and cascading of objectives into performance agreements. Regular measurement and reporting to parliament are among the top three most commonly used co-ordination mechanisms in OECD countries (86% of OECD countries report using measurement frameworks, and a good majority of countries also have regular reporting requirements to parliament). Yet the use in the MENA region is more rare. This practice is primarily reported by Bahrain, Egypt, Morocco, the Palestinian Authority and Yemen.
- E-government tools by providing collaborative platforms for the accomplishment of common objectives (Egypt, Morocco and the Palestinian Authority).

Figure 3.8. **Co-ordination mechanisms used to implement gender equality in MENA countries**



Note: Countries responded as follows: Unit on policy coherence at the Centre of Government – Bahrain, Egypt, Lebanon, Morocco, Palestinian Authority; Government-wide measurement and reporting framework cascading of objectives to individual performance objectives or provision on national guidelines – Bahrain, Egypt, Morocco, Palestinian Authority, Yemen; E-government tools – Egypt, Morocco, Palestinian Authority; No specific mechanisms – Kuwait; Co-ordination Unit and functions promoting consistency in the institutions responsible for gender equality – Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Tunisia, Palestinian Authority, Yemen; Cross-ministerial agreements and memorandums of understanding – Bahrain, Egypt, Jordan, Morocco, Tunisia, Palestinian Authority; Cross-governmental committees – Bahrain, Jordan, Morocco, Tunisia, Yemen.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Box 3.8. **The Belgian federal government's Inter-departmental Co-ordination Group**

In 2007, the Belgian parliament adopted a law concerning the monitoring of the application of the resolutions from the Fourth World Conference on Women and Mainstreaming Gender into all federal policies. To support the implementation of this "whole-of-government" process, the law created an Inter-Departmental Co-ordination Group for the federal government. This group's members are representatives of administrations and ministers' offices and its secretariat is the Institute for the Equality of Women and Men. The Inter-Departmental Co-ordination Group assumes responsibility for: promoting co-operation between ministries; adopting a federal plan of action; preparing an intermediary report and a final report at the end of the term; and exchanging good practices and promoting instruments useful to enforce the law. The representatives of the ministries participating in the co-ordination group also are appointed as gender focal points in their respective entities. They receive compulsory training on gender mainstreaming and are tasked with ensuring follow-up on the diverse measures foreseen by the law (e.g. gender statistics, gender-responsive budgeting and the "gender test").

Source: Information provided by the Belgian Institute for Equality of Women and Men.

In the MENA region, the majority of the co-ordination mechanisms for the implementation of gender equality initiatives remain the responsibility of the central gender institution. Nevertheless, without an emphasis on policy coherence across government, especially in gender equality policies that affect all sectors of society, the implementation and "whole-of-government" approach remains hampered. In fact, OECD countries emphasise establishing "whole-of-government" frameworks to deal with gender equality issues, such as the Family Violence Initiative in Canada (Box 3.9). In addition, all OECD countries with sub-national governments employ vertical co-ordination methods, such as co-ordinating bodies or committees (e.g. Australia, Austria, Mexico, Switzerland, etc.), legislation or regulations, formal agreements or informal meetings between levels of government.

Box 3.9. **The Family Violence Initiative, a Canadian horizontal programme**

The Family Violence Initiative (FVI) within the Public Health Agency of Canada comprises 15 government departments and a joint committee with provincial and territorial governments that work on various policy, programme and research activities aimed at reducing family violence. The participating departments include Canada Mortgage and Housing Corporation, Citizenship and Immigration Canada, Department of Justice Canada, Department of Canadian Heritage, Public Health Agency of Canada, Royal Canadian Mounted Police, Statistics Canada and Status of Women Canada. Violence prevention is also integrated into the activities of Aboriginal Affairs and Northern Development Canada, Correctional Service Canada, Department of National Defence, Health Canada, Employment and Skills Development Canada, Public Safety Canada and Service Canada.

The FVI addresses all forms of abuse within relationships of kinship, intimacy, dependency and trust. The FVI works on issues such as child maltreatment, intimate partner violence, elder abuse and dating violence; specific populations such as abuse of persons with disabilities, Aboriginal peoples, new immigrants; risk factors such as poor mental health, poverty and homelessness; and across the continuum of violence from prevention in the health system to intervention through the justice and corrections systems.

Source: Government of Canada website.

Overall, while some of the countries within the MENA study utilise various common co-ordination mechanisms, co-ordination of gender equality strategies remains uneven. The existing approaches to co-ordination appear insufficient to achieve policy coherence and a "whole-of-government" approach to gender equality. Some countries' stakeholders indicate that overall linkages, co-ordination and co-operation among national institutions need improvement. Given the cross-cutting nature of many gender-related topics, it is essential to link the institutions dealing with various aspects of each particular issue. Countries also report the necessity of strengthening co-ordination approaches in order to achieve a comprehensive approach to gender mainstreaming strategies.

Indeed, the participating MENA countries recognised some of the co-ordination challenges, which arise from both challenges in fostering gender equality in general as well as from the limited availability of general co-ordination mechanisms within government. For example, Bahrain, Jordan, Morocco and Tunisia reported that a major concern for fostering gender equality relates to the limited co-ordination mechanisms to facilitate policy coherence on gender-related initiatives. In Egypt, Jordan and Morocco, the complexity of legislations, regulations, etc. was seen as an encumbrance on the central government institutions, particularly when several ministries were involved in the

mainstreaming strategy. Countries also stressed the importance of the political will and the stability of gender institutions to enable cross-governmental co-ordination.

Moving forward, it would be important for MENA governments to strengthen a "whole-of-government" approach to co-ordination of the implementation of gender equality strategies to ensure their effectiveness. Good practice in policy co-ordination entails a "whole-of-government" approach decentralised to all sectors of government activity that engages committees on an analyst level but remains monitored for consistency and performance management. It should entail both a practical approach that incorporates central co-ordination units and a measurement and reporting framework.

Implementation and accountability for gender equality initiatives

Ensuring effective accountability for the implementation of gender initiatives requires integrating gender aspects into the overall government accountability and performance management systems through regular reports to parliament, transparency of information and integrating gender equality commitments into the performance agreements of senior government managers across government. Without effective implementation mechanisms, gender policies, as all policies and programmes, remain declarative statements (OECD, 2014). To this end, MENA countries report using the following mechanisms (Figure 3.9):

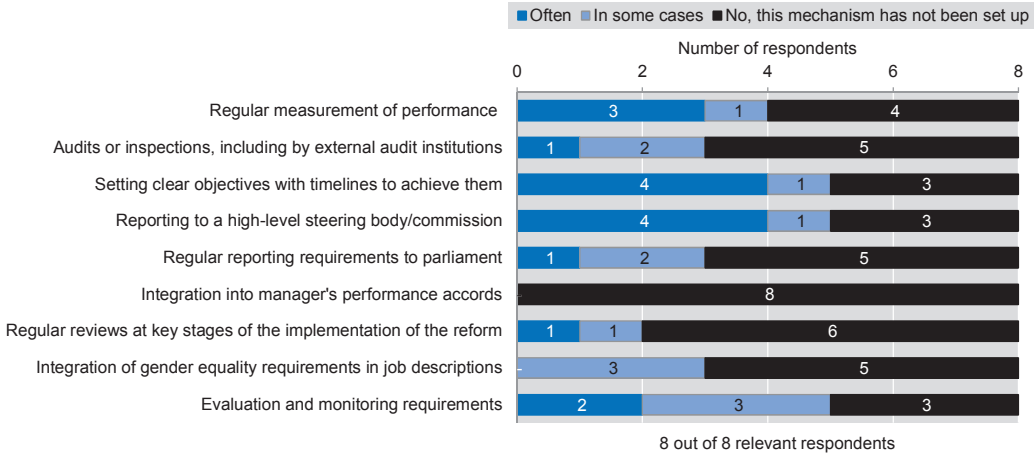
- Establishing clear objectives with timelines and reporting to a high-level steering body or commission. This mechanism is used in Bahrain, Egypt, Morocco, the Palestinian Authority and Yemen.
- Undertaking monitoring and evaluation in Bahrain, Egypt, Morocco, the Palestinian Authority and Tunisia.
- Measuring performance in Bahrain, Egypt, Morocco and Yemen.
- Regular reporting to the legislature in Bahrain, Morocco and Tunisia.

Similarly, 86% of OECD countries have established a regular measurement of performance and 81% reported using evaluation and monitoring requirements (OECD, 2014). Yet, only a few OECD countries integrate gender equality requirements into managers' performance and accountability agreements and none in the MENA region. Audits or inspections of the implementation of gender equality initiatives, including by external institutions, are rare both in OECD and MENA countries.

In addition, Morocco reports cascading objectives from national gender strategies to individual performance objectives of top management to employees in line ministries. Some countries use audits to ensure implementation of gender equality. For example, Morocco, the Palestinian Authority and Yemen conduct audits or inspections to ensure implementation of gender equality-related legislation, policies and programmes. The Ministry of Women's Affairs in Palestine contracts external parties, either from civil society or the private sector, to conduct participatory gender audits on line ministries using the International Labour Organisation's framework for gender audits. This has been conducted in collaboration with local and international partners for the Ministry of Labour as well as for the Palestinian General Federation of Trade Unions and the Federation of Palestinian Chambers of Commerce, Industry and Agriculture (This Week in Palestine, 2010). Bahrain and Egypt, in turn, incorporate regular reviews at key stages of the implementation of gender-related reforms. While the use of the various implementation mechanisms is increasing in the MENA region, progress remains limited,

which in turn is translated into uneven implementation of gender strategies, initiatives and mainstreaming. As such, further positive action by governments in MENA countries would be important to strengthen the implementation of gender equality and mainstreaming to achieve gender equality outcomes and full empowerment of women.

Figure 3.9. **Mechanisms used by ministries to implement gender equality laws, policies and programmes in the MENA region**



Notes: Not applicable for Jordan. No mechanisms reported for Kuwait or Lebanon. The country responses are as follows: Regular measurement of performance; often: Egypt, Morocco, Yemen; in some cases: Bahrain; no, this mechanism has not been set up: Kuwait, Lebanon, Palestinian Authority, Tunisia; Audits or inspections, including by external audit institutions: often: Yemen; in some cases: Morocco, Palestinian Authority; no, this mechanism has not been set up: Bahrain, Egypt, Kuwait, Lebanon, Tunisia; Setting clear objectives with timelines to achieve them: often: Egypt, Morocco, Palestinian Authority, Yemen; in some cases: Bahrain; no, this mechanism has not been set up: Kuwait, Lebanon, Tunisia; Reporting to a high-level steering body/commission: often: Egypt, Morocco, Palestinian Authority, Yemen; in some cases: Bahrain; no, this mechanism has not been set up: Kuwait, Lebanon, Tunisia; Regular reporting requirements to parliament: often: Morocco; in some cases: Bahrain, Tunisia; no, this mechanism has not been set up: Egypt, Kuwait, Lebanon, Palestinian Authority, Yemen; Integration into manager's performance accords: no set up mechanism for any country of the survey; Regular reviews at key strategies of the implementation of the reform: often: Egypt; in some cases: Bahrain; no, this mechanism has not been set up: Egypt, Kuwait, Lebanon, Morocco, Palestinian Authority, Tunisia, Yemen; Integration of gender equality requirements in job descriptions: in some cases: Bahrain, Morocco, Palestinian Authority; no, this mechanism has not been set up: Egypt, Kuwait, Lebanon, Tunisia, Yemen; Evaluation and monitoring requirements: often: Morocco, Palestinian Authority; in some cases: Bahrain, Egypt, Tunisia; no, this mechanism has not been set up: Kuwait, Lebanon, Yemen).

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Summary recommendations

Strengthening the vision and strategy for promoting gender equality and mainstreaming

- Increase the prominence of the civil, political and economic rights of women in national visions and strategies in the MENA region.
- Embed international gender equality standards into national gender equality visions and strategies more prominently, including those specified in the CEDAW.

- Strengthen government-wide capacities for effective implementation of gender equality visions and strategies, including developing the necessary skills and knowledge, raising awareness on the high-level objectives and providing the necessary resources.

Improving the institutional framework, resources and policy coherence for the advancement of gender equality

- Improve the effectiveness of institutional frameworks for advancing gender equality in the MENA region, including clarifying roles and responsibilities and bolstering the capacities, mandate, authorities and resources of central gender institutions and gender focal points across the government.
- Expand mechanisms for oversight over the implementation of gender equality reforms, including legislative committees or independent commissions on gender equality to ensure a comprehensive approach in promoting and overseeing the implementation of gender initiatives.

Advancing the implementation and co-ordination of gender equality/mainstreaming policies

- Strengthen co-ordination mechanisms across government bodies and levels of government to support effective implementation of gender equality and mainstreaming initiatives.
- Accompany gender equality and mainstreaming strategies with effective accountability, monitoring and evaluation mechanisms for embedding gender equality within the public service and in public policies, and by raising awareness on gender mainstreaming.

Note

1. Its members are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.

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Chapter 4

Embedding gender considerations in public policies across the MENA region

This chapter examines mechanisms for embedding gender considerations in public policies and laws in the MENA region. It provides an overview of gender mainstreaming practices in the region, including the availability of related strategies, and requirements for gender impact assessments and gender-responsive budgeting. It argues that, by considering regulations and budgets as gender-neutral, policy makers risk potentially making them gender-blind and ignoring different circumstances faced by both men and women. The chapter also emphasises that robust measurement and gender-disaggregated data provide the necessary foundation for evidence-based policies. It shows that, while many MENA countries report measuring the status of women, many data gaps remain. Lastly, the chapter showcases current citizen engagement and public consultation practices in the region, including efforts to involve both men and women facing barriers in the consultation process. In conclusion, the chapter offers good practice examples from OECD and MENA countries, and a set of recommendations that aim to support the governments in the region in implementing gender mainstreaming and gender budgeting.

The statistical data for Israel is supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Key findings

- All MENA countries report adopting gender mainstreaming strategies. However, there are many challenges in their implementation, including the absence of legislation enabling gender mainstreaming, the complexity of existing laws, limited effective co-ordination mechanisms and limited capacity to promote a whole-of-government perspective.
- While more than half of the MENA countries that responded to the OECD survey report undertaking some form of gender analysis for all or most laws, this is rarely done in a systematic manner.
- About half of the participating MENA countries report collecting gender-disaggregated statistics in several key sectors, yet data on gender discrimination, gender-based violence, economic empowerment and representation in the public sector remains scarce.
- Notwithstanding the examples of citizen engagement in the MENA region, the general practice of public consultation, particularly with regard to gender equality initiatives, remains limited and sporadic.
- In the MENA region, about half of responding countries have introduced some form of gender budgeting at the central level, yet further steps would be beneficial to embed gender budgeting across all levels of government in a systematic manner.

In many countries of the MENA region, there is a notable political commitment to empower women; however, there is often limited awareness, understanding and capacity across the public sector to realise effective change. In some cases, ministerial lack of attention to issues of gender equality is related to gaps in knowledge and skills. In other cases, there is also limited understanding that gender neutrality does not necessarily imply gender equality. In fact, some informally interviewed officials show a certain degree of resistance to the notion of integrating gender equality on the basis that the policies or programmes concerned do not explicitly include requirements for men as well as women. At the same time, as highlighted in Box 4.1, many policies run the risk of inadvertently discriminating against women by not taking into account different impacts on men and women. Sometimes, when senior decision makers and/or professional staff resist the changes entailed by gender equality on ideological grounds, this may result in a lack of action. In most cases, however, there are many competing demands. Government agencies and staff tend to deal with those considered the highest priority; unfortunately, gender equality initiatives are often ranked as a lower priority.

The case for promoting gender equality and integrating gender into laws and policies in MENA countries is multi-faceted. While gender equality has been enshrined in many of the countries' international commitments, this report highlights that a gender equality gap persists in domestic laws and policies across the region. To this end, this chapter considers mechanisms for integrating gender into the policy making process, including:

- introducing gender mainstreaming
- applying gender impact assessment as a tool for gender mainstreaming
- using gender-disaggregated evidence as a base for decision making
- improving public consultation for gender-sensitive policies

- introducing gender-responsive budgeting (GRB) as a specific method for gender impact assessment.

Box 4.1. **Gender sensitivity and gender blindness**

Gender blindness refers to ignoring the different and socially determined roles, responsibilities and capabilities of men and women. Gender-blind policies and public services are often based on information derived from men's activities and/or the assumption that everyone affected by the policy (both women and men) has the same needs and interests. Because men and women will have different experiences due to societal structures, such as gender roles, access to resources and opportunities, equal treatment is often insufficient. Achieving gender equality, therefore, necessitates recognising differential impact. Effective programming and policy making must examine the underlying sources of inequality and take population heterogeneity into account.

Gender sensitivity is the "ability to acknowledge and recognise existing gender-related perceptions and interests arising from different social gender roles and to incorporate them into strategies and actions. It is a concept that aims at reducing the barriers to personal and economic development that are created by sexism and stereotyped gender roles. Gender sensitivity is considered as the beginning stage of gender awareness, which consists of a more analytical questioning of gender inequalities by identifying less evident, implicit or hidden aspects of gender discrimination or unequal treatment."

Source: UNESCO (2002), *Gender Sensitivity, A Training Manual for Sensitizing Educational Managers, Curriculum and Material Developers and Media Professionals to Gender Concerns*, UNESCO, Paris, http://unesdoc.unesco.org/images/0012/001281/128166eb.pdf; and World Bank (n.d.), *A Trainer's Manual, Glossary of Gender Terms*, http://info.worldbank.org/etools/docs/library/192862.

Gender mainstreaming

Public policies, laws and regulations affect all aspects of people's lives, regardless of gender. Even seemingly neutral laws and regulations can be discriminatory in nature, as they may affect men and women differently, intentionally or otherwise. For example, a workplace regulation that permits parents to take leave to care for a sick child may apply equally to both genders, but is more likely to apply to women as primary caregivers. Regulations also can impede the ability of women to become fuller participants in society by making it more difficult for them to find employment, gain an education, start a business, meet the needs of their family, ensure their human rights, etc. (Bremer, 2009). Policies and regulations affecting the role of women may include:

- education: access, educational materials
- health: access to healthcare, family healthcare, gender-specific concerns
- workplace issues: access to employment, gender in the workplace, access to training, equality of pay, forced labour/trafficking
- family issues: rights of women as wives and mothers, divorce, violence, inheritance, children
- public sphere: limitations on appearance, behaviour or presence of women outside the home, access to courts of law, political participation, civil society (Decuyper, 2009).

Designing and providing public services that are equally accessible and relevant to all citizens also requires rigorous processes to embed gender considerations in service design and delivery. Services are not gender-neutral; the way they are developed and delivered can have a differential impact on women and on men.

Consequently, as noted in Chapter 2, in order to obtain full strategic insight into how policies affect both men and women, it is critical to implement gender mainstreaming processes. Gender mainstreaming seeks to ensure that institutions, policies and services respond to the needs and interests of women as well as men, and distribute benefits equitably between women and men.

Gender mainstreaming should form an integral basis of policy formulation from the initial stage of policy and service development, throughout the implementation and evaluation of policy and service impacts (Box 4.2).

Box 4.2. **When to mainstream? The policy process**

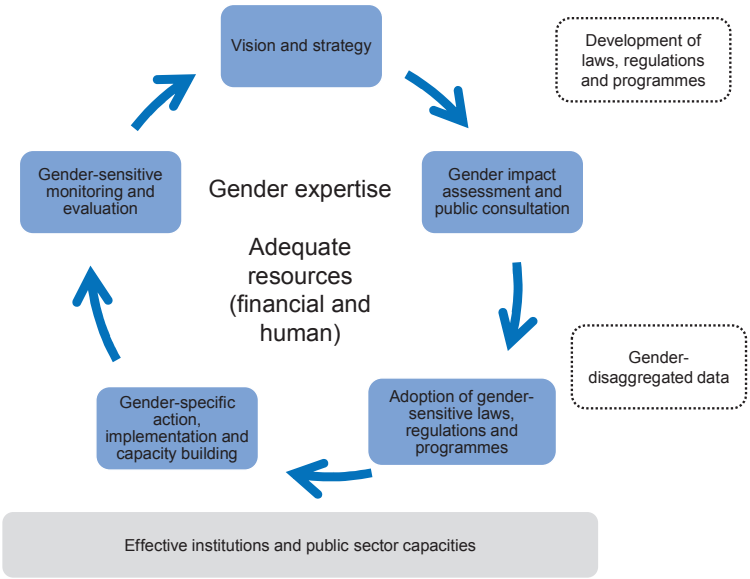
The major points of focus at the planning stage of any policy are:

- Analysis of the current situation: This involves identification of the problems and challenges to be faced; examination of gender-disaggregated statistics; and definition of the aims of the policy. Are the aims of the policy the same for women and men, girls and boys? Who will be involved in the policy making process? Are both genders involved in the policy making process?
- Decisions: Once the gender-related information is collected and analysed, decisions need to be taken about problems and challenges for women and for men, girls and boys. These need to be addressed and prioritised (based on the initial planning stage).
- Implementation: Even though adopting gender mainstreaming from the initial stage of the policy planning process allows the policy to be gender-sensitive, there is no assurance that the policy will be "inequality free." There is a significant difference between analysing gender issues, supporting gender equality and actually implementing policies that promote equality. This is considered the "applied" stage and, therefore, new or unidentified issues may still arise. For this reason, it is important that the actors involved in the development and delivery of the policy are supported and can promote equality.
- Monitoring and evaluation: Any implemented policy requires monitoring and evaluation in order to ensure that its goals have been achieved, as well as to assess areas that need improvement. This monitoring should be a continuous process in order to assess the impact of the policy on women and men, girls and boys. Good governance involves considering, planning for and meeting the needs and priorities of all citizens. Adopting gender-responsive planning processes is an important step towards achieving this outcome and is the only way to ensure that government actions are likely to benefit women and men, girls and boys equally.

Sources: European Commission (n.d.), "A Guide to Gender Impact Assessment", Directorate-General for Employment, Social Affairs and Equal Opportunities, European Commission, Brussels, http://ec.europa.eu/social/BlobServlet?docId=4376&langId=en.

Effective gender mainstreaming calls for a whole-of-government strategy for mainstreaming, effective mainstreaming tools – such as gender impact assessments –, and implementation through gender-sensitive laws and policies. It should also be accompanied by gender-specific action and capacity-building, and gender-sensitive monitoring and evaluation (Figure 4.1).

Figure 4.1. **Key components of gender mainstreaming**



Source: Developed by the OECD, 2014.

All OECD countries are implementing some form of gender mainstreaming. Most countries (73%) have included a gender mainstreaming strategy within their gender equality strategy. Others report having gender mainstreaming as part of a separate strategy. Generally, however, gender mainstreaming strategies focus on the development of methodologies for incorporating gender perspectives into government legislation, regulations, policies and programmes. They are often focused on the adoption of a comprehensive, "whole-of-government" approach (OECD, 2014). An example of an approach to gender mainstreaming comes from Sweden, as highlighted in Box 4.3.

While gender mainstreaming is increasingly evident across the MENA region, further progress is needed to ensure that gender concerns are well established in the policy process. As demonstrated in Figure 4.2, more than half of participating countries report having a mainstreaming strategy either as a document other than the broader gender equality strategy (Tunisia) or embedded into a broader strategy (Bahrain, Lebanon, Morocco and the Palestinian Authority). Other countries may be carrying out gender mainstreaming activities without a specific strategy. Although many countries employ some form of gender mainstreaming, according to the OECD Survey on National Gender Frameworks, Public Policies and Leadership, only a few MENA countries (e.g. the Palestinian Authority) take active steps to systematically integrate gender equality considerations in the design, implementation and monitoring of policies, programmes and laws.

Among the challenges of adopting gender mainstreaming, MENA country participants most often cite:

- the absence of legislation enabling gender equality and mainstreaming (Egypt, Lebanon and the Palestinian Authority)
- the complexity of the existing laws (Egypt, Jordan and Morocco)

- limited effective co-ordination mechanisms (Bahrain, Jordan, Morocco and Tunisia) and a limited capacity to promote gender equality reform from a "whole-of-government" perspective (Egypt, Tunisia and Yemen)
- a lack of training on gender mainstreaming within the public service (Lebanon)
- a lack of awareness on gender mainstreaming (Bahrain and Yemen) and a lack of gender analysis skills (Kuwait and Yemen) within the public service.

Box 4.3. **Gender mainstreaming in Sweden**

Sweden adopted its first gender mainstreaming strategy in 1984, stating that all policy decisions were to be analysed on the basis of their implications for women and men. Since then, Sweden has consolidated its gender mainstreaming strategy, which aims at achieving equal opportunities, rights and responsibilities for women and men, progressively into all policy areas.

Implementing gender mainstreaming in government offices in Sweden began with the Plan for Gender Mainstreaming at the Government Offices between 2004 and 2009. The initial phase included collection, analysis and dissemination of knowledge of, and experience with, gender mainstreaming. Training models for key groups within the government offices were developed and tested in 2008, and intended to be incorporated into regular training courses given by the central government administration. In July 2008, the Swedish government also instructed the Swedish Secretariat for Gender Research at the University of Gothenburg to further develop and disseminate methods and information on gender mainstreaming, and develop a forum to exchange experiences on gender mainstreaming. The previous year, the Swedish government had mandated a committee of inquiry – the Gender Mainstreaming Support (*JämStöd*) – to provide information about gender mainstreaming, and develop practical methods and working models for mainstreaming gender into central government activities. It published reports such as the *Gender Mainstreaming Manual* and the *Gender Equality in Public Services Report – A Book of Ideas for Managers and Strategists*, and trained central government administrators on the implementation of gender mainstreaming. The committee also elaborated a working model outlining steps to be followed for an effective gender mainstreaming process.

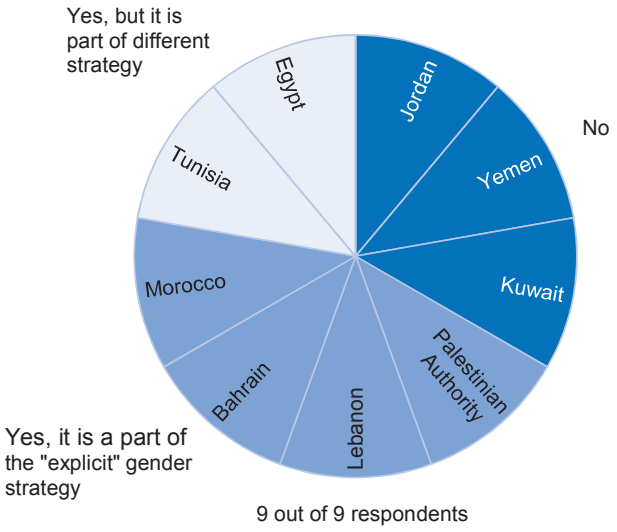
To address gender concerns that require specific attention, Sweden adopted – in parallel with its gender mainstreaming efforts – a National Strategy to Promote Gender Equality in Sweden. The National Gender Equality Strategy identified five focus areas to be addressed during the government's term of office: *i)* representation, equal access to positions of power and influence; *ii)* equal pay for equal work and work of equal value; *iii)* violence committed by men against women, prostitution and trafficking in women for purposes of sexual exploitation; *iv)* men and gender equality; and *v)* sexualisation of the public sphere. Each minister in Sweden is responsible for fulfilling the gender equality goals in his or her specific policy area.

Source: Government Offices of Sweden (2009a), "Gender Mainstreaming", www.sweden.gov.se/sb/d/4096/a/125215; Government Offices of Sweden (2009b), "The Swedish Government's Gender Equality Policy", Fact sheet, Ministry of Integration and Gender Equality, Stockholm, www.winneteurope.org/getfile.ashx?cid=123099&cc=3&refid=14; Swedish Government Official Reports (2007), *Gender Mainstreaming Manual, A Book of Practical Methods from the Swedish Gender Mainstreaming Support Committee (JämStöd)*, SOU 2007:15, Stockholm, www.sweden.gov.se/content/1/c6/08/19/82/3532cd34.pdf; Swedish Government Official Reports (2007), *Gender Equality in Public Services Report – A Book of Ideas for Managers and Strategists*, Stockholm, www.sweden.gov.se/content/1/c6/08/19/82/8efba817.pdf.

Moreover, there appear to be variations in the awareness and understanding of gender-sensitive policy making among MENA countries and within specific ministries. While, in some countries, gender considerations are expanding across several areas of public and private life, in others, these issues remain primarily within specific areas of government intervention traditionally associated with women and their reproductive role,

including combating violence and providing health services. This poses a particular problem within line ministries in key sectors that are particularly important for women in rural areas and in precarious employment, including within Ministries of Labour, Economics, Agriculture, Foreign Affairs, as well as the more traditional Social Affairs, Health, Education and family-related ministries.

Figure 4.2. **Availability of gender mainstreaming strategies in MENA countries**



Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

To address these challenges, adopting a comprehensive and government-wide approach is critical. This involves providing the tools, mandate and legitimacy to implement gender mainstreaming across the public sector at all levels. MENA countries also noted that accountability mechanisms, methodologies for incorporating gender perspectives into policies and laws, and data broken down by gender were critical to develop more gender-responsive policies.

Overall, it appears as though the majority of the countries involved in this study report to have the interest, but require political will and resources as well as capacity development to implement an overall "whole-of-government" approach to gender mainstreaming. Many reports suggest that there is a particular challenge to implement mainstreaming strategies; survey respondents note this may be due to limited accountability and oversight mechanisms across the public service, as well as some resistance to mainstreaming gender due to the increased administrative complexities it imposes, especially with regards to gender impact assessments and gender-sensitive budgeting.

Gender impact assessment (GIA)

Gender analysis or gender impact assessment (GIA) is an important tool of gender mainstreaming to evaluate the different effects (positive, negative or neutral) of any policy, legislation or practice in terms of gender equality. The EU defines GIA as a process to compare and assess, according to gender-relevant criteria, the current situation and trend with expected developments resulting from the introduction of the proposed

policy (European Commission, n.d.). GIA is a variation of the more comprehensive regulatory impact assessment (RIA), which encompasses a range of methods aimed at systematically assessing the negative and positive impacts of proposed and existing regulations. Regular use of these analytical tools helps to systematically ensure that the most gender-sensitive, efficient and effective policy options are chosen (OECD, 1997).

EU experience shows that GIA should occur both at an early stage in the policy making process, so that the policy, regulation or legislation can be adapted or reoriented, and at the end of the policy cycle, during the impact evaluation, to assess whether the intended outcomes were achieved.

GIA is in its early stages of adoption in many OECD and non-OECD countries, including those countries where the political commitment to gender equality is long established. Approximately 80% of OECD countries employ some form of gender impact assessments, as demonstrated in Table 4.1. Some of the good practices in this area are found in Canada, New Zealand, Norway, Sweden and the United Kingdom.

Table 4.1. **Requirements for gender impact assessments at the central/federal level of government in select OECD countries**

	Requirements for ministries/departments/agencies to conduct gender impact assessments (*ex ante*)			Requirements for ministries/departments/agencies to conduct gender impact assessments (*ex post*)			Requirement to undertake gender-responsive budgeting at the central level
	Primary legislation	Subordinate regulation	Government programmes and initiatives	Primary legislation	Subordinate regulation	Government programmes and initiatives	
Australia	⊘	⊘	◉	⊘	⊘	⊘	⊘
Belgium	❍	❍	◉	❍	❍	❍	●
Chile	◉	◉	◉	⊘	⊘	⊘	❍
Czech Republic	◉	◉	◉	◉	◉	◉	⊘
Finland	●	◉	◉	◉	◉	◉	●
France	❍	❍	❍	❍	❍	❍	●
Germany	●	●	●	⊘	⊘	⊘	⊘
Greece	◉	◉	◉	◉	◉	◉	❍
Ireland	◉	⊘	◉	⊘	⊘	⊘	⊘
Israel	●	●	⊘	◉	◉	◉	●
Korea	●	●	●	●	●	●	●
Luxembourg	●	●	⊘	⊘	⊘	⊘	⊘
Mexico	◉	⊘	◉	⊘	❍	◉	●
New Zealand	◉	◉	◉	⊘	⊘	⊘	⊘
Norway	●	⊘	◉	●	●	◉	●
Slovak Republic	●	⊘	⊘	⊘	⊘	⊘	⊘
Spain	●	●	◉	⊘	⊘	⊘	●
Sweden	●	●	●	●	●	●	●
Switzerland	●	⊘	⊘	❍	❍	❍	◉
Total OECD							
● Yes, always	10	6	3	3	3	2	9
◉ Yes, sometimes	6	5	11	4	4	6	1
❍ No, but planned	2	2	1	3	4	3	2
⊘ No, not planned	1	6	4	9	8	8	7

Notes: Data is not available for Austria, Canada, Denmark, Estonia, Hungary, Iceland, Italy, Japan, the Netherlands, Poland, Portugal, Slovenia, Turkey, the United Kingdom or the United States.

Source: OECD (2013a), *Government at a Glance 2013*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2013-en based on the MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Box 4.4 contains the EU criteria for GIA, which take into account both the differences between men and women, and the need for restorative action to ensure that any previous gender-based inequalities are addressed, while Box 4.5 provides information on gender impact reports in Spain and Sweden.

Box 4.4. **EU criteria for gender impact assessment**

The European Commission's report on gender impact assessment states the following criteria:

1. Differences between women and men in the policy field, such as:
   - participation (sex composition of the target/population group(s), representation of women and men in decision-making positions)
   - resources (distribution of crucial resources such as time, space, information and money; political and economic power; education and training; jobs and professional careers; new technologies; healthcare services; housing; means of transportation; leisure)
   - norms and values that influence gender roles, gender division of labour, the attitudes and behaviour of women and men respectively, and inequalities in the value attached to men and women or to masculine and feminine characteristics
   - rights pertaining to direct or indirect sex discrimination, human rights (including freedom from sexual violence and degradation) and access to justice in the legal, political or socio-economic environment.
2. How can policies, laws and regulations contribute to the elimination of existing inequalities and promote equality between women and men in participation rates, the distribution of resources, benefits, tasks and responsibilities in private and public life, and in the value and attention accorded to masculine and feminine characteristics, behaviour and priorities?

Key questions for policy makers on gender-sensitive regulations include:

- Has a commitment to gender been incorporated at a high level into the regulatory reform, or is it an add-on (or absent from the agenda altogether)?
- Does the review process examine whether regulations have differential impacts on men and women, and determine whether corrective measures are needed?
- Are there opportunities for women to participate directly or indirectly through civil society groups, and is there monitoring of actual participation?
- Are there barriers to entry for women-owned firms overall or in government procurement?
- Are there administrative requirements that, in addition to posing barriers to entrepreneurs generally, are especially cumbersome for women, or are there areas where women's property or other rights are deficient in ways that impede business development?
- Do women face particular barriers in gaining access to credit or employment? Are there barriers to women's access to training, advisory services or other activities that would strengthen their economic participation as employers and employees?
- Are these and other gender linkages identified and are policy makers encouraged to take them into consideration actively in designing policy?"

Sources: European Commission (n.d.), "A Guide to Gender Impact Assessment", Directorate-General for Employment, Social Affairs and Equal Opportunities, European Commission, Brussels, http://ec.europa.eu/social/BlobServlet?docId=4376&langId=en; Bremer, J. (2009), "Introducing Gender Analysis into Regulatory Frameworks", position paper prepared for the first meeting of the Gender Focus Group of the MENA-OECD Governance Programme on "Addressing Gender in Public Management", American University in Cairo, www.oecd.org/dataoecd/54/50/43088074.pdf.

Box 4.5. **Gender impact assessments in OECD countries**

The Swedish government has issued a binding regulation stipulating that all committees of enquiry must conduct a gender impact analysis for policy proposals potentially affecting gender equality. Committees of enquiry are appointed by the Swedish government for policy proposals requiring extensive analysis and preparation before submission to Parliament. To support the work of the committees of enquiry, a handbook has been produced with guidelines for gender impact analysis. These guidelines stipulate that, if a policy proposal has gender relevance, its anticipated impact needs to be indicated in a report. Circumstances and conditions for both genders must be made visible, and both the impact and likely outcomes for each gender need to be listed and analysed.

The first step in an impact assessment is to determine whether gender is relevant to the enquiry. The second step is to determine the criteria for the gender impact assessment:

- Participation: What is the gender distribution of the groups covered or affected by the enquiry?
- Resources: What is the breakdown between the genders in terms of time, space, information, money, political and economic power, education, careers, new technologies, healthcare, housing, transport, recreation?
- Norms and values: What norms, values and quality measures control an activity? Who sets the standards and values?

The third step is to integrate the gender dimension in the enquiry: Is there any direct or indirect influence on the conditions of each gender in this field? Are there any gender equality gaps in this field? How can barriers to equality be eliminated in this field? What are the implications for gender equality regarding the structural and organisational changes proposed?

The fourth step is to fully reflect the gender dimension in the enquiry: What gender differences exist? Are statistics disaggregated by gender? How is the gender dimension included in problem formulation? What are the gender aspects of the report's factual and analytical dimensions? Should the report contain equality policy proposals?

Procedure for the conduct of gender impact assessment in Northern Ireland

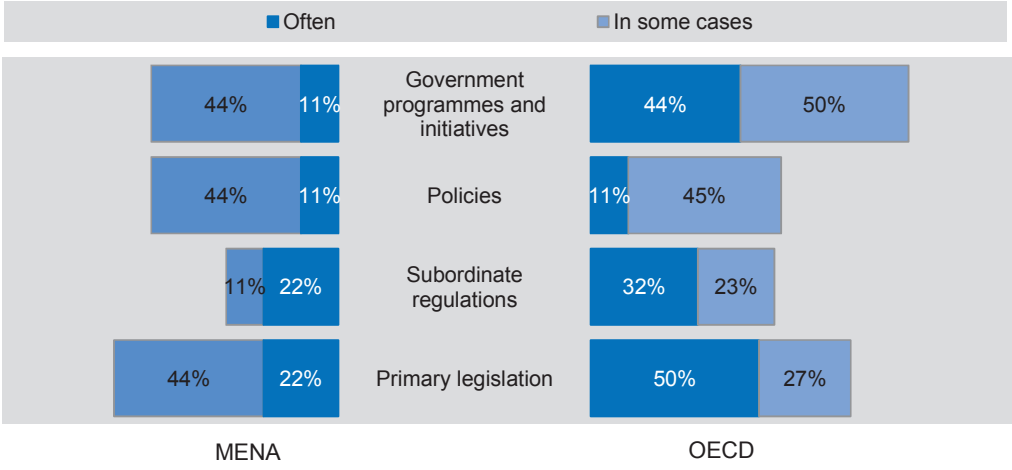
In the Guide of Statutory Duties for Northern Ireland, the Equality Commission defines the specific elements required for equality impact assessment. Particular attention is given to the consideration of measures to mitigate any adverse impact and to policies that might better achieve the promotion of equal opportunities. The consideration of mitigation and alternatives is identified as a crucial element of the process: authorities must develop options that reflect the different ways of delivering a policy outcome. Mitigation can take the form of lessening the severity of an impact. Consideration must be given to whether separate implementation strategies are necessary for the policy to be effective for each relevant group. Options should be assessed for:

- how they further or hinder equality of opportunity, or reinforce or challenge stereotypes
- the consequences for the group concerned and for the public authority of not adopting an option more favourable to equality of opportunity
- the costs of implementing each option and whether international obligations would be breached by, or could be furthered by, each of the options.

Source: Information provided by the Swedish Ministry of Enterprise, Energy and Communications; Government Offices of Sweden website; Government Offices of Sweden (2004), "Committees", Stockholm, www.sweden.gov.se/sb/d/575/a/18479; Ordinance for gender impact analysis, www.notisum.se/rnp/sls/lag/19981474.htm (Swedish only); European Commission (2009), "Evaluating Socio-Economic Development", *Sourcebook 2: Methods and Techniques Multicriteria Analysis*, European Commission, Brussels.

MENA countries increasingly undertake gender analysis of their strategies, policies and laws. More than half of MENA respondents report undertaking some form of gender analysis for all or most laws, compared to 80% of OECD countries (Figure 4.3). Yet this is rarely done in a systematic manner on the basis of robust evidence for all policies and programmes. An example of regular assessment of gender impacts of all draft laws and policies comes from the Palestinian Authority. In addition, several countries have adopted many of the preconditions for a wide-ranging and effective impact assessment system, including requirements for the assessment of fiscal and economic impacts. As such, countries may capitalise on these systems to adopt a more systematic approach to assessing the impacts of draft laws, policies and programmes on men and women.

Figure 4.3. **Gender analysis practices in MENA and OECD countries**



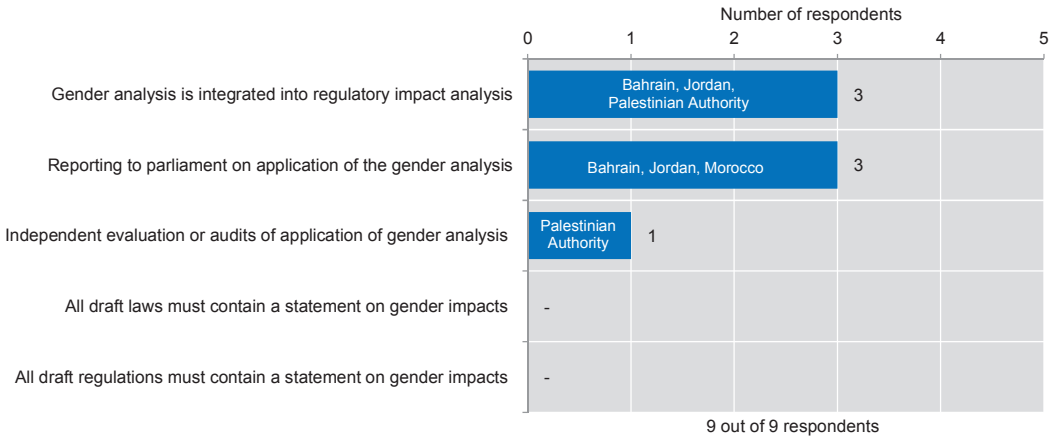
Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

In terms of the mechanisms used to ensure that the gender analysis has been applied in practice, some countries report on the use of gender analysis to legislatures or legislative committees (Bahrain, Jordan, Morocco), others report integrating gender analysis into the regulatory impact assessment (Bahrain, Jordan, Palestinian Authority), although the practice of regulatory impact assessments is not systematically used in some of these countries (OECD, 2013b). The Palestinian Authority reports using independent evaluation of gender impact assessments. Yet these practices often remain *ad hoc* and uneven across the region, with few countries embedding the requirements for gender analysis in the mainstream law and policy making process (Figure 4.4).

Moreover, officials from MENA countries often report taking the gender impacts of regulations into account by making them gender neutral. This creates the risk, however, of regulations becoming gender-blind (see Box 4.1), and not accounting for different circumstances faced by both men and women in most policy fields (including the ability to access resources, family responsibilities, expectations and social attitudes). These differences may cause apparently neutral policies to impact differently on women and men, and reinforce existing inequalities. As such, the key task is to raise awareness of the importance of gender equality, increase capacity to carry-out gender impact assessments, and properly monitor and account for the different impacts that policies and regulations may have on men and women. For example, several efforts have been made by the government of Bahrain to attain gender equality objectives. These include setting-up

equal opportunity units in 24 different ministries and providing training, awareness raising and capacity building in the field of mainstreaming the needs of women and the importance of equal opportunities.[1]

Figure 4.4. **Mechanisms to ensure that gender analysis has been applied in practice in MENA countries**



Source: OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Civil society organisations revealed that, although some progress has been made with raising awareness in the public sector, much room for improvement in achieving gender equality objectives remains.

Measurement and gender-disaggregated data

The overall success of reforms most often depends on their coherence, sequencing and synergies with other reforms, as well as links to a clear vision and strategy. Gender indicators provide a useful tool to communicate goals and objectives within an overall vision and strategy for gender equality. Focusing on measuring what matters can help drive the achievement of results and monitor performance against the desired goals for gender equality. Gender indicators can aid in prioritising gender equality and making the case that gender issues should be taken seriously. They can enable better planning and actions by providing information to adjust programmes and activities for better impacts and by measuring gender mainstreaming within organisations. Gender indicators can also enhance the accountability of government institutions for commitments on gender equality, including progress on implementing the CEDAW commitments.[2]

Data and evidence supporting decision making are pivotal to enable governments to develop effective gender equality strategies and gender-sensitive policies. High-quality data to measure the empowerment of women and men provides the foundation for sound evidence-based policy making, gender monitoring and evaluation. The absence of gender-differentiated data makes it very difficult to understand the impact of gender equality, and mainstreaming strategies and efforts. Indeed, effective gender mainstreaming begins with ensuring that sector-specific policies are informed by gender-disaggregated data and with awareness on the different ways in which policy decisions impact the lives of women and men. As such, the identification of the types and sources of gender-sensitive data to be collected should also be based on a clear framework linked to a strategic vision to ensure

a focus on what matters in achieving gender equality, and to measure progress and outcomes.

Box 4.6. **Select examples of gender-related analysis of government initiatives in MENA countries**

Bahrain: The Supreme Council for Women reviews and evaluates the National Plan based on the Strategy for the Advancement of Bahraini Women, as part of the assessment of the achievements attained during the past 10 years. The revision and evaluation process is based on two main pillars: *i)* documenting the indicators measured in the National Plan; *ii)* adopting measures to identify outcomes and general goals (surveys and focus groups).

Egypt: Gender analysis is part of the CENACT Gender Equality Strategy that aims to implement community-based gender analysis. The National Council for Women conducts gender analysis through surveys and public opinion research to achieve its role in monitoring and evaluating the general policies related to women.

Morocco: Morocco has initiated gender impact analysis in co-operation with the United States Agency for International Development. Gender analysis was introduced in the Morocco Country Strategic Plan 2004-2008 during the strategic planning process.

Tunisia: The 11th National Social and Economic Development Plan (2012-16) included a gender auditing programme in partnership with five line ministries: Economic Development, Finance, Public Health, Interior, and Local Authorities.

Yemen: In 2007, the Women's National Committee launched gender auditing in co-operation with the International Labour Organisation and UNFPA. It reviews to what extent policies, plans and programmes are gender-sensitive. The Yemeni government has implemented this gender auditing process in several government sectors at the national level and within four governorates. Between 2006 and 2010, administrative leaders received training in gender analysis and mainstreaming in development planning, preparation, implementation and analysis of gender budgeting.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

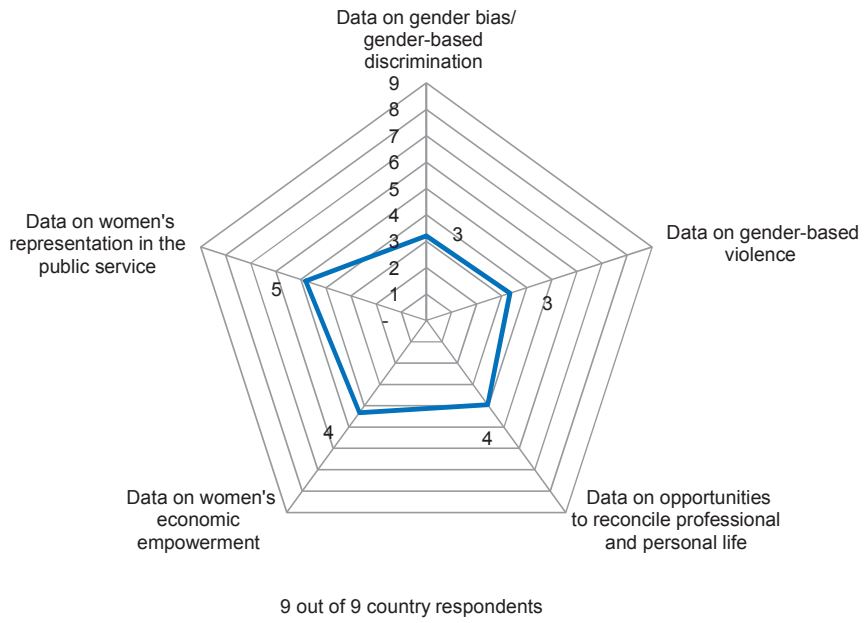
The existence of reliable systems that generate the data needed for gender policy and planning in various sectors is critical for enabling inclusive and gender-responsive policy making. Good quality gender-disaggregated data is required in all areas of public policy, along with a framework and structures for collecting data, linkages with a gender equality vision and strategy, and the capacity to undertake research and analysis within the government and outside (OECD, 2014). Building effective data collection and processing systems is not easy; many governments in the world face the challenging task of improving the quality of their data systems. In fact, sufficient good quality data provides the basis for sound performance measurement, monitoring and evaluation activities that help to understand the kinds of initiatives required, ensure that the current initiatives are on track and generate the desired impact.

CEDAW General Recommendation No. 9 (eighth session, 1989) recommends that states parties (the countries that have ratified the Convention) should make every effort to ensure that their national statistical services responsible for planning national censuses, and other social and economic surveys formulate their questionnaires in such a way that data can be disaggregated according to gender, with regard to both absolute numbers and percentages, so that interested users can easily obtain information on the situation of women in the particular sector in which they are interested.

Most OECD countries use government-wide measurement and reporting frameworks for gender equality, supported by the collection of gender-disaggregated data across most policy areas (OECD, 2014). While gaps still persist across policy sectors, the trend is to increase the availability of data to enable sound assessment of the impacts of policies and laws on men and women. Line ministries in charge of specific policy areas most often determine data needs with gender institutions and statistical offices playing an important role in the process.

In the MENA region, country representatives report low availability of data on gender discrimination, on gender-based violence, on opportunities to reconcile professional and private life, on women's economic empowerment and on their representation in the public service (Figure 4.5). Data on the representation of women in the public service is collected most often (48% of the time), while data on gender-based violence is the least collected (33%).

Figure 4.5. **Availability of data in priority areas for advancing parity in MENA countries**



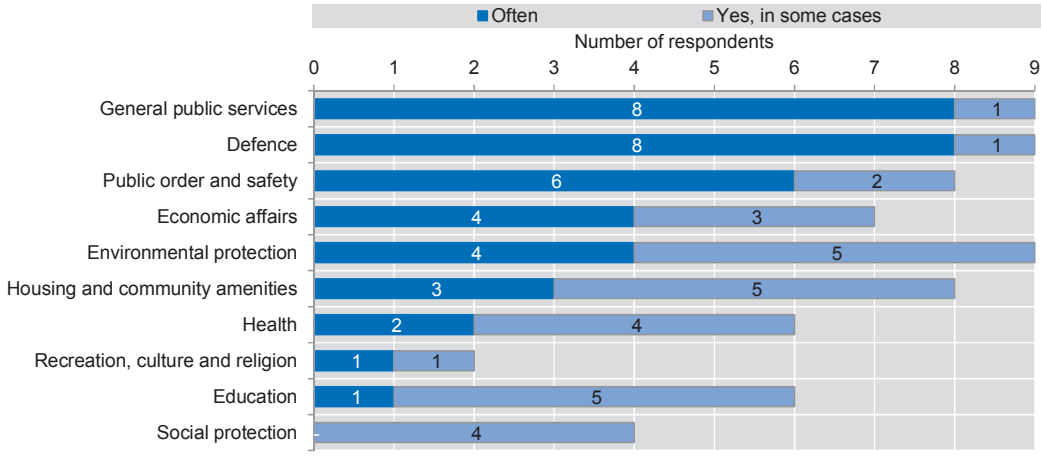
Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

About half of participating MENA countries report collecting gender-disaggregated statistics in several key sectors including: economic affairs; housing and amenities; general public services; recreation, culture and religion; public safety and order; environmental protection; and defence (Figure 4.6).

Overall, the availability of gender-disaggregated data across policy sectors is limited. Several countries have no gender-disaggregated statistics available in key areas; others may have statistics available in key areas, but the quality and coverage of those statistics remain low in many cases. Concrete data gaps are difficult to identify, because data on gender issues is scattered throughout data-producing bodies, and the scope of data is difficult to assess by individual institutions. There are also few general frameworks for data collection on gender issues. While there are some indications of a wide range of

different types of gender-disaggregated data, these seem to be partial, not always geographically comprehensive, nor as extensive as needed to cater to the needs of a comprehensive gender equality and mainstreaming strategy. For example, data for environmental protection, defence, recreation and housing communities is less often regularly (or even occasionally) collected in both MENA and OECD countries (Table 4.2). The trends show more collection overall for OECD countries, but less collection in key areas of social services.

Figure 4.6. **Government sectors with gender-disaggregated data collection in MENA countries**



Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership; OECD (2013a), *Government at a Glance 2013*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2013-en.

Table 4.2. **Measures to improve the capacity to collect gender-disaggregated data at the central level of government across the MENA region**

	Yemen	Egypt	Lebanon	Jordan	Tunisia	Morocco	Bahrain	Palestinian Authority	Kuwait
Systematic mainstreaming of a gender perspective into national statistics systems		x	x	x		x	x	X	x
Introduction of formal requirements for gender disaggregation and the incorporation of a gender perspective within national statistical legislation	x	x					x	X	x
Systematic identification of gaps in knowledge related to gender equality			x	x	x	x	x	X	x
Development of a handbook to guide the collection of gender-disaggregated data	x	x				x	x	X	
Establishment of horizontal co-ordination mechanisms to determine gender-disaggregated data needs					x	x	x	X	x
Setting up a gender statistics unit within a national statistical office	x	x		x		x			x
Total	3	4	2	3	2	5	5	5	5

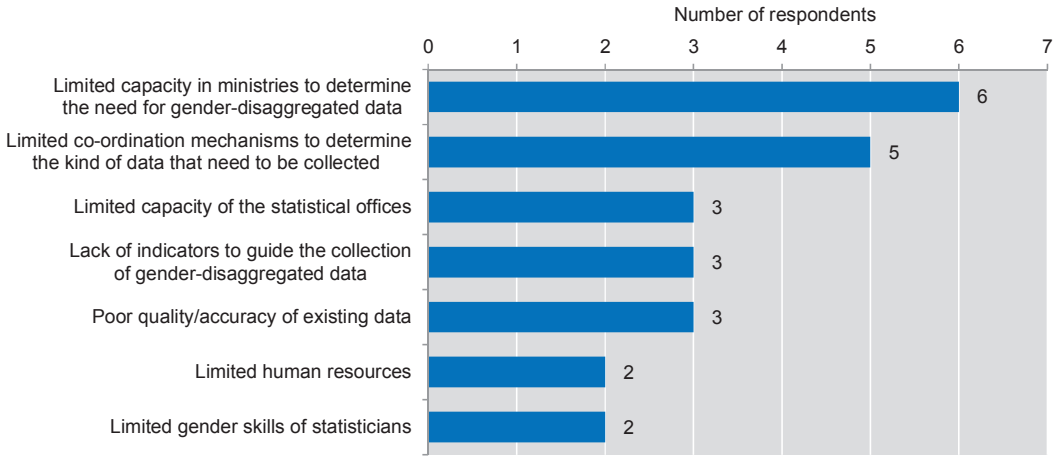
Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

In addition, the quality and scope of statistics remains uneven. For example, available gender-disaggregated statistics in the area of education show basic indicators (enrolment rates for primary and secondary school, illiteracy), but often lack more detailed statistics that better capture quality and improvement (net enrolment rates, attrition/graduation rates and quality-based assessments such as the PISA, student-teacher ratios and teaching quality in gender-disaggregated schools, choice in subject of study, etc.).

Finally, gender strategies need to be integrated with a measurement framework and monitoring and evaluation efforts in order to understand the impact and implementation of gender equality initiatives. This function can only be performed well if there is a sufficient base of gender-differentiated data, information and analysis. Such data must be collected and analysed in advance, ideally building a database of several years' information to assess changes and take corrective action. Only one-third of countries report the availability of a government-wide measurement framework for gender equality and mainstreaming. This limits the possibility to properly track the implementation of gender equality and women's empowerment initiatives in various areas of development, including gender-related human rights violations, gender-based violence, as well as sexual harassment in the workplace.

Countries also acknowledge further scope for improvement in collecting gender-disaggregated data (Figure 4.7). Some of the reported challenges in data collection include: limited capacities in line ministries to determine the need for gender-disaggregated data (Egypt, Jordan, Kuwait, Lebanon, Tunisia and Yemen); limited co-ordination mechanisms to determine the kind of data that needs to be collected (Bahrain, Egypt, Jordan, Morocco and Yemen); lack of indicators to guide the collection of gender-disaggregated data (Bahrain, Kuwait and Morocco); poor quality or accuracy of existing data (Bahrain, Egypt and Tunisia); and limited capacity of statistical offices (Jordan, Lebanon and Yemen).[3]

Figure 4.7. **Key challenges for data collection related to gender equality initiatives and mainstreaming in the MENA region**



Source: OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership; OECD (2013), *Government at a Glance 2013*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2013-en.

To address these gaps, most countries (78%) featured in the survey take measures to systematically identify gaps in knowledge related to gender equality (Table 4.2). Most participating countries report integrating gender considerations in statistical systems, introducing requirements to disaggregate data by gender and setting up gender units in statistical offices. Bahrain, Egypt, Kuwait and Yemen report incorporation of a gender perspective within national statistical legislation.

The survey participants, on average, report placing the most responsibility for gender collection on national statistical offices, while institutions in charge of gender equality and line ministries have less responsibility. In this context, institutional co-ordination is especially important with respect to the collection of gender-disaggregated data. All countries report using several institutions in the decision-making and collection process for gender-disaggregated statistics. About half of the countries surveyed set up co-ordination mechanisms to improve capacity to gather gender-disaggregated data (Bahrain, Kuwait, Morocco, the Palestinian Authority and Tunisia) and also tend to have well-developed co-ordination mechanisms for most gender initiatives.

Expanding the role of central statistical institutions in collecting gender-disaggregated data could promote increased availability across all policy areas. Nevertheless, it is important to ensure that the vision and strategy of the central gender institution is aligned with the gender equality and mainstreaming strategy. An example of this is described in Box 4.7.

Box 4.7. **Collaboration between national statistical institutions and central gender institutions in Egypt**

According to a continuous co-operation between the National Council of Women, the Central Agency for Public Mobilisation and Statistics, and the Information and Decision-Making Support Centre, the following action was taken by the Egyptian Council of Ministers:

1. Standardisation of concepts and ideas, and special indicators for measuring gender equality for all users and international statistical institutions.
2. The content of the labour market survey, opinion surveys, surveys of diversity, etc., used in data collection and analysis was amended, and the data was disaggregated to specify the scale, nature and importance of the gender gap.
3. Data collectors were given support and guidance; channels of communication between them and the users of data were facilitated to determine any new needs and problems.
4. The council implemented the project "Measurement of sex equality by means of disaggregated statistics" through co-operation between the National Council for Women and UNIFEM. The project incorporates the gender perspective in national statistics and strengthens the capacities of statisticians with a view to continuous updating of the gender database. Additionally, the project helps data users and decision makers to determine the scale of the problem and the priorities for action by putting in place local and international indicators for different types of gender gaps, and using them in the assessment of new data.

In addition, new typological indicators were devised to measure equality in education, health, employment, and political and public life with the aim of monitoring the earnings of women.

Sources: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014); technical consultation of the MENA-OECD Gender Focus Group Report *Gender, Law and Public Policy Trends in the Middle East and North Africa*.

Citizen engagement and public consultation

In order to design responsive policies, achieve full empowerment of every member of society and obtain strategic insight on policy challenges and issues, it is becoming imperative for governments across the globe, in OECD and MENA countries alike, to deepen the engagement of citizens (both men and women), business, civil society and other stakeholders in policy making. Ensuring systematic, timely and inclusive consultation with affected parties, including women and women's organisations, can help to understand the impact of public policies on both men and women, and improve their design and implementation. The public is a rich source of instant and updated information. Such consultations aim to enhance the quality of public policies and programmes, and increase the information available to governments on which policy decisions can be based. Public consultations are not a stand-alone exercise, but an integral part of evidence-based policy making, cost-benefit analysis or data analysis.

In order to ensure that policies, laws and regulations reflect citizens' needs, it is important to consider the views and opinions of various groups of society. To do so, additional investment is needed to develop inclusive policy making tools, to ensure that men and women in different life circumstances can participate. OECD experience suggests that the following steps are needed in this regard:

- Lowering the entry barriers to participation for both men and women who are willing, but unable to participate. People face socio-economic, cultural and geographical barriers or barriers of another external nature. Figure 4.8 illustrates some of the measures that can be taken to eliminate barriers to participation and support for these measures among OECD countries.
- Increasing the appeal of participation for people who are able, but unwilling to participate. Participation may be limited by subjective rather than objective barriers. A lack of appeal of participation may stem from a low interest in politics, a lack of trust in how people's input will be used or limited personal benefits from participation (OECD, 2009).

The experience of OECD countries also reveals that effective engagement of the public and broader representation of the population are among the key tools employed to improve the transparency, efficiency and effectiveness of policy making, including greater sensitivity to gender differences. Consultation with key stakeholders is best incorporated into every stage of the policy cycle, from policy development and implementation to evaluation, including for both gender-specific and mainstream initiatives.

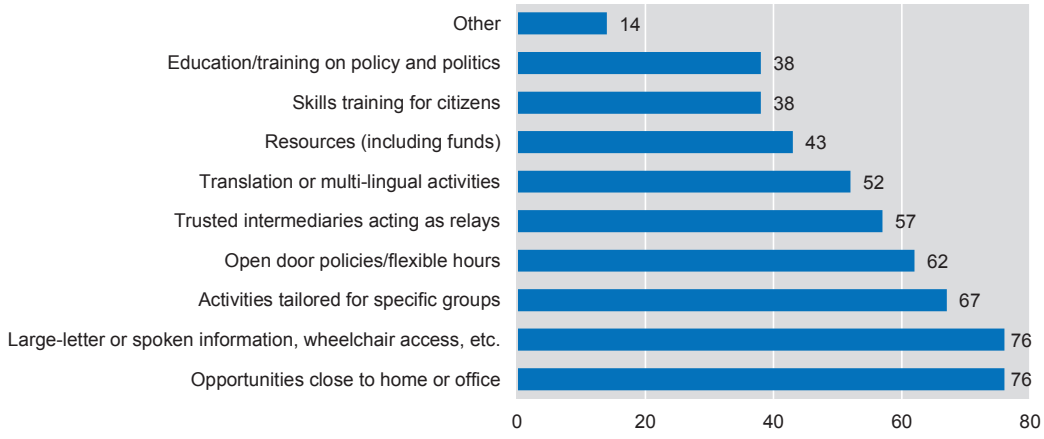
Moreover, simply creating a "level playing field" in terms of passive access to public information, consultation or participation is insufficient to achieve the active engagement of those who are willing, but not able, and those who are able, but not willing. The value in obtaining input from stakeholders, including women and women's organisations, lies in obtaining, to the extent possible, a wide range of inputs for evidence-based decision making.

MENA countries increasingly recognise the need and importance of consulting with various stakeholders in the policy making process, including women and women's organisations. This recognition was reflected in the Regional Charter on the importance of transparency in the regulatory and rule-making process. Through this charter, countries agreed that consultation processes should involve different interest groups and be

transparent and responsive (OECD, 2013b). In this context, MENA countries often report undertaking public consultations when developing draft programmes or laws (Figure 4.9).

Figure 4.8. **Measures to lower barriers for consultation and participation**

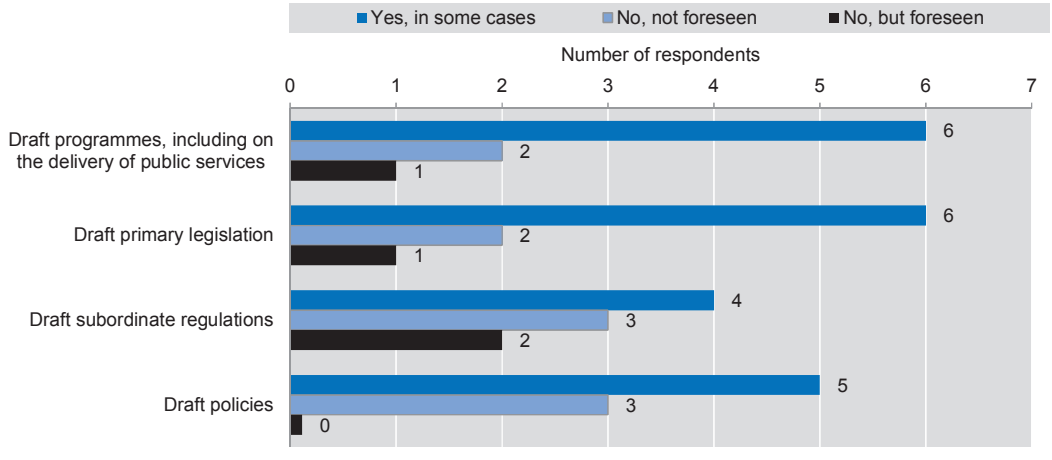
% of respondents ranking the option as "important" or "very important"



Note: n = 25 countries.

Source: OECD (2009), *Focus on Citizens: Public Engagement for Better Policy and Services*, OECD Studies on Public Engagement, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264048874-en.

Figure 4.9. **A requirement to conduct consultation processes with affected parties that ensures integration on gender considerations**



Note: Countries responded as follows: Draft programmes, including on the delivery of public services – Yes, in some cases – Bahrain, Egypt, Jordan, Morocco, Tunisia, Palestinian Authority; No, not foreseen – Lebanon, Kuwait; No, but foreseen – Yemen. Draft primary legislation – Yes, in some cases – Bahrain, Egypt, Lebanon, Morocco, Palestinian Authority; No, not foreseen – Kuwait, Tunisia; No, but foreseen – Yemen. Draft subordinate regulations – Yes, in some cases – Bahrain, Egypt, Lebanon, Morocco; No, not foreseen – Jordan, Kuwait, Tunisia; No, but foreseen – Palestinian Authority, Yemen. Draft policies – Bahrain, Egypt, Lebanon, Morocco, Palestinian; No, not foreseen – Jordan, Kuwait, Tunisia

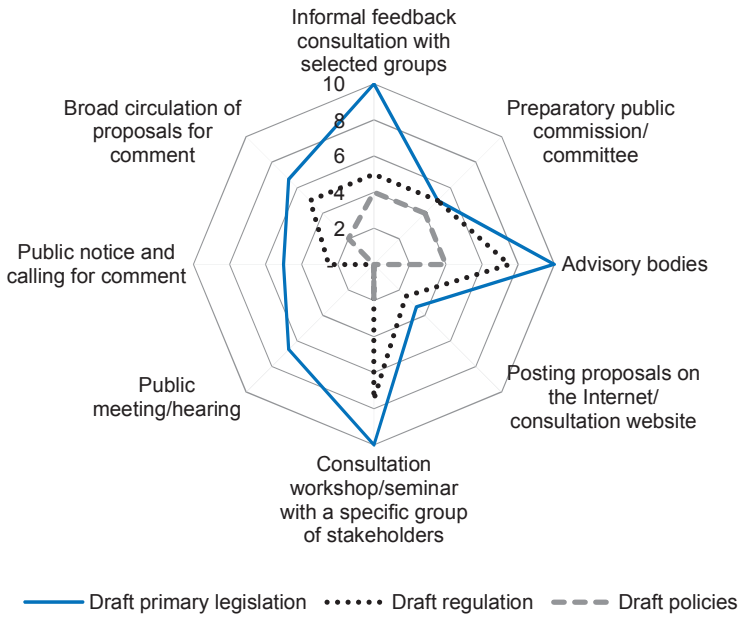
Source: OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014); OECD (2013a), *Government at a Glance 2013*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2013-en.

There are examples of engaging women's non-governmental organisations in developing key laws that have an impact on women (in Jordan, Lebanon, Morocco and the Palestinian Authority). For example, in Jordan and the Palestinian Authority, civil society partners are consulted on legislation and regulations in sectors identified as key priority areas by the country's main gender institution. In Jordan, a "list of requests" is made on behalf of the country's gender institution, and civil society organisations are consulted accordingly. Similarly in the Palestinian Authority, the cross-sectoral strategy identifies the specific sectors relevant to the promotion of gender equality for inclusion in the public consultation process with civil society partners and parties affected by the legislation.

In some countries, policy submissions to the Cabinet must be accompanied by the list of consulted stakeholders, along with their opinions, although this is not related to gender. For example, in the United Arab Emirates, the Cabinet handbook requires consultation with stakeholders at all stages of policy development.

In terms of the forms of public consultations, most often countries use informal feedback with selected groups, advisory bodies and consultation workshops (Figure 4.10). Yet, informal consultations or feedback are risky, as they may open up channels for policy capture. Such mechanisms as public notification, broad circulation of proposals for comments or posting proposals on the Internet are rare in MENA countries.

Figure 4.10. **Forms of public consultation used across MENA countries**



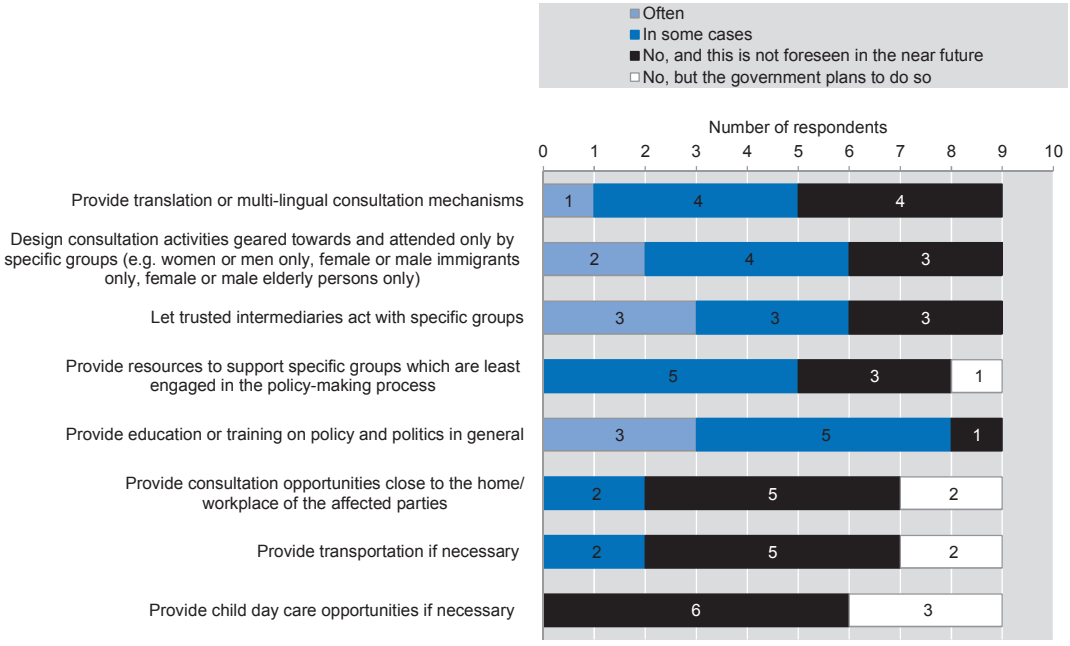
Source: OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014); OECD (2013a), *Government at a Glance 2013*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2013-en.

In addition, some MENA countries have adopted specific initiatives to increase the engagement of citizens, including women, in the policy making process. These include:

- providing education or training on policy and politics in general (Bahrain, Egypt, Jordan, Lebanon, Morocco, the Palestinian Authority, Tunisia and Yemen)

- designing consultation activities geared towards and attended only by specific groups (e.g. women or men only, female or male immigrants only, female or male elderly persons only; Bahrain, Egypt, Jordan, Morocco and Yemen)
- offering translation services or multi-lingual consultation mechanisms (Bahrain, Jordan, Morocco, the Palestinian Authority and Tunisia)
- supplying resources to support specific groups that are least engaged in the policy making process (Bahrain, Egypt, Jordan, Morocco and Yemen).

Figure 4.11. **Efforts to include men and women facing barriers to consultation processes**



Note: Countries responded as follows: Provide translation or multi-lingual consultation mechanisms – Often: Jordan; In some cases – Bahrain, Tunisia, Morocco, Palestinian Authority; No, not foreseen – Egypt, Kuwait, Lebanon, Yemen. Design consultation activities geared towards and attended only by specific groups (e.g. women or men only, female or male immigrants only, female or male elderly persons only) – Often: Morocco, Palestinian Authority; In some cases – Egypt, Bahrain, Kuwait, Yemen; No, not foreseen – Jordan, Lebanon, Tunisia. Let trusted intermediaries act with specific groups – Often - Lebanon, Morocco, Palestinian Authority; In some cases – Bahrain, Egypt; No, not foreseen – Jordan, Tunisia, Yemen. Provide resources to support specific groups which are least engaged in policy making process – In some cases – Bahrain, Egypt, Jordan, Morocco, Yemen; No, not foreseen – Kuwait, Lebanon, Tunisia; No, but the government plans to do so – Palestinian Authority. Provide education or training on policy and politics in general – Often – Jordan, Yemen, Palestinian Authority; In some cases – Bahrain, Egypt, Lebanon, Morocco, Tunisia; No, not foreseen – Kuwait. Provide consultation opportunities close to the home/workplace of the affected parties – In some cases – Bahrain, Morocco; No, and this is not foreseen – Jordan, Kuwait, Lebanon, Tunisia, Yemen; No, but the government plans to do so – Egypt, Palestinian Authority. Provide transportation if necessary – In some cases – Bahrain, Yemen; No, not foreseen – Jordan, Kuwait, Lebanon, Morocco, Tunisia; No, but the government plans to do so – Egypt, Palestinian Authority. Provide child day care opportunities if necessary – No, not foreseen – Jordan, Kuwait, Lebanon, Morocco, Tunisia, Yemen; No, but the government plans to do so – Bahrain, Egypt, Palestinian Authority.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Notwithstanding these examples, the general practice of citizen engagement and public consultation, especially with regard to gender equality initiatives and mainstreaming, remains limited and sporadic. In the majority of OECD countries, procedures for public consultations are established in policies and practices with a view to ensuring confidence in the legislative process and safeguarding opportunities to participate in the formulation of laws. In MENA countries, this process is still at an early stage (OECD, 2013b). While there are examples of consultative practices, these often appear to be undertaken on a voluntary basis, without a requirement for systematic consultations for all government organisations. There is also limited transparency in the consultation process and on whether/how the input of stakeholders is adequately taken into account; it is not always clear when the input of stakeholders is required. In addition, administrative barriers, such as a requirement to have a national identity card, limit individuals living in precarious and/or rural regions that have less access to national administration. Not all of the key steps and procedures involved in the policy making process are sufficiently transparent, nor do they allow opportunities for input from relevant stakeholders at critical points. There are limited formal mechanisms to ensure the use of citizens' inputs in the policy- and law-making processes, and to respond to citizens' concerns, including those of women and women's organisations.

In addition, although there is a consensus that non-governmental organisations (NGOs) should have a "policy voice", limitations and new regulations on NGOs also limit their ability to ensure the use of citizens' input in the policy- and law-making processes. OECD interviews revealed that, in most MENA countries, NGOs are only in a position to point out certain challenges, but often do not have sufficient capacities to contribute to policy making due to a lack of capacities (Box 5.3). As some interviews revealed in MENA countries:

> Government plays neither a direct nor an indirect role as a facilitator of the efforts of NGOs. In fact, after the recent incidents last year, the government launched a big crackdown on NGOs and stipulated new rules and regulations on the work of CSOs, and put new restrictions on their activities and their methods of financing. Getting permission or approval from the government on foreign funds is a long and very complicated process in which projects are not always properly implemented as scheduled and planned. (NGO, a MENA country)

Another important aspect is the limited capacity of the public administration for undertaking consultation. Most countries lack individual, organisational or systemic capacities or resources to launch consultations. Yet, without resources and capacities (human and financial), consultation is doomed to failure. This requires political will and committed leadership, a change of culture, a review of policy making and service delivery processes and concerted efforts to build capacities among public officials. Some countries in the region are adopting action plans for the Open Government Partnership (OGP), which could serve as an important first step in this regard.

Moreover, the consultations with women's organisations that do take place often occur sporadically, and drafts of laws and policies are available in a timely manner only to certain stakeholders within or outside the government. The fact that governments often rely on a limited set of civil society groups to deliver the message of mainstreaming gender in policies may pose a risk that these groups may not always be fully capable of reflecting accurately the views of women in diverse situations. The quality of the consultation process itself is often not subject to evaluation, which may lead to the consultation "exercise" turning into ticking boxes.

Currently, there is also a strong assumption of representation of women's voices in the decision-making process through the voices of male relatives, senior officials or legislators. This also diminishes the importance attached to direct consultation with women. Young women and youth similarly face these restrictions related to the difficulties associated with their demographic profile.

> It is interesting to have a quota for women in ministries and parliaments. It would be good for ensuring that women are represented. This could be constitutionally assured. However, this is the same case with youth. We need to increase the participation of youth in policy development for issues related directly to them. We develop training for this on a local level, but trainings are not sufficient if you do not have a mechanism that ensures that the commitment of the policy makers is respected. So quotas for youth and women need to be constitutionally present in the parliament.
>
> Young girls are very important to focus on, because they face a specific set of restrictions. One needs to make sure that young girls are living in good and safe areas if they are employed or going to school. We need to also target young girls that do not yet have university degrees… (NGO, a MENA country)

As such, it is necessary to ensure that drafts of laws and policies are available to stakeholders within or outside the government in a timely manner. There are only two MENA countries that systematically publish draft laws online (Jordan and Morocco). In the case of Jordan, publishing draft laws on the Prime Minister's Official website is very recent and is part of Jordan's action plan as member of the Open Government Partnership (OECD, 2013b). To ensure that policy makers are aware of the interests of all women, it is important that decision making relies not only on a limited set of civil society groups, as the ability of such groups to accurately represent the views of all women is difficult to measure.

While there are examples of consultations with stakeholders in creating these strategies, it is important for all governments in the region to consult with women themselves about their priorities and concerns in order to systematically resolve the most pressing issues across the region and to ensure that national priorities on gender equality reflect the views and needs of various groups of the population. This may require developing alternative participatory mechanisms (e.g. women-only focus group discussions, meetings with women's NGOs, meetings in communal locations for women at appropriate times when they are able to attend, e-consultation, advisory groups) and broadening the information campaign, so that it also engages a female audience effectively through a "multi-channel" system combining different tools to reach out to stakeholders.

Gender-responsive budgeting

Gender-responsive budgeting is an example of applied gender analysis that shows how different public spending patterns may affect both men and women. In OECD countries, Belgium, Finland, France, Israel, Korea, Mexico, Norway, the Slovak Republic, Spain and Sweden report always conducting such analyses for their central budgets. Gender budgeting is often referred to as the capacity of government and individual government entities to develop realistic budgets on gender equality. "Gender budgeting is an application of gender mainstreaming in the budgetary process. It means a gender-based assessment of budgets, incorporating a gender perspective at all levels of the budgetary process and restructuring revenues and expenditures in order to promote

gender equality" (Council of Europe). This integration of the gender dimension should happen in all phases of the budgetary cycle: from the budgetary proposals, to the actual spending, to the evaluation and control of the money spent (Decuyper, 2009).

The experience from OECD member countries suggests that gender budgeting is important for several reasons. Since every government and every ministry has a budget, the integration of the gender dimension into budgets is an effective way to ensure that government programmes account for gender differences. Moreover, budgets also reveal the degree of engagement of governments with gender equality and women's empowerment spending, since budgets indicate which projects and actions will receive funding. Budgetary analysis from a gender-sensitive perspective can also help to avoid ineffective and gender-blind spending. Furthermore, the mechanisms to monitor spending can help assess the actual spending of resources.

Implementing robust financial tracking and monitoring systems is key to strengthening accountability and transparency in financing for gender equality and women's rights. In partnership with UN Women, the OECD has been supporting national governments in developing countries to track public expenditure in support of gender equality and women's rights using the post-Busan global gender equality indicator. This indicator – one of 10 in the post-Busan monitoring framework – measures the "proportion of developing countries with systems to track and make public allocations for gender equality and women's empowerment". The indicator is an entry point for ensuring that resource allocations benefit women and men equally. The 2013 stock-take of progress found that, of the 35 countries that reported on the indicator, 12 have systems to track and make public allocations on gender equality (OECD/UNDP, 2014: 66). Many more are stepping up their efforts to improve transparency and accountability in financing for gender equality. The strong take-up and interest in the global indicator, even from countries without a system in place to track and make public resource allocation, is a measure of the strength of government commitment to financing gender equality priorities.

Examples of gender-sensitive budgeting come from a number of countries, including Austria, Belgium and Spain (Box 4.8).

Box 4.8. **Experiences of OECD countries with gender-responsive budgeting**

Belgium

Belgium's 2007 Law on Gender Mainstreaming includes a mandate for federal agencies to use gender-responsive budgeting (GRB). This obligation is repeated in the circular letter containing the guidelines for the draft budget. Federal Public Services must attach a "gender note" that serves as a tool for performing a gender analysis of their annual budget proposals. The gender note includes three categories: credits that can be exempted from a gender analysis (e.g. the purchase of furniture); credits concerning proactive measures for the promotion of gender equality (e.g. the salary for a co-ordinator on gender issues); and the regular public policy credits that must undergo a gender analysis (e.g. does the budget for drug prevention take into account the differences in drug use of boys and girls?). In 2009, the Institute for the Equality of Women and Men enacted a gender analysis of the budgets of all the Federal Public Services and prepared draft gender notes for each budget. Following this analytical exercise, the institute helped budget officials apply GRB by supporting them in drafting gender notes for the 2010 annual budget. The institute plans to publish a gender budgeting manual to explain the gender budgeting procedure in detail and provide concrete examples that support budget officers in fulfilling their tasks.

The concrete steps include:

Box 4.8. **Experiences of OECD countries with gender-responsive budgeting** (*cont.*)

1. The officials in charge of a dossier define whether there is a gender dimension for each budget category.
2. They inform the budgetary service of their ministry of the category of the dossier and credits when asking for a budget for the next year.
3. If the official in charge of the dossier classifies the dossier as belonging to Category 3 (regular public policy credits with a gender dimension), the official must prepare a gender explanation that indicates how the gender dimension will be taken into account when further elaborating the dossier. This gender explanation has to be included in the "justification for the allocation" for every credit.
4. The budgetary service of the administration assembles all this information and, as requested by the Law on Gender Mainstreaming, drafts a gender note for the credits of Category 2 (credits specifically intended for actions to promote equality). This gender note consists of a table developed by the Institute for the Equality of Women and Men, which makes it possible to locate these credits in the general expense budget. Finally, the budgetary service of the administration incorporates all this information in the budgetary proposals it sends to the Ministry of Finance.
5. The Ministry of Finance integrates all the information in the regular credit tables that constitute the project of the general expense budget.

Spain

At the end of 2010, the Spanish government presented the General State Budgets for 2011 to the parliament of Spain, which was accompanied by a Gender Impact Report (GIR), Spain's third report of this kind. The legal framework for the establishment of this report was initiated in October 2003 with Law 30/2003 on Actions to Introduce Gender Impact Assessment in All Government Regulations, followed by organic Law 3/2007 on Effective Equality Between Men and Women. Royal Decree 1083/2009 then ordered the presentation of a report of regulatory impact analysis, and in December 2009, the Spanish government approved a methodological guide for the elaboration of this report, which includes a gender impact guide. Finally, the Annual Order of the Ministry of Economy and Finance established rules for drafting the general state budgets, taking into account all previous regulations. The order established that the report of regulatory impact analysis include a gender analysis of each expenditure programme of the budget (a so-called expenditure programme gender report, EPGR).

The preparation of the Gender Impact Report (GIR) follows these steps:

1. The Working Group meets with budget officials and representatives of equality units of the different ministerial departments to identify expenditure programmes in their budgets which "have a clear gender impact" and produces a GIR for each expenditure programme (EPGRs). The Working Group also meets at the end of the process to produce the final version of the GIR.
2. The General Secretariat of Budget and Expenditure makes a first validation of the report, providing a provisional list of expenditure programmes with "a clear gender impact" and a first draft of all EPGRs, which constitutes the first draft of the GIR. The Secretariat also validates the following reports and produces a third draft of the GIR.
3. The Technical General Secretariat of the Equality Ministry and the Budget General Directorate receive the first draft of the GIR, validate the tasks, update each EPGR with accurate comments and produce an updated draft of the GIR.
4. The General Secretariat of Budget and Expenditures conducts the final validation and editing tasks, producing the final GIR of the National Budget, and sends it to the Spanish parliament.

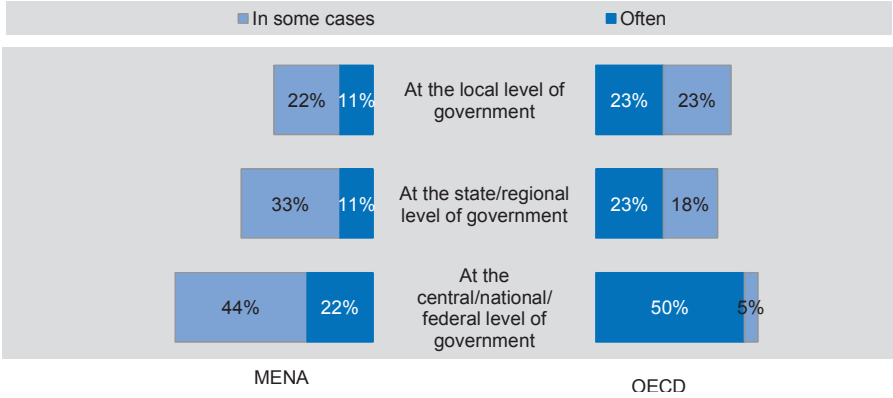
Sources: Information provided to the OECD by the Belgian Institute for the Equality of Women and Men; Cal Martinez, I. (2010), "Gender budgeting in Spain", PowerPoint presentation at the 3rd Annual Meeting of Middle East and North Africa Senior Budget Officials (MENA-SBO), Dubai, United Arab Emirates, 31 October-1 November, Secretaria General de Presupuestos y Gastos, Ministry of Economy and Finance, Spain.

As the Belgian experience indicates, gender budgeting initially requires some extra human and monetary resources to create a stimulating dynamic. However, once the process becomes routine and comes closer to achieving its goal, the efforts needed diminish, and the impact increases.

In the MENA region, about half of responding countries have introduced some form of gender budgeting at the national level, however, further steps would be beneficial to embed gender budgeting at all levels of government. Morocco provides a leading example of gender budgeting in the MENA region, in collaboration with the Ministry of Finance and the Ministry of Women's and Family Affairs. Other countries (Egypt, Jordan, Morocco, the Palestinian Authority and Yemen) have introduced important elements of gender budgeting into their government-wide budgeting requirements, although further progress is needed. Of those countries, all report some requirements for gender budgeting at the central level of government (Figure 4.12). Several countries report establishing these requirements in regions (Egypt, Jordan and the Palestinian Authority); Egypt and the Palestinian Authority also report to have done so on a more local level. In the Palestinian Authority, these requirements are implemented at different levels and are expanding slowly to all sectors. In Bahrain, a circular from the Minister of Finance on gender budgeting has been issued to all governmental organisations. The co-operation between the Ministry of Finance and the Supreme Council for Women has led to several circulars, including a specific section for measuring gender mainstreaming in the national budget. Furthermore, an Equal Opportunity Unit now exists in the Bahraini Ministry of Finance for this purpose. Other countries that have initiated gender budgeting include Tunisia, whose tentative 11th National Social and Economic Development Plan (2012-16) dedicates a chapter to the issue of gender-responsive budgeting, and Yemen, whose Ministry of Finance has established a General Directorate on Gender Budgeting and a project in collaboration with the Women's National Committee.

> Gender budgeting is a must for the country's budget… Budgeting needs to be cross-cutting at all levels of government, and at the level of NGOs. (NGO, a MENA country)

Figure 4.12. **Requirements to undertake gender-responsive budgeting by level of government in MENA and OECD countries**



Note: Countries responded as follows (MENA): At the local level of government – Often – Palestinian Authority; In some cases – Egypt, Bahrain. At the state/regional level of government – Often – Palestinian Authority; In some cases – Bahrain, Egypt, Jordan. At the central/national/federal level of government – Often – Morocco, Palestinian Authority; Yes, in some cases – Bahrain, Egypt, Jordan, Yemen.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Box 4.9. **Examples of the inclusion of gender concerns in budgeting procedures**

Bahrain

The national model for mainstreaming women's needs in Bahrain reinforces the importance of setting budgets that are responsive to the needs of women. The main national gender institution, the Supreme Council for Women, works with the Ministry of Finance (MoF) towards making budgets sensitive to the needs of women. The MoF has issued a circular with procedures stating that all national organisations are to take into consideration the implementation of the principle of equal opportunities and to issue budgets that are responsive to the needs of women.

Egypt

Egypt has focused on addressing gender inequalities in public spending and fiscal policies by modifying the public budget process frameworks and allocations. It has revised the legal framework and adopted a series of laws to institute gender budgeting practices.

1. In 2005, Egypt committed to restructuring the national budget and adopting performance-based budgeting by 2010. The Ministry of Finance established an Equal Opportunities Unit (EOU).
2. In 2006, this EOU launched a pilot project on equal opportunities for women in the national budget. This project consists of two pillars: developing a gender-responsive budget programme and improving human resource development from a gender perspective.
3. In 2008, the Egyptian parliament voted for the institution-wide implementation of gender-responsive and performance-based budgeting based on a proposed law submitted by the Ministry of Finance and the National Council for Women. The amended 2008 budget laws introduced gender concerns for the first time in the budget planning and execution process. The 2008/09 budget circular paved the way for institutionalising gender-responsive budgeting (GRB) and suggested that data should be disaggregated by sex.
4. In 2008, a gender report containing specific budget allocations for women was annexed to the national budget for the first time, making it an official government document.
5. The government moved from line-item budgeting to gender-responsive, performance-based budgeting in all national budgets in 2010, following a pilot project in the 2009/10 budget that initially introduced gender-sensitive budgeting in a gradual and decentralised approach in 15 governorates and six target sectors: education; health; water resources and irrigation; labour; social security; and food supplies. The Ministry of Finance carried out a budget analysis for each of these subsectors and supported the relevant line ministries in incorporating gender in budgetary planning, review and execution processes.
6. In order to clearly identify the share of women, children and men in budget allocations, the Ministry of Finance developed gender indicators and collected sex-disaggregated data on the beneficiaries of public services within five governorates.
7. An expert group comprising representatives of the Ministry of Finance, Ministry of Economic Development, the National Council for Women, the Institute of National Planning and UNIFEM developed a training manual on GRB in 2007 that was translated into a training curriculum.

Morocco

Morocco provides one of the clearest examples of GRB in the MENA region, where it was introduced as part of the broader gender mainstreaming strategy and tied to the broader budget reform framework.

1. Morocco first implemented a decentralised, results-based and performance-oriented budget approach in 2002: this structural budget reform presented an opportunity and strategic point of entry for GRB.
2. The Ministry of Economy and Finance carried out a feasibility study in 2002, which applied to the 1997/98 budgets and identified key elements for introducing the gender dimension into budgeting.

Box 4.9. **Examples of the inclusion of gender concerns in budgeting procedures** (*cont.*)

3. The government gradually introduced a gender dimension into ministerial department budgets, starting with five pilot departments in 2005 (finance, education, health, agriculture and planning), which was expanded to 21 departments in 2009). Since 2005, the Ministry of Finance publishes an annual Report on the Gender Budget as part of the report accompanying the finance law.
4. The government developed tools for each stakeholder group, reaching beyond budget officials to include parliamentarians and representatives of civil society. A 2005 Ministry of Finance, Ministry of Economy and UNIFEM guide addressed integrating the gender dimension into the new performance budgeting approach, followed in 2006 by a manual on integrating the gender dimension in budget planning and elaboration. In 2006, the Ministry of Finance also launched a new website to raise awareness of the GRB initiative.
5. In 2007, the Ministry of Finance published a study entitled "Comprehensive examination of gender-sensitive indicators in Morocco", which is a collection of statistics essential for developing, monitoring and evaluating sectoral policies for promoting gender objectives.
6. Gender budgeting capacity has been decentralised progressively. Since 2007, several ministerial departments have created their own programmes to incorporate gender into budgeting at the local level.
7. As a result, GRB now functions as a permanent fixture in the performance-based budgeting process, budgets benefiting women are now available in four line ministries (Agriculture and Rural Development, Education, Health and Finance), and the budget line allocated towards targeted livelihood activities for women has increased from 5 million dirhams in 2002 to 6.3 million dirhams in 2006.

Source: OECD (2010), *Progress in Public Management in the Middle East and North Africa: Case Studies on Policy Reform*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264082076-en.

Most countries reported the participation of Ministries of Finance and central gender institutions, although only a few countries mentioned the participation of the Prime Minister's office, national statistical offices and parliament (Table 4.3). Yet, these stakeholders are very important in ensuring good quality data to support the approval and implementation of gender-responsive budgeting. In addition, it is important to ensure that line ministries take an active part in the gender budgeting process so as to increase their ownership and buy-in.

Moreover, MENA countries that undertake gender budgeting have established a range of mechanisms to support its implementation, including capacity-building and training sessions for government officials (Egypt, Jordan, Morocco, the Palestinian Authority and Yemen). Egypt, Jordan and Morocco use *ad hoc* pilot projects, and Jordan, Morocco and the Palestinian Authority use government-wide requirements with assessment by relevant line ministries. Egypt and Morocco use a special gender budgeting unit within the Ministry of Finance (Figure 3.13). In Yemen, the Women's National Committee provides analytical frameworks and templates to support gender impact analysis on budgets, and is currently planning to provide training on the use of templates for gender-sensitive budgeting within the government budgeting offices.

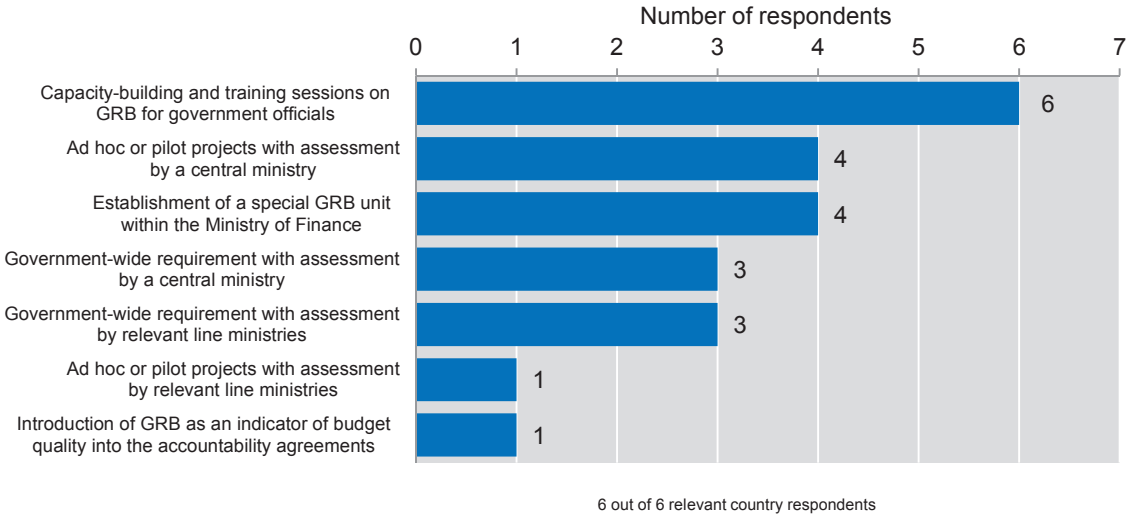
Overall, gender-responsive budgeting clearly provides an important and useful tool for embedding gender considerations into policies and government services, the absence of which risks increasing gender-blind policy making that disproportionately places services more often used by women at a disadvantage. The development of data related to gender budgeting and of the capacity to analyse budgets from a gender perspective, while

Table 4.3. **Institutions involved in implementing gender-responsive budgeting in MENA countries**

	Yemen	Egypt	Lebanon	Jordan	Tunisia	Morocco	Bahrain	Palestinian Authority	Kuwait
Prime Minister/President's Office						x			
Ministry of Finance	x	x		x		x	x	x	
Inspectors of finances				x		x			
Institution responsible for promoting gender equality	x	x				x	x	x	
Parliament, certain parliamentary committees						x			
Court of auditors/Auditors						x			
National statistical office						x			
Non-governmental organisations						x		x	
International organisations						x		x	
Bilateral donors	x					x			
Academic institutions						x		x	
Certain line ministries/departments/agencies				x		x		x	
Total	3	2	-	3	-	12	2	6	-

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Figure 4.13. **Mechanisms used to implement gender-responsive budgeting**



Notes: GRB: gender-responsive budgeting. Kuwait, Lebanon and Tunisia do not have a GRB requirement. The countries responded as follows: Capacity-building and training sessions on GRB for government officials - Bahrain, Egypt, Jordan, Lebanon, Morocco, Yemen; *ad hoc* or pilot projects with assessment by a central ministry – Bahrain, Egypt, Jordan, Morocco; establishment of a special GRB unit within the Ministry of Finance – Bahrain, Egypt, Morocco, Yemen; government-wide requirement with assessment by a central ministry – Bahrain, Egypt, Jordan; government-wide requirement with assessment by relevant line ministries – Jordan, Morocco, Palestinian Authority; *ad hoc* or pilot projects with assessment by relevant line ministries – Jordan; introduction of GRB as an indicator of budget quality into the accountability agreements – Morocco.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

initially resource-intensive, immediately signal gaps in gender equality and areas for further improvement in line with the broader gender equality and gender mainstreaming strategies. Further investments are required in most MENA countries to embed gender budgeting into the mainstream budgeting cycle across government and for these practices to take root. It would be important to ensure that all pertinent stakeholders, including parliaments, are actively engaged in this process. Good practices from both OECD and MENA countries (e.g. Morocco) may support MENA policy makers in the implementation of gender budgeting in a systematic and sustainable manner.

Summary recommendations

Advancing gender mainstreaming

- Ensure the development and implementation of a gender mainstreaming strategy, either within the main gender equality strategy or as a stand-alone strategy. This would allow for gender mainstreaming to be taken into consideration more strategically and ensure buy-in at all levels of government, as well as raise awareness of gender mainstreaming.
- Develop a systematic and comprehensive approach to integrate gender analysis (gender impact assessment) into the policy and programme development process.
- Build capacity within government institutions to develop gender-sensitive policies, budgets and programmes in MENA countries to address the current gaps in the understanding of and the limited skills in applying gender impact assessment.
- Raise awareness of the difference between gender-sensitive and gender-neutral policy making to help create an understanding of the importance of accounting for different impacts that policies and regulations may have on men and women across the region.

Strengthening collection and use of gender-disaggregated data

- Strengthen the development and implementation of data collection strategies, and expand the scope and depth of gender-disaggregated statistics to support evidence-based decision making in this area.
- Increase co-ordination among data collecting and producing bodies to develop an efficient statistical system, and ensure a coherent and government-wide approach to collecting gender-disaggregated data.
- Improve access to gender-disaggregated data through online dissemination or statistical yearbooks to support the effectiveness of national and international decision making.

Introducing systematic and inclusive approaches to public consultation

- Improve the clarity, regularity and transparency of the consultation process for policy making, including on policies related to gender equality. Strengthen mechanisms for systematic consultations. Consultation efforts should include efforts to reach out to both women and men facing various participation barriers ("willing but not able"), as well as those who have limited interest in consultation ("able but not willing") by creating an enabling environment to ensure that

government policies and programmes are reflective of and respond to the views of various groups of the population.

- Increase opportunities for women's organisations to participate in the policy making process in an inclusive and transparent manner, for example, by including them in advisory bodies that are regularly consulted by the government.

Implementing a robust approach to gender-responsive budgeting

- Adopt a systematic and comprehensive approach to gender-sensitive budgeting, which should be accompanied by capacity-building programmes and awareness-raising campaigns.
- Strengthen national systems to track and make public allocations for gender equality and women's rights and report on these efforts through the post-Busan gender equality indicator.

Notes

1. Shura Council, Ministry of Social Development, Ministry of Foreign Affairs, General Organisation for Youth and Sports, Information Affairs Authority, Ministry of Municipalities and Urban Planning, Ministry of Labour, Ministry of Works, Ministry of Culture, Ministry of Housing, Ministry of Health, National Oil and Gas Authority, Ministry of Finance, Council of Representatives, Economic Development Board, Ministry of Industry and Commerce, Ministry of Education, Civil Service Bureau, Institute of Public Administration, National Authority for Qualifications and Quality Assurance of Education and Training, Labour Fund (Tamkeen), University of Bahrain, Bahrain Polytechnic (Reference to the eGovernment Authority).
2. www.oecd.org/social/gender-development/43041409.pdf.
3. No responses were received from the Palestinian Authority.

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Chapter 5

Women in political decision making and public life in MENA countries

This chapter provides an overview of trends of women's participation in public life in the MENA region, including in parliaments, the political executive, courts and civil society. Similar to trends in other regions, women tend to be under-represented in top positions in these institutions, although some countries are making important strides to close the identified gender gaps. The chapter is based on a literature review, findings from the MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership, and interviews with representatives of civil society, parliaments and governments. Overall, women's participation in public life is hampered by multiple factors such as legal barriers, curtained political rights and freedoms, the reluctance of political parties to support women candidates and cultural barriers. The chapter also underlines the importance of the freedom of movement for women's public and economic empowerment, and highlights the persistent gaps in this area. The chapter concludes with examples of good practices and policy recommendations to support governments in their efforts to enable women in reaching top public positions.

The statistical data for Israel is supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Key findings

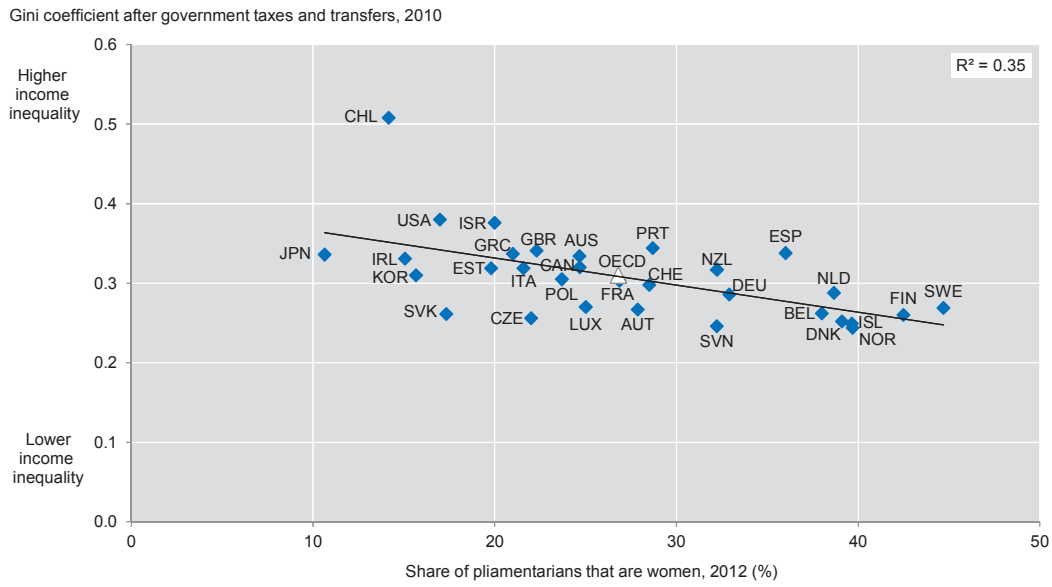
- While it is improving, women's representation in legislatures still remains low, with Algeria being the only country reaching the 30% target established by the Beijing Platform of Action as a critical threshold for women's political and legislative representation.
- Some countries are taking active steps to narrow the remaining representation gaps. For example, Tunisia has introduced a principle of gender equality in elected councils in its Constitution, while Morocco has introduced quotas in parliamentary elections. Yet, further efforts are needed to ensure the sustainability of these efforts and to make consistent progress across the region as a whole.
- Although it is improving, the proportion of women ministers remains low in most MENA countries. When women do serve as ministers, they are often responsible for "soft" portfolios focusing on social policy issues, with limited access to key economic positions.
- In the MENA region, progress is being made in narrowing the gender gap in the judiciary, notably in countries like Algeria, Morocco and Tunisia. Nonetheless, there are significant variations across the region, with only a few women occupying senior posts in the judiciary. Some countries also continue to restrict women's access to this profession (e.g. Bahrain, Yemen).
- Women's participation in civil society is rather high in the Arab region, as was also demonstrated during the recent uprisings, when women and men participate equally in demands for greater transparency and accountability. Yet, efforts are needed to increase women's representation in leadership posts in civil society organisations across the region.
- Some MENA countries continue to restrict women's freedom of movement, including the need for the husband's or guardian's permission to obtain a passport, travel abroad or choose a domicile. These restrictions, among others discussed elsewhere in this report, can severely restrict women's ability to fully participate in public and economic life.

Women's equal access to formal decision-making bodies, and full involvement in public life and political discourse are crucial for adequately reflecting their priorities and needs in policies, programmes, laws, regulations and institutions. At the interface between governments and citizens, women in public leadership positions can exercise significant influence over the development, implementation and evaluation of public policy. Women's access to senior positions, therefore, forms an important component of a "whole-of-government" approach to gender equality that allows women to gain access to agenda-setting and prioritisation of their needs.

Today, many governments recognise that diversity, including gender diversity, in the public domain (the judiciary, parliament, the political executive and the public sector) helps to achieve fairness, transparency, impartiality and representativeness, and to improve the quality of policies and service delivery through a better understanding of the citizenry. The ability of women to reach top positions in the public domain and have equal access to power, decision- and law-making, as well as to political leadership, however, goes beyond fairness, democracy and good governance; it can also have a significantly positive impact on economic well-being and productivity.[1] Women's presence in politics can also bring new attention to issues such as poverty alleviation for

families, human development, gender-based violence, parental leave and childcare, equal pay, pensions, electoral reform and the delivery of services. For example, Figure 5.1 shows a positive relationship between the number of women parliamentarians and inequality in OECD countries.

Figure 5.1. **Women in key decision-making positions and inequality in OECD countries**



Source: OECD (2014), *Women, Government and Policy Making*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264210745-en.

In recognition of this challenge, the Beijing Platform of Action's benchmark, widely recognised by the Inter-Parliamentary Union (IPU), the United Nations, political scientists, the media and women's movement activists, states that 30% legislative participation is the critical threshold for women's political representation. Evidence suggests that this is the point at which the under-represented majority of women should begin to have an impact on legislation and policies.

This chapter provides an overview of trends of women's participation in public life, and highlights the conformity of national laws with international standards in relation to civil liberties and political rights, including freedom of movement, which are critical to enable women's empowerment in public life. It also highlights policy measures undertaken by countries to strengthen the participation of women in political decision making and public life in representative bodies, the executive branch and the judiciary.

Women's participation in representative bodies

While it is uneven, there is a trend of increasing women's representation in parliaments in OECD countries. At the time of the 1995 Beijing Conference, women's representation in national parliaments was quite low worldwide. The earliest estimates from the IPU show that, in January 1997, women made up 16.7% of OECD parliamentarians in lower or single houses. As of October 2014, OECD member countries had a slightly higher average, with women's parliamentary representation reaching 27.6%

(Inter-Parliamentary Union, 2014). However, there is a wide range of women's parliamentary participation among OECD members: Sweden reports 45%, while Hungary reports 9.1%. In terms of OECD enhanced engagement and accession partners, the level of women's representation in the Russian Federation is 14%, 8.6% in Brazil, 21.3% in the People's Republic of China, 18% in Indonesia and 10.8% in India.

In the MENA region, in the follow up to the Arab spring, countries such as Egypt and Tunisia reviewed the role of parliaments in the post-revolutionary state, while countries such as Jordan and Yemen took steps to strengthen parliamentary legislative and oversight powers in response to calls for greater transparency, accountability and representation (Inter-Parliamentary Union and United Nations Development Programme, 2012; Inter-Parliamentary Union, 2011; UN Women, 2012).

Indeed, women's participation in representative bodies shows improvements, although it is still uneven, with most countries still far from reaching the 30% critical benchmark. Algeria is the only Arab country that has managed to reach the target of 30% of women in its National People's Congress. Following the elections of May 2012, the proportion of women in the Assembly is as high as 31.60%; the National People's Assembly comprises 146 women out of a total of 462 members of parliament.

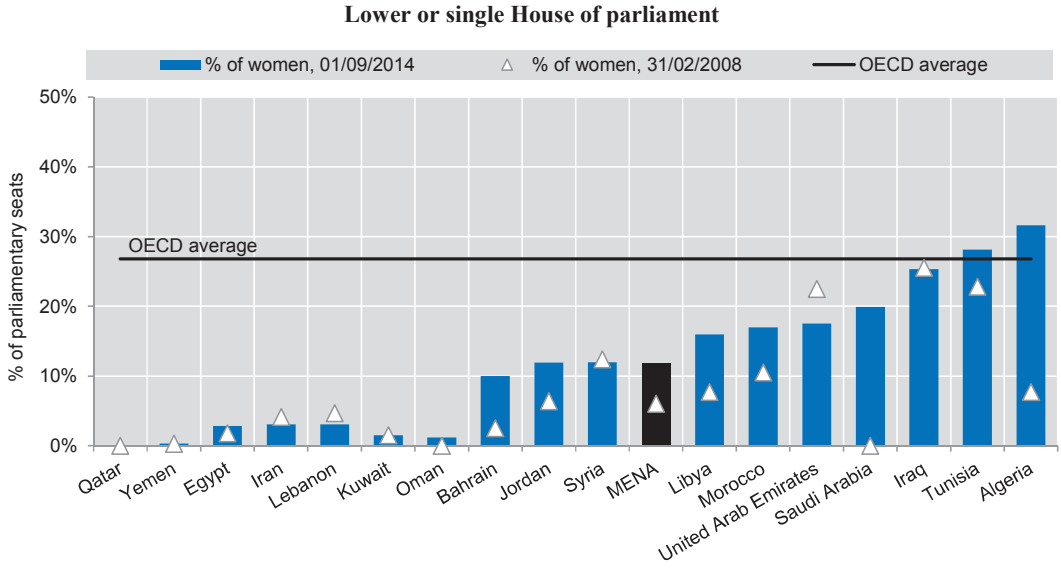
> In Algeria, political parties need to be at least one-third filled by women. Political parties are automatically rejected if they do not reach this quota. (NGO, Algeria)

There are encouraging advancements in other countries of the MENA region. In 2008, the Republic of Djibouti fixed a 20% share of positions for women. Similarly, Saudi Arabia recently advanced the scheduled inclusion of women on the High Advisory Council (that proposes legislation to the king) to attain the 20% targeted quota.

Many MENA countries guarantee women and men equal rights to participate in political life in their constitutions (e.g. Algeria, Lebanon, Morocco, the Palestinian Authority and Yemen).[2] Overall, however, as of October 2014, the female representation rate in consultative bodies or parliaments in the MENA region was at 15.9% (compared to the world average of nearly 21.8%),[3] with significant variations among MENA countries (ranging from 0% to 31.6% in 2014; Figure 5.2). In August 2012, no woman in the MENA region held the position of parliamentary president, compared to 37 women occupying such a function worldwide (representing 13.5% of all parliamentary presidents). Tunisia has a chance of reaching the target set for 2015, including for women reaching a high status in its National Constituent Assembly; however, the government would need to accelerate its efforts with regard to the proportion of women in government. The proportion of seats reserved for women in the House of Representatives in Yemen is at 1%. In the current structure of the Kuwaiti National Assembly, there are only four women out of 50 members. In the UAE, the representative body currently includes seven women, which brings the percentage to 17.5%

Countries that have granted the right for women to participate politically through voting and running for election tend to have a higher representation of women in parliaments (Figure 5.3). However, in Saudi Arabia, while women will only be able to vote and run for Parliament in 2015, 30 females (20%) were appointed to the 150-member Shura Council, which has the mandate of preparing draft laws.

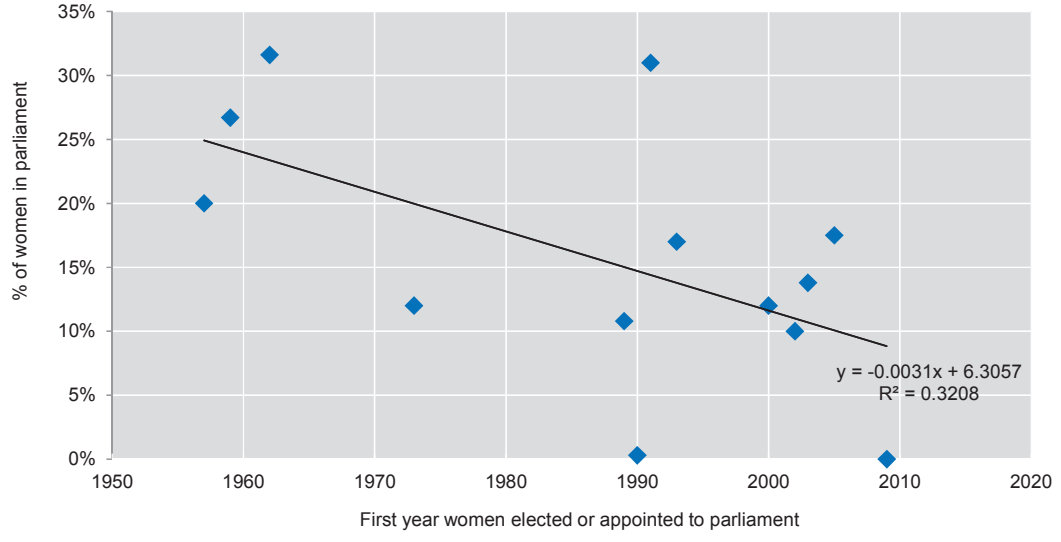
Figure 5.2. **Representation of women in legislature across the MENA region, 2008-14**



Notes: Bahrain did not have any elections between 1975 and 2002. Oman had partial suffrage in 1994 and universal suffrage in 2003. Qatar only has women's suffrage for municipal elections. Saudi Arabia has announced suffrage for 2015. The data for Yemen is according to the year of suffrage for the Democratic Republic of Yemen. The Arab Republic of Yemen had women's suffrage in 1970.

Sources: Inter-Parliamentary Union and national official documents.

Figure 5.3. **First parliamentary election/appointment of women and the representation of women in legislature in MENA countries**



Sources: Inter-Parliamentary Union and national official documents.

Finally, in some Arab Spring countries, women are not allowed to participate in constitutional entities that were established after the revolutions and the change movements. In these countries, the changes in the regime have led to some setbacks in women's civil and political rights. For example, in Egypt, the quota system, which

reserved a certain percentage of parliamentary seats for women, was abolished. The 2012 constitutional assembly included six women out of 100 members, and the 2013 constitutional assembly five out of 50 members.

As such, achieving gender parity in the public domain remains an elusive goal for women in the MENA region, not unlike elsewhere in the world. Women's right to vote and to run for public office remain deeply subject to gender-based obstacles. Women's political representation is hampered by multiple factors, including: legal barriers, such as curtailed political rights and freedom of movement; the reluctance of political parties to support women candidates; cultural, attitudinal and financial barriers; and the challenge of reconciling the demands of political life with family responsibilities. Traditional gender paradigms presume that the most important contribution women can make is to their family, not to politics. Yet women's participation in law-making and equal access to opportunities will be critical to advance economic and social progress (OECD, 2014).

Policy and legal measures

The participation of women in politics is linked to the civil and political rights of women, ranging from the ability to vote, express their voice and run for office, to the possibility to access public service positions. These rights are reflected in various international conventions. For example, the CEDAW requires governments to ensure women's equal access to, and equal opportunities in, political and public life. Specifically, Article 7 provides for the following women's rights:

> "(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies
>
> (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government
>
> (c) To participate in non-governmental organi[s]ations and associations concerned with the public and political life of the country."

Article 8, in turn, requires states parties to ensure that women have equal opportunities with men to represent their governments at the international level and to participate in the work of international organisations. The CEDAW calls on states parties to take all appropriate measures, including legislation and temporary special measures, so that women can exercise all their human rights and fundamental freedoms. In addition, Article 2(a) of the CEDAW includes the commitment of states parties "to embody the principle of the equality of men and women in their national [c]onstitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical reali[s]ation of this principle".

Furthermore, Article 25 of the International Covenant on Civil and Political Rights of 1966 obliges states parties to ensure that "every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2, and without unreasonable restrictions:

> (a) to take part in the conduct of public affairs, directly or through freely chosen representatives

(b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage, and shall be held by secret ballot, guaranteeing the free expression of the will of the electors

(c) to have access, on general terms of equality, to public service in his country."

Overall, closing representation gaps in public life requires a wide range of measures, from guaranteeing gender equality and non-discrimination at the highest level – including in the constitutions – to removing stereotypes in societies and promoting women leaders as role models. Indeed, activating civil[4] and public[5] rights, and equality between men and women has been among the most important issues to be addressed by the constitutions, legislations and international covenants.

Women have the right to vote in all countries in the MENA region.[6] While women had been excluded from voting in Kuwait, in May 2005, Kuwait's parliament passed an amendment to the electoral law giving women the right to vote. Four women were elected in 2009.

In terms of the ability of women to run for public office, most MENA countries do not specify any restrictions. Moreover, Article 24 of the 2014 Tunisian electoral law specifies that "applications for candidacy [for legislative elections] shall be presented on the basis of the principle of parity between women and men, and the rule of alternately ranking women and men on the list."

In order to be elected, women need the support of a political party. Most legislation in MENA countries allows women to become members of political parties on an equal basis with men. Political parties have a responsibility for ensuring that women are included on their lists and nominated for elections. However, most of them do not balance the number of male and female candidates, or assign women to the least favourable constituencies, which violates the principle of equal opportunity.

Besides, there are reported cases of open or hidden discrimination, such as in Kuwait, which requires women to comply with rules and regulations adopted under Islamic law in order to be appointed and elected. International evidence confirms that single-member constituencies usually lead to the appointment of male candidates with men at the head of the electoral lists. In Yemen, while the Constitution provides that citizens – men and women – have the right to organise themselves politically, professionally and in trade unions, the rule that each constituency elects a single member of Parliament decreases the opportunities for women in terms of access to the House of Representatives. This has a significant impact, as it does not necessarily take into account the attitudes, and social and cultural practices of political parties, which often place male candidates at the top of the electoral rolls, which allows them to win.

Despite the progress achieved across the region, many countries would benefit from increasing women's legitimacy and authority within parliaments. Several MENA countries have taken pro-active measures to enhance women's presence in consultative bodies or parliaments. Gender quotas (voluntary party quotas, reserved seats and legislated gender quotas) have emerged over the past two decades as a popular and effective means for increasing women's political representation. Although not without controversy,[7] quotas promote the principle of a balanced gender representation and limit the dominance of either sex in parliaments to a maximum of 60%. Article 4 of the CEDAW calls for temporary special measures for women as a way to level the playing field and address a legacy of discrimination against women. Moreover, the Council of Europe argues that gender quotas are a "transitional but necessary exception to allow

positive discrimination… and achieve *de jure* and *de facto* equality" (Council of Europe, 2011).

According to the 2013 report of the European Commission, without quotas, it will take an estimated 70 years for governments to achieve gender parity as opposed to 20 years with quotas (European Commission, 2013). Some countries in the MENA region (e.g. Djibouti, Jordan, Morocco) reserve seats or quota requirements in parliaments for women (Box 5.4):

- In Djibouti, the 2002 electoral law[8] reserves a minimum of 10% of parliamentary seats for each gender. The 2002 presidential decree[9], in turn, specifies that the electoral list of every political party running for Parliament needs to include at least 10% of women and men, respectively. As a consequence, seven female deputies entered Djibouti's National Assembly in January 2003. In 2012, the female representation stood at 13.8%.
- In May 2010, Jordan adopted a new electoral law, which reserves 15 seats (one seat per electoral district) to women, ensuring a minimum of 10% female representation in Parliament.[10] The new 2011 Municipalities Law raised the quota for women's seats in municipal councils from 20% to 25%.
- In Morocco, in 2002, the political parties signed a Charter that guarantees women a minimum of 30 seats in Parliament, corresponding to 7.5% of seats. In the Assembly of Representatives, the 2011 Act 27-11 implemented a quota system requiring 60 seats (15%) to be filled by women. The total number of women elected in Parliament reached 17% in 2011, an advancement of 6.5 percentage points since September 2007. In addition, the "Socialist Union of Popular Forces" applies a voluntary 20% quota to its candidate list.
- In Saudi Arabia, the recent 20% quota (30 out of a total of 150) of appointed members of the Shura Council was implemented earlier than planned. Due to this executive decision by the King, several high-level women, including a top-level UN administrator, as well as Her Royal Highness Princess Sarah bint Faisal bin Abdulaziz al-Saud are now part of the advisory council to the King.
- In Algeria, the 2012 Law No. 12-03 outlines procedures to improve gender balance in elected bodies by allocating a percentage of seats to women in the whole list of nominations, irrespective of whether they are independent or belong to several different political parties. A quota system for women in Parliament has been extended to all functions, such as the diplomatic corps and the judiciary, but there are very few women in the National Assembly.

Other countries (e.g. Egypt, Iraq, Tunisia) apply or have applied quotas to candidate lists:

- In Tunisia, for the elections to the Constituent Assembly in 2011, women and men had to be equally represented in terms of numbers and order on the electoral candidate lists, with an equal alternation of women and men.[11] In 2014, the principle of parity in elected councils was included in the Constitution and the Election Law, which represents an important achievement in this area.
- Iraq's Constitution and electoral law seek to ensure a minimum female representation rate of 25% in Parliament by determining the number of female candidates and the order of their appearance on the electoral lists.[12]

Box 5.4. **The use of gender quotas in representative bodies in Tunisia, Morocco, Sweden and Spain**

Tunisia is considered one of the pioneer countries in the MENA region in terms of gender equality and women's empowerment. As early as 1956, Tunisia confirmed the principle of gender equality in relation to socio-economic, cultural and political rights in its Code of Personal Status. Following this initial step, many subsequent reforms advanced women's rights and status, accompanied by supporting mechanisms and measures to implement these reforms.

A 1997 amendment to the Constitution stated: "No political party can fundamentally rely in its principles, objectives, activity or program[me] on religion, language, race, gender or region" (paragraph 5, Article 8). Tunisia instituted voluntary party candidate quotas in 2004, which required the inclusion of at least 20% women on each party's lists for legislative and communal elections. With this measure, 11.5% of women were elected to the Chamber of Deputies for the 1999-2004 legislature and 22.7% for 2004-09, doubling the number of female deputies in Parliament.

In April 2011, Tunisia issued a decree requiring parity between women and men on the lists of political parties submitted for the July 2011 elections to the Constituent Assembly. According to this decree, not only did all party lists have to include an equal number of female and male candidates, but they had to be ranked to ensure equal opportunities in terms of list positions.

Tunisia became the first MENA country, and one of the first worldwide, to establish such a measure. Unfortunately, even under this requirement, men were listed first in 94% of the electoral lists, which resulted in the new assembly being composed of about 27% of women (similar to many European countries). As an improvement to the existing system, it was recommended that every other list in such a horizontal system would be headed by a woman to enable the achievement of gender parity in political participation. Efforts to promote sustainability will be critical to ensure the lasting impact to these measures.

In January 2014, a new Constitution was adopted and its Article 34 states that "the rights to election, voting and candidacy are guaranteed, in accordance with the law. The [s]tate seeks to guarantee women's representation in elected councils. Besides, the [s]tate shall commit to protecting women's achieved rights, and seek to support and develop them. It shall guarantee equal opportunities between men and women in the bearing of all the various responsibilities in all fields and shall seek to achieve equal representation for women and men in elected councils. The [s]tate shall also take the necessary measures to eliminate violence against women" (Article 46). Efforts to ensure sustainability will be critical to ensure the lasting impact of these measures.

Morocco provides another example for advancing women's participation in politics. The country's electoral code was reformed several times to increase women's political participation and representation. In 2002, 30 seats on a national list in Parliament were reserved for women. Organic Law No. 29.11 on political parties noted the need for a quota system to encourage the participation of women in party organisations: "Every political party, in order to develop and increase the participation of women and young people in the political development of the country, must reach a ratio of one-third weighted towards women on national and regional bodies, in order to ultimately reach equality between women and men." Article 29 of the same law also requires that each party include an equal opportunity commission. The 2007 elections saw the election of 35 women to the House of Deputies (10.77%) compared to two in 1997. Morocco also created a consultative Equality and Chance Equity Commission in 2008 and a support fund for the promotion of women's representation, along with other entities and mechanisms for supporting women's political participation. Finally, the new Constitution in Morocco, adopted in July 2011, provides for important protection of the political, social and economic rights of women. It establishes the supremacy of international conventions and includes an anti-discrimination clause where the state commits to "ban and combat discrimination against anyone based on sex." It also provides for women in local government and in the Supreme Council of the Judiciary. These achievements are seen to be a result of women's participation in drafting the Constitution to ensure that their voices are heard in constitutional mandates and implementation.

Box 5.4. **The use of gender quotas in representative bodies in Tunisia, Morocco, Sweden and Spain** (*cont.*)

Sweden currently has the second highest percentage of women parliamentarians in the world, surpassed only by Rwanda. Indeed, after the last general election in Sweden in September 2010, women held 45% of seats in the Parliament (157 seats out of 349), compared to 14% in 1971 – an increase of more than threefold. Almost half of the Cabinet is female (10 out of 22 ministers are women). Almost all Swedish political parties acknowledge the importance of involving women in politics and have consequently adopted strategies to achieve this objective. While many factors (institutional, socio-economic and cultural) contribute to Sweden's success in women's political participation, gender quotas have played an important role in this process.

Gender quotas in Sweden are not regulated by law. Sweden operates with voluntary party quotas, whereby political parties decide about instituting quotas and the percentage of the quota in their statute. Political parties have certainly had strategic incentives to promote women's representation to their electorates, but have also acknowledged in their programmes the importance of achieving gender equality and improving women's status. Swedish parties adopted gender quotas as early as the 1970s. In 1972, the Swedish Liberal Party was the first party to introduce a policy of a minimum of 40% female representation in the party's boards and committees. The Green Party and the Social Democrats followed with similar policies; this trend continued in the 1980s and 1990s. Other parties, such as the Moderate Party and the Centre Party, chose a more flexible policy option and opted for recommendations and targets instead of quotas. The combination of gender quotas and Sweden's proportional representation electoral system has proven successful in improving women's representation in politics.

With the 2007 constitutional Equality Act, Spain introduced a quota that applies to the electoral lists of the European Parliament, national Parliament, regional assemblies and local councils. According to Article 44 bis of the Equality Act, women have to account for at least 40% of the total number of candidates on all electoral lists.

Sources: UN INSTRAW and Centre for Arab Women Training and Research (2009), *Strengthening Women's Leadership and Participation in Politics and Decision Making Process in Algeria, Morocco and Tunisia*: *Mapping of the Situation* 2008-2009, Santo Domingo, Dominican Republic and Tunis, www.genderclearinghouse.org/upload/Assets/Documents/pdf/Mapping_anglais%20web.pdf; Goulding, K. H. (2010), *Mandated Spaces for Marginalized Faces: Gender Quotas in the Middle East*, Centre for Middle Eastern Studies, Lund University; International Foundation for Electoral Systems (IFES) and Institute for Women's Policy Research (IWPR) (2010), "The Status of Women in the Middle East and North Africa (SWMENA): Focus on Morocco", www.ifes.org/~/media/Files/Publications/Papers/2010/swmena/2010_Morocco_Quotas_and_Family_Law_English.pdf; Freidenvall, L. (2003), "Women's Political Representation and Gender Quotas – The Swedish Case", Working Paper Series, 2003:2, Department of Political Science, Stockholm University; Swedish Parliament (n.d.), www.riksdagen.se/templates/R_SubStartPage____21764.aspx; Wängnerud, L. (2002), "Women in Parliament: Beyond Numbers", in: *Sweden: A Step-Wise Development*, International Institute for Democracy and Electoral Assistance, www.idea.int/publications/wip2/upload/Sweden.pdf; International Institute for Democracy and Electoral Assistance, University of Stockholm and Inter-Parliamentary Union, *Global Database of Quotas for Women*, www.quotaproject.org; Spanish Constitutional Act 3/2007 of 22 March for effective equality between women and men.

- In 2011, Egypt, the first MENA country to have a female member of Parliament (Rawya Ateya in 1957), abandoned the reserved seat system that had been introduced in 2010. In the parliamentary elections of 2011/12, the political parties had to nominate at least one woman on one of the 46 district candidate lists. As a consequence, the share of women in parliament dropped from 12% in 2011 to 2% in 2012.
- In the Palestinian Authority, for the Palestinian Legislative Council (PLC) elections, political parties must have at least one woman among the first three on their list, at least one woman among the next four, and one woman among every five for the rest of the list. This guarantees a share of women of about 20% among

the candidates (through the party-based part of the elections). In the 2006 elections, women won 13.6% of the representation in the PLC (although the PLC is not functioning since 2006) (European Parliament, 2011).

In addition, some MENA countries (e.g. Algeria, Morocco) have launched campaigns to encourage greater political participation by women. In Algeria, the *Centre d'information et de documentation sur les droits de l'enfant et de la femme* regularly prepares memoranda and comparative studies on women's participation in public life and also conducts campaigns to raise citizens' awareness about the positions of different political parties on questions such as women's employment or gender-based violence.[13]

Another important strategy to increase women's political representation involves leadership and media training for potential women candidates, such as those offered in many countries by political parties and by non-governmental organisations in Canada, such as Equal Voice, which offers an online campaign school.[14] In Tunisia, the Centre for Arab Women Training and Research, together with the UNDP, conducted a special programme in 2012 to support women candidates for the National Constituent Assembly, which provided training and guidelines not only to female candidates, but also to other actors who can have a positive impact on women's political participation: representatives from political parties, the media, voters, the educational system and religious communities. In Bahrain, the Supreme Council for Women adopted a Political Empowerment Programme to increase the political representation of women that includes Her Royal Highness Princess Sabeeka Bint Ibrahim Al Khalifa's Award for Bahraini Women's Empowerment in Vocational and Political Associations.

Increasing women's political presence also requires parliaments to become more "women-friendly" (OECD, 2014). This involves instituting gender-sensitive parliamentary practices and procedures, such as ending parliamentary business at reasonable times, reorganising schedules to account for family responsibilities or spreading parliamentary business over a shorter number of days (Cool, 2010: 8). Sweden's *Riksdag* undertook an internal audit to determine its gender sensitivity and now prepares its parliamentary calendar one year in advance with sittings scheduled on particular days of the week between October and June. More "women-friendly" parliaments will encourage a greater number of women to seek political office.

Although the evidence of the impact of parliamentary committees on women's political power is inconclusive, the number of parliaments with cross-party women's caucuses continues to increase around the world. Such caucuses serve as an important vehicle for encouraging peer co-operation and support among elected women across party lines. 61% of the respondents surveyed by the Inter-Parliamentary Union believe that such bodies have been successful at influencing parliamentary or legislative activities and providing oversight; two-thirds of respondents believed that these committees have successfully united women across party lines on particular issues (Inter-Parliamentary Union, 2008: 68, 70).

Overall, improving women's right to run for parliamentary elections and be elected to parliament requires changing women's and men's political consciousness, and building confidence in women's ability to design and transform the social, economic and political landscape. Some MENA countries (e.g. Kuwait, Morocco, Tunisia) have undertaken reforms to eliminate discriminations in the legal system, for example, by reviewing constitutional provisions on the participation in the public domain or by enacting electoral codes that ensure that the election process is conducted according to the gender equality

principle. The implementation of quota systems could also help increase women's participation in politics, since very few women manage to achieve electoral success on their own.

Women's representation in executive cabinets

Diversity and gender equality in leadership tends to induce better decisions by drawing on multiple sources of talent and generating a greater understanding of risks (OECD, 2014). Evidence also shows that women in executive positions promote a gender-sensitive approach to the implementation of the ministerial mandate (OECD, 2014). To this end, many countries are initiating steps to ensure a gender balance in decision making.

In the political executive of OECD countries, the percentage of women ministers increased from 21% in 2005 to 25% in 2012. Data from 2012 shows that, in the most advanced OECD countries, the share of female ministers tends to be over 50% (e.g. Finland, Iceland, Norway and Sweden). In addition, some OECD countries (Chile, Denmark, Germany, Ireland, Korea, Norway, Poland and Switzerland) have elected or appointed female heads of state or heads of government.

In the MENA region, some countries demonstrate progress in women's access to top positions in the executive branch (Box 5.1). MENA countries appointed several women ministers (e.g. in Algeria, Egypt, Jordan, Morocco and the Palestinian Authority), female ambassadors (Egypt, Iraq, Jordan, Kuwait, Lebanon, Morocco, Oman, the Palestinian Authority, Tunisia and Yemen), and some have elected female mayors (Jordan, Morocco and the Palestinian Authority).

Box 5.1. **Women's representation in the executive in MENA countries**

In Algeria, there are few women in the top ranks of the executive branch. In 2012, three of 31 Cabinet members were women, including a female Minister of Culture and two female delegate ministers. In 2002, Algeria had its first female minister (Minister of Culture), who, at the same time, served as spokesperson of the government.

The current Cabinet of Bahrain comprises 19 male and three female ministers. Women hold the portfolios of Culture, Social Development and Health, as well as State Minister for Information Affairs. In 1999, a member of the ruling family became the first female ambassador of Bahrain. Currently, Bahrain has two female ambassadors, appointed in 2008 and 2011.

In Djibouti, a woman first headed a ministry (for the Promotion of Women) in 1999. In 2012, the Cabinet comprised 16 male members, one female minister (still holding the portfolio of the Promotion of Women), as well as one female state secretary.

In Egypt, the Supreme Council of the Armed Forces (SCAF), which took over the government following Mubarak's ouster, abolished parliamentary quotas, which were at 12% in 2009.

While Iraq was the first MENA country to nominate a female minister (Minister of Municipalities) in 1959, no woman has been involved in the negotiations between the various political and ethnic groups to reach the current "compromise" government, which includes only one female Minister of State (for Woman's Affairs) out of 36 Cabinet members. Iraq appointed its first female ambassador in 1968.

Box 5.1. **Women's representation in the executive in MENA countries** (*cont.*)

In 1980, the first female minister took office in Jordan (Minister of Social Affairs). Currently, the Jordanian Cabinet, nominated in May 2012, consists of 30 members, including 27 ministers and three ministers of state. One woman is part of the Cabinet, holding the position of Minister of State for Women's Affairs. Jordan has currently two female ambassadors.

Kuwait established a new Cabinet with 10 new ministers, but it does not include any women, which is a regressive development after women held four seats in 2009.

Four women held the position of state secretary in Morocco for the first time in 1997. While the 2007 government of Morocco counted three female ministers out of 22 (13.64%: Ministries of Energy; Health; Social Development and Family) and two secretaries of state out of seven, there is only one female minister out of 24 (Minister of Solidarity, Women, Family and Social Development) represented in the 2012 government. In 2009, women represented 12% of Moroccan ambassadors and 6% of consuls (Ministère de la Modernisation des secteurs publics, 2009).

There are no women in the 30-member Cabinet that was appointed in Lebanon in June 2011. A woman held a ministerial position in the country (Minister of Industry) for the first time in 2004. In 1983, Lebanon named its first female ambassador.

In Libya, for the first time in the country's history, two out of 28 ministers were women, were holding the portfolios of Health and Social Affairs. They were appointed by the transitional government of Libya. The Cabinet counts 26 male members.

In 2012, the Cabinet of Oman included two female ministers out of 29 (Minister of Education and Minister of Higher Education), a rate of 6.9%. Oman appointed its first female ambassador in 1999.

The government of the Palestinian Authority currently includes six female ministers out of 26 Cabinet members (23%), holding the portfolios of Education, Culture, Social Affairs, Women's Affairs, Tourism, Communication and Telecommunication.

In 2003, Qatar was one of the first Gulf countries (together with Oman) to nominate female ministers to the portfolios of Education and Family Affairs. Currently no women are among the 22 members of the Cabinet. In 2010, the first female ambassador was appointed (Qatar Statistics Authority and Supreme Council for Family Affairs, 2011: 54).

Prior to the Arab Spring, Tunisia had one female minister heading the Women's Affairs Ministry since 2007, five female secretaries of state and a female President of the Court of Accounts. In 2012, women held two out of 27 Cabinet posts, heading the Ministry of Environment and the Ministry of Women's Affairs. Tunisia appointed its first female ambassador in 1993.

Within the executive in the United Arab Emirates, the current Cabinet counts five female ministers: the Minister of International Co-operation and Development, the Minister of Social Affairs, two Ministers of State without portfolio, the Secretary General of the UAE Cabinet and 20 male ministers.[1]

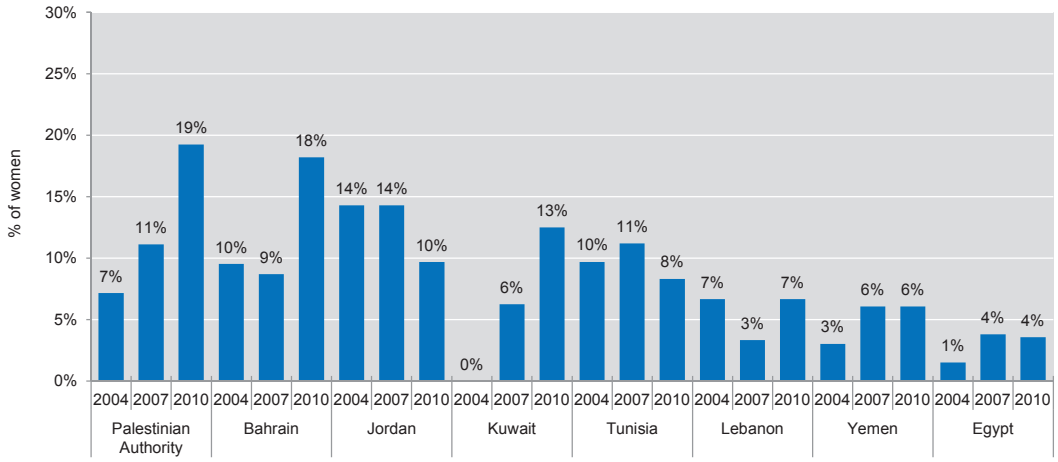
The current Yemeni Cabinet includes three women ministers (Minister for Human Rights, Minister for Social Affairs and Labour, Minister of State for Cabinet Affairs) out of a total of 37 Cabinet members. Yemen nominated its first female ambassador in 2000, who in 2003 became Yemen's first female minister (Minister of Human Rights).

Note: 1. Information provided by the government of the United Arab Emirates, with reference to http://uaecabinet.ae/en/thecabinet/pages/cabinetmembers.aspx.

Sources: Ministère de la Modernisation des secteurs publics (2009), "Femmes fonctionnaires en chiffres au titre de l'année 2009", PowerPoint presentation, Ministry of Public Sector Modernisation, Rabat; Qatar Statistics Authority and Supreme Council for Family Affairs (2011), "Woman and Man in the State of Qatar 2010: A Statistical Profile".

Although it is improving, the proportion of women ministers remains low in most MENA countries (Figure 5.4). When women do serve as ministers, they are often responsible for "soft" portfolios focusing on social policy issues with limited access to key economic positions (not unlike in many OECD countries). This signals that the place for women within the key economic decision-making institutions remains marginalised. The fairly recent establishment of ministries that address women's concerns directly often serves as the entry point for women in the executive Cabinet. Excluding these ministries, the prevalence of women in Cabinet plummets. To date, no woman has ever held the position of head of government or head of state in an Arab country. MENA countries have a vital interest in drawing on the largely untapped resource of female competence to maximise the impact of a more diverse leadership for better policies and country competitiveness.

Figure 5.4. **Representation of women and men in Cabinets of MENA countries, 2012**



Notes: Eight out of nine country respondents. Data for Tunisia is from 2003, 2008 and 2009. Two women have been nominated as heads of Cabinet in different ministries. Included is data for prime ministers, vice-presidents, secretaries of state, ministers with and without portfolios and ministers of state.

Sources: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014); OECD (2013), *Government at a Glance 2013*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2013-en; official government websites and CIA World Leaders website, www.cia.gov/library/publications/world-leaders-1.

Policy and legal measures

In the MENA region, as in many other countries around the globe, the nomination of Cabinet members is usually based on political considerations, including party and coalition politics. Some OECD countries, however, establish overall government targets and incorporate the inclusion of women in the executives as part of a larger public awareness or media campaign.

The experience of OECD countries indicates that political will and commitment to gender equality at the highest level are crucial for increasing women's representation in Cabinet (OECD, 2014). Norway's Cabinet under Prime Minister Stoltenberg (2005-2013) was gender equal, as was France's 2012 Cabinet under President Hollande.

Other OECD countries place emphasis on creating an enabling environment and institutional mechanisms that provide support to female leaders, such as networking, and empower them to participate fully in public life, voice their concerns, build their skills,

claim and make use of their rights. An example of such an institutional mechanism is the nominations service provided to ministries by the Ministry of Women's Affairs in New Zealand (Box 5.5) as well as New Zealand's Census of Women's Participation, released biannually by the Human Rights Commission, which reports on progress in women's representation in politics, public and corporate employment and education.[15] To this end, MENA countries may consider stepping up their efforts in ensuring gender balance in Cabinets.

Box 5.5. **New Zealand's experience promoting the representation of women in state sector boards**

The Nominations Service keeps a database of women from all sectors and professions who have the appropriate skills and experience to serve on state sector boards and committees. It is staffed by a small team of people who work solely in this area. The service was set up by the Women's Electoral Lobby, a political pressure group for women, in 1979. It was incorporated into the Ministry of Women's Affairs at its formation in 1986. The service provides:

- an avenue through which women can register their interest in and availability to take up board appointments
- a place where government officials and others seeking board candidates can get access to a professional service that will help them find suitably qualified women for specific board roles
- advice and information that inspires and encourages women to participate in leadership roles
- monitoring data on women's participation rates across more than 400 state sector boards.

The Nominations Service has been instrumental in significantly increasing the percentage of women serving on state sector boards in New Zealand, from 12.1% of ministerial appointees in 1981 to 41.5% in 2009. This level is high by international standards. A focus by successive governments on this issue has meant that women have a high level of participation on state sector boards compared with the private sector.

Source: Information provided by the Ministry of Women Affairs. Additional information is available online on the website "Women on Boards", www.mwa.govt.nz/women-on-boards.

Women's representation in the judiciary

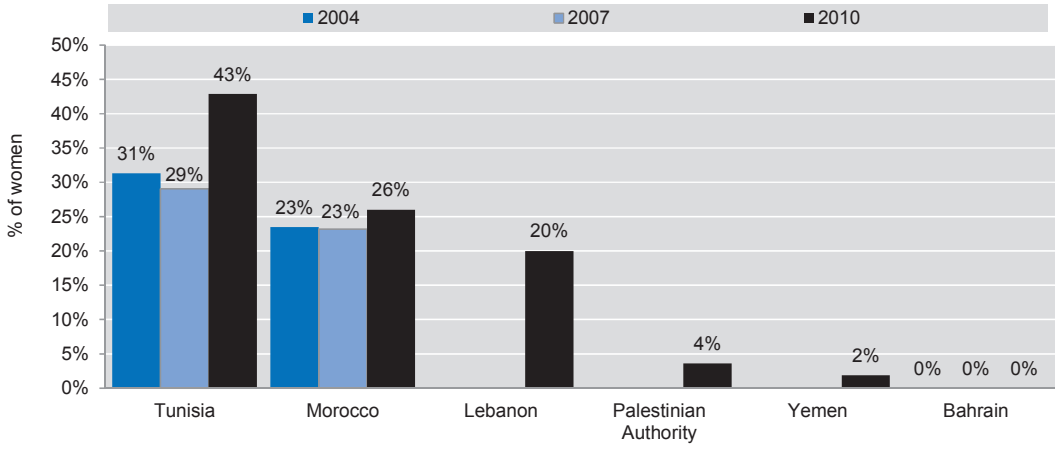
Courts function as a prime site of accountability for gender equality (OECD, 2014). A higher presence of women jurists is vital to ensuring the implementation and safeguarding of equality rights. Courts that operate free of gender bias and other forms of discriminatory practices can be powerful drivers of social change. Because women claim both individual rights through judicial channels and also use the courts to seek substantive changes through strategic litigation, increasing women's presence in the judiciary functions is an important step towards greater gender equality. Ensuring gender balance in appointments to the judiciary also supports the legitimacy of the courts as representatives of the societies they serve. A more diverse judiciary helps maintain public confidence in the justice system and enables courts to understand the real-world implications of their rulings (OECD, 2014).

Although women's legal rights have expanded dramatically over the past century, and, globally, women's participation in law schools now equals – or sometimes exceeds – that of men, women are inequitably represented at the highest levels of the legal system across all OECD countries. In advanced OECD countries, women's access to judicial appointments stands at, for example, 51% in Israel and 44% in Canada, where a woman also serves as Chief Justice of the Supreme Court. Other OECD key partners report lower levels of women in the judiciary, including South Africa with 25% of women judges, the Russian Federation with 16% and India with only 3%. In 2012, the OECD country average of women in the Supreme Court reached only 28.29%. While female judges are crucial for gender equality oversight and accountability, only 33% of Supreme Court judges and two out of 18 Presidents of Administrative Courts in European countries are female.

In MENA countries, the presence of women in traditionally male-dominated ministries, such as Ministries of the Interior and Justice, has increased over the past decade. Furthermore, women now form 25% of all juries, nearing the global average. Nonetheless, there are significant variations across the region. Some countries are making notable progress in closing the gender gap in the judiciary (UN Women, 2011: 60), with Tunisia boasting 28% women judges, Algeria 23.5% and Morocco 20%, although women judges in Gulf nations are much more rare (Bahrain and the UAE, for example, appointed their first women judges in 2006 and 2008, respectively; in addition to the appointed judges and prosecutors in the UAE, there are 17 female assistant prosecutors and 22 future female jurists in specialised training). In 2012, a woman served as president of an administrative court in Tunisia.

Yet, in some countries, there are no female judges, including at the highest levels of the legal system (Figures 5.5 and 5.6). Moreover, no woman currently heads a Supreme or Constitutional Court in the MENA region. In some Gulf countries, female judges review legislation exclusively as members of ministerial committees, but do not practice in courts.

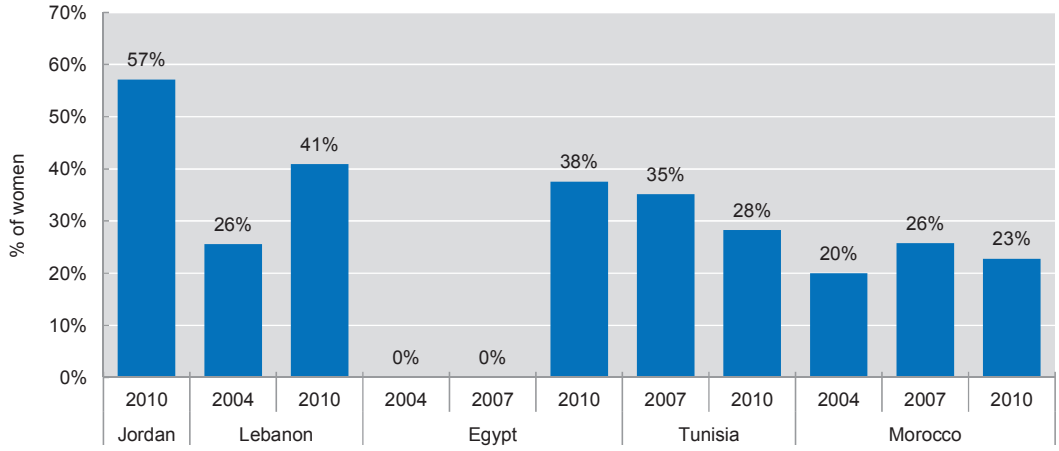
Figure 5.5. **Total representation of women and men in Supreme Courts in the MENA region**



Notes: Six countries out of the nine participating in the survey provided data for this question. Data was not available for Lebanon, the Palestinian Authority and Yemen for 2004 and 2007. Data for Tunisia is for 2008 instead of 2007.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Figure 5.6. **Total representation of women and men in administrative courts across the MENA region**

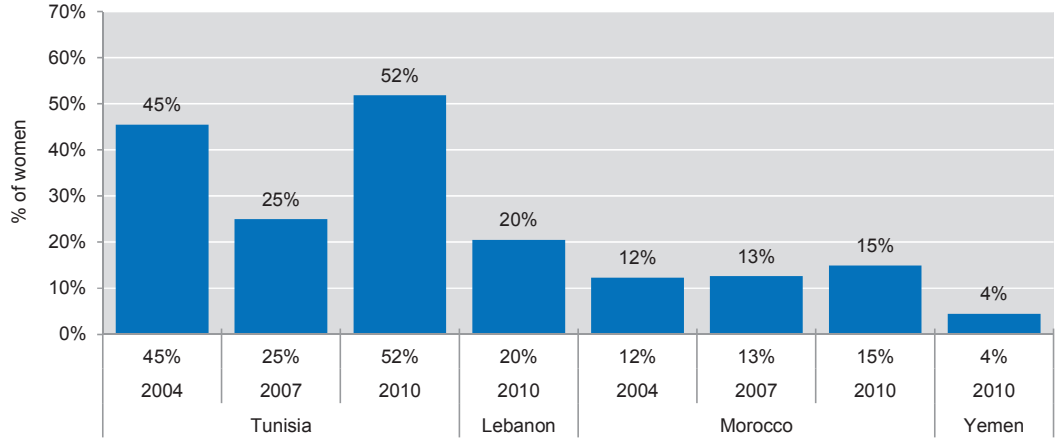


Notes: Five countries out of the nine participating in the survey provided data for this question. Data has not been provided for Bahrain, Egypt, Kuwait, the Palestinian Authority or Yemen. Data for Tunisia is from 2006 instead of 2007. Since 2011, the President of the Administrative Tribunal Court in Tunisia has been a woman.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Some of these trends are linked to the perception that judges and prosecutors are "hazardous" professions, and therefore inappropriate for women; this is the case in several MENA countries, notably in the Gulf (Figure 5.7). In the case of UAE, female judges were first appointed in 2008. While some restrictions on women's access to judicial and prosecution positions still exist, they have been abolished in several Emirates.[16]

Figure 5.7. **Total female prosecutors in MENA countries**



Notes: Four out of the nine countries participating in the survey provided data for this question. Tunisian statistics report the number of women working in management in the tribunals. Data was not provided for Bahrain, Egypt, Jordan, Kuwait and the Palestinian Authority.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Women are generally more prevalent as judges in lower courts, which is consistent with global trends in electoral politics, in which women's levels of participation are higher at the local level. In Egypt, for example, female judges are routinely assigned to economic or family courts, rather than to criminal courts (Freedom House, 2010a). In Jordan, no woman currently serves on *sharia* courts, which deal with all issues relating to the Family Code and the Personal Status Code.

Table 5.1. **Women's representation in the judiciary in MENA countries**

Country	
Algeria	Women are well represented in the judiciary in Algeria, accounting, in 2010, for over a third of the country's prosecutors and 36% of judges (Freedom House, 2010b; US Department of State, 2010).
Bahrain	In 2006, Bahrain appointed its first female judge, who was also the first female judge in any Gulf Co-operation Council (GCC) country. In 2006 and 2010, one female and six male judges served in the Constitutional Court, which was established in 2002 (OECD, 2011). Moreover, the number of judges has increased gradually over the period 2006-13, and currently includes 17 female judges.
Djibouti	While the number of female judges has increased over the past years, including in personal status courts, women remain under-represented in Djibouti's judiciary (CEDAW, 2011).
Egypt	The first female judge was appointed in 2003 to Egypt's Supreme Constitutional Court, the country's highest judicial power, which controls the constitutionality of the law. In 2012, the Supreme Constitutional Court included one female judge (out of 17 members in total). She lost her seat in 2012, after the new Constitution decreased the number of justices in the Constitutional Court to 10. In 2008, 30 women were appointed for the first time in civil and penal courts.
Iraq	Iraq became the first MENA country to appoint a female judge in 1959. While the number of female judges increased from six in 2003 to 72 in 2011, only six female judges work in the criminal courts, whereas the remaining female judges work in family courts or as notaries.
Jordan	In 1996, the first female judge was appointed in Jordan (European Commission, 2011). In 2010, Jordan's Supreme Court (Court of Cassation) achieved gender balance with 10 female and 10male judges, while the administrative court employed four female and three male judges (OECD, 2011).
Kuwait	While women can hold positions as investigative judges in Kuwait, they are not yet permitted to serve as judges in courts. In 2012, no female prosecutor served in Kuwait.
Lebanon	The participation of women in legal professions has increased in Lebanon. In 2010, women held 38% of the civil, commercial and criminal court judgeships (192 out of the 507 available positions), and 28% of judges in the administrative court were female in 2010 (21 out of 76 available positions), as compared to 25.6% in 2004 (OECD, 2011).
Libya	Women work as lawyers, prosecutors and judges in Libya, with the first female judge assuming office in 1991. Reliable data on the number of female judges in Libya is currently unavailable (Freedom House, 2010a).
Morocco	Women have held judgeships in Morocco since 1961. In 2010, 59 women (and 168 men) served as judges on Morocco's Supreme Court, which is the highest jurisdiction of the country and consists of six chambers (civil, family, commercial, administrative, social and criminal). The representation of women in the Supreme Court has increased, from 23.5% in 2004 to 26% in 2010 (OECD, 2011). With 28 female judges, women also represented 23% of judges in the seven administrative courts of first instance in 2010. Between 2004 and 2010, the number of female judges serving in the administrative courts of first instance doubled, from 14 to 28 (OECD, 2011). In 2010, 15% of prosecutors were female (132 women to 750 men), compared to 12.2% in 2004 (88 women to 629 men; OECD, 2011).
Oman	Women are under-represented in legal professions in Oman, which are traditionally considered unsuitable for women. Although there are no formal legal restrictions, women have not been appointed as judges as of yet. Few women serve as prosecutors, and only two female lawyers were permitted to appeal the Omani high court in 2010 (Freedom House, 2010a).
Palestinian Authority	In 2008/09, women represented 10% of judges, 8.9% of prosecutors and 16.9% of lawyers in the Palestinian Authority (Palestinian's Women Research and Documentation Centre, n.d.). In 2009, for the first time, two women assumed the position of judge in the Islamic Sharia Courts of Ramallah and Hebron to ensure a more gender-balanced perspective in dealing with family law matters such as marriage, divorce, child custody, child support and inheritance. Moreover, the proportion of female judges in Palestine did not exceed 12% until the year 2012, when there were three female judges in the Supreme Court against 29 male judges. There is no female judge in the Court of Appeal, whereas there are 16 male judges. There are nine female judges in courts of first instance versus 63 male judges. There are nine female judges, but 50 male judges in the magistrate courts, with, namely, 21 female judges versus 159 male judges in the judiciary sector.[1]
Qatar	The first female judge was appointed in Qatar in 2010. Overall, while their numbers are increasing, women still remain under-represented in the legal professions.

Table 5.1. **Women's representation in the judiciary in MENA countries** (*cont.*)

Country	
Tunisia	The first female judge was appointed in Tunisia in 1968. In 2010, women constituted 62% of law students, and the percentage of women entering the Institut supérieur de la magistrature increased notably, from 21% in 2007 to 47% in 2006.[2] In 2010/11, among the 1,875 judges in office, 607 were female (32.4%). Women are well represented in the highest ranks of the judiciary, and their number is increasing. While women represented 29% of judges in the Supreme Court (*Cour de cassation*) in 2008, they represented 42.8% in 2010/11 (57 female judges of a total of 133; OECD, 2011). Twelve women (and 17 men) presided over a chamber of the Supreme Court that same year. In the administrative court (*Tribunal administratif*), which is currently presided over by a woman, the percentage of female judges increased from 36% in 2006 to 39.4% in 2010 (OECD, 2011). The number of female prosecutors also increased from six (out of a total of 24, corresponding to 25%) in 2007 to 52% in 2010 (14 out of a total of 27). Only two women have held the position of General Prosecutor of the Republic at a court of first instance. According to the new Constitution adopted in January 2014, a Constitutional Court made of 12 members will be established.
United Arab Emirates	The appointment in 2008 of the first female judge and the first two female prosecutors in the Abu Dhabi Justice Department are major achievements towards women's participation in the judiciary in the United Arab Emirates. A second female judge was appointed to the Dubai court system in 2009.
Yemen	In 2004 and 2010, respectively, one female judge and three male judges served in Yemen's Supreme Court, which also deals with constitutional questions (no constitutional court exists in Yemen). An administrative court does not yet exist in Yemen, but is to be established. The number of female prosecutors decreased significantly, from 19% in 2007 (19 women to 80 men) to 1.6% in 2010 (2 women to 116 men; OECD, 2011).

Note: 1. Information provided by the Palestinian Authorities. 2. Data provided in 2011 by the Centre d'études juridiques et judiciaires, Ministry of Justice, government of Tunisia.

Sources: Freedom House (2010b), "Algeria", in: *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, Freedom House, New York, www.freedomhouse.org/sites/default/files/inline_images/Algeria.pdf; US Department of State (2010), *Country Report on Human Rights Practices – Algeria*, US Department of State, Washington, DC, www.state.gov/documents/organization/160446.pdf; OECD (2011), MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014), OECD, Paris; CEDAW (2011), "Concluding Observations of the Committee on the Elimination of Discrimination against Women on Djibouti", CEDAW/C/DJI/CO/1-3, United Nations, www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-DJI-CO-1-3.pdf; European Commission (2011), "National Situation Analysis Report: Women's Human Rights and Gender Equality: Jordan", www.euromedgenderequality.org/image/file/Analyse%20de%20la%20situation/Situation%20Analysis_Report_Jordan.pdf; Freedom House (2010a), *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, Freedom House, New York; Palestinian's Women Research and Documentation Centre (n.d.), Palestinian Gender Statistics at a Glance, www.pwrdc.ps.

Overall, women's participation in the judiciary varies significantly across the MENA region, similar to OECD countries, but evidence shows that women are equally represented neither horizontally across judicial institutions, nor vertically within institutions. Some of the main barriers for accessing judicial positions that countries cite include gender stereotypes and attitudinal barriers about women's experience and suitability as judges. In some societies, other barriers to women judges stem from customary and/or religious law traditions. For example, due to the late night requirements of public prosecutors, it can be considered "unsuitable" for women to take up these positions. Areas of legal practice, for example, criminal law and personal codes (family law) are also seen as determining women's access to judicial practice. Given the framework for social security benefits within the countries, entering and continuing in the field of legal practice may be restrictive with respect to work-life balance provisions, as one often observes particularly disadvantageous social security regimes for independent workers.

For some countries, explanations for the unequal representation of women in the judiciary cluster around a perceived lack of qualified women to serve as jurists. These considerations are losing ground in the MENA countries, however, as more women than

men attain legal education in several countries. In some cases, the gap in women's participation in higher level courts and representation in the national and penal courts relates to societal resistance, stereotypes and limited institutional capacities to incorporate gender concerns. Even in countries where it is common for women to enter the legal field (Algeria, Tunisia, etc.), the current protections in the general employment framework are less favourable for independent contractors, as is the case for most lawyers. As such, independent contractors are charged with securing their own provisions for work-life balance, including insecurities regarding maternity leave and expenses associated with child bearing, which tends to affect mainly women.

Policy and legal measures

To address the remaining gaps in women's representation in the judiciary, MENA countries are already taking steps to remove restrictions on women's employment in the judiciary and to provide gender-equal access to leadership positions. In Tunisia, for instance, a law from 1967 provides women and men with equal access to legal professions, including the profession of judge.[17] In 2007, 30 female judges were appointed for the first time in civil and criminal courts in Egypt out of 124 applications. However, women cannot join administrative courts in Egypt yet.

More proactive efforts are needed to increase the number of female judges, prosecutors and lawyers, and to improve their access to higher positions to enable the provision of gender-responsive legal services. Some specific measures may include:

- Involving female and male judges in gender-awareness training. Providing judges and prosecutors with gender-based criteria for interpreting and applying laws is necessary to avoid arbitrary decisions. Preparing female and male judges to enforce the provisions of international conventions on women's rights and to deal with cases of gender-based discrimination and violence in an impartial manner is essential for improving women's legal status and rights in the MENA region.
- Encouraging more women to opt for judicial and legal careers through positive reporting (in the media, schools and universities) on women's contribution to a righteous society, gender-fair decisions and adjudications, and equal access to justice and courts (UNDP, 2007: 24). These can include encouraging female judges and prosecutors to join existing international networks, such as the International Association of Women Judges[18], or to create associations like those in several OECD countries (Box 5.6). Evidence from countries with higher levels of women judges indicates that the strength and visibility of women in national law associations, and their lobbying efforts often prove pivotal in encouraging governments to appoint women to judicial posts. As such, supporting the work of national bar organisations and international groups is vital to increasing the visibility of women judges, countering attitudinal biases and patronage practices, and encouraging women's appointments.
- Introducing judicial training programmes to counter gender bias, as is done in several OECD countries. These programmes involve efforts to systematically track judicial decision making at the national level in order to monitor the performance of courts on women's rights. In addition, examples related to efforts to increase judicial gender equity through affirmative action targets could also be of interest to the countries in the region (Box 5.7).

Box 5.6. **United States National Association for Women Judges**

The United States National Association for Women Judges brings together both female and male judges, judicial clerks, attorneys and law students to discuss judicial topics that have gender relevance. The association regularly releases publications on relevant themes, like promoting gender fairness through judicial education, gender fairness in the courts, the judge's role in understanding sexual violence, judicial considerations when sentencing pregnant women, or the recourse to expert testimony when dealing with battered woman syndrome. "Increasing the number of women on the bench in order for the judiciary to more accurately reflect the role of women and improving the administration of justice to provide gender-fair decisions for both male and female litigants" is among the declared objectives of this association.

Source: National Association of Women Judges, www.nawj.org.

Women's participation in civil society

Civil society, media and social partners are critical to advance good governance, transparency, gender equality and fair employment conditions. In the MENA region, the role of civil society varies in different countries, as a result of different environments and traditions. For example, while in Lebanon and the Palestinian Authority civil society organisations primarily focus on public service delivery, in some other MENA countries, particularly in the Gulf, the key civil society groups are quasi-governmental organisations. In some MENA countries, until recently, civil society did not exist at any significant level, and those organisations that did operate in those countries reflected their own interests and those of particular social classes, professions, religious or political affiliations, among others (Box 5.8). Yet, despite decades of social fragmentation, various elements of civil society have taken root throughout the MENA region, transcending cultural, national, religious and ethnic divides, as was also demonstrated by recent political events. In fact, civil society played a critical role in promoting democratic reforms and in enabling the voices of men and women to be heard. It can also serve as an important vehicle for influencing political reforms (constitutional, electoral, legal and socio-economic, etc.) and broader public policy, including in relation to gender equality.

In fact, the developments of the Arab Spring have demonstrated that women participated in demonstrations equally with men and were pushing for new, expanded roles. Similarly to men, they aspired for democracy, respect of the rule of law, transparency in government, equality and justice.

> Egyptian women found their voice a long time ago, but it was convenient for the rest of society to hear this voice in Tahrir because every voice counted. You can't have a popular revolution without half the population…Women have made countless strides to have their voices heard, including establishing NGOs to defend their rights; lobbying to break down many taboos such as sexual harassment and virginity tests; launching a campaign for dignity against sexism and partial violence; gaining greater access to education; and working to alleviate poverty… Moreover, Egyptian women challenged dominant human rights frameworks, which tend to define women's human rights in terms of individual political rights, and women's equality under the law, with social and economic rights deemed secondary concerns at best. (Khattab, 2013)

Box 5.7. **Measures to increase the diversity of judicial appointments in Canada and the United Kingdom**

How best to increase the diversity of judicial appointments, including gender diversity, has long been a subject of significant policy debate in many countries. In Canada, this issue was addressed at the federal level through a combination of political leadership, appointment criteria, appointment committees and professional associations. Although a pro-active approach to the appointment of women judges exists, it is not mandated formally. In 1985, however, the federal Minister of Justice announced a new judicial appointment process requiring that "the judiciary should represent a broad cross-section of Canadian society. To achieve this, the appointment of women and individuals from cultural and ethnic minorities should be encouraged." Advisory committees to assess candidates for federal judicial appointments were encouraged to respect diversity and give due consideration to all legal experience, including non-mainstream. In 1988, the Canadian province of Ontario established a Judicial Appointments Advisory Committee as a three-year pilot project. The Attorney General of the province also personally wrote to all women lawyers in Ontario who had been at the bar for 10 years or more to encourage them to consider applying for the judiciary. When the committee started its work, only 4% of provincially appointed judges in Ontario were women. Within two years, 32% of judges appointed pursuant to the committee's recommendations were women, and during the next two years, their number rose to 46%.

In the United Kingdom, one of the drivers behind the creation of the Judicial Appointments Commission (JAC) was the aim of countering the impediments to women's judicial appointments and increasing the diversity of the pool available for judicial selection. The JAC is an independent commission that selects candidates for judicial office by attracting a large range of candidates and putting them through a fair and open competition. This commission, established in 2006 through the Constitutional Reform Act (CRA), has replaced judicial appointments with more accountable and transparent mechanisms. There is evidence to suggest that such appointment commissions can be helpful in responding to judicial gender inequities, particularly through the improvement of transparent competitive processes for judicial appointment.

Source: Based on information provided by the national ministries, Judicial Appointments Advisory Committee of Ontario, www.ontariocourts.ca/ocj/jaac/, Judicial Appointments Committee, http://jac.judiciary.gov.uk.

Moreover, an e-consultation from the UN revealed that the nature and scope of women's participation in civil society in MENA countries is relatively high. Women often dominate the non-governmental sector, mainly due to accessibility and, in some cases, cultural acceptance and work-life balance considerations. An Iraqi commentator on the consultation reported that women in these organisations provide a visible demonstration of women's capacity to be leaders in the communities.[19] Yet, there are only few women in leadership positions in non-governmental organisations. Other commentators recognised that, when women do have leadership positions, they often remain in organisations devoted to women's issues.

Similarly, in OECD countries, women's participation in civil society organisations is rather high. It ranges from two-thirds of the paid workforce globally to up to 80% in some OECD countries (e.g. the United States) (Civitas, 2013). Still, while civil society continues to be dominated by women, access to top management positions remains uneven.[20] In the largest 100 non-governmental organisations, only 31 women hold the top leadership position (The Global Journal, 2013).

Furthermore, the increased participation of women in the formal labour market reinforces the need for an increased participation of women in labour unions. Better gender balance in unions can have a significant impact on lobbying at the firm, sector and governmental levels. Similarly, given that media shapes much of the values and stereotypes in societies, promoting women's participation and leadership in media could help to address such stereotypes.

Box 5.8. **Trends and examples of civil society participation in the MENA region**

Civil society organisations (CSOs) in the Middle East and North Africa (MENA) region are very diverse. Some are well-established and have a long history in advocating for socio-economic and political issues, such as Transparency Maroc (www.transparencymaroc.ma), which was created in 1996, while many others were founded in the wake of the Arab Spring, for example IWatch (http://ngotunisia.org/i-watch-tunisia in Tunisia or the April 6 Youth Movement in Egypt. Due to a lack of real opportunities, few organisations have a robust tradition of independent involvement in the political process and constructive dialogue with institutions, and most are only now finding viable ways to co-operate with their government. Information and communication technologies (ICTs), and especially the Internet and social media, play an important role, as they enable CSOs to spread their messages and even organise in new and innovative ways by using platforms like Facebook or Twitter. Governments' commitment to and success in promoting opportunities for citizens' participation are equally diverse across the different MENA countries. In most countries, CSOs are only now being consulted by public officials on the policy making process in a structured manner, but the follow-up procedures often lack transparency on how or whether the results of the consultation have actually been used to inform the original proposal.

However, there are some notable exceptions worth mentioning, which clearly show the current effervescence of the civic space in the MENA region. The newly formed collective #tnOGP[1], which includes more than 10 different NGOs and numerous activists who work in the field of transparency and good governance, is an example of the rapidly evolving civil society environment. These NGOs formed a collective to promote civil society involvement in public consultation on Tunisia's Open Government Partnership Action Plan in collaboration with the Tunisian government.[2] This ongoing experiment provides important evidence of how the relations between government and civil society are changing in the country, under the influence of principles of mutual trust and equality of all stakeholders.

The activities of the REMDI (www.remdi.org) (the Moroccan Network for the Right to Access Information) are another interesting example of a different and more specialised approach to citizens' participation. In fact, contrary to #tnOGP, which focuses on promoting civic participation on a very broad range of issues, the REMDI concentrates its advocacy work on the proposed Law on the Right to Access Public Information. It elaborated and published an advocacy manifesto describing the characteristics that such a law should have and has, since then, been a crucial actor in the provision of concrete comments on the draft laws prepared by the Moroccan government.

Through the MENA-OECD Open Government Project, the OECD is currently working with all the countries and CSOs in the MENA region that are trying to change the political, legal and cultural contexts to allow for greater and more effective citizen participation in policy making.

Notes: 1. https://twitter.com/hashtag/TnOGP. 2. www.opengovpartnership.org.

When formal channels of power and decision making are difficult for women to access, as is the case in the MENA region, collective action through social partners, civil society and the media becomes even more crucial to advancing gender equality and providing women with opportunities to hone their leadership skills and develop

professional networks. As such, activity in civil society can offer a springboard to electoral politics and bolster women's leadership capacity due to a more informal, flexible and accommodating environment. Women can participate in policy debates across a range of political, social, economic and environmental social partner organisations. Furthermore, evidence shows that women are more effective inside political institutions when they enjoy the support of women mobilising outside.

Overall, despite current pressures on media and civil society in many MENA countries, including financial and capacity challenges, the non-governmental sector continues to be an important vehicle for women's leadership.

Yet, further efforts are needed to foster women's access to leadership positions in civil society organisations in MENA countries in order to support women's empowerment in public life.

Policy and legal measures

The civil and political rights of women enshrined in constitutional and legal documents in MENA countries often do not correlate with the human rights situation or the reality of the situation vis-à-vis men faced by women in practice. Although there are cases in which women and men participate together in some duties and public services, the reality frequently has little to do with guaranteeing women's civil and political rights and freedoms, or enabling women to raise their voices and fully participate in public life, including civil society. Legal restrictions on civil society organisations in the MENA region may also prevent women from being able to organise their demands.

It is therefore important to take concrete steps to increase the representativeness and the visibility of women in the non-governmental sector in substantive ways. The OECD experience highlights the importance of the following steps:

- promoting equal access to leadership opportunities for women and men in civil society organisations, media and unions in all sectors, including political and cultural, public and private, economic and educational
- working towards changing current perceptions and norms by promoting women's empowerment, leadership and presence in the media
- building women's awareness of their rights through the available media channels and networks
- enabling women to participate in policy making by forming networks and coalitions.

Freedom of movement

Freedom of movement is a critical determinant of women's ability to participate in public life. It is an indispensable condition for the free development of a person and interacts with several other rights. It has been enshrined into Article 15 of the CEDAW: "States [p]arties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile." It means that everyone within the territory of a state lawfully enjoys the right to move freely and to choose his or her place of residence. It also includes the freedom to leave the country. In many MENA countries, however, women suffer from restrictions on

their freedom of movement within the family or discriminations in their right to travel abroad.

Most MENA countries have enshrined the principle of equality between men and women in matters of freedom of movement into their constitutions. For example, in Algeria, all citizens enjoying civil and political rights have the right to freely choose their place of residence and travel throughout the country. In Morocco, "the freedom to move and settle on national territory, to leave and return in accordance with the law" is guaranteed for all.

However, gaps in domestic laws remain in most countries, and several laws restrict women's freedom of movement in different fields (for example, education or work). In some countries, women still cannot obtain a passport and travel abroad without their husband's or guardian's permission. In addition, many MENA countries consider the choice of domicile as a decision to be made solely by the husband, who also has the unilateral right to force his wife to return to the marital home.

According to the Tunisian Code of Personal Status of 1956, if the person who has custody of a child changes residence and settles at such a distance that this prevents the guardian from fulfilling his duties to his ward, he forfeits his right to custody. There are some restrictions to the freedom of movement of Tunisian women, particularly those who marry a foreigner, in terms of their choice of residence and domicile. Thus, in accordance with Law No. 7 of 1968, if a Tunisian man is married to a foreign woman, she can be granted a residence permit, while this is not the case for a foreign man married to a Tunisian woman (unless he is the father of her children).

In the United Arab Emirates, according to Federal Law No. 17 on nationality and passports, "a woman cannot obtain a passport without the consent of her husband, yet it appears common practice for a woman to freely obtain a passport without needing consent". In the Republic of Djibouti, women are not allowed to travel abroad without the permission of an adult male relative. In the Palestinian Authority, women have the right to adequate housing, freedom of residence and movement; however, it seems that, in practice, agents of the Ministry of the Interior continue to request a written approval from the parents of women who wish to get a passport. In Jordan, women are legally allowed to move freely without restriction; however, some conservative religious movements continue to disapprove of this. In fact, when Jordan removed its reservation on Article 15(4) of the CEDAW concerning freedom of movement, these groups accused authorities of trying to "dismantle families."

The Constitution of the Republic of Yemen enshrines the principle of freedom of movement from one place to another within Yemeni territory. All Yemeni men and women have the right to obtain ordinary passports once they reach the age of 16. Yet there is also an option for a woman to add her name to her husband's passport which could, in practice, limit her right as his spouse to move freely without his consent. This possibility, together with the influence of tradition and habit, means that women do not always apply for their own passport, which then limits their freedom of movement. However, in Lebanon, women have the right to freedom of movement without the permission of their husband or guardian. Similarly, Kuwaiti and Bahraini women can obtain a passport without their husband's permission.

While most constitutional provisions in relation to the freedom of movement in the MENA region are in conformity with the CEDAW, the limitations on women's freedom of movement established by a range of national laws are not. To address the remaining

gaps in conformity with international standards, MENA countries are encouraged to review their legislations and consider examples of good practices in enabling women's freedom of movement in the MENA region (Box 5.9).

Box 5.9. **Specific examples of good practices in legal provisions on freedom of movement in MENA countries**

Article 24 of the 2014 Constitution of Tunisia states: "Every citizen has the right to choose a place of residence and to free movement within the country and shall have the right to leave the country."

This right is reflected in Article 8 of the Tunisian Code on Passports (1975), which provides that "an individual passport will be issued for each Tunisian over the age of 15. The child who is not over the age of 15 and who has not obtained an individual passport and who holds Tunisian nationality can be recorded on his father's or mother's passport." Consequently, the right to obtain an individual passport applies to both Tunisian men and women without exception. Minor children can be registered on either parent's passport without any discrimination. Article 13 of the same code supports this principle: "All Tunisians have the right to obtain, renew and extend the validity of passports." In addition, the Tunisian Code of Personal Status does not appear to contain any restrictive provisions concerning the freedom of movement granted to a wife, given her respect of family obligations between both parties, which include caring for the family and children.

In Algeria, Article 44 of the Constitution states: "Any citizen enjoying his civil and political rights has the right to choose freely his place of dwelling and to move on the national territory. The right of entry and exit from the national territory is guaranteed." This article is general and applicable to both sexes without exception. Moreover, it appears that there are no restrictions on women's freedom of movement in the Algerian Family Code (1984). For instance, the rights and duties of spouses, as stated in Article 36 of this code are: "1) [p]reserving matrimonial ties and duties of common life; 2) [l]egal cohabitation and mutual respect and affection and compassion; 3) [c]o-operation in the interest of the family and caring for children and raising them well…" These provisions highlight that women's mobility is not subject to prior authorisation by her husband.

Source: Legal analysis by CAWTAR.

Summary recommendations

Increasing women's participation in representative and executive bodies

- Establish measures, such as quotas (voluntary or legislative), to improve the representation of women in parliaments and the political executive; adopt measures to strengthen the equal access of women and men to public office.
- Advance the use of leadership development programmes to strengthen women's leadership capabilities.
- Adopt policies for greater work-life balance and for greater "women-friendliness" of legislatures, including instituting gender-sensitive parliamentary practices and procedures.
- Support the establishment of cross-party women's caucuses to provide support networks for women in legislatures and encourage peer co-operation.

- Take active steps to prevent, identify and address political harassment and violence experienced by women when in public office.
- Take steps to strengthen women's access to high-level executive posts by creating an enabling environment, and institutional mechanisms that provide support and access to female leaders, including networking.

Advancing women's representation in the judiciary

- Remove legal restrictions preventing women from entering judicial and related justice sector professions, including those related to areas of work, night work and freedom of movement.
- Encourage women to opt for judicial and legal careers through positive reporting (in the media, schools and universities) on women's contribution to fair decisions and adjudications, and equal access to justice and courts.
- Strengthen the capacities of judges and prosecutors to interpret and apply laws in a gender-sensitive manner in order to avoid arbitrary decisions.
- Bolster oversight mechanisms for appointments in the judiciary to ensure the adherence to legal requirements and equality measures within the process of judicial appointment.

Enhancing women's ability to raise their voice and participate in civil society

- Take steps to foster an active and vibrant civil society, and support women's participation in and their access to leadership in these organisations.
- Provide technical skills to maximise open dialogue on the virtual level among women and activists in order to exchange ideas, including through social media.
- Build women's capacity to communicate with officials, defend their rights and develop organisational and leadership skills.
- Provide media training on removing gender stereotypes.

Enabling freedom of movement

- Remove discriminatory restrictions to freedom of movement in compliance with international treaties and conventions.

Notes

1. The 2011 World Economic Forum's *Global Gender Gap Report* argues that empowering women and fully leveraging their talent and leadership in the global economy, politics and society is fundamental to maximising a nation's competitiveness. The report's Preface notes: "…diverse leadership is most likely to

find innovative solutions to tackle the current economic challenges and to build equitable and sustainable growth" (Schwab and Zahidi, 2011).

2. See Article 31 bis of the Algerian Constitution; Articles 3, 8 and 12 of the Moroccan Constitution; Article 9 of the draft Constitution of the Palestinian Authority; Article 7 of the Constitution of Lebanon; Articles 24 and 41-43 of the Yemeni Constitution.

3. The data refers to all parliamentary structures (unicameral and bicameral systems and lower and upper chambers). Data from IPU Parline is available at: www.ipu.org/parline-e/WomenInParliament.asp?REGION=All&typesearch=1&LANG=ENG.

4. Civil rights and liberties are considered inherent regardless of place or the legal system a person is subject to, and include the right to healthcare and physical safety; personal freedom and freedom from slavery; the right to security; the right of movement, residence and travel; freedom of belief, opinion, ideology and expression; as well as the right to ownership and control.

5. Public rights and liberties are granted to people by the legal and constitutional systems of their countries, and usually include: *i)* political rights and liberties, which are granted to a group of people who have reached a certain age and acquired specific knowledge and awareness (the right to be nominated in elections, to establish political parties, to vote, to acquire citizenship, to raise their voice, etc.); *ii)* economic rights and liberties, which may include the right and freedom of trade, the right to work, the right to access information and freedom to disseminate it, the right to save and invest; and *iii)* social rights and liberties, including the right to social security, the right to marry and establish a family, and the right to establish societies, trade unions and clubs.

6. In Saudi Arabia, women will be able to vote in local elections in 2015.

7. These debates are outlined in Dahlerup (2007).

8. Loi n° 192/AN/02/4ème L du 31/11/2002 instituant le système de quota dans les fonctions électives et dans l'administration de l'État.

9. Décret n° 2002-0253/PR/MDCPF portant modalité d'application de la Loi n°192/AN/02/4ème L du 13/11/2002.

10. The quota project, www.quotaproject.org.

11. Decree Law No. 35 on the Election of the National Constituent Assembly.

12. The Permanent Constitution of the Republic of Iraq, 2005, Article 49(4) and Coalition Provisional Authority Order Number 96, Electoral Law, 2004, Section 4(3).

13. Information available on the website of the *Centre d'information et de documentation sur les droits de l'enfant et de la femme,* www.ciddef-dz.com/pages-index/index.php.

14. More information on this programme is available at: www.equalvoice.ca.

15. The fourth census report was released at the end of 2010 and can be accessed online on the website of the Human Rights Commission at: www.hrc.co.nz/hrc_new/hrc/cms/files/documents/05-Nov-2010_09-29-40_HRC_Womens_Census_2010_WEB.pdf.

16. Law No. (23) for 2006 and its amendments (Law No. (11) for 2008) in regards to the Judicial Department of Abu Dhabi, Article (18) stating the terms of appointing judges and prosecutors. Law No. (21) for 2009 amending Law No. (8) for 1993 in regards to the Judicial Prosecution in the Emirate of Dubai, Article (10) amended the terms of

appointing prosecutors, which are no longer exclusive to men. Law No. (2) for 2012 in regards to the Prosecution in the Emirate of Ras Al Khaima. Article (9). Law No. (7) for 2012 regulating the Judicial Experts Profession in the UAE, Article (3), (Information provided by the government of the United Arab Emirates).

17. Loi organique n° 97-29 du 14 juillet 1967 relative à l'organisation judiciaire, au Conseil supérieur de la magistrature et au statut de la magistrature.

18. Information available on the website of the International Association of Women Judges at www.iawj.org.

19. Women in Leadership Roles, online discussion co-ordinated by the United Nations, Division for the Advancement of Women, Department of Economic and Social Affairs; hosted by Women Watch, supported by UNHCR; 19 November-15 December 2007.

20. Women Watch, UNESCO and UNHCR's consultation with the public on the role of women in leadership positions in non-governmental organisations and in labour unions incorporated the reports of technical experts in the civil society sector.

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Chapter 6

Female participation in the labour force across the MENA region

This chapter discusses female participation in the public sector and the labour force in general, as core drivers of the broader competitiveness and economic development in the MENA region. The chapter is mainly based on the findings of the MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership and CAWTAR legal research. The chapter shows that the public sector is the most prominent employer of women in the MENA region, similar to many OECD countries. It highlights the occupational and employment patterns of women, including their prevalence in socially oriented areas of employment and limited access to leadership posts. The chapter identifies barriers to workforce participation, including legal, institutional, economic and social ones, as well as barriers linked to political instability. To address these barriers, countries are putting in place a range of policy measures, yet adherence to international labour standards remains uneven. The chapter includes a set of good practices and provides policy recommendations to strengthen the current employment practices, including improving institutional frameworks to support gender equality, addressing gender-based discrimination in the public sector and reducing the pay gap.

Key findings

- The public sector is the most likely employer of women in the MENA region, yet despite the progress, women are under-represented in the central government workforce as compared to OECD countries.
- Women are also less represented in senior positions and generally tend to earn lower salaries than men in the public sector, although women generally have better access to middle management positions, particularly in Bahrain and Tunisia. The median salaries of women remain lower than those of men, which may also reflect the philosophy of the male "breadwinner" model.
- Most MENA countries ratified core International Labour Organization (ILO) conventions, yet only a few countries signed the C001 Hours of Work, C171 Night Work and C183 Maternity Protection (2000) conventions, which contain provisions protecting the rights of women, and taking into account their professional and family roles. There are also many important remaining gaps in domestic labour legislation, including workers' protection, work areas and night work provisions.
- While all countries in the MENA region provide for some maternity leave, the length of the leave and the level of benefits tend to be much lower than recommended by the ILO convention. In addition, in most MENA countries, the employer has to cover the direct and indirect costs of maternity leave, which may result in discriminatory attitudes for employing women.
- Other work-life balance measures in the public sector tend to be uneven across the region, including the availability of child care, parental leave and flexible working hours.
- Some MENA countries report establishing merit-based processes and employment equity programmes in the public sector; nonetheless, their implementation remains a challenge.

Female participation in the labour force is one of the key contributors to gender equality, the broader competitiveness and economic development of the MENA region and individual countries. It is important for countries and societies both at the level of the whole economy (at the macro and micro levels) and at the level of individuals (household and personal benefits) (Sen, 1990; Doepke and Tertilt, 2009).

At the level of the economy, women are a significant force whose contributions to local, national and global economies can be far-reaching, particularly with respect to increasing the competitiveness of the labour market and productivity gains (OECD, 2012a). Removing impediments that prevent and deter women from economic activities and opportunities is a vital element of creating stronger and fairer economies, and the promotion of the rule of law through substantive equality. Gender equality contributes to growth by capitalising on the overall level of human capital and labour productivity. Bringing women into the labour force expands the talent pool from which employers can draw, and this increases the efficiency of labour, which is the most important input in today's knowledge-based economies. Closing the gender gap in the labour force promotes diversity and stability, and improves the competiveness and integrity of the recruitment process for both public and private sector employment. In fact, estimates from an OECD study suggest that reducing the gender gap in employment is correlated with an increased impetus for economic growth, amounting to an overall rise of 12% of GDP over 20 years in OECD countries (OECD, 2012a). The study found that OECD countries that currently have larger gaps in employment would have higher gains in GDP if the gender gap were to be reduced (OECD, 2012a: 24-30).[1]

At the individual level, participation in economic life can provide women with more access to and control over resources, enabling them to fulfil individual aspirations with regard to their private and public lives by enhancing their bargaining powers in their families and society. Evidence from global studies also suggests that women tend to spend a greater share of their income on the education and health of their children and, therefore, an improvement of wage equality for women often translates to better welfare outcomes for individuals within the household (Qian, 2008). Evidence also points to the fact that this may lead to increases in human capital for the next generation, with potentially long-term growth effects.

An increased and equitable participation of women in the labour force responds to the transformative shifts outlined in the UN post-2015 Development Agenda, in which the issue of targeting equality for the benefit of women and girls was given special attention:

> A people-centred agenda must work to ensure the equal rights of women and girls, and empower them to participate and take on leadership roles in public life. Women across the world have to work hard to overcome significant barriers to opportunity. These barriers can only be removed when there is zero tolerance of discrimination, and of violence against and exploitation of women and girls, and when they have full and equal rights and voice in political, economic and public spheres. Women and girls must have equal access to financial services, infrastructure, the full range of health services including sexual, reproduction and health rights, water and sanitation, the equal right to own land and other assets, a safe environment in which to learn and apply their knowledge and skills, and an end to discrimination so they can receive equal pay for equal work, and have an equal voice in decision making. (United Nations, 2013)

This chapter explores issues related to female labour force participation, including in the public sector. First, it outlines women's employment trends in the MENA region, including in the public sector. Next, it assesses the legal framework for labour force participation, including its conformity to international standards. The chapter also examines policy measures used in MENA and OECD countries for improving female participation in the labour market. Finally, the chapter offers examples of good practices from MENA and OECD countries, and provides a set of conclusions and actionable policy recommendations to support decision makers in the MENA region.

Women's employment trends in the MENA region

Across the world, the past 30 years have witnessed significant improvements in women's labour market position. In OECD countries, while the gender gap in labour force participation varies widely, there was, on average, a nine percentage point reduction of the gender gap in labour market employment between 1990 and 2010. In 2010, there was an average of 65% of active women in the labour force, compared with only 58% in 1990 (OECD, 2012a: 150). Other regions such as sub-Saharan Africa, Latin America and the Caribbean, Eastern Europe and Central Asia, East Asia, and Pacific and South Asia have observed similar reductions in the gap between female and male labour force participation.

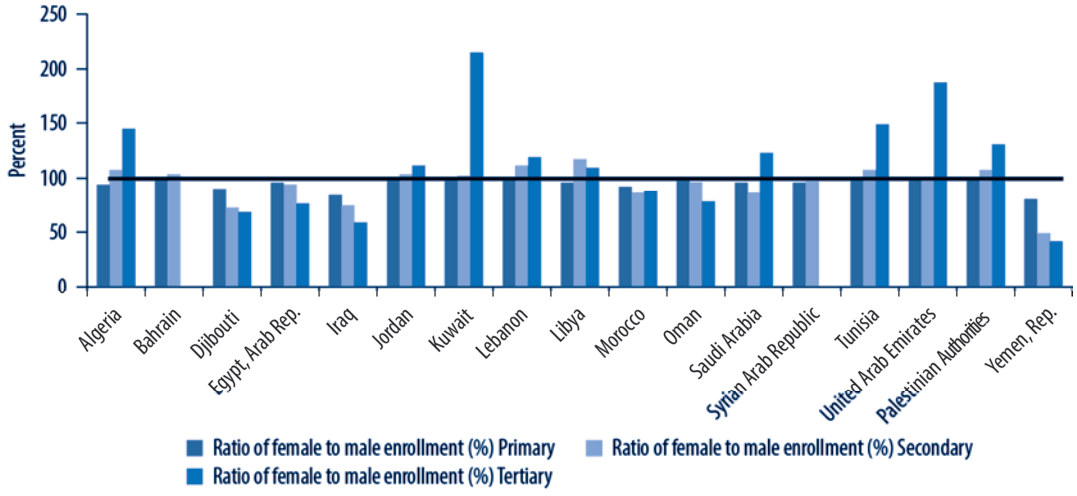
There remains room for improvement, however. Although the situation is improving, women remain under-employed in OECD countries compared to men. Women spend more time in part-time work then men: 25.3% of employed women are employed part-time, compared to only 8.6% of men, which may provide for greater flexibility, yet may

reduce women's access to better paid and full-time positions. In addition, across the globe, women are more likely to work in informal and unpaid employment (Berniel and Sánchez-Páramo, 2011). In OECD countries, women are under-represented in senior management positions (legislators, senior officials and managers in public and private sectors):[2] in 2011, 4.4% of employed women were senior managers, while the number was 75% higher for men (7.7%).

As noted in Chapter 1, in the MENA region, over the past two decades, the national rates of female labour force participation have increased in most countries, which is similar to global trends. The average female employment to population ratio in 2012 was about 27% in the MENA region, up from 22% in 1990 (World Bank, 2011a). There are significant national variations, with some countries reaching over 30% of female labour force participation (Bahrain, Djibouti, Kuwait and Qatar), while in others only one in 10 women is employed (e.g. Saudi Arabia and Yemen) (OECD, 2012c).

This increase can be partially attributed to improved educational opportunities and achievements. In the United Arab Emirates (UAE), for example, where women's educational attainment levels are considerable– a 10 percentage point increase from 1995 to 2006 in gross secondary enrolment ratio and a total of 60% of female students in total tertiary education in 2009,[3] although this includes a large number of foreign students –, women's enrolment was three times higher in 2010 than in 1995 (52,000 and 15,729, respectively).[4] In addition, the Emirati government policy for the public sector, which promotes the employment of Emirati nationals, provides incentives for women to join the public sector. Other reasons for this progress include the largely held consensus on the distributive impacts of overall economic growth (in certain countries) and the increased emphasis on equality in the labour market.

Figure 6.1. **Female-to-male enrolment ratios: MENA economies, 1976-2011**



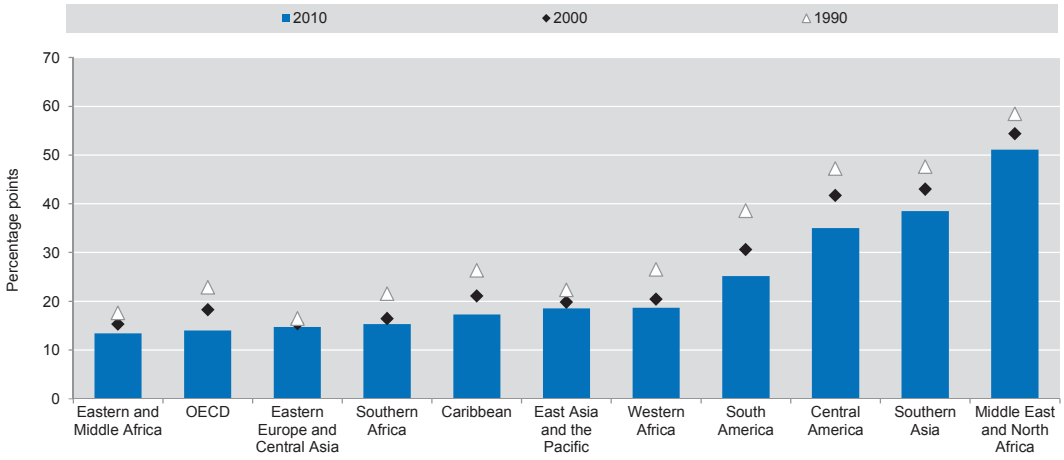
Note: The data gives the average values of the ratios for each available year of the period.

Source: World Bank WDI (2011), *Opening doors: Gender Equality and Development in the Middle East and North Africa*.

Nonetheless, improvements in education rates and the high potential of women in the MENA region have yet to translate into an equal role for women in economic and political life. In fact, gender gaps in labour force participation have narrowed, but the rate of women's participation in MENA countries remains the lowest in the world

(Figure 6.2), well below the worldwide female average (52% in 2009; World Bank, 2011b) and the labour force participation rate of men in the region[5] (75% in 2009). Across MENA countries, female labour force participation ranges from about 14% in Iraq to about 59% in Mauritania. In 2010, reported active female labour force participation in Tunisia was around 27%, compared with 25% in Lebanon, almost 23% in Bahrain, 25% in Egypt and 12% in Yemen.

Figure 6.2. **Gender gaps in labour force participation (male rates minus female rates) by world regions, 15-64 years old, 1990-2010**



Note: Includes unweighted averages for countries in each region. Regions are arranged from left to right in ascending order of 2010 gender gap in labour force participation.

Source: OECD (2012a), *Closing the Gender Gap: Act Now*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264179370-en, based on the OECD Annual Labour Force Survey indicators for OECD countries and the Russian Federation, and ILO KILM indicators for non-OECD countries (accessed February 2012).

Despite low labour force participation, women are more likely to be officially listed as unemployed in the MENA region and are increasingly seeking work: on average, up to one-fifth of women in the MENA countries were unemployed in 2007, compared to 10% of men (World Bank, 2011b). Across countries, overall unemployment tends to be higher in the North African countries and lower in the Gulf countries (World Economic Forum and OECD, 2011). In 2008-09, the female unemployment rate ranged from 10-12% in Algeria and Morocco to about 40% in Yemen.[6] In the Gulf Co-operation Council (GCC) countries, female unemployment rates ranged from about 2% in Kuwait to 16% in Saudi Arabia (World Bank, 2009c). Unemployment is particularly high among youth (15-24 years old), with an important gender gap: in 2007, almost half of all young women in Egypt and Jordan were unemployed compared to 17.2% of young men in Egypt and 23.7% in Jordan (World Bank, 2011b).

Women are also more likely to be a part of the informal market in some countries (e.g. Yemen, with its large agricultural production) and less likely in others (e.g. in Egypt, with its extended public sector).[7] In addition, World Development Indicators (2012) show that almost half of employed women in the MENA region find themselves in vulnerable jobs, which are unlikely to provide workers with social protection (e.g. in Morocco; World Bank, 2012b). Various trends in nationality restrictions and in the prevalence of foreign workers can potentially impact women's vulnerability in employment.

Box 6.1. **Spotlight on female and male labour force participation and employment rates in selected MENA countries**

In 2011, the male labour force participation rate was 65.3% in Algeria, whereas the female rate was only 14.2% (World Bank, 2011b: 23). In the last quarter of 2010, Algeria witnessed a female unemployment rate of 19.1% compared with a male unemployment rate of 8.1%. Female youth unemployment is a critical issue in Algeria: 37.4% of women, compared to 18.6% of men aged 16-24, were unemployed in 2010. Unemployment is particularly widespread among female university graduates: 33.6% of women holding a university degree were unemployed in 2010 compared to 11.1% of men. Data shows that the unemployment rate of female graduates is significantly higher, independently of their chosen field of study, which may be ascribed to a supposed "gender-biased" choice. No major gender differences exist with respect to the length of unemployment: in 2011, 74.8% of unemployed men and 71.3% of unemployed women were facing long-term unemployment, defined as unemployment for 12 or more months (Office national des statistiques, 2012a).

In the United Arab Emirates, the labour force participation of women nationals has risen constantly since 1980 and was three times higher in 2010 than in 1995. Over the same period, the participation of the female citizen population in the total citizen workforce also rose (United Nations, 2008: 35). The share of women nationals in the labour force is higher in Dubai and Abu Dhabi than in the other Emirates.[1] The increased participation of Emirati women in the labour force can be partially attributed to their improved educational opportunities and achievements. For nationals, education is free and compulsory until age 18. In Emirati schools, the share of female student nationals rose from 37% in 1977 to approximately 60% in 2007. Despite the significant growth of female participation in the labour force and the high potential of Emirati women, participation rates still remain fairly low. In 2010, male labour force participation was significantly higher than the female rate: 77% compared to 28%. When considering UAE nationals as a separate cohort, their labour force participation in 2010 represented approximately 37%, with a female share of 10%.

Note: 1. In 2010, the total UAE population accounted for approximately five million individuals, including 953,000 UAE nationals (19%). Women represented approximately one-third of the 2010 population, while women nationals represented an estimated 10% of the total population (468,000 individuals). In 2010, the working age group (15-59) represented about 73% of the population, and the total labour force participation rate reached 61.5%, with variations between the main economic hubs and the other Emirates (ranging from 68% in Dubai to 47% in Ras Al Kaimah).

Source: Office national des statistiques (Algeria) (2012a), *Collections Statistiques N 173, Enquête emploi auprès des ménages 2011*, Office national des statistiques, Algiers, www.ons.dz/IMG/PUBLICATION%20EMPLOI2011.pdf; information provided by the government of the United Arab Emirates.

In the Gulf countries, foreign workers constitute a significant share of the population (e.g. 77% in the UAE in 2000;[8] 94.2% in Qatar in 2010) and the labour force (e.g. 76.79% in Bahrain in 2014; Bahrain Labour Market Regulatory Authority, 2014). Although all Gulf countries supported the 2011 ILO Convention on Domestic Workers, foreign workers still often have little protection in terms of labour standards and rights, for example, with respect to job safety.[9] The situation of migrant women is particularly vulnerable, as they often enter these countries on the work visa of their foreign husband or, in the case of domestic workers, of their sponsor. Among the foreign workforce, women constitute a significant share of domestic workers (e.g. 60% in Qatar in 2009;[10] 43.04% in Bahrain in 2014[11]) and those in vulnerable employment. Because they often operate in a legal vacuum not covered by the provisions of the labour laws or specific regulations, domestic workers in Gulf countries often face various constraints in terms of labour standards and rights. In the UAE, however, domestic workers are covered by

special regulations. According to the UAE authorities, in June 2014, a new unified contract law for domestic workers has been enforced by the Ministry of Interior, setting out each party's rights and obligations. Additionally, those suffering any violations can contact the authorities, and use available sheltering and social support services.

Public sector employment of women

The public sector is the most prominent employer of women in the region (OECD, 2012a: 156), as it is seen to offer better conditions, although it also requires higher levels of education. The public sector offers better benefits (leave, pension and childcare services), higher job security, as well as shorter and more flexible working hours than the private sector. Most public sector jobs in the region now offer a secure and socially acceptable work environment that allows for better reconciliation of professional and personal life than in the private sector, which is an important determining factor for women in choosing a job. Wages and benefits in the public sector are also often more competitive and attractive than in the private sector. In many cases, the public sector provides higher salaries than the private sector, particularly at the local level and certainly for entry-level jobs. According to a recent report, the public sector wage bill in the MENA region is higher than other regions in the developing world, with 8.5% of GDP spent on the public sector wages. For this reason, and because such employment in the public sector is seen as providing a certain status and fair working conditions, the public sector is more attractive for women when compared to similar employment in the private sector (World Bank, 2013: 95-97).

> Local people start at 8 [in the morning] and finish at 3:30 [in the afternoon], so you can go home and stay with the kids. Although the public sector has lower wages than the private sector, [especially at the top,] it also has fewer hours. In the private sector people work longer hours and are paid more money. For women to be appointed to high positions and move in careers they would have to work longer hours and make more money; however, there is a resistance from families and husbands on this matter. (NGO, Egypt/International)

Indeed, in the public sector overall, which constitutes a significant share (20-35%) of total employment in the MENA region, women tend to be well or even over-represented (World Economic Forum, 2011; OECD, 2013b; LABOURSTA; OECD, 2012a). In Egypt, for example, the public sector accounts for 56% of employed women and 30% of employed men. In Jordan, 52% of the female workforce is employed in the public sector (OECD, 2012a; Hendy, 2012). This situation mirrors similar trends in OECD countries.

The past decade has seen a four percentage point increase in the share of women in the central governments of MENA countries, while there has not been any change in the representation of women in the labour force. Yet, despite this progress in central government representation, women remain under-represented (the OECD average is 50%; see Figure 6.3).

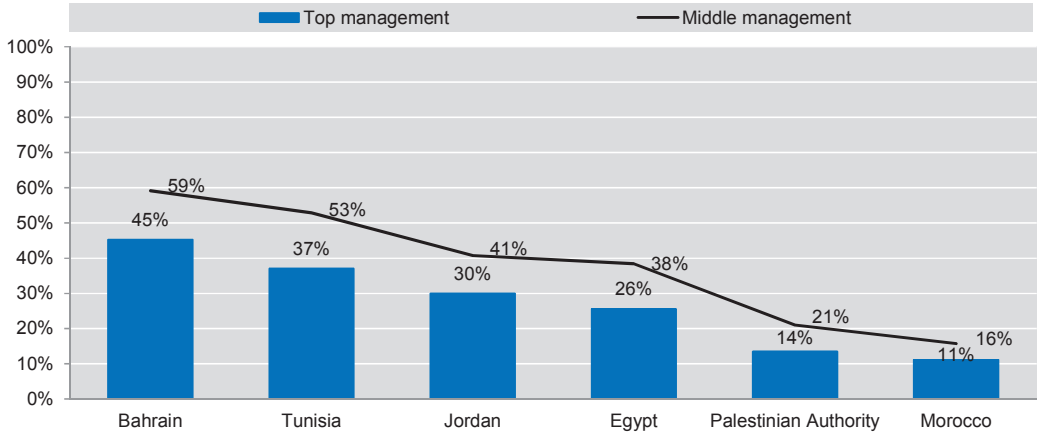
Not unlike in OECD countries, women are under-represented in senior public sector positions in the MENA region – which is known as "vertical segregation" – and tend generally to earn lower salaries than men. Indeed, the differences in salaries and benefits are affected both by vertical and horizontal segregation, as well as the incidence of part-time employment. Yet, women can reach middle management positions in the civil service more easily. For example, in Bahrain and Tunisia, there are more women in middle management positions than men (59% and 53%, respectively). This phenomenon is affected significantly by sequencing and may contribute to closing the gender gap at

the top level over time (Figure 6.4). Currently, however, the disparities between men and women increase as one climbs the organisational ladder.

Figure 6.3. **Female representation in central government and total labour force in the MENA region, 2005-10**

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014). Information for Bahraini percent of total female workforce consulted and calculated based on data available at the official webpage of the Labour Market Regulatory Authority, Bahrain Labour Market Indicators (http://lmra.bh/portal/en/home).

Figure 6.4. **Women employed in middle and senior management in the civil service of MENA countries, 2010**



Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Women still tend to work in the traditionally feminised areas (Box 6.2) and are over-represented in the service sector, thus contributing to horizontal segregation. In Morocco, for instance, women accounted for around 50% of employees in the Ministries of Health and Social Affairs, but only 4% in the General Directorate for Civil Protection and 6% in the General Directorate for National Security in 2009; in the UAE, women are also concentrated primarily in the traditionally feminised areas of social affairs, health

and education, and under-represented in the Ministries of Justice, Interior and Islamic Affairs. Interpretations of which jobs are deemed acceptable or unacceptable for women find reinforcement in discriminatory legal provisions that limit the type and hours of work (Egypt, Kuwait, Morocco, Saudi Arabia and Yemen) that are available to women. Such legal restrictions hamper women's access to employment in demanding fields such as the banking sector and as prosecutors.

Box 6.2. **Spotlight on gender-specific clusters in selected MENA countries**

Data for Algeria in 2011 reveals that the workforce of both women (63.1%) and men (30.3%) is concentrated in the non-merchandising service sector, including the public administration, defence, health and social sectors, as well as person-related and cleaning services. The percentage of employed women that work in the manufacturing industry reaches 21.5% (compared to 10.4% of working men); 19.5% of men are employed in the construction sector (compared to 1.6% of working women); 14.6% of men work in commerce (compared to 3.7% of working women); and 12.3% of men are in agricultural employment (compared to 3% of women) (Office national des statistiques, 2012a: 31). Data also shows that men headed 89.8% of enterprises in 2011 (798,026 out of 888,794 heads of enterprises) (Office national des statistiques, 2012b: 24, 77).

According to a study conducted by the Bahraini Labour Market Regulatory Authority (2014) for the first quarter of 2014, 84.84% of all men (nationals and non-nationals) are employed in the private sector, 7.25% in the public sector and 7.9% as domestic workers. The picture is substantially different for women: 37.07% of all women (nationals and non-nationals) are employed in the private sector, 19.89 % in the public sector and 43.04% as domestic workers. In 2014, 49.97% of women nationals were employed in the public sector, 50.03% in the private sector and none in domestic service. Bahraini women nationals made up 8.1% of total employment in 2014 and Bahraini men nationals 15.01%. Both women and men tend to have higher salaries in public sector employment than in private sector employment.

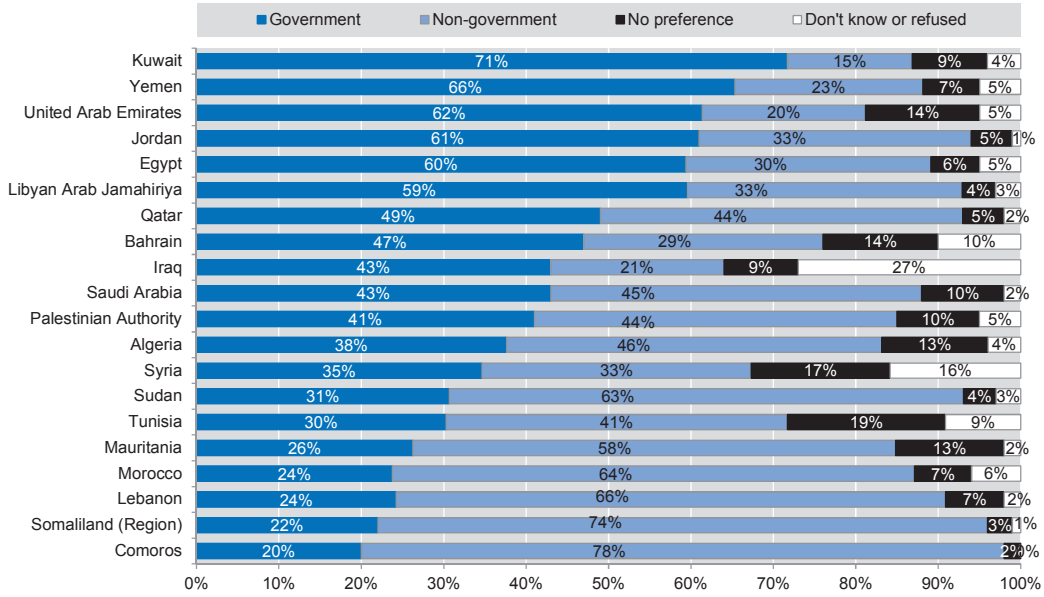
In 2011, almost nine out of 10 Qataris worked in the public sector, primarily in government ministries (71%) or in government-owned companies (16%). 68% of young Qatari men (aged 20-24) worked in the public administration, compared to 48% of young women (UNDP and General Secretariat for Development Planning, 2012). Women are represented in leadership positions primarily in the Ministries of Education and Health, the Supreme Council for Family Affairs and the Qatar University (Statistics Authority and Supreme Council for Family Affairs, 2011: 54).

The majority of Emirati working women are found in the public sector (80% in 2010) (World Bank, 2004: 79; Hewlett and Rashid, 2010: 103) In 2010, women represented 66% of the total public workforce (36,510 individuals) in federal institutions. Women nationals held the largest share of public sector employment (47.62%), while men nationals held the smallest share (16%).

Source: Office national des statistiques (Algeria) (2012b), *Collections Statistiques N 172, Premier recensement économique 2011, Résultats définitifs de la première phase*, pp. 24, 77, Office national des statistiques, Algiers, www.ons.dz/IMG/pdf/Resultats_definitifs_phase_I_RE2011.pdf; Statistics Authority and Supreme Council for Family Affairs (2011), "Woman and Man in the State of Qatar 2010: A Statistical Profile", p. 54; World Bank (2004), *Gender and Development in the Middle East and North Africa – Women in the Public Sphere*, p. 79, The International Bank for Reconstruction and Development/The World Bank, Washington, DC, www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2004/03/09/000090341_20040309152953/Rendered/PDF/281150PAPER0Gender010Development0in0MNA.pdf; Hewlett, S. A and R. Rashid (2010), "The Globe: The Battle for Female Talent in Emerging Markets", *Harvard Business Review*, p. 103, May, http://hbr.org/2010/05/the-globe-the-battle-for-female-talent-in-emerging-markets/ar/1; Information for Bahraini percent of total female workforce consulted and calculated based on data available at the official webpage of the Labour Market Regulatory Authority, Bahrain Labour Market Indicators http://blmi.lmra.bh/2014/06/mi_dashboard.xml (accessed 3 October 2014).

Finally, while the public sector remains the main employer of women in the MENA region and, although results vary by country, the data collected on perceptions demonstrates that, on average, women have the same preference for working in the public and the private sector, given equal benefits and working conditions (Figure 6.5). Given that the percentage of women in public sector employment is higher, this suggests either that women consider work in the public sector to be more advantageous for reasons related to salaries, benefits or working conditions, or that the public sector is more capable of promoting equality in hiring procedures, or both.

Figure 6.5. **Women's preferences for public sector versus private sector work in MENA countries**



Source: Gallup World Poll, 2012.

To summarise, while advances in women's education in the MENA region have empowered women to enter the active labour force, this has not yet translated to equal access of men and women to all economic and public opportunities, including in the public sector. Women are still more likely to be unemployed in countries across the region. While the public sector leads the way in terms of female employment, this is mainly because it provides a greater ability to balance work and family responsibilities, higher benefits, and a work environment considered conducive to women's employment. Nevertheless, women in the public sector continue to face vertical and horizontal segregation, as they are less often employed in management positions and continue to deal with traditionally feminised topics, such as education and social affairs.

Barriers to workforce participation

The research revealed that a wide range of persistent legal, social, political and economic barriers continues to hinder women's full participation at the higher levels of government employment and the labour market in the MENA region. Some of these barriers are linked to the traditional gender paradigm (Box 6.3) prevalent in the region and may have a detrimental impact on regional efforts to achieve women's full empowerment.

Legal barriers

As will be highlighted in the rest of this chapter and the report, there are persistent legal barriers that may restrict and women from paid work and create disincentives. These include restrictions on women's mobility and limited access to certain professions in some countries (e.g. judges, prosecutors), as well as rules related to legal guardianship and household status. Some countries in the region restrict women's mobility and choice by requiring their guardians' permission to obtain a passport, travel or work outside the home (World Bank, 2013: 77). Moreover, several provisions of the labour laws discriminate against women and against the families of working women. Some aspects of labour laws intended to protect motherhood and women, such as substantial restrictions on the types of acceptable jobs and women's right to night work, may actually discourage employers from hiring women in practice.

In some cases, women are treated differently in terms of non-wage benefits. Stipulations, for example, that do not grant similar retirement benefits and pensions can seriously undermine gender equality. According to a World Bank report on pensions (2005), women tend to receive more pension benefits; however, this is largely due to discriminatory practices in vesting periods, early retirement age differences and pension benefit schemes. Non-equal schemes for transferring survivor rights or differing conditionalities to access pensions are part of this phenomenon. In several MENA countries (e.g. Bahrain, Djibouti, Egypt, Jordan, Morocco and Yemen), female civil service pensions may not be transferred to husbands or only if specific conditions are met (usually inability to work), whereas the transfer of male pensions to females are not subject to the same conditions. Here the underlying "male-breadwinner" assumption may reduce incentives for women to work. In addition, women tend to have a significantly lower retirement age in the civil service, which, again, may reduce incentives to hire women and limit access to top-level positions. In Algeria, for example, women can claim early retirement at 45 years old after 14 years of contribution; men may claim early retirement only at 50 after 20 years of contribution (World Bank, 2005). The Jordanian law requires that every person working for an establishment of five or more employees be insured for retirement and other social security benefits. It is mandatory for Jordanian women to retire at 55 and for men at 60. This could deprive women of five years' worth of contributions to the retirement scheme. It is also a factor that results in men receiving better pensions than women.

Institutional barriers

As in a number of OECD and non-OECD countries, institutional obstacles to gender equality in employment in the MENA region include the failure of workplace and social institutions, which are historically organised around the male breadwinner family model, to keep pace with changing labour market trends. Job segregation, wage discrimination against women, and limited opportunities to reconcile professional and family life may still play a role in discouraging women from working in the MENA region. In some cases, the entrance and promotion rules of the judiciary and civil service may constitute additional institutional barriers to women's participation in employment and leadership by favouring political or informal appointments, which are often based on networks where women are usually less represented.

There has not been, to this day, a woman appointed to the position of governor in Egypt. Women in Egypt lag far behind in having the same opportunities in the labour market as men. Women do not have equal access to vocational training or training on

business and soft skills, which adds to the already huge barrier facing women in Egypt. Corruption, favouritism and nepotism are all factors to be taken into consideration as well; they apply to men and women, but not in the same degree. There is no real implementation of laws and regulations which protect women from discrimination in access to opportunities. (NGO, Egypt)

Box 6.3. **The traditional gender paradigm**

This paradigm is based on the recognition that: *i)* men and women differ biologically, and these biological differences determine their social function; *ii)* men and women carry different and complementary responsibilities within the family; and *iii)* they have different, but equitable rights associated with those responsibilities. The paradigm assumes that: a woman will marry (early); her recognised contribution to the family will be as a homemaker; households will be headed by a man who will retain the highest authority; and the man will have a job that will allow him to provide for his family. In return, women are expected to confine themselves to the family as wives and mothers – roles in which they are perceived as vulnerable and in need of protection. This protection is to be provided by the husband or by a close male family member. Men's responsibility as protectors is seen as a justification for their exercise of authority over women in all areas of decision making and action that relate to the public sphere. The traditional gender paradigm encompasses four elements, discussed below.

Centrality of the family

Constitutions, religion and legislation in the MENA region acknowledge the family, not the individual, as the primary building block of society. Both men and women agree that the centrality of the family in society is an important cultural asset. The value placed on the family suggests that women's ability to combine work with family responsibilities will be a key factor in increasing women's participation in the labour force.

Man as the sole breadwinner

In households across the world, men are usually considered as the primary breadwinners and heads of the household, but in many MENA countries, the man as head of the household continues to be written into law. Although this is gradually changing, several laws in the region refer to women and children in the same context as needing protection, which implies that women cannot and need not provide for themselves. Such provisions call into question women's right to work, as women's work is considered optional and unessential.

Imposition of social conditions on women by the "code of modesty"

A woman's honour is seen as central to the family's honour, reputation and social respect. Both women and men consider this as an important cultural distinction in MENA societies. The preservation of the family's reputation, however, is seen as the responsibility of the man, therefore, it is also considered to be his right to control the access of his female kin – wife or sister – to the outside world (the public sphere), including controlling her ability to work and travel.

Unequal power in the private sphere

Family laws throughout the region tend to treat men and women differently. While countries may differ on the specificities, family laws often specify the obligation for a wife to obey her husband, because he provides for her. A wife's disobedience can be a cause for divorce, and, consequently, the wife can lose financial support and custody of her children, who are usually given to the father after they pass infancy.

Source: World Bank (2004), *Gender and Development in the Middle East and North Africa – Women in the Public Sphere*, The International Bank for Reconstruction and Development/The World Bank, Washington, DC; World Bank (2013), *Opening Doors: Gender Equality and Development in the Middle East and North Africa*, The World Bank, Washington, DC, https://openknowledge.worldbank.org/handle/10986/12552.

Administrative barriers can also cause additional burdens that may affect women's equal access to government services. For example:

> Some forms of discrimination occur through banal methods, such as administrative barriers. Even in universities, those individuals working at the university [who are considered culturally austere] tried to make administrative processes more difficult for women. Last year [when there was a more conservative government in place], the process was longer […] Now [after the regime change], these people can no longer be as powerful. (NGO, a MENA country)

Other institutional barriers that need to be addressed include wage-setting policies and practices, or the role of the educational system and the media, which, in many cases, reinforce traditional gender roles. Improving unionisation and institutionalising workforce agreements that protect low-income workers can create incentives for women to stay in the workforce (OECD, 2012a: 172). Several government representatives from MENA countries noted the crucial role of the media and the educational system in promoting a positive image of women in public life and supporting women's participation in leadership:

> The media can do more for targeting women. A federal media strategy is needed here to raise awareness and "make women dream big". (A government representative from a MENA country)

> The educational system needs to support women in determining and voicing "who they want to be and what they want to do", because women learn from early childhood to suppress [their] own wishes and to follow the guidance of the family in regard to "appropriate and hazardous jobs". The educational system has to work on it from a human rights perspective, without jeopardising our social traditions. (A media representative from a MENA country)

The educational system, in particular, has a significant role to play in bridging the gap with rural, foreign and domestic workers.

Economic barriers

Economic barriers are present for women at both extremes of the socio-economic spectrum. In some cases, a lack of resources may hinder women from having access to higher paid employment either because of direct and opportunity costs associated with training and education or due to a lack of access to services that are affordable only for households above a certain level of income. Factors that may reduce economic barriers may include access to reliable and affordable transport, telecommunications, financial services, schooling and daycare options and basic needs such as shelter, food, electricity and water security.

Countries with high average per capita levels of income tend to have lower rates of women's employment than those with lower per capita income, where women must work to make a living. Some countries in the region, and in particular Gulf countries, enjoy a rich endowment of natural resources. The high natural resources-driven income available to citizens of Gulf countries coupled with generous public services inevitably reduces many women's need for employment income. In the Gulf economies, the focus on capital-intensive industries may be another explanation for the relatively low female labour force participation. In capital-intensive industries, the proportion of capital involved is usually much higher than the proportion of labour, and women worldwide tend to be under-represented in these sectors that encompass, for example, oil, chemicals and automobile industries. Yet, many high-income OECD countries, such as Norway –

which also boasts a rich oil endowment, manage to create a system of incentives, institutions and policy measures that enables women to exercise meaningful choices about economic and public participation and enjoy flexible work options. Moreover, generous transfers from the government to citizens for various purposes (from housing to family allowances) also reduce the need for employment. In addition, when subsidies are paid only to men in some MENA countries (Algeria and Kuwait; World Bank, 2013: 80), this further reduces women's incentives to work.

Arguably, the social contract that existed across many MENA countries shaped individual career choices of women such that women were keener to work in the public sector than in the private sector. This social contract between the government and citizens both in oil-rich and non-oil countries provided extensive social benefits to citizens and expanded public sector employment in exchange for citizen support. For women, the existence of this social contract encouraged them to study certain academic subjects in the hopes of getting a public sector job, which come with better salaries (at lower levels) and generous family benefits. While this created an expectation for employability in the public sector, it reduced incentives for women to compete for jobs in the private sector, particularly as it usually offers less favourable conditions than public sector jobs. In addition, generous benefits and subsidies, which allow women to abstain from paid employment, while helping to address social challenges tended to reinforce an image of women as homemakers. Following the recent political changes in a number of MENA countries, however, much of the social contract has been severed, leading to reduced public sector employment opportunities, which now makes it even more difficult for women to find jobs. This, however, presents an opportunity to rebalance the economies of the MENA region, introduce stronger merit-based processes in the public sector, build women's confidence, interest and skills to compete in private sector employment and, most importantly, address some of the discriminatory attitudes and legal provisions that persist in labour markets across the region. In addition, creating private sector jobs is critical to enable both men and women to compete in the labour market.

In addition, pay inequalities also tend to reduce women's incentives to join the labour force, although data on this issue are difficult to collect. Evidence from Egypt (23%) and Jordan (16%) demonstrate that a significant pay gap remains even when taking into account differences in women's sectors of work, work experience and educational attainment. The unaccounted differences in salaries imply discrimination in salary and benefit practices that disfavour women.

Finally, uneven access to childcare options and limited availabilities of maternity and parental leaves, as well as other work-life balance policy measures which could help avoid career interruptions also negatively affect women's employment patterns in the region.

Social barriers

Social barriers to women's employment are a key factor inhibiting women's equal participation in many countries. Women's political participation and access to decision-making positions are often limited due to fewer opportunities to exchange and mingle with those in power, the primacy of family responsibilities in women's lives and the traditional roles assigned to women in society.

As highlighted in the World Bank reports in 2004 and 2012, it is often the family, including husbands and brothers, who convey the message that women cannot be leaders and should stay at home (World Bank, 2004). Individuals reported being less favourable

to women's participation outside of the home. This was a trend perceived in several other regions, but is noteworthy because of its particularly strongly stance in the MENA region where a woman's place is considered to be within the household (World Bank, 2013: 63).

In addition, women in the MENA region devote a larger proportion of their time to unpaid labour, including household work, taking care of children, sick members of the household and the elderly. Despite educational achievements, women are more likely than men to drop out of the labour force after they get married and when they are of childbearing age; this was demonstrated in a recent study on Egypt and Jordan (OECD, 2012b: 80; Hendy, 2012). In OECD countries,12 including in those rich in resources, economic support and incentives for individuals and families (such as childcare provisions or paid leave benefits for fathers) are changing behaviours and shifting attitudes over time as well as contributing to a new division of labour with respect to sharing responsibilities in the household (OECD, 2011b; 2012a: 208, 210-11).

The practice of early marriage can also restrict women's career choices. Indeed, the dual effect of guardianship and early marriage places significant pressure on women to curb career choices, or remain out of the labour force entirely if not approved by male family members. Legal heritage and interpretation of *sharia* law can leave women vulnerable to having the legal capacity to marry set at an earlier age than that for boys. Early marriage restricts women's choices in regards to education, career and location. It has implications for access to marital property (especially relevant for female entrepreneurs) and inheritance (World Bank, 2013: 83).

Some government representatives interviewed during data collection reported that women are often taught to keep a low profile, not raise their voice or their eyes, and with the conviction that their capabilities are limited. Women are considered "too emotional to decide the fate of others," while, at the same time, they are expected to take control of their own destiny; contribute to the development of their family, society and their country; and enjoy their own human rights as primary claim holders.

Additional restrictions arise based on women's marital status, including their status as legal head of household and their right to convey citizenship to their children. They also have more difficulties than in the majority of other regions worldwide in choosing where to live, applying for a passport, getting a job, travelling outside the country and even travelling outside the home (World Bank, 2009b).

Political instability as a barrier

Further barriers associated with entry into the labour force include adverse political and social restrictions during times of crisis in fragile states and states in transition (e.g. Egypt, Libya, the Palestinian Authority and Yemen). Women living in fragile states are exposed to vulnerabilities due to military interventions and political instability. Examples from the Palestinian Authority demonstrate how the restrictions women face in travelling across administrative zones increase pre-existing pressures dominant in a largely patriarchal society structure. Several drafts of new constitutions have left out important legislative protections for women's equality. Examples from the previous transitional period in Egypt and Tunisia demonstrate that in fragile and transitional states, the protection of women's rights is vulnerable to being side-lined.

Because of this combination of factors, strong political will, engagement with local actors and a review of these barriers are required to strengthen the institutional and legal frameworks, undertake educational campaigns and create an enabling environment for

women both to access positions of power in the region and influence changes in social norms.

Legal and policy measures

To address the identified gaps and barriers in women's economic participation in the public sector in MENA countries it is important to put in place a range of necessary legal and policy initiatives, which could cover the following categories:

1. adherence to international labour standards
2. introducing work-life-balance measures, including maternity and child-related leave
3. strengthening civil service institutions, processes and conditions.

Adherence to international labour standards

There are several international instruments and standards that support equality between women and men in economic participation and employment practices. This section surveys those international instruments related to labour standards for men and women that offer guidelines for ensuring that gender equality in the workplace is protected by an adequate and equitable legal framework.

International labour standards

First, paragraphs 1 and 2 of Article 11 of the CEDAW cover almost all of the requirements of the ILO conventions, stating that:

- "States [p]arties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) [t]he right to work as an inalienable right of all human beings; (b) [t]he right to the same employment opportunities, including the application of the same criteria for selection in matters of employment; (c) [t]he right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training; (d) [t]he right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work; (e) [t]he right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave; (f) [t]he right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction."
- "In order to prevent discrimination against women on the grounds of marriage or maternity, and to ensure their effective right to work, [s]tates [p]rties shall take appropriate measures: (a) [t]o prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status; (b) [t]o introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances; (c) [t]o encourage the provision of the necessary supporting social services to enable parents to combine family obligations with

work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities; (d) [t]o provide special protection to women during pregnancy in types of work proved to be harmful to them (…)".

- Moreover, Article 15 (2) of the CEDAW states: "States [p]arties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals."
- Paragraph 1 of Article 16 of the CEDAW in turn requires the states parties to ensure, on a basis of equality of men and women: "the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration."[13]

In addition, the ILO Convention 111 related to Discrimination (Employment and Occupation) provides for the need to eliminate all forms of discrimination on the basis of race, colour, sex or religion in employment and occupation.

As noted in Chapter 1, most MENA countries have ratified the CEDAW, although many of them have expressed various reservations (see Table 2.1). Moreover, despite Emirati women's access to economic resources and enjoyment of property rights, the UAE is the only country that explicitly expressed reservations to Paragraph 2 of Article 15 of the CEDAW, which stipulates that "States [p]arties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals." Due to the high level of economic participation of women in the UAE, and also the property and ownership rights allowed by the *sharia*, it should be feasible for the UAE to remove the reservation to this article in the near future.

In addition, as highlighted in Table 6.1, most MENA countries ratified C029 Forced Labour Convention, C081 Labour Inspection Convention, C089 Night Work (Women) Convention (Revised), C100 Equal Remuneration Convention, C105 Abolition of Forced Labour Convention, C111 Discrimination (Employment and Occupation) Convention, C138 Minimum Age Convention and C182 Worst Forms of Child Labour Convention (1999). Yet only a few countries ratified C001 Hours of Work (Industry) Convention (1919), C171 Night Work Convention (1990) and C183 Maternity Protection Convention (2000). The C171 Night Work Convention of 1990, as well as the Maternity Protection Convention C183 of 2000, contain provisions protecting the rights of women and taking into account their professional and family roles and as such MENA countries are strongly encouraged to invest effort in endorsing them.

Consistency of national labour provisions with international standards

Gender equality and anti-discrimination in labour legislations

Women often experience discrimination in MENA countries and beyond in terms of being denied the same opportunities of access to the labour force or of equal remuneration for work of equal value.

Table 6.1. **Accession of MENA countries to core gender-relevant international labour conventions**

Core international labour conventions with gender relevance	Ratification of international labour conventions by MENA countries										
	Algeria	Egypt	Djibouti	Morocco	Tunisia	Lebanon	Kuwait	Yemen	Jordan	Bahrain	United Arab Emirates
C001 Hours of Work (Industry) Convention, 1919	×		×								×
C29 Forced Labour Convention, 1930	×	×	×	×	×	×	×	×	×	×	×
C081 Labour Inspection Convention, 1947	×	×	×	×	×	×	×	×	×		×
C089 Night Work (Women) Convention (Revised), 1948	×	×	×		×	×	×			×	×
C100 Equal Remuneration Convention, 1951	×	×	×	×	×	×		×	×		×
C105 Abolition of Forced Labour Convention, 1957	×	×		×	×	×	×	×	×	×	×
C111 Discrimination (Employment and Occupation) Convention, 1958	×	×	×	×	×	×	×	×	×	×	×
C138 Minimum Age Convention, 1973	×	×	×	×	×	×	×	×	×	×	×
C171 Night Work Convention, 1990	×										
C182 Worst Forms of Child Labour Convention, 1999	×	×	×	×	×	×	×	×	×	×	×
C183 Maternity Protection Convention, 2000	×			×							
Total	11	8	8	8	8	8	7	7	7	6	9

Note: 1. The content and ratification status of International Labour Organisation Conventions can be consulted at: www.ilo.org/ilolex/english/convdisp1.htm.

As stated above, Article 11 of the CEDAW seeks to ensure equal opportunities in employment, remuneration – including benefits, and treatment for women and men. Most countries in the MENA region have adopted and enshrined the principle of equality between men and women with respect to the labour law in their constitution and labour legislation (Box 6.2). There is no discrimination based on gender for access to public services (e.g. in Mauritania,[14] Tunisia[15] and the UAE[16]). Indeed, most of the labour legislations in MENA countries contain requirements to eliminate gender-based discrimination, especially in remuneration for equal jobs. Equal remuneration for equal jobs is guaranteed by national labour legislation (e.g. in Mauritania Article 191 of the labour law enshrines the principle of equal pay for equal work) and in some countries women have the right to work in all fields that fit with their nature and are not allowed to work in dangerous jobs. Similarly, according to the Saudi labour law promulgated by Royal Decree No. 51, Article 149, women in Saudi Arabia are allowed to work only in fields that are consistent with their nature and are prohibited to work in harmful or dangerous industries that can expose their health to risks.

In practice however, men and women do not always experience equal treatment and equal opportunities. The social and cultural norms that consider men as breadwinners remain a hindrance to effective participation of women in the labour market. Women often work in traditional, low-paid jobs (agriculture, teachers, nurses, social workers, public sector employees, informal jobs, etc.), without many opportunities for promotion. They may face discrimination in the workplace in terms of job opportunities, conditions or pay, and career advancement. In many countries, domestic workers are exposed to additional discrimination since they are excluded from the protection of the labour code.

Box 6.2. **Labour law provisions in MENA countries**

Country	
Algeria	Algeria's labour law contains provisions on the protection of female employees and on equal salaries for men and women. For example, Article 84 of the Algerian labour legislation stipulates that "employers must ensure equality in remuneration between workers for equal work without discrimination."
Djibouti	Article 137 of the labour law of Djibouti stipulates that "equal value work is entitled to equal remuneration to all workers regardless of their origin, sex…". Any clause in agreements, collective agreements and employment contracts that leads to discrimination of any kind between employees in the workplace on the basis of wages and working conditions, or on the basis of age, gender or the individual's social status, or those of his or her parents or next of kin, political beliefs or membership in a union, shall be null and void.
Egypt	In Egypt, the principle of equality at work based on justice and equal opportunity without discrimination is guaranteed by the state. In 1981, Labour Law 137 was enacted, which applied to all workers. The law afforded broad protection to employees, especially against exploitation and dismissal, of which the latter may only be justified in cases of serious misconduct. Moreover, Article 35 of Egypt's new 2003 Integrated Labour Law states: "It shall be prohibited to discriminate in wages on the basis of different sex, origin, language, religion or creed."
Jordan	The Jordanian Constitution enshrines the principle of equality between the sexes with respect to employment rights. The current Employment Law enshrines the principle of equal pay for both sexes, and the Civil Service By-law contains certain legal provisions that make it easier to apply this principle.
Kuwait	The Kuwaiti labour laws stipulate that "working women shall be entitled to similar wages to that of men for the same work."
Lebanon	All Lebanese citizens have the right to work in the civil service on the basis of merit under conditions provided for by law.
Morocco	Article 346 of the Moroccan labour law stipulates that "it shall be prohibited to discriminate in remuneration between men and women if the value of the work they perform is equal." Moreover, Article 9 of the Moroccan labour law stipulates that "Discrimination among workers on the grounds of sex or marital status shall be prohibited … since it [the discrimination] violates or infringes upon the equal opportunity principle, equal treatment in employment or job occupation, especially recruitment, vacation, distribution, vocational training, remuneration, promotion, benefiting from social advantages, disciplinary actions and dismissal." Article 478 of the same legislation notes that "private employment agencies shall be prohibited from discriminating [between people] on the grounds of sex that may affect the principle of equal opportunity and treatment at work." Article 152 of the Moroccan labour law states that "a female worker, whose pregnancy is substantiated by means of medical certification, shall be entitled to a 14-week maternity leave, unless requirements of the employment contract, collective employment agreement or by-laws otherwise state better conditions." Article 153 mandates that "female employees in childbed may not be employed during the seven consecutive weeks following childbirth." With respect to pay equality provisions, Article 346 of the Moroccan labour law states that "gender-based wage discrimination where men and women perform work of equal value is prohibited."
Palestinian Authority	The 2000 Palestinian labour law enshrines the principle of equality between men and women at work and stipulates in Article 7 that "it shall be prohibited to discriminate between men and women." It also prohibits discrimination in working conditions between employees. This legislation, however, does not extend to domestic workers.
Tunisia	The Tunisian labour law state that "it shall not be allowed to discriminate between men and women in the enforcement of the provisions of this code and its applicable provisions." Compared to labour laws in other Arab countries, Tunisian labour law affords greater protection for the rights of women, because it applies to industrial, commercial and agricultural entities, and their suppliers and subsidiaries, whatever their nature: public or private, religious or secular. It applies to entities irrespective of whether they have a professional or charitable nature, as well as to the liberal professions, small businesses, co-operatives, public companies, trade unions, associations and groups of any kind whatsoever.
United Arab Emirates	Article 32 of the United Arab Emirates labour law demands that women be equally remunerated for the same work as men.
Yemen	In Yemen, Employment Law No. (5) of 1995 establishes the principle of equality without discrimination between women and men in all working conditions, as well as in their rights, duties and relationships. It also recognises the need to achieve parity between men and women in jobs, and in the areas of promotion, salaries, training, re-training and social security (Article 42).
	Source: Developed by the OECD, based on CAWTAR legal research (2014)

Workers' protection

Labour laws provide a set of minimum legal requirements that employers and employees must comply with for commencing or terminating employment and during the period of employment. They refer to all types of measures concerning hiring (e.g. rules favouring disadvantaged groups, conditions for using temporary or fixed-term contracts) and firing (e.g. mandated pre-notification periods and special requirements for collective dismissals and short-time work schemes). These special protective measures will apply equally to all workers regardless of sex. This protective approach, therefore, is not sex-specific but requires improved treatment for all workers, regardless of sex.

In several MENA countries, labour laws date back to the 1970s. Increased exposure to international market forces has had an impact on labour relations in the MENA region and some countries (such as Egypt, Jordan, Morocco, Oman, Saudi Arabia and the West Bank and Gaza) have recently revised their labour codes to better adapt to international trade in order to enhance labour mobility. Employment protection in many MENA countries applies to elite workers in the public and private sectors. As such, despite the existence of rigid/protective labour laws, labour markets in the MENA region remain largely unregulated and quite flexible in nature.

Internationally accepted labour standards and norms governing the individual employment contract are recognised in ILO conventions and recommendations, some of which are summarised in Table 6.2. Seven out of 18 MENA countries have ratified all ILO core conventions (Algeria, Djibouti, Egypt, Israel, Tunisia and Yemen) but Bahrain has only ratified 5 of the 8 ILO core conventions, and Oman has ratified only 4 of them. Ratifying countries have committed themselves to apply the conventions in national law and practice and to report on their application at regular intervals. The ILO provides technical assistance if necessary.

Most MENA countries – such as Jordan, Lebanon, Morocco, Oman, Qatar, Saudi Arabia and the United Arab Emirates – have not yet ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (Convention No. 87). Although formally this international document is binding only to signatories, other non-signatory countries are increasingly aligning their labour legislation according to the norms and regulations stipulated in it. This convention is particularly important since it contains a comprehensive set of standards on freedom of association, including the right of workers and employers to establish and join organisations of their own choosing without previous authorisation.

While there is general consistency between domestic labour laws and the international conventions, some major gaps remain in terms of the protection afforded to some workers, including agricultural workers. For example, the reviewed labour laws in the MENA region often do not provide protection to some categories of workers, which is, for example, the case of agricultural and domestic workers. For example, the Tunisian labour law covers employees working in the agricultural sector but excludes domestic workers. Women constitute the majority of these two groups of workers.

Egypt and Lebanon exclude domestic workers and women in agriculture from its coverage. Similarly, the Jordanian, Tunisian and Djiboutian labour laws exclude domestic, agriculture and irrigation workers and their family members. The Palestinian labour law also excludes domestic employees and similar categories of workers. These gaps contradict the Arab Labour Agreement number 5 of 1976 on Arab Working Women and the Arab Agreement number 12 of 1980 on Agricultural Workers, which demand sufficient legislative protection for agricultural workers and require guarantees of their rights to be equivalent to those involved in other economic sectors and in line with the work conditions. The agreement also requires the provision of social insurance to agricultural workers.

Work areas and night work

International and national standards with regard to work areas and conditions focus primarily on providing:

- guidance for night work

- restrictions on night work during pregnancy, childbirth or illness
- guidance on hazardous employment.

In this regard, there are remaining compliance gaps in the MENA region in terms of women's night employment or employment types. The most widely shared protectionist measure among the countries studied restricts women from working the same night hours as men. This effectively distorts women's possibilities for employment in fields that require long or night hours (e.g. public prosecutor, banking executives, etc.). Too many protectionist measures that do not directly promote work-life balance may provide disincentives for employers to hire women.

More specifically, Article 1, paragraph (a) of the C171 Night Work Convention of 1990, stipulates that "the term night work means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m., to be determined by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements."

At the same time, some labour laws in MENA countries refer to 10-12 hours of night work, which is restricted to women, including the period from 7 p.m. to 7 a.m (e.g. Egypt). In some countries, women are not allowed to work by night between 8 p.m. and 7 a.m. (for example in Kuwait, according to Article 23 of the labour law). This may harm local professionals and businesses that provide services for women. Such restrictions, which prevent women from working during very long hours during the day, lead to gender-based discrimination in the labour market and may negatively affect women's opportunities for employment. These measures result in excluding women from particular types of work, while it is assumed, on the contrary, that men are suited to these types of labour. They limit the number of options open to women and deny them the freedom to choose in what kind of activities to engage, based on the possible presumption that they lack the capacity to make independent judgments as to whether they can work for long hours.

Second, in its Article 7, the ILO C171 Night Work Convention asserts the necessity of safeguarding women from the negative impacts of night work during pregnancy, after childbirth and during illness; this includes preventing women from working at night, provided that supportive evidence is furnished.

> Measures shall be taken to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work: (a) before and after childbirth, for a period of at least 16 weeks of which at least 8 weeks shall be before the expected date of childbirth; (b) for additional periods in respect of which a medical certificate is produced stating that it is necessary for the health of the mother or child: *i)* during pregnancy; *ii)* during a specified time beyond the period after childbirth fixed pursuant to subparagraph (a) above, the length of which shall be determined by the competent authority after consulting the most representative organi[s]ations of employers and workers.
>
> The measures referred to in Paragraph 1 of this article may include transfer to day work where this is possible, the provision of social security benefits or an extension of maternity leave. (Article 7, the ILO C171 Night Work Convention)
>
> During the periods referred to in Paragraph 1 of this article: (a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth; (b) the income of the woman worker shall be

maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured by any of the measures listed in Paragraph 2 of this article, by other appropriate measures or by a combination of these measures; (c) a woman worker shall not lose the benefits regarding status, seniority and access to promotion which may attach to her regular night work position.

The provisions of this article shall not have the effect of reducing the protection and benefits connected with maternity leave.

The integration of these provisions into labour laws varies across the region. All countries are therefore encouraged to endorse Convention C171 and domesticate its provisions (and for Algeria, which is the only country that ratified this convention, it is recommended to put in place effective mechanisms to support its effective implementation within national legal and institutional frameworks).

Table 6.3. **Overview of women's employment conditions in the MENA region**

Country	Can women work the same night hours as men?	Can women work in all industries?	Can pregnant and nursing women work the same hours and in the same industries as men and other women?
Algeria	No	Yes	Yes
Egypt, Arab Rep.	No	No	Yes
Jordan	No	No	Yes
Kuwait	No	No	Yes
Lebanon	Yes	No	Yes
Mauritania	No	No	Yes
Morocco	Yes	No	Yes
Oman	No	No	Yes
Saudi Arabia	No	No	Yes
Tunisia	No	No	Yes
United Arab Emirates	No	No	Yes
Yemen, Rep.	No	No	No

Source: World Bank (2012a), *Women, Business and the Law – Removing Barriers to Economic Inclusion*, The International Bank for Reconstruction and Development/The World Bank, Washington, DC, http://wbl.worldbank.org/~/media/FPDKM/WBL/Documents/Reports/2012/Women-Business-and-the-Law-2012.pdf.

Third, most labour laws include restrictions for women in relation to jobs which are considered hazardous and morally damaging; yet they vary in their definitions of "hazardous employment" and the prohibited working hours. Some of these social policies designed to protect female workers (such as restrictions on the types of jobs available to women and on their work schedules, as well as the possible benefits to which women may be eligible) may have controversial effects. They may end up favouring employing a man and discouraging employers to hire women because such positions are not allowed for women or would entail additional costs for employers. It may prevent women from competing with men for high-level positions and concentrate them in low-paying jobs.

In addition, the definition of hazardous and morally damaging jobs is not commonly agreed upon. For instance, Article 6 of the Arab Labour Agreement number 5 of 1976 on Arab Working Women states that "It shall be prohibited to employ women in dangerous and onerous jobs as well as jobs that are hazardous to health and morals as defined by the legislations of each country,". Article 101 of the Palestinian labour law prohibits the

employment of women in "dangerous or onerous jobs that are defined by the minister." Similarly, the Bahraini Jordanian and Yemeni labour laws contain a general prohibition of employing women in industries or professions that are dangerous and harmful to women's health. The Tunisian labour law, in turn, prohibits the employment of women, regardless of their age, and children below 18 for jobs below the earth's surface, such as mines, as well as in institutions where metal recovery, transformation and deposit activities are performed. Article 29 of the Emirati labour law prohibits the employment of women in dangerous, onerous, health hazardous and morally damaging jobs. Also, the law prohibits the employment of women in jobs defined by the Minister of Labour and Social Affairs.

Box 6.4. **Night work provisions in MENA countries**

In Algeria, women enjoy the rights afforded by the general conditions governing quality work and the prevention of occupational hazards. Algerian law forbids women from performing hazardous work harmful to their health; night work is prohibited unless a labour inspector is present with women who work at night.

In Egypt, women's employment is governed by Law 137 of 1981 (Sections 151-159) and Decrees 22 and 23 of 1982. Women cannot work between 8 p.m. and 7 a.m., except in special cases provided for by law; they cannot perform certain professions that may be detrimental to their health or moral standards.

Morocco's Labour Law No. 41, Article 172 concerning the employment of women at night, stipulates that women may be employed in any profession at night, taking their health and social situation into account, and after consultation with the most representative professional employers' organisations and trade unions. Subject to the provisions of Articles 175 and 176, it is prohibited to employ minors under the age of 16 at night. In the case of non-agricultural activities, night work is considered to be any work performed between 9 p.m. and 6 a.m. In agricultural professions, all work is considered to be night work. Article 173 adds that the provisions of the first and third paragraphs of Article 172 do not apply to entities that require continuous or seasonal work or that work with raw materials, the processing of materials or agricultural products subject to rapid deterioration between the hours of 8 p.m. and 5 a.m. In addition, Articles 179 and 181 provide that the employment of children of less than 18 years of age, women and disabled workers in stone quarries, underground jobs performed in deep mines or participation in activities that pose an extreme danger to them, exceed their capacities or result in the breach of public morals, is prohibited.

In Tunisia, according to Article 66 of the Labour Code, children over 14 years old and under 18 years of age, as well as women, may not be employed at night for more than 12 consecutive hours, which should include the hours between 10 p.m. and 6 a.m. Time periods during which the employment of children is prohibited differ in some regions, industries, companies or when the Minister of Social Affairs prescribes, by decree issued after consultation with the trade unions concerned, , provided that the night-time rest period includes the period between 11 p.m. and 7 a.m.

Article 27 of Federal Law No. 8 of 1980 implementing regulations on employment conditions in the United Arab Emirates provides that women are not permitted to work at night for a period of at least 11 consecutive hours, covering a longer period (i.e. nine hours between the hours of 10 p.m. and 7 a.m.). Women may not work at night, unless otherwise stated in specific decisions of the Minister of Labour and Social Affairs under Article 28. Night work does not apply in any case of *force majeure*, or, under Article 4a of Conventions No. 4, 41 and 89, when a company experiences an interruption to its operations that is unforeseen and not of a recurrent nature.

Box 6.4. **Night work provisions in MENA countries** (*cont.*)

Article 23 of Kuwait's Law No. 38 of 1964 on employment in the private sector prohibits night shifts for women, with the exception of work that requires the night-time presence of women in healthcare. Indeed, Article 23 stipulates the prohibition of night work for women between 7 p.m. and 6 a.m., with the exception of hospitals and clinics for the purposes of admission and treatment, and institutions established by a decision of the Minister of Social Affairs and Employment. In all cases, this remains subject to the terms of this article, and to the specific security requirements and provisions for communication with the employer. The employment of women in sectors that are not compatible with public morals, as well as organisations that provide services to men, is also prohibited.

According to a decision of the Minister of Health, taken in collaboration with the Minister for Employment, it is forbidden for women in Bahrain to work in an industry or profession that poses a danger or detriment to their health and to that of the foetus, if they are pregnant.

In Jordan, Employment Law No. 8 of 1996 stipulates that, by decision of the minister, women cannot be employed between 8 p.m. and 6 a.m., with some exceptions. The actual working hours must not exceed 10 hours a day.

In Lebanon, the labour legislation contains provisions relating to night-shift conditions and work that is deemed morally harmful. However, the provisions on the types of prohibited forms of employment and working hours vary, resulting in excessive protection in those areas of work open to women and limiting their ability to work in several fields.

In Yemen, night shifts are prohibited for women, except for those who work in hospitals. Working hours for pregnant women are limited to four hours a day until the sixth month of pregnancy, and five hours a day if they are breastfeeding, until the child reaches the age of six months. There is a ban on overtime work after the sixth month of pregnancy and for six months after the woman's return from maternity leave. There is also a ban on dismissing women from their job during maternity leave. By decision of the competent minister, a ban exists on the employment of women in industries where the work is difficult and endangers health, during the night or during the month of Ramadan.

Source: Developed by the OECD, based on CAWTAR legal research (2014).

Introducing work-life balance measures, including maternity and child-related leave

Maternity and child-related leave

International ILO conventions provide a number of important benefits for pregnant women and nursing mothers, including paid leave before and after childbirth, job protection during such leave and nursing on the job, to enable labour force attachment of women in their childrearing years. Employment-protected maternity leave can enhance the productivity of women and organisations alike. Contemporary evolutions suggest that the rights of fathers should also be considered in connection with late pregnancy and child care.

There are several elements of maternity provisions that may affect women's labour force attachment and an employer's willingness to hire women, including length, level of benefits, who bears the cost and provisions for fathers. First, in its Article 4 devoted to maternity leave, the C183 Maternity Protection Convention, from 2000, (ratified only by Algeria and Morocco) specifies a number of measures:

1. "On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks. (...)
2. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organi[s]ations of employers and workers.
3. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave."

The 2013 OECD Gender Recommendation also underlines the importance of providing employment-protected paid maternity and paternity leave to working mothers and fathers.

While all countries in the MENA region provide for some maternity leave (Table 6.4 and Box 6.5), the length of the leave and the level of benefits tend to be much lower than recommended by the ILO convention. Yet a period of leave much longer than provided for by conventions may also reduce the attachment of women to the labour market and can lead to an actual or perceived erosion of skills. In addition, it may lead to restrictions in the hiring of potential mothers due to direct and indirect costs to employers.

Table 6.4. **Overview of maternity leave provisions in the MENA region**

Country	Does the law mandate paid or unpaid maternity leave?	What percentage of wages is paid during the maternity leave?	Who pays maternity leave benefits?	What is the length in weeks?
Algeria	Yes	100%	Government	14 weeks
Egypt, Arab Rep.	Yes	100%	Employer	12 weeks
Jordan	Yes	100%	Employer	11.6 weeks for private sector and 15 weeks for public sector
Lebanon	Yes	100%	Employer	7 weeks
Mauritania	Yes	100%	Government	14 weeks
Morocco	Yes	67%	Government	14 weeks
Oman	Yes	75%	Employer	7 weeks*
Palestinian Authority	Yes	100%	Government	10 weeks
Saudi Arabia	Yes	50%	Employer	10 weeks
Tunisia	Yes	67%	Government	4 weeks
United Arab Emirates	Yes	100%	Employer	10 weeks
Yemen, Rep.	Yes	100%	Employer	8.6 weeks*

Note: * The calculation is based on a seven-day calendar week (50 days).

Source: Adapted from World Bank (2012a), *Women, Business and the Law – Removing Barriers to Economic Inclusion*, The International Bank for Reconstruction and Development/The World Bank, Washington, DC, http://wbl.worldbank.org/~/media/FPDKM/WBL/Documents/Reports/2012/Women-Business-and-the-Law-2012.pdf, based on the data from MENA countries collected by the OECD in 2011 and 2014.

Although formally not binding to provisions of a convention, maternity leave of 14 weeks has been established in Algeria and Morocco. In other MENA countries, the normal duration of the leave is shorter, being the shortest in Tunisia (30 days) and Bahrain (45 days).[17]

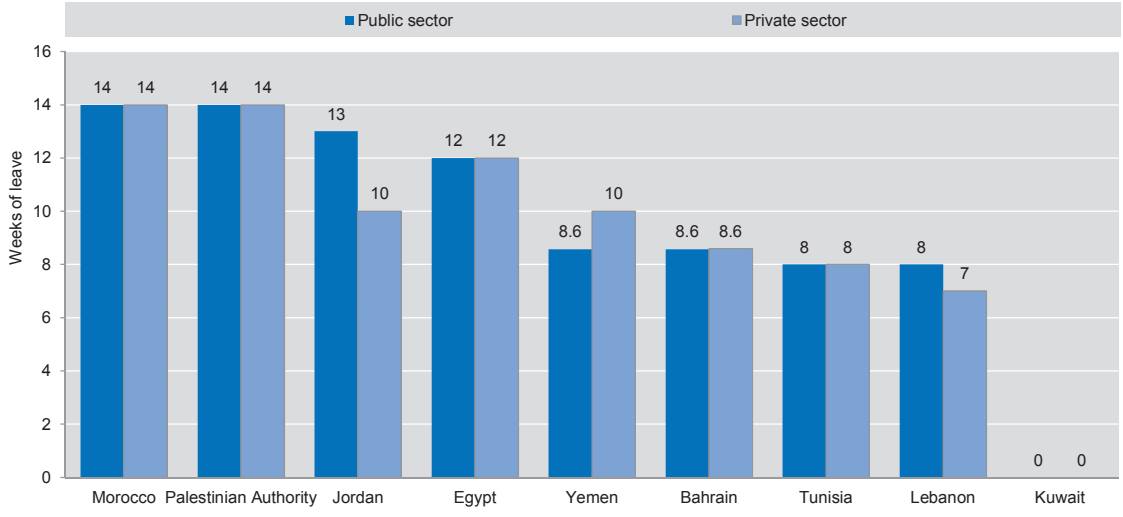
In some countries (Jordan, Lebanon), paid maternity leaves tend to be slightly longer in the central civil service than in private employment (Figure 6.6; OECD, 2011b). This longer benefit for women in the public sector may also be due to the larger representation of women in the public sector than the private sector in those countries where there are more women in public employment as a share of total employment than on average in the MENA region (World Bank, 2013: 95). In Tunisia, while the usual maternity leave is 30 days, female civil servants are entitled to 60 days (and may also take up to 4 months of postnatal leave after the expiry of maternity leave – a so-called optional maternity leave).

Some countries have established certain restrictions on maternity leave provisions. For example, in Egypt, a woman worker may not obtain maternity leave more than twice throughout her period of employment. In Libya, a female employee should have completed at least six months' continuous service with the same employer in order to be entitled to maternity leave.

Other important aspects of maternity leave provisions are the level of benefits and who bears the costs. Article 6 of the C183 Convention devoted to benefits during the maternity period addresses the right of women to receive minimum benefits corresponding to two-thirds of the woman's previous earnings before the leave.

1. Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on leave (referred to in Articles 4 or 5).
2. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.
3. Where, under national law or practice, cash benefits paid with respect to leave referred to in Article 4 are based on previous earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits. (…)
4. Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations, or in any other manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.
5. Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice. Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitali[s]ation care when necessary.
6. In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds or in a manner determined by national law and practice (…).

Figure 6.6. **Public versus private compulsory length of paid maternity leave in MENA countries, 2010**



Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

In approximately 50% of countries globally that provide paid maternity leave, the government pays the full cost of maternity benefits. In several countries in the MENA region, such as in Algeria, Iraq and Morocco, the cost of maternity benefits is covered by the social security system (Table 6.5). Although in such situations the employer does not bear direct costs for maternity leave, it does cause inconveniences associated with the need to find a replacement for the female worker or to secure a workplace upon the worker's return. In most MENA countries, however, it is the employer that has to cover the direct and indirect costs. There are no recorded instances of mixed payment schemes for these two types of childcare leaves between governments and employers (World Bank, 2012a). While for civil servants and public employees the source of relevant expenditures is the government budget – central or local – for small private businesses, maternity benefits might be a significant burden, and businesses might be hesitant to employ young women.

It would be highly recommended for the MENA countries to endorse the C171 Night Work Convention of 1990, as well as the Maternity Protection Convention C183 of 2000, given the fact that both conventions contain provisions protecting the rights of women, taking into account their professional and family roles. It would also be important to review the maternity leave provisions in domestic legislations to ensure alignment with international standards.

Finally, while not yet widespread in the MENA region (Table 6.6), most OECD countries provide paternity and parental leaves to support parents in their work and family decisions (in addition to maternity leave), although the length, coverage and extension of the leave varies across countries. Moreover, the current trends in many countries also include extending parental leave entitlements to fathers. In addition to allowing work associated with childrearing to be shared among family members and promoting bonding between children and their fathers, paternity and parental leaves also help to dissociate the costs of childrearing with mothers only, thus increasing the employability of women,

minimising the negative impact of childrearing on female wages (OECD, 2012a: 166) and reducing gender-based discrimination in the labour force.

Table 6.5. **Maternity leave provisions in MENA countries**

Country	
Algeria	Under Algerian law, employment termination before or after childbirth, as well as dismissal during the period before or just after birth, are prohibited. The law provides for one hour of rest per day for working women who are breastfeeding, a week of compulsory leave before birth and 14 weeks of paid leave after birth, and for the transfer during pregnancy of women who work in dangerous places at risk of radiation to other less dangerous locations.
Bahrain	Working women in Bahrain are entitled to paid maternity leave before and following childbirth for a duration of 60 days.[2] Women may be granted 15 days unpaid leave in addition to this leave. During the two years following the birth of her child, the employee is entitled to return to work after maternity leave and will be granted a period of rest not exceeding one full hour per day to breastfeed, in addition to rest periods granted to all workers.
Djibouti	In Djibouti, the employment legislation provides for 3.5 months maternity leave. In Morocco, pregnant women are entitled to 14 weeks maternity leave, unless there are more favourable provisions in a collective convention or internal regulations. Article 153 adds that pregnant employees may not be employed for a period of seven weeks after childbirth. The employer shall minimise work assigned to the employee during the period preceding and immediately following childbirth.
Egypt	In Egypt, women are entitled to 50 days of maternity leave, during which they receive 75% of their salary and have the right to keep their job. Women are not permitted to work during the first 40 days after childbirth. They are also entitled to two additional breaks, of 30 minutes each, for a period of 18 months following childbirth. In companies with more than 50 employees, women are entitled to one year of unpaid leave to care for their children. Employers must also provide a nursery or arrange nursery facilities nearby for the children of employees, although this article is often not applied. Women are now granted two periods of maternity leave in their professional lives (as opposed to three under the previous act). In addition, women may only take such leave after a period of 10 months of employment. The law excludes categories of employment such as cleaning personnel and the agricultural sector, which are not entitled to insurance.
Jordan	In Jordan, Law No. 8 of 1996 on employment provides the following for female workers: the right to paid maternity leave for a period of 70 days in the private sector and 90 days in the public sector; the right to a one hour rest period per day to breastfeed during nine months in the public sector; a requirement that an employer employing no fewer than 20 workers should provide them with a suitable place to care for children up to four years of age and if they have more than 10 children; and a ban on employers suspending pregnant women from the sixth month of pregnancy or during maternity leave. Non-compliance is punishable by a fine of no less than 100 dinars and not exceeding 500 dinars, and the penalty is doubled in case of recidivism. A requirement also exists that women employees be entitled to unpaid leave for a period not exceeding two years in the public sector, full time, to raise their children, with a guaranteed right to return to their employment after the end of this period; and each spouse is entitled to a one-off unpaid leave, not exceeding two years, to support his or her spouse if he or she secures work outside the kingdom in the private sector. In the public sector, according to the labour law, a spouse can have unpaid leave for 10 years to support her husband and accompany him if he has a contract to work outside the country.
Kuwait	In Kuwait, the text of the new law accords women a paid leave period of 70 days for the birth of a child. The employer may, after the end of maternity leave and upon application, grant a paid leave of a period of four months to care for the baby. The law prohibits the employer from terminating the employment contract during sick leave and upon presentation of a medical certificate as a result of pregnancy or childbirth (Article 24).
Lebanon	In Lebanon, all women have the right to maternity leave for a period of seven weeks, including the birth period and the period following it, upon presentation of a medical certificate indicating the probable date of birth. Women on maternity leave receive their salary. Women who have taken seven weeks of leave for childbirth are entitled to normal annual leave, and it is forbidden to suspend women during this period of leave, unless it is proven to be for other reasons.
Palestinian Authority	In the Palestinian Authority, the law grants women workers a maternity leave of 10 weeks before and after childbirth. However, they must have worked for 180 days to qualify for this leave, of which at least six weeks must be after childbirth (women may not be suspended during this leave). The draft employment law has no provisions as far as maternity allowance and childbirth expenses are concerned. Palestinian labour law does not foresee any provisions for setting up nurseries in the workplace, as is the case with some legislation in Arab countries in order to comply with the Arab Convention No. (5) of 1976.The law has granted women an hour a day to nurse their child for a period of one year. There is a prohibition on women working overtime during pregnancy and in the first six months after birth. It is also prohibited to dismiss women during their maternity leave. Women are entitled to unpaid leave to care for their child or to accompany their husband. There is also a prohibition on the employment of females in work that uses noxious and potentially hazardous substances. The ban does not cover other cases of work that are detrimental to the physical or mental health of women, as required by the Arab Convention No. (5) of 1976.

Table 6.5. **Maternity leave provisions in MENA countries** (*cont.*)

Country	
Tunisia	With respect to maternal leave, Article 64 of the Labour Code provides that "in establishments of various kinds, except for establishments in which only members of the employer's family are employed, a woman is: • Entitled to a 30-day maternity leave following childbirth by providing sufficient medical certification. This leave may be extended for each child for up to 15 days under verifiable circumstances supported by medical certification. • Entitled under all circumstances, if breastfeeding her child, to two half-hour nursing leaves a day during working hours for nine months from the date of childbirth." Article 64 further provides that "these two periods of leave are distinct and separate from leaves prescribed under Article 89. One of these leaves is designated for the morning work period and the other for the afternoon. Breastfeeding mothers may utilise such leaves at times designated in agreement with their employer. In the event that an agreement cannot be reached, these two periods of leave shall be used in the middle of each work period respectively. Such leaves are considered compensable time worked." Articles 94-101 of the Tunisian Labour Code (added by Law No. 62 of 15 July 1996) also stipulate that "full-time employees demoted to part-time status due to pregnancy, care for a child under six years of age or a disabled family member, shall have the right to return to full-time status subject to the availability of vacant full-time positions commensurate with their professional specialty."
United Arab Emirates	In the United Arab Emirates, a female employee is entitled to maternity leave for a period of 45 days. During this leave, the applicant will receive her full salary if she has worked at least one full year prior to the birth of the child. For employees who have worked less than a year, compensation is reduced to 50%. 100 days of unpaid leave may be granted at the end of maternity leave. A nursery is provided for the children of women working in the public/government sector.
Yemen	In Yemen, female employees are entitled to a paid maternity leave of 60 days, plus 20 days in the case of problems during birth, such as a caesarean or the birth of twins.

Notes: 1. International Labour Organisation. Conditions of Work and Employment Programme Database. 2. Information provided by the Government of Bahrain, reference to Article (32) of Labour Law, www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_structure=3&p_sc_id=2220&p_sc_id=2490&p_countries=BH.

Source: International Labour Organisation, *Conditions of Work and Employment Programme Database*, accessed 12 November 2013. Developed by OECD, based on CAWTAR's legal research, 2014.

Table 6.6. **Child-related leaves in the public sector in MENA countries**

	Yemen	Egypt	Lebanon	Jordan	Tunisia	Morocco	Bahrain	Palestinian Authority	Kuwait
Maternity leave (or pregnancy leave)	x	x	x	x	x	x	x	x	x
Home-care leave		x		x		x	x		
Parental leave		x		x					
Paternity leave									
Total	1	3	1	2	1	2	2	1	1

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

About half of OECD countries provide separate paternity leave entitlements, which are available only to fathers (Box 6.5). Several countries also take measures to increase the take-up of such leave entitlements by fathers by offering specific rights, income support and bonus parental leave schemes. In Portugal, for example, an extra month of parental leave is offered as a bonus if the father uses a month of his entitlement. As a result, the proportion of fathers taking parental leave increased from less than 10.1% in 2009 to 22.97% in 2010. This measure and trend was similarly observed in Germany (OECD, 2012a: 208-9).

While the use of parental and paternity leaves is not common across the region, including in the public sector (OECD, 2012a), some MENA countries already are introducing elements of an effective leave system to enable both parents to share childcare responsibilities. In Egypt's public sector, unpaid parental leave for women is provided for two years (World Bank, 2012b), while in the UAE fathers are allowed to take several days of statutory leave for the birth of a child. In the OECD, most countries have requirements to provide parental leaves in both the public and private sectors, with the paternity leave provisions available in most public sector employment frameworks. Moreover, the duration of maternity and paternity leave tends to be equal in the public and private sectors in OECD member countries. In fact, the 2013 OECD Gender Equality Recommendation underlines the importance of encouraging working fathers to take available care leave, for example by reserving part of the parental leave entitlement for the exclusive and non-transferable use by fathers.

Box 6.5. **Child-related leave arrangements in OECD countries**

A 2012 OECD report reviewed the work and family reconciliation policies of OECD member countries with the objective of identifying good practices (OECD, 2012a; 2007). The report provides several policy recommendations. In regard to parental leave, the report found that the inclusion of flexible leave entitlements, job protection and return guarantees in parental leave arrangements raises the employment rates of parents, in particular of mothers. The available evidence suggests that, in terms of labour market development and work continuity, the optimal parental leave is between four to six months in length. Longer leave periods tend to harm parents' individual career development and earnings and may also have negative impacts on employment rates. Leave periods shorter than four months are considered detrimental to the mother's health. Available evidence suggests that the child's development is negatively affected if new-borns do not receive full-time personal care in the first 6-12 months of their lives. The OECD report also concludes that public policies can encourage fathers to take paternity leave. If both parents share the responsibility for early childcare by taking parental leave, it is beneficial to female earnings and career prospects as well as employment trends.

Maternity leave (or pregnancy leave)

This includes employment-protected leaves of absence for employed women at or around the time of childbirth, or adoption in some countries. The ILO convention on maternity leave stipulates the period of leave to be at least 14 weeks. In most countries, beneficiaries may combine pre- and post-birth leave; in some countries a short period of pre-birth leave is compulsory as is a six- to ten-week leave period following birth. Almost all OECD countries provide for specific public income support payments tied to the maternity leave period. In almost all OECD member countries (except for Australia and the United States), women are entitled to a statutory paid maternity leave with employment protection. Maternity leave is usually remunerated at 100% of previous earnings, after a minimum period of employment (usually one year). In the Scandinavian countries, all mothers receive maternity leave benefits; in the Netherlands, the coverage is extended to part-time and temporary workers; and in Germany, students and unemployed women also receive maternity leave benefits. Legal entitlements to paternity leave exist in only 17 OECD countries and for shorter time periods.

Paternity leave

This includes employment-protected leaves of absence for employed fathers at the time of childbirth. Paternity leave is not stipulated by an ILO convention. Some OECD countries (Austria, Germany, Ireland and Switzerland) do not have general statutory paternity arrangements. Periods of paternity leave vary largely among OECD countries, from two days statutory paid leave in Greece, Luxembourg and the Netherlands to 90 calendar days in Slovenia.

Box 6.5. **Child-related leave arrangements in OECD countries** (*cont.*)

Parental leave

Parental leave is employment-protected leave of absence for employed parents, which is often supplementary to specific maternity and paternity leave periods (see above) – and usually, but not in all countries, follows the period of maternity leave. If there is no specified maternity leave, as in Australia, a portion of parental leave is reserved for women, to ensure a period of physical convalescence and recovery after childbirth. Entitlement to the parental leave period is individual, while entitlement to public income support is often family-based, so that only one parent can claim such support at any one time.

Home-care leaves

Home-care leave is leave to care for children until they are about three years old. These leaves can be a variation of parental leaves, and payments are not restricted to parents with a prior work attachment. In Finland and Norway, relevant income support payments are contingent on not using public daycare facilities. In general, payments are intended to supplement family income while one parent is at home or to purchase private care.

Short-term leave to care for sick children

Being able to care for a sick child is important to any working parent. In some countries, there are legal entitlements (for example, in Norway and Sweden there is a statutory right to take off work to mind for sick children); often, however, such provisions are covered in collective agreements. Arrangements are most generous in Sweden, where parents are entitled to take 60 days per annum to care for sick children; the system is used excessively (about 20% of sick days taken), as no doctor's certificate is required for sick children under 12. In Denmark, parents are entitled to take one day off work; thereafter, it is assumed that parents will be able to make other arrangements. Stipulations in collective agreements can take different forms, including allowing parents to take more days than the legal entitlement, topping up income support to full wages, allowing the use of workers' sick days to care for ill children. Often, however, arrangements are made on an *ad hoc* and informal basis, so that the overall importance of short-term leave to mind sick children is unknown, but is seems difficult to overestimate its value to working families.

Source: OECD (2007), *Babies and Bosses – Reconciling Work and Family Life: A Synthesis of Findings for OECD Countries*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264032477-en; *OECD Family Database www.oecd.org/social/soc/oecdfamilydatabase.htm*; OECD (2012a), *Closing the Gender Gap: Act Now*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264179370-en.

Other measures to facilitate work-life balance

A flexible and supportive work environment is critical to enable men and women to combine their work and family responsibilities effectively. It not only can boost employee morale but also improve the recruitment and retention of staff, in particular women who often shoulder family responsibilities. It has also been acknowledged in the OECD Recommendation on Gender Equality. Measures to facilitate work-life balance range from flexible employment, part-time work and childcare services.

In the MENA region, as in many places around the globe, women spend much more time than men on family care. A recent 2012 World Bank report notes that women spend much more time on household chores and childcare than men. Given the high value that the society places on the family, one of the key preconditions for the effective participation of women in the labour force in MENA countries is the ability to combine their family responsibilities with their professional duties. In the absence of well-designed

policies for reconciling work and private life, women are very likely to leave the labour force when they get married and have children.

Not unlike in OECD countries, the public sector in the MENA region is seen as offering much greater compatibility between family and professional duties than the private sector does. For example, a Moroccan study found that only 12% of married women join the labour force (compared to 79% of married men), and that 57% of married female employees work in the public sector (compared to 82% of married male employees; ministère de la Modernisation des secteurs publics, 2011).

Several MENA country governments confirm an increased focus on establishing measures to facilitate work-life balance measures, particularly in the public sector (Table 6.7). For example, specific measures for women who are breastfeeding that exist in most of the MENA countries studied in this report often include additional time and specified nursing areas for women (Bahrain, Egypt, Jordan, Kuwait, Morocco, the Palestinian Authority, Tunisia and Yemen). Leaves for sick family members, frequently associated with caring for sick children, are also often provided for women (Bahrain, Egypt, Jordan, Kuwait and Morocco). Pregnant women benefit from additional measures to facilitate work-life balance (Bahrain, Egypt, Jordan, Kuwait and Yemen). This may include provisions for specific physical changes in the work environment to accommodate pregnancy and restrictions on strenuous labour. In some cases, women also receive additional time off to care for elderly family members (Bahrain, Egypt, Jordan and Tunisia), as elder care often is considered part of women's private responsibilities. In Bahrain, Article 204 of the Executive Regulations of Civil Service Law issued by Law No. 35 of 2006 states that employees shall be entitled to a period not exceeding 60 days with full salary in order to tend to sick persons.

Similar to several OECD countries, part-time employment solutions are available to women under the rubric of improving work-life balance (Bahrain, Egypt, Tunisia and Yemen). Throughout the world, the availability of part-time employment raises female participation rates, as it allows women to combine work with family care. Indeed, in OECD countries, mothers are more likely to work part-time in order to reconcile their responsibilities in their private and work lives (OECD, 2012a: 162). The downside of part-time employment is that it may create segmented labour markets. Often part-time work also is characterised by lower wages and benefits, an absence of training, few prospects of promotion and reduced retirement benefits. Some countries encourage female labour force participation by providing flexible working hours for employees with children, which allows workers to adjust or personalise their working time; arrangements may include compressed working weeks (when employees work the full number of hours per week in a reduced number of days), job sharing (when two or more workers share one full-time position), or teleworking (which may permit workers to balance their work and home commitments). For example, Spain amended Article 34 of its 1995 Workers Bylaw in 2007 (with the constitutional Equality Act) to allow for the reconciliation of work and private life: "Workers will be entitled to adapt the duration and distribution of their working hours for the effective exercise of their right to reconciliation of personal, family and working life, in the terms laid down in the collective bargaining agreement or the agreement reached with the employer in keeping, as appropriate, with the provisions of the former." However, if not used carefully, part-time work can be detrimental to income equality and career advancement.

Table 6.7. **Work-life balance measures in MENA countries for employees of the central civil service**

	Yemen	Egypt	Lebanon	Jordan	Tunisia	Morocco	Bahrain	Palestinian Authority	Kuwait	United Arab Emirates
Specific measures for breastfeeding women	x	x		x	x	x	x	x	x	x
Leave for sick family member		x		x		x	x		x	x
Specific measures for pregnant women	x	x		x			x		x	x
Leave for elderly family member		x		x	x		x			x
Part-time employment solutions	x	x			x		x			x
Flexible start and working hours and time saving	x	x					x			x
Employer provided childcare facilities		x		x						x
Subsidies for childcare		x				x				x
Condensed/compressed work week							x			x
Teleworking										x
Other	x				x		x			x
Total	5	8	-	5	4	4	8	1	3	11

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014). UAE data with reference to Federal Authority for Government Human Resources, Labour Law.

Box 6.6. **Specific measures to accommodate the needs of breastfeeding women in the United Arab Emirates**

In the United Arab Emirates, female employees of the public sector are entitled to leave work for a period of two hours each day to breastfeed their child during the four months after the expiry of the (60-day long) maternity leave (Article 53(2) of Law No. 11 of 2008 on Human Resources in the Federal Government). Female employees of the private sector are entitled to breastfeed their child twice a day with each period not exceeding half an hour, for a period of 12 months after delivery (Article 31 of the Labour Law).

Source: Based on information from national consultations and legislations.

Similarly, childcare arrangements are arguably one of the most important factors in determining access to the labour force for married women of childbearing age. Increasing the participation of women in the labour force usually depends on the availability, affordability, flexibility and quality of such childcare services and serves to facilitate the expansion of female employment and progress in the labour market (OECD, 2007). Such provisions also indirectly improve women's status by recognising the legitimacy of mothers working outside their home. Indeed, OECD indicators demonstrate that the growing enrolment of children in childcare contributed to increased female employment in both full- and part-time work in OECD countries between 1980-2007 (OECD,

2012a: 160). Other policies implemented in OECD countries also have eased the burden of work-life balance on women. In addition, quality childcare arrangements can also support childhood development. This is also acknowledged in the 2013 OECD Recommendation on Gender Equality which recommends to countries to secure the availability of and access to affordable good-quality early childhood education and care.

In the MENA region, the availability of high-quality affordable childcare varies. Only a few countries reported employer-provided childcare facilities (Egypt and Jordan) or subsidies for childcare (Egypt, Morocco and Lebanon) (World Bank, 2009a). The United Arab Emirates have established a requirement for all ministries employing over 50 married women to provide childcare facilities.

Finally, flexible work-time arrangements, including alternative work schedules and telework, are important measures to facilitate work-life balance. These flexibilities give employees more control over when and where they can accomplish their best work. Telework, for instance, reduces the time spent commuting to and from work. Employees who have the opportunity to meet their family and work responsibilities without added stress show a positive improvement in job productivity. The availability of flexible work-time options can also improve the gender balance in the workplace. While some countries report using flexible working hours in the public sector (Bahrain, Egypt and Yemen) and a compressed working week (Bahrain), the use of these measures is very rare across the region. In addition, the 2013 OECD Recommendation on Gender Equality encourages countries to also provide incentives to fathers to use flexible work entitlements, promote a more temporary use of part-time work among men and women, provide incentives for women to participate more hours in the labour force, and raise awareness of gender stereotypes to encourage a more equal division of paid and unpaid work (household responsibilities) between men and women. Such equal use by men and women of available flexibilities can reduce hidden discrimination against women in the labour market, as they are often the ones that make use of these measures.

Overall, the region is making important progress in establishing measures to support combined responsibilities for family and work. As demonstrated in Table 6.7, however, the emphasis across the region is on the measures supporting the traditional responsibilities of women in the household, particularly those related to their reproductive and caretaker roles (e.g. measures for pregnant women's needs, measures for breastfeeding women and leave for a sick family member) and less related to their capacity to fulfil work responsibilities (telework, compressed work weeks and flexible working hours). For example, mothers employed in the public sector in Tunisia have the right by law to work part-time while receiving two-thirds of their salary, full social coverage and retirement benefits,[18] or in Egypt at the discretion of the employer. If this trend continues and/or expands, it risks reinforcement of the traditional gender paradigm in the region and further entrenchment of the stereotype of women as primarily in charge of family responsibilities. The experience of OECD countries shows the critical importance of other measures that provide more support to women and men as workers, including flexible work-time, part-time work, after-school childcare (Box 6.7 and Table 6.7) and which are delinked from associations with motherhood and available to both men and women. Such measures can enhance the professional image of women and reduce the perceived (and real) costs associated with women's employment.

Box 6.7. **Out-of-school hours (OSH) care services in Denmark, Sweden and the Canadian province of Quebec**

A comparison of working hours and school schedules implies that many (pre-)school children require additional care arrangements to cover the time before school starts, during lunchtime and after school (and sometimes from early afternoon onwards). This demand is increasingly met through the use of out-of-school-care services (OSH), which are the most developed in Denmark, Sweden and the Canadian province of Quebec.

For the past decade, four out of five school-age children in Denmark participated in OSH care (up from three out of five in the mid-1990s). No OECD country has OSH-care services that are integrated with the (pre-) school education curriculum, but in the countries where OSH care is provided on a large scale, programmes are often run in conjunction with pre-schools and primary schools. Frequently, leisure time facilities – as OSH services are known in Denmark – are located at schools and come under the management of the school principal (with a supervisory role for a parental board). They are funded through municipal education and culture budgets. Parental contributions are expected, however, and are not capped (unlike for childcare). Even so, on average, parents cover only about 30-40% of the costs.

In Sweden, OSH care services are generally provided in leisure time centres, whose number increased significantly during the 1990s. OSH services are available to children from ages 6 through 12. In general, OSH services are provided from 2 p.m. when school finishes until around 5 p.m. depending on parental working hours. Eighty percent of all six-, seven- and eight-year-olds use an OSH service, but from age nine onwards the desire to use OSH services diminishes rapidly (about 40% of all 6-12-year-olds make use of OSH care). For OSH care, the maximum fee for the first child is 2% of gross family income (with a maximum of about EUR 100 per month), and half that for the second and third child; children after the third are free of charge. The management of leisure time centres is integrated with primary school management to a large extent, and both institutions are supervised by the National Agency of Education.

In the province of Quebec, family policy reform in 1997 initiated a rapid growth of OSH care provision at subsidised fees, but at CAD 7 for 3 hours of care, OSH care is relatively expensive for parents (in comparison to 10 hours of childcare in a daycare centre for the same fee). In 2003, there were 1 579 registered out-of-school care services in Quebec (some of them covering several of the 2 000 primary schools in the province), which catered to 174 548 regular users (and 57 667 non-regular users), or about 38% of children aged 5-12. In 2001, this was considered somewhat below demand for OSH care, which was estimated at around 50% of all children in that age group.

Source: OECD (2007), *Babies and Bosses – Reconciling Work and Family Life: A Synthesis of Findings for OECD Countries*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264032477-en.

Strengthening civil service institutions, processes and conditions

Institutional frameworks

…to support gender equality in public sector employment

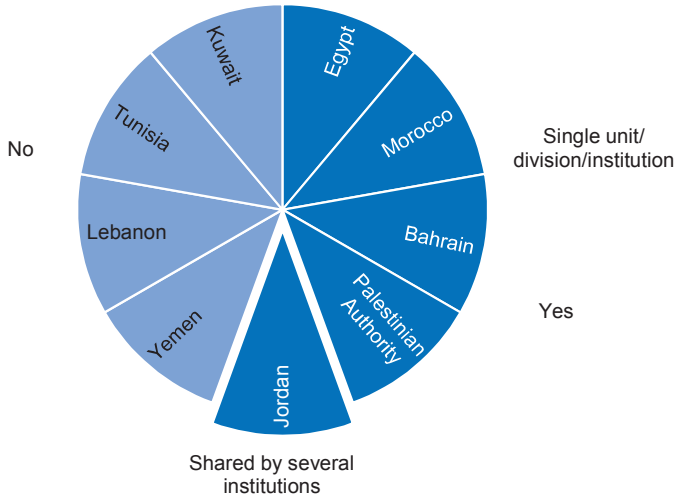
Sound institutions are critical for promoting gender equality more broadly and for ensuring gender balance in the workplace. Establishing specific institutional structures dedicated to dealing with the issues of gender in the public sector can provide the necessary capacity and sustainability to initiatives aimed at closing the representation gap in the public sector. Such institutions exist in approximately 80% of OECD countries. In the MENA region, Bahrain, Egypt, Jordan and Morocco report establishing structures

(units) specifically responsible for embedding gender concerns in public sector human resources management (HRM) processes (Figure 6.7). In Egypt and Jordan this is a function of the gender units in all ministries, which also provide leadership training to men and women and guidance for embedding gender considerations in ministry-level HRM procedures.

In Morocco, this unit is part of the Ministry of Public Service and the Modernisation of the Administration (*ministère de la Fonction publique et de la Modernisation de l'administration*) and focuses on designing, co-ordinating and implementing a gender-responsive human resources strategy in the public sector, as well the provision of gender mainstreaming training. Specifically, this unit is responsible for:

- mainstreaming gender equality in the structure and practices of the administration by strengthening the institutional capacity
- reducing gender disparities in HRM through capacity building and an advisory support policy for decision makers, stakeholders and ministries
- increasing the representation of women and their participation in decision-making positions
- promoting a balance between family and professional life.

Figure 6.7. **Institutions for promoting gender equality in HRM policies in the public sector across the MENA region**



Notes: Out of a total of nine country respondents. The response for Egypt included the Ministry of State and Administrative Development, and the Central Agency for Organisation. The response for Jordan included gender focal points within different institutions, the Ministry of Planning and the Ministry of Education. In a follow-up question, Morocco reported that the unit/division/institution was located in the central government agency responsible for HRM. In the Palestinian Authority, this is part of the responsibilities of the Gender Unit of the General Employees' Council.

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

A similar unit in Bahrain provides advice on the legal framework related to gender equality considerations, gender mainstreaming training, and leadership and guidance on embedding gender concerns in the general HRM process. None of the countries reported

prioritising a focus on pay systems to ensure equal pay for both equal work and work of equal value requiring similar qualifications.

In addition, oversight institutions can provide the necessary checks and enable accountability to ensure equal employment opportunities and the integrity of the recruitment and promotion processes in the public sector. Independent oversight structures are increasingly common in OECD countries to ensure the equal treatment of women and men in the recruitment and advancement process in the public sector and to enforce core values of merit and transparency.

For example, Canada employs an independent Public Service Commission responsible for monitoring the quality of the recruitment process. The commission has developed an active strategy to assess appointment systems, including audits, and can make recommendations to heads of public organisations. A Staffing Management Accountability Framework, similar to key performance indicators, allows heads of public organisations to identify, manage and mitigate appointment risks systematically, including risks of potential discrimination on the basis of gender.

The United States, in turn, uses an Equal Employment Opportunity Commission (EEOC), which enforces anti-discrimination laws by providing a complaint and dispute resolution mechanism to which public sector employees can signal unfair treatment or discrimination in the workplace based on gender, race and national origin. The EEOC regularly analyses workforce trends and data to identify shortcomings in relation to equal employment opportunities, which are reported via the Merit Systems Protection Board to the President and the Congress of the United States (US Merit Systems Protection Board, 2009: 67).

These examples can furnish useful guidance for countries in the MENA region engaged in strengthening their public sector institutional frameworks and ensuring effective oversight of the government HRM to enhance integrity, transparency and merit-based approaches in the selection, promotion and dismissal processes. Moving forward, it is important to build on reported progress and further strengthen independent oversight institutions and institutional structures focused on the promotion of gender equality across the public sector.

…to address gender-based discrimination in public sector employment

In many OECD countries, measures and policies for improving employment are integrated into the legal framework. For example, the 2001 German Federal Act on Equal Opportunities between Women and Men in the Federal Administration and the Courts of the Federation (Bundesgleichstellungsgesetz, 2001) sought to prevent gender-based discrimination in recruitment, professional development and promotion within the federal civil service and to improve the possibilities to reconcile the professional and personal lives of civil servants. The law stipulated, for instance, that job vacancies in federal agencies and ministries need to be drafted in gender-neutral language, that part-time and distance working solutions need to be made available, and that women have to represent at least half of the candidates convened for job interviews in those sectors where they are under-represented. Additionally, each department employing more than 100 employees had to establish an equality commissioner, elected among staff members, who reports on the progress with implementing the legal provisions of the federal act as well as with achieving the benchmarks of the department-specific gender equality plan.

Table 6.8. **Responsibilities of the institution promoting gender equality in public sector HRM in select MENA countries**

	Morocco	Egypt	Bahrain	Palestinian Authority
Providing leadership and guidance on gender and/or diversity-responsive human resource management in general		x	x	
Designing a gender and/or diversity responsive human resource strategy	x			
Co-ordination and supervision in the implementation of a gender-responsive human resource policy/strategy	x		x	
Providing advice on the legal framework related to gender equality/diversity considerations			x	x
Designing a pay system which ensures equal pay for equal (the same) work (pay equality)				
Designing a pay system which ensures equal pay for work of equal value, requiring similar qualifications (pay equity)				
Transmitting gender equality and/or diversity as a public service value	x	x	x	
Promoting gender equality across the civil service	x	x	x	x
Provision of gender mainstreaming training	x	x	x	x
Total	5	4	6	3

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

In MENA countries, restrictions remain on the employment of women, including in the public sector, with regard to night employment, employment types and other protectionist measures associated with childbearing and childrearing. This distorts women's possibilities for employment and may provide disincentives for employers to hire women.

Addressing legal restrictions through policies can be difficult if a strong political will and consensus do not support the reforms; however, promoting women in the legally restricted areas of employment may encourage a shift in culture towards women's participation in late or night employment. For example, in Algeria and Tunisia, recent trends indicate an increased prevalence of women in legal schools and a high prevalence of female jurists. The entry of Tunisian women into the legal field is contrary to that found Saudi Arabia, for example, where women are banned from practicing law (UNESCO, 2006).

Moreover, the experience of OECD countries shows that strengthening opportunities for inclusive social dialogue on gender-specific employment conditions is key to enhancing women's position and equal rights in the labour market. Social dialogue on gender-specific labour questions can encompass negotiation mechanisms, such as collective bargaining and dispute prevention, and resolution processes. These mechanisms can provide an important platform for female and male employees to discuss economic and social concerns related to employment.

MENA countries would benefit from strengthening mechanisms for collective bargaining between workers and employers on any issue related to the terms and conditions of employment, including wages and benefits (e.g. equal pay), leave (e.g. maternity/paternity/parental leave), hours of work (e.g. part-time, flexible working

time, job sharing), maternity and family responsibilities, dignity in the workplace (e.g. combating gender-based discrimination, sexual harassment and violence in the workplace), women's skill development, progress and representation in the organisation. In this context, countries may review their labour laws which currently do not contain provisions for collective bargaining.

Finally, a formalised and effective dispute prevention and resolution process can help women (and men) to settle their work grievances easily and in an orderly manner. By providing a platform for the systematic review of complaints and grievances, a dispute prevention and resolution process can help monitor instances of gender-based discrimination, arbitrary action and non-compliance with labour law provisions.

HRM processes in the public sector

Workforce planning

Workforce planning and management are indispensable tools to respond to labour market developments and maintain an appropriately dimensioned, efficient and representative public sector. The population of the region and the available workforce has changed dramatically over the past several decades. Globalisation caused an influx of foreign professionals and transformations in societal norms that have altered the workforce. Given labour shortages, demographic developments and women's improved education levels, the share of non-nationals and women in the future labour supply is expected to increase further. Consequently, it in the best interest of the public sector to utilise fully all segments of the workforce by recruiting qualified women and men from diverse social groups and backgrounds. Building a gender-balanced and representative public sector also has become a business necessity for the region in order to strengthen and maintain the quality and efficiency of public services. While workforce planning currently is very limited in the MENA region, the introduction of a strategic workforce planning function, which would be linked to the performance objectives of the public sector, would be very beneficial for the MENA region.

Merit-based processes

There is a keen recognition across OECD member countries that merit-based recruitment is critical to advancing gender equality in that it incorporates the principles of equal opportunity to ensure that the most capable person receives fair consideration and that positions are filled based on merit. It seeks to guarantee equal opportunities for women and men to compete for positions, ensuring that individuals are not denied employment opportunities because of attitudes, procedures, restrictive job requirements or physical barriers that discriminate against them. Transparent and merit-based recruitment thus has a strong potential to increase gender equality; it would provide opportunities to qualified women and men in the MENA countries to access public sector jobs, including at the senior levels. Merit-based recruitment can foster gender equality by relying on recruitment protocols based on qualifications and skills, irrespective of sex and social networks. When appointments are not based on merit, they tend to rely on political, formal or informal networks, where women are traditionally less represented or to which women have less access.

While some countries report establishing merit-based processes, implementation remains a challenge. To increase the transparency of recruitment decisions in the public sector, it is recommended that information on selection criteria and profiles of the

selected candidates be made publicly available. This would reduce reliance on social networks; likewise, it is important to ensure that men and women, irrespective of their location or ICT literacy, have a reasonable opportunity to apply and be considered for public service employment.

In terms of the key mechanisms, MENA governments could encourage greater use of structured assessments and a systematic approach to selection decisions. Establishing a standardised recruitment process, guidelines and tools would support the recruitment of staff with the right skills and competencies and bolster a focus on performance.

Encouraging employment equity and leadership development measures

Measures to extend women's access to a broad range of occupations are an important means of promoting both economic efficiency and gender equality globally and in the MENA region more specifically. In general, these measures include those targeted at the demand side, such as employment equity and affirmative action measures, and those focusing on strengthening the supply side, such as various leadership and skills development measures which enable women and men to acquire the necessary skills and experience to exercise leadership roles effectively. On the demand side, half of OECD countries report regularly assessing the gender balance of the central government workforce, while some countries, such as France, have quotas in the civil service as a statutory obligation. Austria, Germany, Ireland, the Netherlands, Switzerland and the United Kingdom have target-setting mechanisms in place while continuing to uphold merit-based employment by giving preference to female job candidates when they are equally qualified with their male counterparts. On the supply side, several OECD countries (Austria, Germany, Ireland, the Netherlands, Switzerland and the United Kingdom) have implemented leadership development and mentoring programmes for both men and women. These initiatives support women's career networks and exposure.

Similarly, on the demand side, there are examples in the MENA region of proactive approaches to strengthen gender balance in the public sector. For example, Bahrain, Egypt and Morocco report conducting gender balance assessments of the current government workforce. Egypt and Morocco have adopted measures to increase women's representation in sectors where they are traditionally less present, such as introducing measures to integrate gender diversity targets into performance agreements for top management (Morocco) and giving preference to equally qualified women in the civil service selection process (Egypt). Unfortunately, these examples remain the exception across the region rather than the rule (Table 6.9). Similarly, with regard to the supply side, there are only a few leadership development programmes in the region. One example is the training programme in Morocco described in Box 6.9, initiated by the Ministry of Public Sector Modernisation. In addition to this programme, a 2012 law encouraged the implementation of the principle of equality in public sector administration. The application of this law has led to the nomination of 16 women to top management positions. Female nominations constituted a total of 11.4% over a period of three months and there is demonstrated progress in the nomination of women to top management positions.

Table 6.9. **Use of measures to ensure gender equality in the central civil service in MENA countries**

	Yemen	Egypt	Lebanon	Jordan	Tunisia	Morocco	Bahrain	Palestinian Authority	Kuwait
Regular assessment of the gender balance of the current central government workforce		x				x	x	x	
Measures to increase women's representation in sectors where they are traditionally less represented (such as quotas)		x				x			
Establishment of independent complaint and disciplinary committees		x		x		x	x		
Legal provisions to guarantee pay equality (equal pay for equal work)				x	x		x		
Legal provisions to guarantee pay equity (equal pay for work of equal value, requiring similar qualifications)					x		x		
Regular assessments of jobs of equal value to ensure pay equity									
Integration of gender/diversity targets into performance agreements for top management						x			
Integration of gender/diversity targets into performance agreements for middle management									
Total	-	3	-	2	2	4	4	1	-

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

To this end, to address the remaining gaps in women's representation within the public sector, including at senior levels, and to correct the historical pattern of women's disadvantage in employment, MENA governments may consider:

- Undertaking more targeted programmes and initiatives, such as affirmative action/employment equity initiatives, and leadership development programmes, including mentorship and developmental assignments (Box 6.8). Such programmes could establish institutional mechanisms to eliminate barriers in the workplace so that no person is denied employment opportunities for reasons unrelated to ability. They can also help create fair and inclusive workplaces free of discriminatory barriers to the employment and advancement of all workers. Another possibility to address the question of representation could be the creation of a public service observatory, as in France, which provides information on gender imbalances by tracking the allocation of the workforce across sectors.

Box 6.8. **Employment equity initiatives in OECD countries**

In 1981, Norway introduced a Gender Equality Act including a requirement for gender balance in publicly appointed committees, boards and councils. In 1988, Norway specified that each gender must hold a minimum share of 40% in these entities. Then, in December 2003, the Norwegian parliament became the first government worldwide to establish a legal requirement for gender balance in state-owned enterprises and privately owned, public limited companies, which need to have at least 33-50% of each gender on their boards, depending on the size of the board.

Box 6.8. **Employment equity initiatives in OECD countries** (*cont.*)

In 2005, Canada enacted a Public Service Employment Act designed to facilitate the recruitment of the most qualified candidates to public sector positions, based on the principles of merit, representativeness and diversity. The recruitment is based on a transparent staffing system, which allows unsuccessful candidates to learn why they have not been considered for a position or were eliminated in the recruitment process. Moreover, unsuccessful candidates can file a complaint to the Public Service Staffing Tribunal if they suspect an abuse of authority during the hiring process. In line with its Employment Equity Act legislation, the Treasury Board of Canada Secretariat regularly reports on employment equity in the public service, which provides, among others, data on women's overall representation in the civil service as well as their distribution across departments and occupational categories, their tenure, salary level, and the hiring, promotion and dismissal of women in the federal civil service.[1]

The public service observatory in France

The observatory was created in 2000 to collect, analyse and disseminate information about France's public service for the national government, but also for hospitals, regions and local government. It is considered a forum for dialogue and exchange among decision makers and is composed of:

- an orientation council presided by the Minister for the Public Service and includes parliamentarians, directors of various ministries, elected officials from local governments, and various organisms and unions
- a technical committee, co-presided by the Director General in charge of the public service and the Head of the national statistical agency, and representatives of different technical administrations.

The general secretariat of the Observatory is administratively under the Director General of the public service. Its main functions are:

- To ensure a higher degree of transparency and understanding of public service numbers and trends by designing new ways to count public employees and by linking these numbers to changes in the economy, in competency requirements, etc. The observatory also has a proactive publication policy, with an annual report on the state of the public service, which has become a reference for decision makers engaged in government reforms.
- To implement new workforce planning for positions, numbers of employees and competencies.

In addition, the observatory participates in many networks and working groups on the modernisation of the public service as part of initiatives to modernise government in France.

Note: 1. The reports can be consulted at: www.tbs-sct.gc.ca/reports-rapports/ee/2009-2010/eetb-eng.asp.

Source: www.fonction-publique.gouv.fr, cited in OECD (2010a), *OECD Reviews of Human Resource Management in Government: Brazil 2010: Federal Government*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264082229-en, p. 67.

- Consider the establishment of targets to close representation gaps in the public service, including at the senior levels of government. The OECD report *Public Servants as Partners for Growth* (2011a) notes "there is a growing tendency to prefer the use of targets rather than quotas in OECD countries because targets constitute milestones to measure the achievement of goals, creating pressure for organisations to act. Targets may also be integrated into the performance

management processes to facilitate ministerial steering mechanisms. In consequence, targets rather than quotas can serve to improve accountability by offering indicators against which to measure performance" (OECD, 2011a: 201) Indeed, in Australia, the government of New South Wales launched a strategic plan in 2008 called "Making the Public Sector Work Better for Women 2008-2012",[19] which sought to encourage women to join, remain and progress in the public sector by setting concrete benchmarks regarding women's overall representation in the public sector, as well as in non-traditional and senior positions. Similarly, in Denmark, the government published a Governmental Action Plan for 2009-15, which gives prominence to improving gender outcomes in the workplace, including the civil service, and comprises specific de-segregation policies as well as policies to overcome the gender wage gap and women's under-representation in senior positions in the civil service.[20] Norway, as well, released a strategic plan in 2009 which addresses several interlinked questions, such as gender imbalances regarding part-time work, parental leave, pay gaps and women's access to management positions in the central government administration (Norwegian Ministry of Children and Equality, 2009). Government action plans with gender equality targets such as those adopted in Australia, Canada, the Netherlands and the United Kingdom recognise diversity more broadly and track the progress of other demographic groups into the senior ranks (including, for example, Indigenous women and women with disabilities). These strategic policy goals have often been translated into concrete measures in OECD member countries. The government of Switzerland, for example, developed an equal pay self-test, which allows managers to review their pay policies and to identify potential gender wage inequalities in the private or public sector (Département fédéral des finances et Office fédéral du personnel, 2009).

- Introduce and expand leadership development opportunities (training and mentoring and coaching opportunities) to increase female participation in senior management in order to increase equity, diversity and the size of the labour pool. For example, several OECD countries (e.g. Austria, Belgium, Sweden and the United Kingdom) have implemented mentoring programmes within the federal civil service. In Austria, female and male senior managers organised within an inter-ministerial network provide career guidance and counselling to female colleagues from a different federal ministry who seek to develop their leadership skills or apply for higher positions.[21] The Belgian government also established several policy measures to promote women's access to leadership in the federal civil service. In 2005, Belgium launched an online network called Felink that aims to support women in career networking across the federal civil service. Belgium also uses "top skills screening", which supports female employees of the federal civil service as they pursue leadership positions by offering women the possibility to participate in a simulated job interview that then evaluates their attainment of five managerial key competencies and provides a personal training plan.[22] In 2012, the initiative began its fourth edition and has produced significant results.

Box 6.9. **Morocco's initiatives to close the representation gaps of women in public employment and the reduction of the gender pay gap**

To identify gender inequalities, Morocco began in 2003 with an inventory of women's representation in the public sector, particularly in decision-making positions. A report developed by the Ministry of Public Sector Modernisation (ministère de la Modernisation des secteurs publics, MMSP) with support from the École nationale d'administration (ENA) and the University of Quebec (2003) revealed that women represented 31% of the total public sector workforce but only 10% of decision makers (covering positions from head of unit upwards) in 2001-02. It pointed to recruitment and promotion practices, as well as traditional cultural patterns, as the root of these gender imbalances, and drew attention to Moroccan legal texts that, in contrast, constitute a strong framework for gender equality.

A 2006 study by the MMSP (ministère de la Modernisation des secteurs publics, 2006) and figures provided by the Ministry of Economy and Finance in 2012 demonstrate that some progress is being made in moving women into higher level jobs. While the percentage of women in the total public sector workforce remains stable (rising slightly to 31.8 % in 2007)[1] women are somewhat better represented in decision-making positions in those ministries that have pursued gender-aware human resource policies actively over the study period. In the MMSP itself, for example (which includes the staff of ENA), women represented 43% of the total workforce and 22% of decision makers in 2008. In the judicial system, 44.5% of the civil servants are female and women in decision-making positions reached 34.4% in 2008, although a lower share of judges nationwide (18.9%) and judges employed by the central service of the Ministry of Justice (24.6%) were women. Less surprisingly, women were well represented in the traditional social service fields, reaching 37% of all staff in the Ministry of Education and 52% in the Ministry for Social Development.

Numbers do not tell the whole story, however. To tackle structural barriers, the MMSP worked to mainstream gender in human resource management, addressing four potential sources of inequality: pay and job classification, recruitment, promotion and evaluation, and access to professional development.

In the first area, an upcoming MMSP study will inform a new payment and job classification system based on merit and gender equality which will take employee qualifications, the complexity of the assigned tasks and job performance into account. The existing payment and job classification system defines 68 general job descriptions that, while determining pay and grading scales, do not consider either job requirements or individual performance. Drawing on experience from Canada, France, Tunisia and Turkey, the MMSP published a new *Job and Employment Handbook* (*Référentiel des emplois et des compétences*, REC) in December 2006. This handbook explicitly considers whether current requirements or job descriptions disadvantage women or discourage their application so that these sources of discrimination can be corrected as part of the broader reform to pay and classification. This is the type of review that converts mainstreaming from a slogan into concrete action.

Article 22 of the Public Sector Statute governs recruitment practices in the public sector (ministère de l'Économie et des Finances, 2009). In order to become a civil servant, all applicants must pass an admission test (*concours*) that guarantees equal access to the public sector. In practice, a growing number of public sector staff is hired on a contractual basis. Managers rely more on aptitude tests and individual interviews for specific, short-term and contractual job openings. In addition to being less time-consuming and more demand-oriented, the contractual recruitment procedure encourages women to apply for senior management positions. In 2005, the government adopted a new public sector promotion system based on merit and performance evaluation that was more gender-responsive.[2] However, the government recognises that the performance evaluation system remains a work in progress because it still relies too heavily on seniority rather than merit and does not yet incorporate specific sanctions or rewards.[3] Recognising that eliminating discriminatory practices requires sensitising supervisors to gender equality, the MMSP developed a gender-aware evaluation practice guide in 2010.

Box 6.9. **Morocco's initiatives to close the representation gaps of women in public employment and the reduction of the gender pay gap** (*cont.*)

In the fourth area, professional development, the MMSP has upgraded training opportunities.[4] The first step was to establish general guidelines for professional training and continued education, leading to specific training and capacity-building programmes for each subsector, and finally to create an inter-ministerial co-ordination and oversight commission for professional training supported by the MMSP. Morocco has pursued its strategy of first marshalling evidence and then developing new procedures in this area as well. The MMSP conducted a study to identify female civil servants' needs in leadership development and management capacity building and also completed a study on reconciling family and professional life as the basis for developing gender-responsive training programmes. This institutional approach demonstrates Morocco's commitment to moving beyond one-off programmes to institutionalising measures that can ensure long-term changes that support gender equality.

The Ministry of Economy and Finance shows how these measures, in combination, can lead to a significant improvement in gender-responsive human resource management. Between 2000 and 2007, 44% of the staff hired by the ministry were female, compared to just 5% in 1956. Although this still falls below Morocco's public sector average, the percentage of women holding decision-making positions reached 12% in 2008. This progress can be traced back to 1999 and the commitment of political leaders to the creation of a working group within the Ministry for Women's Empowerment. The working group produced studies on working conditions for women (2001) and on female management (2002). Together with the contractual recruitment procedure introduced in 2001, the ministry encouraged more women to apply (in 2008, 18% of applicants were women) and also raised the proportion of women hired (in 2008, 20% of new employees were women). By 2009, an internal study showed that 38% of the women in decision-making positions had been hired under the contractual recruitment procedure.

Notes: 1. Figure provided by the Ministry of Economy and Finance and the Ministry for Public Sector Modernisation. 2. Décret n° 2.04.403 of 2 December 2005. 3. Circular of the Prime Minister N° 1/99 of 7 January 1999. 4. Based on Decree n° 2.05.1366 of 2005.

Source: OECD (2010b), *Progress in Public Management in the Middle East and North Africa: Case Studies on Policy Reform*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264082076-en.

Addressing the pay gap

In the MENA region, not unlike in OECD countries, women currently earn lower salaries than men both in the public and private sectors. These gaps can be partially attributed to their relatively low representation in high-paying supervisory and executive positions (often referred to as vertical segregation), as well as women's concentration in lower paid jobs (often covering communication and administrative assistance tasks). Consequently, median salaries of women remain lower than those of men.[23] These wage disparities also may reflect the philosophy of the male "breadwinner" model, particularly if predominantly male managers previously set wages levels (in the absence of complaint mechanisms and a unified scale of degrees and salaries). In fact, some interviewed officials from national governments in the region reported that it was not desirable for women to earn more than their husbands. In fact, the role of women as a breadwinner is only accepted in the absence of a male within the household. Women's lower salaries, their childcare leaves or reduced working hours also impact their individual pensions irrelevant of the pensions of their husbands.

Differential treatment also concerns non-wage benefits; discrimination in this area reduces the returns for women's work and lowers incentives for their participation in the labour market.

Pay equality is a fundamental element of gender equality; however, ensuring equal pay for the same work is insufficient. It is also important to ensure that work of equal value, requiring similar qualifications, is paid on an equal basis (pay equity). Some OECD countries have established provisions for pay equity; in Canada, for example, the Pay Equity Act for Ontario requires that jobs be evaluated to compare work mostly or traditionally done by women to work mostly or traditionally done by men. If jobs are of comparable value, then female jobs must be paid at least the same as male jobs. Ensuring pay equity is important, particularly given that there is a noticeable degree of segregation in the public sector of MENA countries. Legal provisions to guarantee pay equality already exist in Bahrain, Jordan and Tunisia, whereas legal provisions to guarantee pay equity are in place only in Bahrain and Tunisia. As such, it is critical to ensure effective enforcement of the existing legal provisions for greater gender equality and to enhance the ability of individuals to bring forward complaints and seek reinstatement of their rights. The oversight institutions in MENA countries could be vested with the authority to investigate, mediate and resolve complaints with regard to pay equality and equity, as well as to oversee programmes comparing the value of jobs traditionally exercised by women and by men.

Overall, while women's participation in the labour market is gradually improving across MENA countries, progress is slow and uneven. To ensure compliance with international standards and to support women's economic empowerment and labour force participation, much-needed reforms involve strengthening work-life balance measures, reviewing legal restrictions to employment, reducing the gender pay gap, establishing effective institutions for promoting gender equality and developing strategies to close representation gaps across occupational groups and levels. Most importantly, comprehensive efforts are also required to reduce the existing barriers that prevent women's entry into the labour force due to legal, institutional, economic, social and political barriers.

Summary recommendations

Ensuring consistency of national labour legislation with international standards

- Ratify outstanding International Labour Organisation conventions (ILO), including the Night Work Convention, Maternity Protection Convention and Hours of Work Convention.
- Ensure incorporation of the ILO standards into the national legislations across the region, including embedding the principle of gender equality into the general provisions of the legislation, as well as equality with regard to all elements of remuneration.
- Remove unnecessary restrictions on the occupations of women and review the definition of "hazardous or dangerous jobs" in light of international standards in this area; amend labour law provisions based on the standards of Articles 1 and 2 of the ILO C171 Night Work Convention (1990) and either abolish the prohibition to employ women at night or reduce the number of "night work" hours.
- Consider reinforcing regulations protecting all categories of workers, including agricultural, domestic and similar types of workers.

Improving work-life balance

- Extend maternity leave provisions to ensure they are in accordance with the international standards, including Articles 4 and 6 of the ILO C183 Maternity Protection Convention (2000). This means ensuring a period of no less than 14 weeks of maternity leave with a 6-week post-natal compulsory leave after childbirth. In addition, salary and benefits should be ensured for a sum of no less than two-thirds of the woman's previous earnings.
- Review maternity leave provisions to: *i)* ensure that employers do not bear the costs of these leaves directly and that indirect financing mechanisms are used (e.g. social insurance funds), so as to not associate these costs with employing women; *ii)* ensure that the length of maternity leave does not significantly exceed the level recommended by the ILO C183 Maternity Protection Convention (2000); and *iii)* complement maternity leaves with parental and paternity leaves so as to dissociate the costs of childrearing with women as much as possible (see following recommendation).
- Consider introducing parental and paternity leaves to facilitate sharing childcare between both parents and a balanced approach to family planning.
- Facilitate effective childcare solutions, including hours of operation and availability of places to support female labour force participation.
- Design other policies that allow employees the flexibility to balance their private and public lives, such as compressed work weeks, telework and job sharing, either through government regulations and/or by building incentives for employers to provide these types of flexible solutions.
- Incorporate work-life balance measures into legislation and regulations in both the public and private sectors.

Strengthening HRM institutions, processes and employment conditions in the public sector

- Strengthen oversight and enforcement mechanisms to ensure effective implementation of legal provisions with regard to the public sector appointment system.
- Reinforce standardised and merit-based recruitment processes to support the recruitment of staff with the right skills and competences and to ensure equal access by both men and women to public employment opportunities.
- Adopt affirmative action programmes or specific measures, such as quotas or targets, to improve gender balance, as a temporary solution to increase women's representation
- Provide women and men with leadership development opportunities to enable equal access to senior posts through career counselling services, coaching and mentoring programmes.
- Improve employment conditions both in the public and the private sectors by ensuring pay equality and equity in practice, establishing and reinforcing existing social protection policies, and formalising dispute prevention and resolution processes to settle work grievances.

Notes

1. The study's projections are based on population projections for persons aged 15-64 years and over 15 for other estimates. The study assumes population ageing with low fertility rates.
2. Legislators, senior officials and managers, corresponding to category 1 of the International Standard Classification of Occupations (ISCO).
3. This refers to statistics from the UNESCO Institute for Statistics and corresponds to the data "Percentage of female students. Total Tertiary", www.uis.unesco.org/Pages/default.aspx, accessed 18 June 2013.
4. Although there is an issue with male enrolment in the UAE.
5. More specifically, the rate increased from 18.6% in the Middle East and 25% in North Africa in 1991 to 25.4% in the Middle East and 27.4% in North Africa in 2009 (International Labour Organisation, 2010).
6. World Bank GenderStats. Egypt, Jordan, Morocco: 2009 data. Algeria, United Arab Emirates and Yemen: 2008 data.
7 http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/SP-Discussion-papers/Labor-Market-DP/1201.pdf.
8. OECD calculations based on data provided by the UAE's National Bureau of Statistics.
9. Various media and policy reports. See, for example, www.ituc-csi.org/gulf-countries-should-revise; www.equaltimes.org/new-labour-contract-fails-to-protect-domestic-workers-in-the-gulf#.U-vFSPmSwcE.
10. Qatar Information Exchange, Data on Economically Active Population (+15) by nationality, sex and economic activity, www.qix.gov.qa/portal/page/portal/qix/subject_area/Statistics?subject_area=183 (2012).
11. Bahrain Labour Market Regulatory Authority (2014).
12. In the late 2000s, OECD countries spent approximately 2% of GDP on child and family benefits.
13. Most MENA countries have ratified the CEDAW, although many of them (Algeria, Bahrain, Egypt, Kuwait, Libya, Iraq, Jordan, Lebanon and Oman) have expressed reservations to Article 16. Article 16 requires states parties to take all appropriate measures to eliminate discrimination against women in all matters related to marriage and family relations. The Cabinet of Ministers of Bahrain agreed on 16 March 2014 to reformulate some of the reservations of the Kingdom of Bahrain on the CEDAW, and therefore the draft law was transferred to the Legislative Authority. The proposed amendment states "The Kingdom of Bahrain is committed to implement the provisions of Articles (2), (15) para (4) and (16) of the CEDAW without prejudice to the provisions of the Islamic *sharia*". (Information provided by the government of Bahrain).
14. Article 12 of the Mauritanian Constitution guarantees access to public functions to all citizens without discrimination based on gender, and Article 395 of the labour law guarantees equality for all employees without discrimination based on gender.

15. Article 5 bis of the Tunisian labour code guarantees equality between men and women with regards to access to public functions.

16. Article 9 of the Constitution guarantees the right to work with no discrimination between men and women.

17. Status of Ratification of the ILO C183 Maternity Protection Convention of 2000, www.ilo.org/ilolex/cgi-lex/ratifce.pl?C183.

18. Law No. 58 of 28 July 2006 on special part-time work arrangements guaranteeing two-thirds salary, full social coverage and retirement benefits for mothers. The law entered into force on 1 January 2007 by presidential decision.

19. The government of New South Wales has identified the four following benchmarks: retain women's representation in the public sector at a minimum of 60% between 2008-12; increase women's representation in non-traditional occupations from 16% in 2008 to 20% in 2012; increase women's representation in senior positions from 28% in 2008 to 35% in 2012; and reduce the persisting gender wage gap (Government of New South Wales, 2008). A summary of the strategy is available at: www.dpc.nsw.gov.au/__data/assets/pdf_file/0006/30300/Making_the_public_sector_work_better_for_women_-_Summary_2008-2012.pdf.

20. Among the 15 policy goals, the following objectives also relate to employment in the public sector: "Reduce the difference between lifetime incomes of women and men; more fathers take parental leave; coherence between working and family life must be the responsibility of both men and women; the gender-disaggregated choice of education and labour market is to be broken down; there must be more women in top management in both the private and the public sectors; better gender balance on the boards of listed companies". Report of the Minister for Gender Equality in Denmark to the parliament (2009), 2009 Perspectives and Action Plan, http://uk.lige.dk/files/PDF/gender_action_plan_2009.pdf.

21. More information on the Austrian mentoring programme in the federal civil service is available at: http://sektioniii.bka.gv.at/crossmentoring/cm_start.php.

22. The initiative evaluates the following five key competencies and provides capacity building to improve them: flexible and innovative thinking; vision and integrative capacities; responsibility and initiative; convincing and negotiating; collaborating and network development and network development. More information on the Top Skills Screening initiative is available at: www.selor.be/fr/egalit%C3%A9-des-chances/top-skills.

23. http://ftp.iza.org/dp5736.pdf.

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Chapter 7

Equality and judicial protection in family relations

This chapter examines the compliance of national legislation in MENA countries with key international standards in the area of family relations, nationality arrangements, physical integrity and access to justice. It argues that norms affecting women's and men's private arrangements have a strong impact on women's participation in public life. The chapter contains four main sections: family law, physical integrity, nationality and access to justice. Each section highlights respective international benchmarks, trends in domestic legislation and compliance gaps in the MENA region. In the area of family law and nationality, the chapter provides an overview of the remaining legal discriminations which continue to hamper women's equality with men. With regard to access to justice and gender-based violence, many countries recognise the outstanding issues and aim to address the remaining gaps through national reform agendas. Yet, further action is needed to enable equal access to justice and to eliminate violence against women, which appears to be on the rise following the recent uprisings in some countries in the region. The chapter concludes with policy options that could be undertaken by governments to address the remaining gaps.

Key findings

- Women's participation in public life continues to be hampered by legal constraints, including in the private domain. Thus while most MENA countries have ratified the CEDAW, many retain reservations to Article 16, which covers equality in marriage and dissolution of marriage. Consequently, family law in many MENA countries includes provisions which discriminate against women's rights. Legal gaps and national differences between MENA countries exist with respect to how women express consent to the marriage contract and marital guardianship, divorce, nubile age, custody of children and the number of people a spouse may marry. Discrimination also persists with regard to the right for inheritance.
- While countries report taking active steps to address violence against women, there are many gaps in the existing legal framework in this area, including the punishment of acts of domestic violence and sexual abuse. Further action is needed to collect robust data, increase awareness of inadmissibility of gender-based violence and strengthen law enforcement.
- In most MENA countries women do not enjoy the same nationality rights as men (with restrictions on passing her nationality to a child from the marriage to a foreigner or to her foreign husband), which violates Article 9 of the CEDAW.
- Women tend to have less access to, and ownership of, judicial processes, as a result of institutional and legal impediments, limited awareness and understanding, and persistent societal restrictions. Women's ability to access justice equally is also restricted by their subordinate status in other areas of life such as family law in some MENA countries.

As noted throughout this report, legal differentiations (or discrimination) between men and women across the MENA region in areas such as access to state institutions, property, employment, credit and the judicial system, serve as strong deterrents to women's participation in the public sphere (World Bank, 2013). Some of these legal provisions impact women's participation more than others. Discrimination is the biggest obstacle that impedes women's achievement of human rights. It expands to encompass public and private domains as well as civil, political, economic, social and cultural rights.

Other common practices and accepted social norms reflected in legal provisions also define individual behaviour on a daily basis. In the MENA region, as in many other countries in the world, these norms derive from patriarchal ideas that dictate the home as the proper sphere for women's participation; indeed, men and women in the region place a high value on women's place in the household (World Bank, 2013). Yet, with women's increasing educational achievements and the growing openness of MENA societies, these values are gradually evolving to encourage women's participation in public life. Nevertheless, enabling women's full empowerment will require profound institutional, policy and legal changes and responses, particularly given that the laws and policies in the MENA region, which differentiate between the sexes, are reinforced by traditional gender roles. The patriarchal traditions that prevail in Arab countries sometimes turn discrimination into emotional, physical and sexual violence. The policies sought by Arab countries also turn discrimination against women into violence that affects women's health and their fragile social situation.

Progress has already been made on several fronts across the MENA region. International conventions guide signatories to emphasise women's equality and promote a vision of inclusive governance for women in both rural and urban areas. These

international benchmarks offer a roadmap for the promotion of women's access to justice and improved physical integrity. Many countries aim to advance gender equality through national reform agendas that adopt new laws and institutional arrangements aimed to increase women's access to justice and protection of their physical integrity. Civil society organisations in the region are active in promoting awareness of women's rights and advocating for greater gender equality.

Despite this progress, many gaps still remain. These efforts need further strengthening to be sustainable, to have a genuine impact on eliminating discriminatory provisions embedded in many laws across the region, and to build institutions capable of protecting women's rights and granting equal access to justice. This chapter assesses the legal, policy and institutional frameworks guiding some of the key areas of family relations and private life in the MENA region, which ultimately impact women's ability to fully participate in economic and public life. More specifically, the chapter consists of four main sections – family law, physical integrity, nationality and access to justice – that are key elements affecting women's participation in the public sphere.

Each section highlights international benchmarks, trends in domestic legislation and compliance gaps in the MENA region. The first section analyses provisions in family law that affect women in the private domain. The second deals with actions taken by governments to promote the protection of physical integrity through: legal frameworks, data collection and monitoring, law enforcement and legal services, and an action plan to combat violence. The third section addresses equality in nationality law, while the final section on access to justice highlights factors influencing awareness and understanding of women's rights, mechanisms to access justice and the social barriers that inhibit such access.

Family law

International standards

CEDAW

Adopted in 1979 by the UN General Assembly, the Convention on the Elimination of all Forms of Discrimination against Women (the CEDAW) is the only human rights treaty that affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. Countries that have ratified or acceded to the convention are legally bound to put its provisions into practice.

The CEDAW is often described as an international bill of rights for women. By accepting the convention, countries commit to undertaking a series of measures to end discrimination against women in all forms, including:

- incorporating the principle of equality of men and women in their legal systems, abolishing all discriminatory laws and adopting appropriate ones prohibiting discrimination against women
- establishing tribunals and other public institutions to ensure the effective protection of women against discrimination
- ensuring the elimination of all acts of discrimination against women by persons, organisations or enterprises.

These measures are fundamental to guaranteeing equality and should be reflected in all related laws.

Although most MENA countries have ratified the CEDAW, many reservations[1] were made by Arab countries such as Algeria, Bahrain,[2] Egypt, Jordan and Lebanon to Article 16 of the convention that covers equality in marriage and dissolution of marriage (Table 2.1). Its provisions are critical to women's ability to live as equal partners in the family and care for themselves and their children.

These reservations included the following:

- paragraph (a), which states: "The same right to enter into marriage"
- paragraph (b), which states: "The same right to freely choose a spouse and to enter into marriage only with their free and full consent"
- paragraph (c), which states: "The same rights and responsibilities during marriage and at its dissolution"
- paragraph (d), which states: "The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount"
- paragraph(f), which states: "The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount"
- paragraph (g), which states: "The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation."

While the CEDAW does not prohibit reservations, challenges to the central principles of the convention are contrary to the provisions of the convention and to general international law. Other states parties may challenge such reservations. Moreover, Article 28, paragraph 2 of the convention adopts the impermissibility principle contained in the Vienna Convention on the Law of Treaties, which states that a reservation incompatible with the object and purpose of a convention shall not be permitted.

The CEDAW Committee has repeatedly noted with concern the extent of these reservations and considers them invalid because they are incompatible with the object and purpose of the convention. It has consistently called upon states parties to withdraw them and ensure that their legal systems conform to the convention in general and to Article 16 in particular. The committee has stressed that Article 16 (among others) is "central to the object and purpose of the convention and that the reservations impact negatively on the enjoyment by women of their rights." As such, the reservations to Article 16 contradict the convention's core principles of equality between men and women, and can undermine countries' efforts to achieve gender equality.

In light of these considerations and to ensure that women fully enjoy all their human rights, including those provided by the CEDAW, MENA countries may consider narrowing or lifting their reservations to Article 16.

Indeed, following civil society's and international organisations' actions inciting states to remove their reservations, Jordan responded with regard to Article 9 and paragraph 4 of Article 15; Algeria and Egypt with regard to paragraph 2 of Article 9; Morocco with regard to paragraph 2 of Article 9 and Article 16; and in April 2014

Tunisia lifted its reservations to Articles 9, 15, 16 and 29 but maintained a general declaration stating that the country "shall not take any organi[s]ational or legislative decision in conformity with the requirements of this [c]onvention where such a decision would conflict with the provisions of Chapter I of the Tunisian Constitution." Chapter I of the Constitution states that the religion of the country is Islam.

Convention on the Rights of the Child

The UN Convention on the Rights of the Child (CRC), adopted by the UN General Assembly in 1989, enumerates the basic human rights to which children everywhere are entitled, including their civil, political, economic, social, health and cultural rights. All governments (including MENA countries), except Somalia and the United States, have ratified the CRC. Some of these rights affect women's rights.

The CRC's Article 1 defines the period of childhood as follows "(...) a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."

Paragraph 1 of Article 3 refers to the best interest of the child by identifying duty bearers, while paragraph 2 clarifies the duties of the state as well as the rights and duties of the parents and/or legal guardian. Article 3 may inspire MENA countries to adapt their national legislation. It states:

> In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
>
> States [p]arties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures (...).

Article 9 of the CRC, in turn, addresses the separation of a child from one or both parents and refers to the necessary measures to be taken by the state in this context:

> States [p]arties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
>
> In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
>
> States [p]arties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests (...).

These international standards suggest that the interests of the child should be taken into account without any consideration related to age, unless a child is in desperate need of care and protection. See Table 2.1 for the list of countries that officially ratified this convention.

Conformity with international standards of family law across the MENA region

Although most countries included in the study provide for the equality principle in their constitutions, family law tends to discriminate against women, as it is mainly based on religious interpretations, cultural legacies, a patriarchal system, and customs and traditions that restrict women thus limiting their access to public and economic life.

Family law in MENA countries has three permanent features, each posing individual challenges: absence of legal unity, gender inequality and inequality between Muslims and non-Muslims. Indeed, there is a large disparity and great differences between countries in the region. In some countries, such as Tunisia, clear progress has been made regarding family law legislation and the right to a nationality. On the contrary, in other countries many areas of discrimination still exist in legislation, not to mention the diverse and multiple traditions tied to the different religious communities (Muslim, Christian or even Jewish), which makes it difficult or even impossible to elaborate a unified family law. Although the population in Arab countries is mostly made up of Muslims, they are also composed of Christians, Jews and other small religious communities. Most of these countries have no unified family law. However, some of them have established a unified legislative and judicial framework for all their citizens.

In Tunisia, for instance, all Tunisian citizens, irrespective of their religion, have been obeying a Code of Personal Status since 1956, and only state courts have the jurisdiction to dispense justice. This does not mean, however, that the law treats them equally. For instance, a non-Muslim man still does not have the right to marry a Muslim woman. Some of these countries do not yet have a codified family law for their Muslim citizens. That is the case, for example, in Bahrain[3] and Saudi Arabia. In Egypt, the state has abolished the jurisdictions of all religious groups with Act 642/1955, but the laws of these groups are still effective. In addition to the Muslim legislative system, Egypt still has several Christian and Jewish systems. As far as the Muslim community is concerned, instead of having a consistent family code, Egypt has several incomplete rules that settle different matters. This partly explains why the opinion of the Hanafi School is still referred to today. However, in Egypt, some family law standards of Muslim background apply to all Egyptian citizens, regardless of their religion – e.g. capacity, guardianship, testamentary succession and donation. In certain Arab countries, Muslim people obey special jurisdictions according to their orientation. In Bahrain and Lebanon, there is, for instance, a jurisdiction for Sunnis and another for Shias, each of them with their own non-codified laws. However, in the case of Bahrain, the Family Law (Part 1), which concerns the Sunni sect, was promulgated under Law No. 19 of 2009.

In most countries, family laws restrict women's rights and duties at home, with men considered the heads of the family and decision makers with regard to family matters and children (except in Algeria and Morocco).

Legal reforms in some MENA countries have mainly focused on the following issues of family law and the right to a nationality: fixed marriageable age at 18; reinforcement of the principle of mutual consent in marriages by abrogating the institution of matrimonial guardianship; strengthening women's role in establishing the prenuptial agreement and defining its terms; abrogating the obedience of the wife to her husband; banning or limiting polygamy; marital rights and duties regulation; limitation of divorce by unilateral demand; granting more rights to women in case of arbitrary divorce; strengthening the right of women to ask for a divorce; acquisition of nationality for women as for men and the right to pass it on to their children.

Egyptian legislation, for instance, appeals to a procedural limitation: It forbids the *ma'zoun* (Muslim religious personnel) to "conclude or confirm the marriage unless the woman and the man are at least 18 when the agreement is signed". The Egyptian child law was amended in 2008 to raise the minimum age for marriage of girls to 18. It also forbids the courts from accepting a disputed marriage or recognising a marriage unless it is confirmed by an official document and if both people are of legal age (see above). As customary marriage is still valid in Egypt, even without a *ma'zoun*, the scope of these measures is limited. The same system has been adopted by Kuwait, where the man has to be 17 and the woman 15 (Articles 24, 26 and 92).

States' efforts so far have been quite limited and insufficient to end the discrimination against women in the area of family law. While there are variations among countries in protecting women's rights, the overall trend in the region reveals that discrimination and violence against women are not diminishing, which is often supported by references to religion and cultural background. This trend is due to many factors, including legal barriers, lack of law enforcement, economic and social crises of the countries and the rise in radical religious movements, which call for reversal in achievements in women rights, particularly in the family domain. In particular, countries that experienced political changes and revolutions in the past years have been witnessing a rise in religious discourse and backward trends, which tend to threaten women's rights. Some countries also lack the will for reform, including the ratification of international conventions and ensuring that their domestic laws are in line with international standards.

Marriage and divorce

Certain gaps and national differences between MENA countries exist with respect to how women express consent to the marriage contract and marital guardianship (*wilaya*), nubile age and the number of people a spouse may marry. There are also differences as to the rights and duties of spouses during marriage and to access to divorce.

Legal capacity in marriage and consent

The issue of legal capacity in marriage and consent relates to whether the two parties to the marriage must give their consent to be married and whether anyone else may give consent for the marriage to take place.

According to Article 16 (a) and (b) of the CEDAW, states parties shall ensure, on a basis of equality of men and women:

- (a) the same right to enter into marriage
- (b) the same right to freely choose a spouse and to enter into marriage only with their free and full consent.

In many MENA countries, a woman is unable to make a decision on her own to marry, irrespective of her age (c.f. Annex A). Her legal capacity in marriage is restricted, since only her legal guardian (father or any male in the family) has the authority to contract marriage on her behalf. Thus, adult women do not have the legal capacity to contract their own marriage. Their consent may be required in addition to that of their guardian, but their silence is often considered a form of acceptance. Women could then be forced to marry against their will.

In some countries (e.g. Kuwait), the marriage contract is valid only if it is concluded in the presence of a matrimonial guardian, which constitutes discrimination and a breach of the principles of the CEDAW.

Considering women as minors and putting them under the guardianship of their husband prevents them from making important decisions regarding their own lives. It affects their dignity and may have negative impacts on the marital relationship and the well-being of the family.

Minimum age for marriage

A woman's right to choose her spouse and enter freely into marriage is central to her life and to her dignity and equality. Yet many countries in the MENA region allow child marriage, meaning marriage before the age of 18 (c.f. Annex A).

The CEDAW expressly condemns child marriage in its Article 16.2: "The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory"; it does not, however, specify what an acceptable minimum age would be. The Committee on the Elimination of All Forms of Discrimination against Women, in its general recommendation No. 21, considers that "the minimum age for marriage should be 18 years for both man and woman".

The Convention on the Rights of the Child defines a "child" as "every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier" but is silent on the subject of child marriage.

The UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages explicitly condemns child marriage but gives states discretion in setting a minimum age for marriage. Besides, only a few countries in the MENA region have ratified the convention.

The Yemeni Law on Personal Status does not prohibit minors from becoming engaged, and has not set a minimum age for doing so. The minimum age for marriage is 15 and the law authorises engagements to girls younger than 15 years, bearing in mind that the minor does not yet have legal capacity (Article 15).[4] In Bahrain, the law authorises the engagement of girls under 16 years old with authorisation from a judge.[5] Like in Bahrain, in some countries the marriage of a minor is allowed with the authorisation of a judge. For example, the Jordanian law provides legal protection that enshrines the principle of equality between men and women with respect to the choice of a spouse. It also sets the age for oath and marriage at 18 years (Article 10),[6] but has authorised, in the same article, the marriage of girls aged 15 with the authorisation of the judge. This infringes on the CEDAW's recommendation of 18 years as the legal age for marriage.

A low legal minimum age for marriage for girls may undermine women's ability to make independent decisions about their life, including education, work and family. It is also linked to lower decision making within the family since there is often an important age gap between the spouses. Girls who marry early are often forced to abandon their education. It may also adversely affect the girl's health and even her life with maternal mortality and morbidity due to early pregnancy. It disrupts her education and schooling. As a result, her economic autonomy will be restricted and the development of her skills will be limited. This will reduce her access to employment and negatively affect her family.

Polygamy

Two types of polygamy can be distinguished: polygamy with the woman's consent and polygamy without the woman's consent. The measures taken by certain Arab legislations regarding this institution provide a solution to polygamy without consent, but rarely solve the case when the woman has given her consent (except for Tunisia, where polygamy is forbidden).

These measures vary from one country to another and can be summed up as follows:

- the wife has the right to include a non-remarriage clause, which gives her the right to ask for a divorce if the husband breaks this clause
- the wife has the right to ask for a divorce by law in case of a remarriage even if there is no contractual clause
- the husband willing to take a new wife has to comply with conditions submitted to a judge for approval.

In all MENA countries except Tunisia, men can marry up to four wives at one time, without having to request the first wife(ves)' agreement (c.f. Annex A). The CEDAW does not forbid polygamy. However, in its general recommendation No. 21 on Equality in Marriage and Family Relations of 1994, the CEDAW Committee qualified polygamous marriages as a form of gender discrimination and concluded that polygamy is contrary to the convention and must be "discouraged and prohibited": "polygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependants that such marriages ought to be discouraged and prohibited."

Polygamy has grave effects on women's human rights and economic well-being and those of their children. It violates the principle of equality between spouses and women's right to dignity. It may also lead to economic difficulties for the first and subsequent wives. It can be used as a threat by the husband to control his wife. Polygamy can also have detrimental effects on the children of the husband's wives, who will have to share the limited amount of their father's resources and may suffer from conflicts between the different sets of families. Most countries in the MENA region, however, authorise polygamy, on the condition that men are fair with their different wives and meet their needs.

Regarding mixed marriage, the traditional Muslim law can be summed up as follows:

- A Muslim man has the right to marry any woman, irrespective of her religion, provided she is not a polytheist, a member of an unrecognised community or an apostate.
- Muslim women are the preserve of Muslim men exclusively. Any non-Muslim man who wishes to marry a non-Muslim woman would be committing an illegal act, and therefore void, and would lose the political protection of the Muslim state (*dhimmah*).
- The marriage of polytheists and unrecognised groups is not allowed.
- In the case of conversion to Islam: a man converting to Islam can keep his non-Muslim wife, provided she is not a polytheist, a member of an unrecognised community or an apostate. If the woman converts to Islam, her non-Muslim husband is not allowed to continue living with her, unless he also converts to Islam.

- In case of renouncing Islam: the converted will have the same fate as the apostate, as described above.

In Jordan, for instance, the marriage of a Muslim woman with a non-Muslim man and the marriage of a Muslim man with a non-Scripturary woman are null and void (Article 33). There is no mention of apostasy, but the law specifies: "The dowry (owed to the wife) is void if the dissolution of marriage is due to the fault of the woman, as it is the case with her apostasy, her refusal to convert to Islam, if she is non-Scripturary, when her husband converts to this religion... If she has already received a part of this dowry, she must give it back" (Article 52).

In Iraq, "a Muslim man is allowed to marry a Scripturary woman, but the marriage of a Muslim woman with a non-Muslim man is not valid… The conversion to Islam of one spouse before the other obeys Islamic standards regarding the continuation or the end of the marriage" (Articles 17-18). There is no mention of apostasy. Tunisia does not address this issue. However, the law states that "both future spouses cannot be in one of the impediment cases foreseen by the law". Kuwait offers the most developed provisions in this field: Article 18 states that the following forms of marriages are not recognised:

1. the marriage of a Muslim woman with a non-Muslim man
2. the marriage of a Muslim man with a non-Scripturary woman
3. the marriage of an apostate who renounces Islam, even if the other spouse is a non-Muslim.

Article 145 states that: *a)* when the husband abandons his religion, the marriage is dissolved. If he abandons his religion once the marriage has already been consummated and then comes back to Islam during the wife's retreat, the dissolution is void and the marriage is reinstated; *b)* the marriage is not dissolved when the wife abandons her religion.

Legal reforms in MENA countries' legislations (with the exception of Djibouti and the right to a Druze personal status in Lebanon, which shows many weaknesses) have recognised the principle of consent in the prenuptial agreement and of granting women the right to dissolve the conjugal ties and ask for a divorce according to *khul*.

Distribution of duties between spouses

Marriage in MENA countries is based on the notion that it is an agreement between a husband who provides support and a wife that pledges obedience. According to Article 16.1 of the CEDAW, states shall ensure, on a basis of equality of men and women, "The same rights and responsibilities during marriage and at its dissolution" as well as "The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation" and "The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration."

Most countries in the MENA region have enshrined the principles of equality in the division of tasks between spouses in their constitutions and laws but this principle is often ambiguously expressed or may even be non-existent (c.f. Annex A). In many countries, the woman's role as a wife is usually seen as an obedient women, whose basic freedoms can be, to some extent, controlled by her husband (for example in Bahrain,[7] Djibouti and Yemen). In these cases, these provisions are not fully consistent with the principle of "mutual respect and kindness" or the new trends in Arab countries of equal partnership in

the couple, the family and the conduct of the household. They also violate the principle of equality and non-discrimination.

Divorce

According to Article 16.1c of the CEDAW, states parties shall ensure on the basis of equality of men and women the same rights and responsibilities at the dissolution of marriage. Inequitable distribution of duties between spouses violates the principles of mutual aid and support and may affect the well-being of the family, including children.

Most Arab countries in the MENA region include the principle of equality between men and women in their constitutions and some adopt the equality principle in their laws in matters of divorce, since both women and men have the possibility of divorcing. However, most of them discriminate between men and women in the right to access to divorce. Men can divorce unilaterally by repudiating their wife before a notary civil servant without having to justify their decision, while women have to go to courts and can only file for divorce on a number of specific grounds. These grounds are specified in the family codes and require women to provide evidence that they have suffered a prejudice from their husband. Judicial procedures may take years while repudiation before a civil servant takes only a few minutes.

Most MENA countries allow unilateral repudiation of the wife by her husband (see Annex A). In Kuwait (Article 111)[8] and Jordan (Article 82)[9], husbands have the right to dissolve the marriage unilaterally. However, in the case of Bahraini Family Law, women only have the right to dissolve the marriage in two cases: *i)* if she requests it and her husband agrees, if it is accompanied by provision and compensation (*Mukhala'a/Khala'a*); *ii)* if this right was agreed to by husband in the marriage contract or if the wife was granted the right by the husband during the marriage (*Talaq/Talaq Raj'ee*). Although there has been progress regarding women's opportunity to request a divorce, it has not eliminated the dependence of women on their husband concerning this issue.

Such provisions discriminate overtly against women, and threaten them with divorce at any time and for any reason by the husband, without having the right to be involved in this decision. They weaken their position in the marriage. In addition, the economic and social status of women is deeply affected by the dissolution of their marriage. Divorced women experience a substantial decline in household income and increased dependence on social welfare where it is available.

Most countries allow wives to file for fault-based divorce but request that they prove having been victim of a prejudice. They have to go to court and convince the judge to grant them a divorce by grounding their request on specific reasons. For instance in Jordan women have the right to request the judicial dissolution of their marriage on the following grounds: dissolution before consummation of the marriage (Article 114), separation for lack of expenditure (Article 115), separation for abandonment of the home and for immigration of the husband (Article 119), separation for imprisonment of the husband and for disagreement and conflict (Article 126), separation for defects (Article 128) and finally, separation for the inability to pay the dowry (Article 139).[10]

Some countries have allowed women to get a *khul'* divorce, meaning a wife can seek a divorce from her husband without the burden of evidence, whether or not the husband agrees, by providing financial compensation (for example, by returning the dower received from her husband at the time of the marriage and forfeiting her own financial

rights or paying an additional sum of money to her ex-spouse) (for example in Jordan and Yemen).

In most countries, divorced women do not get a share of their husband's wealth even after a long marital life together and having taken care of their homes and raised their children. While many countries can be commended for their efforts and progress in this area, the provisions of their personal status law still contain a number of gaps and clauses, which may lead to discrimination against women.

Guardianship and custody of children

Most MENA countries distinguish between guardianship and custody. The father is the guardian of the children, even in case of divorce, while the mother can be granted custody of the children in case of divorce, to a specific age, after which custody is granted to the father.

According to Article 16.1d and f of the CEDAW, states shall ensure, on a basis of equality of men and women, "The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount" as well as "The same rights and responsibilities with regard to guardianship, warship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount".

Most countries in the MENA region, however, do not clearly include in their constitutions and laws the principle of equality concerning guardianship, thus generating gaps in the equality of duties between the husband and wife. Guardianship over the children in most countries belongs to the father, who takes all important decisions regarding his children, like their travel, education and management of financial affairs (Bahrain,[11] Djibouti, Jordan).

Many MENA countries give custody of the children to the mother in case of divorce, until they reach a certain age (15 in Egypt, 7 in Jordan). In most countries, the mother loses custody of her children if she remarries. Mothers should share equal rights and responsibilities with fathers for the care and raising of their children.

Table 7.1. **Guardianship and custody of children in MENA countries**

Country	
Algeria	Mothers may exercise custody over their children in the event of the dissolution of the marriage, but under the condition that the continuation or loss of this right is dependent upon the decision of the court and in the interests of the child (Article 66).[1] Therefore, the mother is exposed to the risk of losing custody of her children. The mother's custody of her children ends at the age of 10 for boys, although this may be extended to the age of 16 by the court, provided that the mother has not remarried.[2] For girls, the mother no longer has parental authority over her daughter once she reaches nubile age.
Bahrain	Women have the right to be granted custody of the children (Article 132 of Bahraini Family Law) but the father remains the legal guardian.[3]
Djibouti	Fathers are the sole guardians of the children, and have the right to control matters related to education (Article 70).[4]
Egypt	Before 2005, mothers had custody over their children until they reached the age of 12 for girls and 9 for boys, but since the enactment of Law No. 4 of 2005 amending Article 20 of Decree-Law No. 25 of 1920 (raising the age of custody), mothers shall continue to exercise this right until their children (daughters or sons) reach the age of 15. Beyond that age, children must choose if they want to live with their father or their mother.[5] Children (boys and girls) will be under the legal custody of the mother until they reach the age of 15. Custody can be extended after this age if the judge considers it is in the interest of the children. The father is to provide a home for the children as well as for the mother who has their custody.

Table 7.1. **Guardianship and custody of children in MENA countries** (*cont.*)

Country	
Jordan	Fathers are the sole legal guardians of the children (Article 223 & 166).[6] In the event of divorce, women are not entitled to be the guardians of their own children. Women lose custody when their child reaches the age of seven or if she is not a Muslim (Article 172, paragraph (b)).[7] These practices are discriminatory towards women on religious grounds.
Lebanon	Child custody is not automatically awarded to the father or the mother but is based on the scientific advice of an expert on the mental health of the child and on the basis of family mediation for managing family conflicts resulting from the application of this law. If custody is entrusted to the mother, she is to receive alimony covering housing, food, clothing, care and education. In principle there is equality between the mother and the father among Catholic communities (Article 777) but no equality for the mother in the Sunni community and it is restricted for the Druze community (Article 66).[8] Article 56 of the Druze family law outlines that the mother loses the custody of her children if she remarries, which is discriminatory against women since the same rule does not apply for the father in accordance with Article 64. The custody period ends for a young girl once she reaches her ninth year, and for a boy once he reaches his seventh year. Article 66 of the law dictates that the adoptive mother cannot travel with her child without the permission of the father.[9] This implies that the father is the only legal guardian of the child, which is contrary to Article 16, paragraph 1 of the CEDAW.
Morocco	A woman does not have the right to exercise parental authority over her children during the course of the marital relationship (Articles 169 and 230).[10] Upon dissolution of the marriage, the mother maintains her right to custody of her children until they reach majority even if she has remarried (Articles 174 and 175).[11] The Family Code assigns children's care and affairs (e.g. education and discipline) to the custodian: "The father or the legal tutor and the mother custodian must safeguard the child's interests, including his or her education and upbringing; however, the ward always spends the night at the custodian's house unless the judge decides otherwise. If the custodian is other than the mother, that custodian must supervise and follow up daily on the child's homework. In the event of a disagreement between the legal tutor and the custodian, the case shall be presented to the court to settle according to the child's best interests" (Article 169).[12]
Palestinian Authority	The mother exercises custody over her child to the age of seven for boys and to the age of nine for girls (Article 161).[13] The judge has the discretion to extend this period by two years, when necessary in the interests of the children. Custody is transferred to the father absolutely and without discussion.
Tunisia	Custody during marriage is entrusted to both the mother and the father (Article 57). If the marriage is dissolved with both spouses living, custody may be entrusted to either one of them, or to a third party; such matters are decided by the courts, in the best interest of the child (Article 67). The code does not specify any particular age limit. According to Article 4 of the Child Protection Act, in considering the best interest of the child, the moral, physical and emotional needs of the child, his age and state of health and family environment must all be taken into consideration. According to Article 58 of the Code of Personal Status, the person awarded custody must be an adult of sound mind who is trustworthy, able to provide for the welfare of the child and is free from contagious diseases. If custody is awarded to a man, he must show that there is a woman who will be able to help carry out the responsibilities of the custody. A female custodian must not be married except where it is judged by the court to be in the best interest of the child to award custody to a married woman or if the husband is within the prohibited degree of relationship to the child. The judge may transfer custody to the other parent if the guardian abuses his or her authority, fails to adequately perform his or her obligations, is absent from home or ceases to have a known residence, or due to other behaviour deemed detrimental to the interests of the child (Article 67).[14] The father is the automatic guardian of a minor child (Article 154). However, Article 60 gives the divorced mother who has custody of her children new functions of guardianship in regard to the management of her children's civil and commercial affairs (travel, education and the management of financial accounts). The judge may also grant all the prerogatives of guardianship to the mother and attribute to her the function of guardian in the event of the death of the father or if he proves unable to exercise or transgresses his prerogatives. The mother, along with the guardian, must give consent for a minor child to marry (Article 6).
Yemen	Yemeni family law contains no clear provisions granting rights and responsibilities to women in matters of education for their children, which means that it is the father who has absolute control over the children's education (Articles 40, 150 and 158).[15]

Notes: 1. Algerian Family Code amended in 25 February 2005. 2. *Ibid*. 3. Information consulted from the Bahrain Center for Human Rights. 4. Djibouti Law on Family Matters n 152 dated 1992 as amended in 2002. 5. The law does not make a difference between Muslim and Christian mothers. Some recent court rulings, however, deprived the Christian mother of the custody of her Muslim children after the age of seven, stating that after that age of "religious maturity" children should be raised according to the principles of the Muslim religion and that a Christian mother would not be able to give them such a religious upbringing. 6. Jordanian Law on Personal Status. 7. *Ibid.* 8. Druze Personal Status Law issued on 24.02.1948 as amended by law dated 07.02.1959. 9. Family law for the Druze Community dated 24/2/1984. 10. Moroccan Personal Status Code 2004. 11. *Ibid*. 12. Moroccan Personal Status Code-2004. 13. Palestinian Family law 1976. 14. Article 67 of the Tunisian Code on Personal Status. 15. Yemeni personal status law.

Source: Developed by the OECD, based on CAWTAR legal research (2014).

Overall, these provisions in family laws demonstrate significant conformity gaps with regard to international standards and the commitments of MENA countries to the CEDAW and the CRC in national legislation. Various forms of discrimination against women remain in areas related to marriage, divorce, distribution of duties and rights among spouses or custody. These forms of inequality in the family underlie all other aspects of discrimination against women.

To this end, MENA countries may consider revisiting these practices: some of these discriminatory gaps could be removed by taking into account positive experiences of other Arab/Muslim countries that have undertaken similar reforms.

Inheritance laws

While making progress, many current inheritance laws in MENA countries still tend to discriminate against women. For example, in some cases, female heirs are entitled to only half of the property share in view of the assumption that men have the duty to provide for their wife and for the family. Such provisions contradict the CEDAW Committee's general recommendation No 21, which states:

> In most countries, a significant proportion of women are single or divorced and many have the sole responsibility to support a family. Any discrimination in the division of property that rests on the premise that the man alone is responsible for supporting the women and children of his family and that he can and will honourably discharge this responsibility is clearly unrealistic. Consequently, any law or custom that grants men a right to a greater share of property at the end of a marriage or *de facto* relationship, or on the death of a relative, is discriminatory and will have a serious impact on a woman's practical ability to divorce her husband, to support herself or her family and to live in dignity as an independent person… There are many countries where the law and practice concerning inheritance and property result in serious discrimination against women. As a result of this uneven treatment, women may receive a smaller share of the husband's or father's property at his death than would widowers and sons. In some instances, women are granted limited and controlled rights and receive income only from the deceased's property. Often inheritance rights for widows do not reflect the principles of equal ownership of property acquired during marriage. Such provisions contravene the convention and should be abolished.

Nonetheless, there appears to be significant resistance to removing discriminatory provisions across most MENA countries. State parties to the CEDAW convention refer to their reservations to justify discriminatory inheritance laws. To address this challenge at the private level, some parents cede assets to their daughters during their lifetime to ensure that they will receive a rightful share of inheritance. Some families reach agreement that all assets will be divided equally between brother and sisters. It would be important to reconsider current practices with regard to inheritance laws to ensure alignment with international standards.

Good practices in Arab countries

MENA countries have made important progress in closing legal gaps in family relations to make their national laws conform to their international commitments, but further progress is needed and women continue to face systematic discrimination in family laws. As a result of political will and efforts to instil human rights principles, women's rights have been strengthened, their roles diversified and their image enhanced.

Examples of good practices in different family law fields could serve as sources of inspiration for other countries for necessary reforms.

Legal capacity in marriage and consent

Many countries in the MENA region have abolished discriminatory provisions and enshrined the principles of equality of legal capacity in marriage within their legal system and many of them request the mutual consent of the spouses for contracting the marriage.

For example, Tunisia in its 1956 Code of Personal Status reinforced the nature of consensual marriage, cancelling the "right to coercion" which allowed a legal guardian to marry a woman (including a minor woman) without her consent. It established the condition of consent, a woman's right to freely choose her partner, as well as the right of a woman (at first from 16 and then in 1993 from 18) to get married without the approval of a legal guardian (Article 3).[12]

Similar reforms adopted in Morocco in 2005 aimed to establish gender equality and empower women in the area of marriage: equality to conclude the marriage contract (Article 4), authorisation for an adult woman to conclude her marriage contract alone and without the presence of her guardian (Articles 24 and 25). Djibouti family law also acknowledges and grants equality in the legal capacity to enter a marriage contract, in accordance with the provisions of Article 16, paragraph 1, of the CEDAW. The law includes an obligation to mention the identity of the couple and their agreement as well as the identity of the witnesses in the marriage contract. Such protection is for the benefit of both the man and the woman. Reforms have also been conducted regarding the age of marriage. For instance in Djibouti, Egypt and Morocco, the age of marriage for both men and women is now 18.

Polygamy

Some MENA countries have forbidden polygamy or created severe restrictions to enter into a polygamous union, to protect the rights of the most vulnerable parties: wives and children. Polygamy is still allowed but is more restricted than before and is put under judicial review. One possibility for limiting polygamy is to allow the first wife the possibility of obtaining a divorce on the grounds of her husband's polygamy. Another possibility is for the wife to stipulate in her marriage contract that the husband cannot take another wife. If he breaches this condition, the wife has the right to divorce.

Article 18 of the Tunisian Code of Personal Status of 1956 prohibits polygamy. The article states that any man who marries while still married to another woman, and before breaking the oaths of the previous marriage, shall be sentenced to jail for a year and/or a fine of 240 000 dinars, even if the second marriage has not been registered ("customary" or *'urfi* marriage). The same penalties will be imposed on anyone who engages in a second marriage while living and continuing a relationship with his first wife, despite the formulas contained in Law No. 3 of 1957 as stated in the Civil Status System. The provisions of Article 53 of the Tunisian Criminal Law will not apply to penalties described in this article (mitigating circumstances).

The Tunisian legislature partially based its decision to criminalise polygamy on analysis provided by Islamic scholars, whose interpretation of Quran verses concludes that the rules for marriage prevent a man from having several wives. Verse 3 of the *surat* Women states: "(…) if you (man) fear to not be able to be fair (with several women), then (marry) one only," is relevant here. Verse 129 of the same *surat* further resolves the

question of polygamy with a clear and forthright prohibition order: "You will never be able to treat several women fair and equal, even if you try very hard."

In Morocco, the reformed Family Code addressed the issue of polygamy in a series of articles taking into account the cultural and religious context, as well as the principles of equity and equality between men and women in the family and society. Even though the law does not prohibit polygamy, it devoted an entire chapter to the definition of "temporary barriers" and created several restrictions.

> Polygamy is prohibited if there is a fear of unjust treatment between the wives or if the first wife concluded the marriage under the condition that the man would not have a second wife after her" (Article 40).[13] The conditions under which courts should not allow polygamy are the following: "(a) if the man does not prove exceptional objective justification to the woman; and (b) if the applicant of polygamy does not have sufficient resources to support both or more families, and to guarantee all their rights such as expenses, housing and equality in all aspects of life. (Article 41).[14]

Article 42 stipulates: "In case there is no condition for refraining from polygamy, the one who wants it should submit a permission request to the court. The request should include the exceptional objective evidence that provides justification for such action, accompanied by a statement about his financial status." The wife can declare that she does not object to the marriage of her husband after and during their married life. If she is opposed to her husband's remarriage, "the discussion has to be conducted in the Moroccan Counselling Chamber in the presence of both parties to listen to them and try to reconcile and build consensus. After having investigated the facts and following the provision of information required by the court to authori[s]e polygamy, the court will take a grounded decision that is not subject to any appeal, with restricted conditions in favour of the existing spouse and her children" (Article 44).[15] "In case of authori[s]ation of polygamy, no marriage contract could take place before the woman (potential new wife) is notified by the judge that the man offering to marry her is already married and that she accepts that. The notification (by the judge) and acceptance (by the new wife) will have to be registered in an official record" (Article 46).[16]

While the Djibouti Family Law recognises the principle of polygamy, it has also imposed judicial control over how husbands treat their wives. The law also allows each wife affected by this situation to challenge any new marriage of her husband and assess the damage caused to her as a result of this marriage (Article 22).[17]

Such legal warranties might achieve a minimum level of equity, justice and mature behaviour toward all wives and could be adopted by other MENA countries. States may also take legislative measures to abolish polygamous marriages.

Distribution of duties between spouses

Some MENA countries have introduced reforms to provide for equality between the wife and husband in rights and duties during the marriage. Since the reform of the Tunisian Code of Personal Status in 1993, the principle of partnership in the family has been established. Article 23 of the Code of Personal Status, according to which "a wife shall respect the prerogatives of her husband and shall owe him obedience" has been replaced by a provision which obliges each spouse to treat the other with consideration and co-operate in managing the family's affairs. New Article 23 further provides that both spouses "shall co-operate in managing the family's affairs, the proper education of

their children and the conduct of their children's affairs, including education, travel and financial transactions".

This implies that both spouses are jointly in charge of household issues, based on their relationship of mutual co-operation and respect. In fact, spouses must treat each other with kindness, live together and avoid causing harm to one another, perform his/her part of the marital duties according to what is accustomed, co-operate in the process of family household issues and in the children's education including their schooling, travel and financial matters. The husband, as the head of the family, is responsible for the financial support of his wife and children, within his financial means; the wife also has to financially contribute to the family life if she has the financial means (Article 23).[18] Such an obligation constitutes recognition of the economic role of women and brings a new order to her status within the family.

Morocco's Family Law defines the rights and duties of the spouses as follows: (...)

- legal cohabitation, which includes marital obligations and relationships, justice and equity in case of polygamy, kindness and dedication to each other, obligation of fidelity, protection of honour and procreation
- to have a kind marital relation, with mutual respect, compassion and mercy and preservation of the best interest of the family
- the wife is to assume responsibility with the husband of the overall household management and children's upbringing
- to consult in decision making related to management of the household and children's affairs and family planning
- each spouse should treat each other's parents and relatives with respect, visit and invite them over in kindness
- the right of inheritance between the two spouses (Article 51).[19]

The Family Code in Djibouti imposes respect and co-operation within couples. The wife also has a duty to contribute financially to the family if she has the means to do so (Article 31).[20]

Other countries in the MENA region could consider reforming their family laws to increase equality in rights and duties between the spouses and introduce the concept of partnership.

Divorce

A number of MENA countries give equal rights to husbands and wives in divorce and protect them from arbitrary unilateral repudiation by the husband by depriving such divorce of any legal effect or putting it under judicial review. Some countries even recognise the right to divorce by mutual consent or accept unilateral judicial repudiation of either spouse against compensation.

In Tunisia, men and women can ask for divorce and obtain it without justification (so-called "capricious divorce"). According to Article 31 of the Tunisian Code of Personal Status, the courts can approve a divorce in the following cases:

- Mutual consent between the spouses.
- At the request of either spouse on the ground of injury that he/she has suffered.

- At the request of the husband or the wife. The court shall decide on the compensation to be allocated to the spouse who has incurred material or moral damages resulting from the divorce pronounced in these cases.

The material damage due to the wife is dealt with in detail in Tunisian family law. She will be remedied with a monthly financial allowance due upon the expiry of the legal viduity period, according to the standard of living she used to enjoy during her married life, including housing. This allowance is revisable, to be increased or decreased, in compliance with her economic situation. It continues to be paid until she dies, or until her social position changes because she gets remarried or does not need the financial allowance anymore.

This financial allowance becomes a debt in case the husband dies and should be settled amicably with his heirs or through the court. The sum can be paid on a monthly basis if there is an amicable agreement with the heirs or the court can instruct the payment in a one-time lump sum, taking into account the divorced woman's life expectancy at that time. In any event, the woman can choose to be compensated with a one-time transfer of the full capital (Article 31).[21]

In Morocco, several legal provisions in the Family Code relate to divorce. Extra-judicial unilateral repudiation by the husband is no longer allowed. Besides, both husband and wife can get a judicial divorce without fault against compensation: "If the husband grants his wife the right to file for divorce, then she can enjoy this right by submitting to the court a request in accordance with provisions 79 and 80. The court ensures the share of assets agreed on between the spouses and tries to reconcile them in accordance with the provisions of Articles 81 and 82. If reconciliation fails, the court grants permission to the wife to proceed with divorce, when ruling the entitlement of the wife and children when/as necessary in accordance with provisions 84 and 85. The husband does not have the right to prevent his wife from practicing the right to ownership that he had granted her" (Article 89).[22]

In Djibouti, a divorce can be pronounced only by a public servant (a registrar) or a judge (Article 38).[23] This, in itself, is considered a key guarantee of women's interests, because it prohibits men from unilaterally declaring the end of a marriage. In addition, Article 39 of the same law stipulates: "The registrar accepts the divorce and records it, if there is consent by both parties. The court will declare the divorce: (1) at the request of the husband; (2) at the request of the wife on the basis of the damage which was done to her; and (3) at the request of the wife on the basis of *khul*".[24] According to these provisions, although the legislation in Djibouti retains differences between spouses in seeking a divorce, it enables the wife to do so in a full capacity.

MENA countries have taken more steps towards equality for contracting marriage than for dissolving it. In many places, divorce is still in the hands of husbands and state efforts have been limited and insufficient to end discrimination against women in this field. Some countries have reformed their family codes to eliminate discriminatory provisions between wife and husband in this field too. Other MENA countries could consider following such examples.

Guardianship and custody of children

Some MENA countries have reformed their personal status laws to establish equality between mothers and fathers regarding the guardianship of their children, and to decide on custody in the best interests of the child. In some countries, the divorced mother does not automatically lose custody of her children if she remarries.

For instance, Morocco's legislature enshrined in its Family Code that child custody continues until the child reaches majority, without distinction between males and females, and without withdrawing the right of custody from the mother when a child reaches a certain age. According to Article 166 of the *Mudawana* of 2004: "Custody is exercised until both the boy and the girl reach the age of legal majority. Following the termination of his or her parents' marriage, a child over the age of 15 has the right to choose either the father or mother as custodian". A child without parents may choose one of the relatives cited in Article 171, provided that his or her interests are not jeopardised and that the legal tutor consents. In the absence of an agreement, the case shall be presented to the judge to settle the matter in the best interest of the minor.

Moroccan legislation also ensures that the remarriage of the mother does not deprive her of her right to child custody, except in limited and exceptional cases: "The marriage of the custodial mother shall not result in the loss of her custody of the child in the following cases:

1. if the child has not attained the age of seven years; or if such a separation may inflict harm on him or her
2. if the child suffers from an illness or a handicap which renders his or her custody difficult for any person other than the mother
3. if her husband is in a degree of kinship relations precluding marriage, or is the child's legal representative
4. if she is the child's legal representative
5. the marriage of the custodial mother shall exonerate the father from payment of the child's accommodation expenses and the custodial salary; the father shall remain responsible for the payment of child support" (Article 175).[25]

Overall, Morocco has also developed a general principle guiding the articles related to child custody for the interest of the child, in line with the CRC. As Article 186 states: "The court takes into account the interest of the child in applying sections of this article."

In Djibouti, the law does not distinguish between the parents when allocating custody after divorce, and makes the interest of the child a specified element in the assignment of custody. Article 64 of the Family Code states: "If the marriage is ended due to death, custody is given to the surviving parent, mother or father. If the marriage is dissolved while the parents are alive, custody is assigned to one of them or to a third party. The judge decides custody on the basis of the best interest of the child".[26]

With respect to differences in religion between the caretaker and the child, Article 69 of the Family Code of Djibouti affirms that the female caretaker cannot exercise her custody right if the child is under five years of age, so that the child is not brought up in a religion other than that of his father; however, paragraph 2 of Article 69 excludes the mother from this measure, which could be considered as a positive discrimination to the benefit of women: "(…) this arrangement (prohibition of custody) is not applicable if the caretaker is the mother." In the same spirit, "children are prevented from travelling with their father without the consent of the mother." The father cannot travel with the child outside the region where the mother lives, except with her consent, unless otherwise required for the best interest of the child (Article 94).[27]

Summary recommendations

Ensuring gender equality in family relations:

- Provide women with a greater ability to design their futures, including the free choice of their partner, in complying with the gender equality principles outlined by the CEDAW.
- Ensure an equitable distribution of duties between spouses in the Personal Status Law, which is fully consistent with the Islamic principle of mutual aid and support between spouses.
- Enable women's protection from arbitrary divorce and grant them the right to file for divorce.
- Guarantee the right of both parents to child custody during and after the marriage until the child, girl or boy, reaches majority/adulthood, as per the recommendations of the CEDAW and the UN Convention on the Rights of the Child (CRC).
- Consider practices from other countries that provide principles and rules on polygamy, with a view to protecting the rights of all the concerned parties, particularly women and children, while conforming to the essence of the tolerant Islamic *sharia*.
- Reconsider inheritance laws to remove discriminatory provisions against women.

Physical integrity and violence against women

Violence against women breaches human rights and risks creating a spiral of violence. It prevents women from reaching their full potential and can impact negatively on public health, social and economic development, and growth. Across the globe, severe cases of violence such as rape rarely reach formal courts and often have high attrition rates. Because of the nature of violence and the social stigma often associated with discussing violence (as it is considered a private matter), statistics on violence are difficult to attain and rarely encompass all forms of violence. Evidence points towards the increased occurrence of violence against women during times of conflict (UN Women, 2011: 49, 88). Similarly, in the MENA region, while there are no reliable statistics on violence, the interviews, meetings and focus groups carried out throughout this project by the OECD and the Centre for Arab Women Training and Research with governments, civil society and other stakeholders suggest that, despite the efforts of governmental and non-governmental organisations, violence against women (physical, sexual and psychological) still occurs in both the public and private spheres.

International standards

Several international instruments establish standards and requirements with regards to the physical integrity of women (Table 7.2). While the CEDAW does not explicitly refer to violence against women, the Committee on the Elimination of All Forms of Discrimination against Women recommended in 1989 in its general Recommendation No. 12 that states parties include in their periodic reports information on violence against women and measures introduced to combat it. In 1992, it issued general Recommendation No. 19 (UN Women, 2011), which states: "Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a

basis of equality with men." The committee offered a series of comments concerning gender-based violence, and suggested that states parties take these into account in reviewing their laws and policies, and reporting under the convention.

Table 7.2. **International conventions that seek to prevent or combat violence against women or to protect the rights of victims of violence**

Relevant international conventions that explicitly or implicitly seek to prevent or combat violence against women or protect the rights of victims of violence
Convention on the Elimination of All Forms of Discrimination against Women
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
International Covenant on Civil and Political Rights and Optional Protocol
International Covenant on Economic, Social and Cultural Rights
International Convention on the Elimination of All Forms of Racial Discrimination
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
Convention on the Rights of the Child
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime
Geneva Convention relative to the Protection of Civilian Persons in Times of War
United Nations Security Council Resolution 1325 (and related resolutions) on Women in Conflict Zones

Furthermore, the UN Declaration on the Elimination of Violence against Women, considered to be an international framework for defining gender-based violence, is the first international human rights instrument to exclusively and explicitly address this issue. It affirms that violence against women violates, impairs or nullifies women's human rights and their exercise of fundamental freedoms. The declaration provides the following definition of gender-based violence:

> Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. (United Nations General Assembly, 1993).

This definition illustrates that domestic violence forms an integral part of gender-based violence and, as such, violates women's basic human rights.

The Declaration on the Elimination of Violence against Women classifies violence against women into three categories: *i)* that occurring in the family (domestic violence); *ii)* that occurring within the general community; and *iii)* that perpetrated or condoned by the state.

Family violence is defined as follows: "Physical, sexual and psychological violence[28] occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation".

The definition of violence also includes a forced marriage, which is a marriage where one or both participants are married without their freely given consent, and a child marriage, marriage where one or both parties are younger than 18. Forced and child marriages are associated with a high rate of domestic violence. These types of marriages are related to violence both in regard to the spousal violence perpetrated inside the

marriage, and in regard to the violence related to the customs and traditions of these marriages: violence and trafficking related to the payment of dowry and bride price, honour killings for refusing the marriage.

Box 7.1. **Forms of violence against women as identified by the United Nations**

In 2006, the Secretary General of the United Nations commissioned an in-depth study on the phenomenon of violence against women, which was presented to and discussed in the UN General Assembly and made available on a specifically dedicated website (www.un.org/womenwatch/daw/vaw/SGstudyvaw.htm). The study identifies three categories of violence and elaborates on their forms:

- violence against women within the family including intimate partner violence (commonly referred to as domestic violence) as well as harmful practices (such as female infanticide; sexual abuse of children; prenatal sex selection; early marriage; dowry-related violence; female genital mutilation; crimes committed against women in the name of "honour"; maltreatment of widows)
- violence against women in the community (including trafficking in women for sexual or economic exploitation; forced prostitution; gender-based murder; stalking; physical, sexual and psychological harassment and violence in daily life that can occur in the neighbourhood, public transport, workplaces, schools, sport clubs, hospitals, etc.)
- violence against women perpetrated or condoned by state institutions or officials (including forced sterilisation; custodial violence committed by enforcement officials, prison guards, officials in places of detention, immigration officials, health officials, military, police and security forces).

Source: United Nations Secretary-General (2006), "Ending Violence Against Women – From Words to Action", United Nations, New York, www.un.org/womenwatch/daw/public/VAW_Study/VAWstudyE.pdf.

Legal trends and conformity with international standards on physical integrity of women in MENA countries

Women have a rather low level of legal protection against violence in MENA countries. Across the region, there are limited framework laws to protect women against violence. Certain violent acts are not criminalised, such as conjugal rape and sexual harassment. Overall, one can observe three main types of violence against women in some MENA countries: domestic violence, female genital mutilation (FGM) and violence outside the home, including trafficking and prostitution.

Although most countries signed the CEDAW, which includes provisions that indirectly refer to violence against women, not all countries in the MENA region have taken steps to criminalise all forms of violence against women (including family-based violence). In the absence of clear legal frameworks in this area, a cultural attitude of acceptance of violence can continue to dominate individual perceptions.

Domestic violence

Domestic violence occurs within the family in all societies. Women who lack economic independence may be forced to stay in violent relationships which put their health at risk and deprive them from the ability to equally participate in family and public life. Domestic violence is a major contributor to women's mental health problems including depression. Marital rape may lead to unwanted pregnancy and abortion.

According to general Recommendation No. 19 of 1992 on violence against women of the CEDAW Committee, "Family violence is one of the most insidious forms of violence against women".

The committee recommended that the following measures be taken to overcome family violence:

> Criminal penalties, where necessary, and civil remedies in case of domestic violence; legislation to remove the defence of honour in regard to the assault or murder of a female family member; services to ensure the safety and security of victims of family violence, including refugees, counselling and rehabilitation programmes; rehabilitation programmes for perpetrators of domestic violence; support services for families where incest or sexual abuse has occurred.

However, most countries of the MENA region do not criminalise domestic violence and many of them have not yet criminalised marital rape (Annex B). Others have a provision in the law that spouses should not cause physical or mental harm to each other, but evidence of injury is usually required to prove assault, which can be very difficult for wives to demonstrate.

Moreover, legislations often use lenient sentencing against men who commit honour crimes and most countries have provisions in their legislation which allows women adulterers to be more severely punished than men adulterers and which provide lenient sentences for a man who kills his wife or female relative who was caught in the act of adultery.

Female genital mutilation and violence outside the home

Female genital mutilation is practiced in some MENA countries such as Djibouti, Egypt, Iraq (Kurdistan), Oman, Sudan and Yemen. It puts women's health and lives at risk and is a violation of their rights and a manifestation of gender discrimination. Some countries have introduced legislation banning the practice (for example Djibouti and Egypt) but the law faces entrenched social norms and is not always implemented.

In some countries, particularly during recent revolutions, there has been a disturbing acceleration in the prevalence of violence including, in particular, rape and sexual violence and sexual harassment in public spaces since 2011. Some interviewees also reported new types of violence and harassment such as Internet and mobile telephone stalking.

The general Recommendation No. 19 of the CEDAW Committee of 1992 on violence against women specifies that:

> Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.

In addition, the recommendation notes that the convention applies both to "violence perpetrated by public authorities" and private acts of violence where states fail to exercise "due diligence to prevent violations of rights". Finally, the committee recognises that sexual harassment may also "constitute a health and safety problem".

However, only a few countries punish sexual harassment against women (Annex B). In addition, in countries where rape is considered a crime, some allow the rapist to avoid punishment by marrying his victim (for example Bahrain,[29] Jordan, Morocco). Few countries punish sexual harassment against women at work (for example Algeria, Morocco, Tunisia).

Trafficking of women and prostitution

As governments host a high number of foreign residents in highly globalised labour markets, incidences of trafficking of women or economic exploitation deserve special attention and require policy solutions that transcend national boundaries. Despite the presence of legislations to combat trafficking in women, the phenomenon continues to be prevalent as does prostitution and sexual exploitation.

Poverty and unemployment may increase opportunities for trafficking of women and prostitution. Wars, armed conflicts and the occupation of territories may also lead to new forms of prostitution and trafficking in women. New forms of sexual exploitation such as sex tourism, domestic labour of women from developing countries to developed countries or organised marriages between women from developing countries and men from developed countries have also increased. All these practices constitute forms of violence against women and all of them are incompatible with equal rights and respect for their dignity.

The CEDAW requires states parties to "take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women" (Article 6). The CEDAW Committee made specific recommendations to states parties to the convention to prevent and punish trafficking and to include information about trafficking in periodic reports that describe "the extent of [the] problems and the measures, including penal provisions, preventive and rehabilitation measures that have been taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation."

This requires the adoption of specific protective and punitive measures. However, only several MENA countries have adopted such measures. Most of them do not recognise all forms of trafficking and do not provide adequate protection for the victims of trafficking. Most penal codes prohibit prostitution, prostitution-related activities (Egypt, Morocco) and trafficking for prostitution-related activities. Forced labour is prohibited by some MENA countries (for example Jordan), but most countries do not recognise domestic service as a form a labour trafficking because domestic servants come to work voluntarily, although consent may be defective or the servant may be illegally recruited. However, this criminalisation of human trafficking often does not include other forms of trafficking, including forced labour or other forms of slavery. It would be important to recognise various forms of human trafficking as a separate offense in the penal codes of MENA countries.

Towards a policy package to combat violence

Legal reforms: Good practices

As noted, women tend to have a low level of legal protection against violence in MENA countries. However, some countries have taken appropriate measures to overcome gender-based violence. For example, Egypt, Jordan, Kuwait and Tunisia have institutionalised the criminalisation of all forms of violence within the legal framework

(Box 7.2). Other MENA countries have abolished legal provisions offering a pardon to the abductor who marries his victim (Egypt). Yet others have taken steps to combat spousal abuse (Jordan) by prescribing prison time and financial penalties for abusers and specifying procedures that the police, the courts and medical authorities must follow when handling cases of domestic violence. MENA governments could review the provisions of existing laws and take a pro-active approach by drafting a law against gender violence, like that adopted in Spain. They should impose criminal penalties and civil remedies in cases of domestic violence.

Box 7.2. **Good practices from MENA countries concerning violence against women**

Morocco

Article 404 of the penal code states: "Whoever beats or hurts one of his relatives, his warrantor or his woman with intent will be punished:

1. depending on the case and the circumstances foreseen in Articles 400 and 401 (violence leading to less [Article 400] or more [Article 401] than 20 days of work incapacity or sickness) with the double penalty stipulated in these articles (1-4 years imprisonment or fine in the case of Article 400; 4-10 years of imprisonment or fine in the case of Article 401)
2. in the case of Article 402 (1) (permanent mutilation, amputation or infirmity) with imprisonment for 10-20 years; and in the case of Article 402 (2) (use of weapon or ambush) with imprisonment for 20-30 years
3. in the case foreseen by Article 403 (1) (violence leading to death) with imprisonment for 20-30 years and in the case of Article 403 (2) (use of weapon or ambush) with a life sentence."

Tunisia

According to the penal code, the crimes of rape with violence, use or threat of use of a weapon are punishable by the death penalty (Article 227).

Egypt

In 1999, the provision in the penal code offering a pardon to the person who committed a rape in the event of marriage to the victim was abolished.

Jordan

The promulgation of the 2008 law on protection against marital violence aims to: maintain the family relationship; minimise the effects of criminal proceedings in cases of violence between members of the family; protect confidentiality; require alternative sanctions and precautionary measures to ensure freedom of the victim or any member of the family; and protect the informer. Family conciliation committees seek to find an agreement between both parties before referring the case back to the court and produce an amicable resolution to the conflict.[1]

The Palestinian Authority

The Palestinian Authority Ministry of Women's Affairs (MoWA) held a national convention in 2007 on Violence Against Women in the occupied Palestinian territory, resulting in the creation of a National Committee to Combat Violence against Women in 2008. The main task assigned to this committee was the development of national-level policies that could increase women's empowerment. The committee is responsible for following up and monitoring the implementation of the proposed Strategy against gender-based violence and has a wide-ranging membership that includes a variety of governmental and non-governmental institutions represented by the NGO Forum to Combat VAW (Al-MuntadaCoalition) and the General Union of Palestinian Women (GUPW).

Box 7.2. **Good practices from MENA countries concerning violence against women** (*cont.*)

Lebanon

Lebanon made a serious effort to address gender-based violence through the draft law "Protection of Women from Domestic Violence" approved by the Council of Ministers on 6 April 2010 and referred to the House of Representatives for endorsement. Article 2, paragraph 2 defines domestic violence as "any act of violence against women committed by a family member, which may result in harm or suffering for the female (e.g. physical, psychological, sexual or economic) as well as threats of such acts or deprivation of liberty, whether occurring within or outside the family home." The conceptual basis of violence addressed in this draft law is broader than domestic violence. Article 3 sets penalties for the following acts of domestic violence:

1. prompting a female in the family to beg
2. prompting a female in the family to debauchery or corruption and/or facilitating or helping her to perform such an act
3. dependence on earning a living (partially or fully) from the prostitution of any female in the family
4. forcing his spouse or using violence or threats to have intercourse
5. forcing his wife to have intercourse at a time she is not able to resist due to psychological or physical weakness or by act of deception
6. intentionally murdering a female in the family (20-25 years of compulsory labour)
7. intentionally murdering a female in the family and exposing/mutilating her body after the murder (lifetime compulsory work)
8. deliberately killing a female in the family or, before the killing, committing acts of torture or brutality through intentional abuse
9. practising moral violence by using means to threaten a female in the family in order to control her, detain her or force her into marriage.

Notes: 1. In the absence of this, the case is referred to the competent jurisdiction, which delivers the necessary protection order for the victim from the person who committed the act of violence. The penal code punishes in cases where this victim's protection order is not respected, as well as cases of reoffending. The court can order compensation to be paid at the victim's request. In the case of consent from both parties, they are called to attend family counselling sessions and sessions on psychological and social adaptation.

Source: Developed by the OECD, based on CAWTAR legal research (2014)

Action plans to combat violence against women

Revising legal frameworks, however, is insufficient. It is also important to consider the adoption of a national action plan that encompasses services to prevent, address and eliminate violence against women, to establish momentum to end violence against women and provide the necessary attention and visibility to this issue. Several countries in the MENA region have already developed national action plans (Bahrain, Egypt, Jordan, Lebanon, Tunisia and Yemen) to prevent and combat violence against women. Several of these countries additionally conduct awareness-raising and sensitisation programmes through media campaigns (Bahrain, Egypt, Jordan, Tunisia and Yemen) and the education system. However, these practices are not widespread in the region. As such, current country efforts could be stepped up to combat violence against women more effectively. A national plan can be established within the framework of the gender strategy (see Chapter 3). The effective implementation of this plan will require collaboration across the various institutions responsible for the different policy areas involved in addressing violence. A useful example of a collaborative initiative comes

from Canada, which launched an initiative to address violence against women involving 15 government partners (Box 7.3).

Box 7.3. **Canada's Family Violence Initiative**

As a long-term federal effort to address violence in the family, the government of Canada established a Family Violence Initiative (FVI), led and co-ordinated by the Public Health Agency of Canada on behalf of 15 departments, agencies and Crown corporations.

The initiative aims at reducing family violence by promoting public awareness and protective measures related to family violence. It partners the government, research institutions and community leaders to reinforce the capacity of criminal justice and strengthen the ability of the housing and health systems to respond to issues of family violence. Within the framework of this initiative, the Public Health Agency collects data, carries out research and evaluates policies to address family violence to better identify efficient and innovative practices and interventions.

Many government departments (such as the Indian and Northern Affairs Canada, Health Canada, Human Resources and Skills Development Canada, Correctional Service of Canada, Public Safety Canada, Service Canada and the Department of National Defense) have integrated the issue of family violence into their programmes of work. The Family Violence Initiative was established to "support a common vision and advance a co-ordinated approach" in the fight against family violence.

The government provides the initiative with permanent annual funding, supporting and complementing activities across eight member departments: the Public Health Agency of Canada, Canada Mortgage and Housing Corporation, Citizenship and Immigration Canada, the Department of Justice Canada, the Department of Canadian Heritage, the Royal Canadian Mounted Police, Statistics Canada and Status of Women Canada.

Source: Public Health Agency of Canada website, page on the Family Violence Initiative, www.phac-aspc.gc.ca/ncfv-cnivf/initiative-eng.php.

Data collection and monitoring

Some countries (Bahrain, Jordan and Tunisia) collect data on the prevalence of different forms of violence against women. Yet, there is still a lack of national data on the incidence, prevalence and observed forms of violence across most of the MENA region (Figure 4.5). To comply with the requirements of the CEDAW and contribute to combating gender-based violence, a more systematic approach to data collection needs to be developed. The collection of reliable data would strengthen the knowledge base on the incidence and prevalence of different forms of violence against women, which is a condition for fulfilling this obligation through informed policy and strategy development.

An improved knowledge base would also help better measure the access of female victims of violence to public services and adapt the provision and quality of services as necessary. If collected regularly and over time, reliable data would allow for better monitoring of progress towards meeting international standards and obligations in regard to violence against women.

There are several ways in which governments could enhance research and data collection on the basis of regional and international experiences and best practice.[30] For example, governments may regularly administer population-based surveys on violence against women to capture (through random samples) the incidence of violence beyond that officially reported to authorities. Several OECD member countries – including

Australia, Canada, Finland, France, Germany, New Zealand, Sweden and the United States – undertake population-based surveys to measure the extent of violence and crimes against women and monitor trends. In view of the sensitivity of the topic, the World Health Organisation has developed ethical and safety guidelines to protect the interests and rights of interviewees and interviewers who participate in population-based surveys on violence against women (World Health Organisation, 2005).

Governments may also collect service-based data on violence against women, based on cases reported to health centres, hospitals, police, courts, prosecutors, shelters, and violence help- or hotlines. Worldwide, only the most serious incidents of violence are usually reported to public authorities. However, service-based data collection tends to provide crucial qualitative data needed to complete the quantitative findings of population surveys and better understand barriers and constraints that female victims of violence may face in accessing public services and justice. Such data can help in the design of sector-specific policy responses and campaigns to improve the availability and quality of services for victims of violence, and to evaluate the training needs of public officials and professionals in specific branches. National statistical bureaux may lead and oversee the systematic collection of these data from the various public and private institutions involved in order to reduce the risks of double counting. In the Palestinian Authority, for example, the national statistical institution, the Palestinian Central Bureau for Statistics, conducted a survey on violence in 2005.

Box 7.4. **Government efforts to enhance research and data on violence against women**

New Zealand

The New Zealand Crime and Safety Survey (NZCASS) is a national household survey that collects information on crime in New Zealand, including crimes not initially reported to the police. It also provides detailed quantitative information about the nature of victimisation, victims' characteristics and the impact of victimisation to an extent that is not provided by any other source.

The first survey was conducted in 2006 and set a benchmark to enable trends to be measured over time. The survey also provides important information and feedback for the justice sector, particularly in the areas of crime prevention and reduction, services to victims, police and court services, family violence services, and the development of policy and legislation. The second survey was carried out in 2009.

The NZCASS measures the nature and extent of crime experienced by New Zealand's residents during the previous year. Data collected include:

- residents' experiences of different kinds of crime in the previous year (and, for some crimes, during their lifetimes)
- how many times people were victimised, and by whom
- if victims reported the crime to police and how satisfied they were with the police's response
- if they did not report the crime to the police, why they chose not to
- who victims told about their victimisation, including support agencies
- demographic information such as gender, ethnicity, age, relationship status, household composition and location.

Box 7.4. **Government efforts to enhance research and data on violence against women** (*cont.*)

The NZCASS consists mainly of face-to-face interviews with randomly selected New Zealand residents aged 15 years and over. About 6 100 residents were interviewed for the 2009 survey, including an additional 1 297 Māori residents, who were specifically targeted to improve the reliability of the results for Māori. The sample size ensures that data for broad population groups are generally reliable. A different methodology is used for questions about partner violence, sexual violence and violence by someone well known to the victim. Respondents enter answers directly into a laptop computer – computer assisted self-interviewing (CASI) – to ensure confidentiality and to encourage higher reporting.

The survey collects particularly useful information on partner and sexual violence, most of which is not initially reported to the police. It provides government agencies, researchers and others working in the area with a heightened understanding of the prevalence of violence towards women; whether or not violence is increasing or decreasing; and which population groups are most vulnerable.

Sweden

In order to better tackle the issue of violence against women and enact preventive and counter measures, Sweden has conducted many investigations, research and surveys to increase knowledge on violence against women. In 2001, Sweden commissioned the Crime Victim Compensation and Support Authority to carry out its first investigation on men's violence against women. The findings of this investigation showed that 28% of women had experienced physical violence from a previous husband or partner, and more than one-fifth of women between the ages of 18 and 24 were subject to violence in 2001. Moreover, the findings pointed to the fact that violence against women concerns all social groups and has implications for women's physical and mental health.

In addition, since 2000, the National Police Board has collected data on violence against women and violence against children covering murder, rape, assault and unlawful threat. The Swedish Prosecution Authority keeps statistics on the number of cases of violence against women reported to the authority by the police force. It also keeps statistics on the number of perpetrators prosecuted for violence against women. In 2008, there were 55 863 reported cases of violence against women and 27 430 reported cases of domestic violence concerning both women and children.

Sweden also conducted a National Survey of Living Conditions in 2006-07 on a sample size of approximately 14 100 persons. This survey collected data on the number of women exposed to violence and information about threats of violence. The survey took into account various kinds of violence, types of injury and the relationship between the victim and the perpetrator.

Moreover, Sweden has established a National Centre for Knowledge on Men's Violence Against Women, based at Uppsala University,. The centre carries out research on violence against women and has been assigned by the government to increase knowledge on the phenomenon in Sweden. It also provides educational programmes for professionals in healthcare services, the judicial system and local agencies. The centre also works on methods for the treatment and care of women who have been subjected to violence and keeps a record of the number of persons who have contacted the national help line (*Kvinnofridslinjen*), established in December 2007. The helpline operates 24 hours a day, 7 days a week. The call is free, remains anonymous and does not appear on the caller's phone bill. Operators are Swedish speakers, but can use an interpreter if necessary. Operators are social workers and nurses with experience dealing with people who are going through difficult circumstances. They provide professional support, practical advice and information on services such as sheltered accommodation, on-call lawyers for women and girl refugees and therapy or counselling services.

Box 7.4. **Government efforts to enhance research and data on violence against women** (*cont.*)

United States

National data on intimate partner violence in the United States is gathered primarily from household surveys but is also vitally supplemented with information from diverse databases and in co-operation with several different public and private institutions such as the US Consumer Product Safety Commission, the Rand Corporation and various police and medical programmes. Most statistics are available through the Bureau of Justice Statistics (BJS), but additional data can also be gathered from researchers and non-profit groups.

Data is collected in several surveys including:

- City-level Survey of Crime Victimisation and Citizen Attitudes
- Emergency Room Statistics on Intentional Violence
- Human Trafficking Reporting System
- National Crime Victimisation Survey
- National Incident-Based Reporting System (NIBRS) Implementation Program
- Police-Public Contact Survey (PPCS)

Through these surveys and databases, the BJS collects information on citizens' perceptions of community policing in neighbourhood issues; data on injuries classified as "intentional", including domestic violence, rape and child abuse from hospital emergency rooms; human trafficking incidents, offenders and victims from the Department of Justice's funded human trafficking program; likelihood of victimisation, individual victim and perpetrator characteristics for several different demographics within the population such as women, the elderly, members of various racial groups, etc.; crimes reported to the police; and violence related to contact between the police and the public.

Note: 1. The NZCASS are available on the website of the Ministry of Justice at: www.justice.govt.nz/publications/global-publications/c/NZCASS-2009/nz-crime-and-safety-survey-2009.

Sources: Information provided by the Ministry of Women's Affairs; United Nations' Secretary General's database on violence against women, page on Sweden, website of the National Centre for Knowledge on Men's Violence Against Women at Uppsala University, www.nck.uu.se/en; website of the Swedish helpline www.nck.uu.se/enwww.kvinnofridslinjen.se; Bureau of Justice Statistics, www.bjs.gov/index.cfm?ty=dctp&tid=3.

Law enforcement and legal services

Efforts to reform legislation should be complemented by the strict enforcement of laws by the police and justice bodies. Reported cases of violence against women need to be prosecuted in a timely manner and vigorously punished with pertinent sentences. Governments may review the efficiency of the current proceedings and punishment system. The frequency and reasons for abandoning the prosecution of reported cases of violence should also be analysed.

A lack of support in legal texts in many MENA countries has hindered law enforcement in the area of violence against women, and restricted the provision of legal services to address the needs of victims across the region. Female victims of violence are often reluctant to report cases of violence and to seek justice, in particular if family

members are involved, for reasons of family honour and feelings of shame. There is a need for additional safeguards in the justice system and in courtroom procedures to ensure the anonymity, privacy, dignity and autonomy of victims of violence. For example, Finland, Ireland and Japan established restrictions for public access to courtrooms during trials that deal with violence against women. In addition, like some OECD countries (e.g. Austria and Germany), MENA governments may also consider the use of civil protection orders or court-issued protection injunctions that forbid the offender from contacting or approaching the woman until the verdict is delivered.

While some MENA countries (such as Bahrain, Egypt, Jordan, Lebanon and the Palestinian Authority) have already established ombuds offices, this practice is limited across the region. These institutions are essential to monitor the respect, application and enforcement of anti-violence legislation and policies.

Moreover, governments also may consider introducing minimum sentences for aggravated forms of violence against women. To achieve this objective, governments may choose to establish specialised courts with specifically trained judges and prosecutors who efficiently and professionally deal with the civic and criminal aspects of violence against women and facilitate quick access to support and counselling services. For example, New Zealand has established family violence courts with appropriately trained judges and other court staff to streamline and speed processing to ensure that matters of domestic violence are dealt with in a timely manner. Governments can set up specialised police units, like those in several Latin American countries, that offer a safe environment where sensitised and mainly female police officers focus on protecting victims of violence and uncovering cases of violence.

In addition, governments can adopt other measures to address violence against women, including:

- Setting up national hotlines and service centres to provide shelter (as in Bahrain, Egypt, Jordan, Kuwait, Tunisia and Yemen) as well as referral services and legal advice for women in precarious situations (as in Egypt, Jordan, Kuwait, Tunisia and Yemen) (Table 7.3). Overall, assistance for victims of violence, hotlines, shelters and counselling services remains very limited in MENA countries. More shelters are needed to ensure that all victims throughout the country can access immediate protection. According to recommendations of the Council of Europe, all countries should provide one place in a shelter per 7 500 residents; this coverage is not achieved by the existing geographical distribution of shelters (Council of Europe, 2007: 18). There is also a need for greater provision of free legal aid and advice services for victims of violence. An example from an OECD country is the National Centre for Domestic Violence in the United Kingdom.[31] Finally, it is important to ensure that the existing hotline is accessible 24 hours per day, nationwide, toll-free and that it provides information and support services in several languages to respond to the needs of national, expatriate, migrant and trafficked women.
- Engaging civil society organisations as partners with government in combatting gender-based violence. For example, legal services for victims of violence are often supplied by NGOs that specialise in women's issues. For example, in the Palestinian Authority, the Women's Centre for Legal Aid and Counselling (WCLAC) provides a unit that provides legal advice, court representation, social support and counselling for women (Box 7.5).

Box 7.5. **Women's Centre for Legal Aid and Counselling (WCLAC)**

The Women's Centre for Legal Aid and Counselling (WCLAC) is an independent Palestinian, non-profit non-governmental organisation (NGO) established in 1991 that specifically addresses the causes and consequences of gender-based violence within the Palestinian community as well as due to the military occupation. The centre provides legal aid, social counselling and protection services to women living in precarious and hazardous situations. It also benefits from a special consultative status to the UN Economic and Social Council (ECOSOC).

The strategic areas of intervention of the WCLAC include:

- legal advice, court representation, social support and counselling
- an emergency protection shelter for women victims of domestic violence
- awareness-raising.

The WCLAC works on 400 legal cases a year to bring legal services to Palestinians in need of representation in civil and religious (*sharia*) courts. The Palestinian Authority has designated its emergency protection centre as the primary referral centre for women escaping or at critical risk of domestic violence. Lastly, several awareness-raising activities are conducted by the staff in response to local and/or personal areas of concern raised by participants.

Source: Women's Centre for Legal Aid and Counselling, www.wclac.org/english.

- Providing counselling services for victims and establishing specific structures within hospitals is another way to reduce women's fear of stigmatisation in reporting cases of violence (Table 7.3). Professionals in the healthcare system and the police are often the first to notice and register cases of violence. It is critical to establish a referral system that links all relevant institutions and ensures a quick transfer of women to a central inter-agency unit. Health professionals, police officers and employees of the justice and counselling services need to be trained on a mandatory basis to enhance their understanding, competencies and skills to recognise violations and to deal with victims of violence. These measures are likely to increase the protection of victims' rights and the reporting of abuse. Bahrain, Jordan, Tunisia and Yemen provide specific counselling services for victims of violence, with Jordan and Tunisia providing a specific structure within hospitals to deal with victims of violence. Still, the current measures are far from sufficient to provide an effective joint response to this critical issue.
- Establishing preventive measures, which should also include changes in attitudes towards women and erasing gender stereotypes in the society, thus creating a safe environment for women. To enhance women's physical safety and perceptions of safety, there is a need for safety audits of public institutions and places, giving women of all ages, nationalities and locations the opportunity to identify where they feel unsafe. Resources also should be allocated to various public institutions for developing and implementing a holistic prevention strategy and actions that proactively engage women as well as men, and the government sector as well as the non-governmental sector.
- Communicating that violence against women should not and cannot be tolerated can further support its reduction. Some MENA countries (Bahrain, Egypt, Jordan, Tunisia and Yemen) report undertaking awareness-raising and community

sensitisation to issues of violence through media campaigns, with Jordan and Tunisia making use of the education system and materials for this purpose. Advertising and national campaigns may be used to spread information about hotlines for reporting violence. The education system and the news media are also well positioned to raise understanding and awareness of the unacceptability of violence against women. France offers an example of a communications strategy that also incorporates government directives and the establishment of an emergency helpline (ministère des Droits des femmes, n.d.). Teachers and journalists can be trained and encouraged to undertake gender-sensitive teaching or reporting on violence against women. Increased dissemination is crucial to ensure that women are aware of the existence of support services and the different options they can consider when facing violence. Moreover, engaging prominent men in anti-violence campaigns may also help to signal the unacceptability of violence. One example is the international White Ribbon Campaign, originally launched in 1991 in Canada and now active in more than 55 countries (Box 7.6).

Table 7.3. **Government measures taken to improve access to legal services across MENA countries**

Type of measures	Yemen	Egypt	Lebanon	Jordan	Tunisia	Morocco	Bahrain	Palestinian Authority	Kuwait
Awareness-raising and sensitisation through media campaigns	x	x		x	x		x	x	
Provision of specific hotline	x	x		x	x		x		x
Provision of specific counselling services for victims of violence	x			x	x		x	x	
Criminalisation of all forms of violence against women (including family-based violence)		x		x	x			x	x
Awareness-raising and sensitisation through the education system and materials				x	x		x	x	
Data collection on the prevalence of different forms of violence against women				x	x		x	x	
Provision of specific structures within hospitals				x	x				
Providing resources to strengthen capacity of various actors to prevent and address violence against women				x				x	
Total	3	3	–	8	7	–	5	6	2

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

Box 7.6. **White Ribbon Campaign: A worldwide initiative – Experiences from New Zealand**

White Ribbon Day, 25 November, is the international day when people wear a white ribbon as a personal pledge to never commit, condone or remain silent about violence against women and girls. It also celebrates the many men willing to show leadership and commitment to promoting safe and healthy relationships within families, and encourages men to challenge each other on attitudes and behaviours that are abusive.

The first White Ribbon Campaign (WRC) was launched by a group of men in Canada in 1991 after the brutal mass shooting of 14 female students at the University of Montreal. The WRC in Canada runs its campaign from 25 November (the International Day for the Eradication of Violence Against Women) through 6 December, Canada's National Day of Remembrance and Action on Violence Against Women. Other countries support 16 Days of Action from 25 November until 10 December, but campaigns can occur at any time of the year. In 1999, White Ribbon Day was officially adopted by the United Nations as its International Day for the Elimination of Violence against Women. Today, the White Ribbon Campaign is the largest effort in the world (involving over 55 countries) that encourages men to condemn violence against women. The WRC aims to achieve this goal by challenging people to speak out and think about their actions, language and beliefs; educating youth on violence against women; raising public awareness on the issue; and partnering with women's organisations, the private sector and media.

The campaign was introduced to New Zealand by UNIFEM (the United Nations Development Fund for Women) in 2004. The campaign is driven by community groups in towns and cities throughout New Zealand and is rapidly becoming part of the annual events calendar. White Ribbon Day events and activities are increasingly supported by businesses, cultural groups, sporting teams, local government, and a wide range of community and government agencies.

Activities and initiatives that took place nationwide or in specific cities during the 2010 campaign in New Zealand include:

- Prominent men in New Zealand signed a pledge to never condone or remain silent to violence towards women. Pledges appeared in local newspapers, and signatures collected were gathered and sewn together to form a giant white ribbon.
- White ribbon stalls, which distribute white ribbons, as well as information on violence against women and flyers on preventive measures, were set up nationwide.
- Fundraising events to support the work of community centres that deal with violence against women were organised.
- Parades and marches to publicly show support for the campaign were implemented across New Zealand.
- A father and son breakfast was held in several cities by community centres that deal with violence against women.

The Families Commission – an autonomous Crown agency – now provides much of the funding and project management for White Ribbon Day as part of its work to raise awareness of family violence and encourage social change. A national campaign committee made up of representatives from government agencies – including the Ministry of Women's Affairs – and community organisations co-ordinates and manages events and activities around White Ribbon Day. More than 500 000 white ribbons were distributed in 2009 in New Zealand.

Source: Information provided by the New Zealand Ministry of Women Affairs, White Ribbon New Zealand initiative, http://whiteribbon.org.nz; White Ribbon Campaign, www.whiteribbon.ca/about_us/#1.

Summary recommendations

To eliminate violence against women:

- Develop framework laws on violence against women (e.g. domestic violence, female genital mutilation, trafficking of women, prostitution and violence outside the home) and promote understanding of the relationship between violence and gender discrimination, including through criminalisation of acts of domestic violence and sexual abuse. These laws should be supported by a comprehensive and horizontal strategy to prevent and combat violence against women.
- Repeal discriminatory provisions in criminal law, in particular the laws on adultery and crimes against women in the name of honour; ensure the equal treatment of women before the law and the abolition of the diluted criminal-law liability and strengthen the penalties imposed on men who commit so-called "crimes of honour".
- Promulgate laws to protect female workers from being subject to trafficking or abuse and design measures to protect categories of women in precarious situations, such as domestic workers and refugees. Help them learn about their human rights and enable them to keep their families safe.
- Facilitate provision of public and social services that seek to protect women from violence or help victims (e.g. hotlines, shelters, centres and counselling services for women victims of violence, hospital referrals).
- Strengthen law enforcement and the capacity of actors involved in the prevention, identification and suppression of violence against women, including human trafficking. Establish in the justice system and in courtroom procedures additional safeguards that ensure the anonymity, privacy, dignity and autonomy of victims of violence. Simplify procedures of proof for gender-based violence.
- Intensify awareness-raising and advocacy actions against gender-based violence targeting the public at large and opinion leaders, including improvements in research and data collection.
- Strengthen non-judicial mechanisms for the protection of women and human rights such as human rights commissions, a Gender Equality Commission and or an ombuds office which can also support women's access to justice (see Chapter 3).
- Address social barriers that impede access to justice in cases of gender-based violence by changing organisational behaviours towards women who report incidents to the police and judiciary, particularly through the use of media campaigns and educational institutions.

Nationality

International standards

Article 9 of the CEDAW Convention affirms women's rights to acquire, change or retain their nationality and the nationality of their children: "(1) States [p]arties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to a foreigner nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her

stateless or force upon her the nationality of the husband. (2) States [p]arties shall grant women equal rights with men with respect to the nationality of their children."

This provision had a profound impact on women who married foreign nationals and on their children.

Most Arab countries made reservations to this provision (except Comoros, Djibouti, Libya and Yemen), which does not appear to have links with *sharia* law. However, some countries withdrew their reservations after reforming their national legislation in this area. For example, Algeria, Egypt, Morocco and Tunisia withdrew their reservation to Article 9 paragraph (2) to allow women to transmit their nationality to their children.

Article 8, paragraph 1 of the Convention on the Rights of the Child requests "States [p]arties [to] respect the right of the child to preserve his or her identity, including nationality, name and family relations as recogni[s]ed by law without unlawful interference (...)". Other international conventions deal with the question of nationality but very few MENA countries have ratified them.

Conformity with international standards of nationality laws

Nationality creates a legal relationship between an individual and a state. It provides the protection of the state and is the legal basis for the exercise of citizenship. In many countries, only citizens enjoy the full exercise of political, economic, social and cultural rights; aliens are deprived of the right to reside in the state in which they live, are denied the right to vote and have limited access to health, education, housing or employment.

In its general Recommendation No. 21 of 1992 on Equality in Marriage and Family Relations, the CEDAW Committee declared that "nationality is critical to full participation in society". The committee added that "Without status as nationals or citizens, women are deprived of the right to vote or to stand for public office, and may be denied access to public benefits and a choice of residence. An adult woman should be capable of requesting to change her nationality; her nationality should not be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality".

In most MENA countries, however, women do not enjoy the same nationality rights as men: a woman who marries a foreigner is not entitled to pass her nationality to a child from the marriage and in most countries she is not entitled to transmit her nationality to her foreign husband (Table 7.4). Nationality is governed by the law of blood or by birth and by priority to the father over the mother. Some women lose their nationality when marrying foreigners. This is a clear violation of Article 9 of the CEDAW since although this article does not guarantee women the right to choose their nationality nor that of their children, it gives them same rights as men to pass on their nationality.

Women experience discrimination in their right to have a nationality or transmit their nationality to their husband and children. Their children, deprived of the nationality of their mother, will be considered as foreigners in their own country and will be deprived of all the privileges granted to citizens, such as healthcare, free education, access to employment, etc. They will also need to acquire a residency permit, which must be renewed annually. Such laws are also a cause for statelessness.

For example, in Egypt until 2004, if the family resided in Egypt, the children, as non-citizens, were excluded from a number of state benefits and were not allowed to serve in the army, which is a classic career choice. If the father of the children disappeared or died, the mother could not rely on any state support to replace the

financial support the father provided. If the family resided in the father's country and the father died or otherwise left the family, the mother would have to remain in that country (with whatever nationality issues that may have presented for her) or abandon her children to return to Egypt.

Table 7.4. **Nationality laws in MENA countries**

Country	
Bahrain	In Bahrain, the law does not give women the right to acquire a nationality of origin. Article 4 outlines the parameters of Bahraini nationality: "A person is considered Bahraini if they are born in Bahrain or abroad and their father was born in Bahrain or if they are born in Bahrain or abroad and their mother was Bahraini at birth, provided that the father is unknown or parentage is not legally proven." Therefore, nationality of origin is not granted to the father and mother equally, as the mother must show that the father is unknown or that parentage cannot be proven. This constitutes discrimination against women and is contrary to the provisions of Article 18 of the Bahraini Constitution in which equality between persons in rights and duties is recognised, without discrimination based on gender, origin, language, religion or beliefs. Bahraini women may lose their nationality when they marry a foreigner and acquire the nationality of their husband, but this provision does not apply to men married to a foreigner. However, according to Article 7(1) of Bahrain Citizenship for 1963, a Bahraini woman can acquire their nationality if marriage ties are broken and if the woman expresses her wish to the Ministry of Interior.
Jordan	Nationality of origin is not granted to men and women. The basis for acquisition of original Jordanian nationality is the principle of the law of blood from the father's side, without reference to the mother (Article 3).[1] Jordan has made a reservation to Article 9, paragraph 2 of the CEDAW, which recognises the principle of equality to the right to acquire, change or retain nationality.
Kuwait	Nationality of origin is granted to the father without reference to the mother, following the principle of the right of blood from the father's side as a basis for the acquisition of Kuwaiti nationality (Article 2).[2] For a mother, it is thus necessary to be born in Kuwait to acquire Kuwaiti nationality. A Kuwaiti woman who marries a foreigner shall not lose her Kuwaiti nationality unless she acquires the nationality of her husband at her own request (Article 10).[3]
Lebanon	Nationality is governed by the law of blood or by birth on Lebanese territory.[4] Laws on nationality give priority to the father: a Lebanese woman married to a foreign national may not transmit her nationality to her husband or to their children, although a Lebanese man married to a foreign national may do so. In fact, considered Lebanese is "every person born of a Lebanese father. Every person born in the Greater Lebanon territory and who did not acquire a foreign nationality, upon birth, by affiliation. Every person born in the Greater Lebanon territory of unknown parents or parents of unknown nationality'' (Article 1).[5] A woman may transmit her nationality to her children in the event of the death of her husband, or if the child has an unknown or stateless father. This negatively affects the well-being of the woman, particularly in the event of divorce or widowhood.[6]
Tunisia	Tunisian law allows a Tunisian man who marries a foreign woman to attribute his nationality to her. The law does not, however, grant the same possibility to a Tunisian woman who marries a foreign man. Her role in this case is limited to making it possible for her husband to obtain Tunisian nationality in accordance with naturalisation laws without being subjected to the five-year residency requirement under Article 20 of the National Code. According to Article 13, "a foreign woman marrying a Tunisian citizen can be granted Tunisian nationality". If her country's national legislation does not deprive her of her nationality of origin when she marries a foreigner, then Article 14 authorises her " (...) to submit a request for Tunisian citizenship in accordance with the conditions stated in Article 39 of this code, which are fulfilled if the couple has been living in Tunisia for a minimum of two years".
Yemen	Article 15 of the Yemeni law provides the right of a husband who renounced his original nationality to recover it at any time and when he so desires, without any condition. In contrast, Yemeni women are required to separate from their husband and return to Yemen. Article 14 dictates that in order to recover her original Yemeni nationality, a woman must terminate her marriage or at least reside in Yemen. This represents a discriminatory practice towards Yemeni women. A Yemeni woman who marries a Moslem foreigner shall keep her Yemeni nationality unless she indicates her desire to surrender it, or if she wishes to acquire the nationality of a naturalised Yemeni husband. If the marriage contract is legally void, she shall continue to hold the Yemeni nationality (Article 10).[7] This provision, however, does not apply to a man marrying a foreign woman. The loss of nationality or obtainment of a certificate of abandonment can, in certain cases, render the Yemeni woman stateless. The acquisition by a Yemeni of a foreign nationality, when authorised, shall not entail his Yemeni wife to, *ipso facto*, lose her Yemeni nationality, unless she explicitly declares her desire to acquire the new nationality of her husband (Article 12).[8] However, a Yemeni woman who loses her Yemeni nationality may recover it on the termination of the marriage if she requests it back (Article 14).[9]

Notes: 1. Jordanian Nationally Law No. 6 of 12 October 1963. 2. Kuwaiti Nationality Law No. 15 of 1959. 3. *Ibid.* 4. Lebanese Nationality Law issued by Decree No. 15 on 19 December 1925. 5. Article 1 of the Lebanese Nationality Law issued by Decree No. 15 on 19 December 1925. 6. Article 2 of the Lebanese Nationality Law issued by Decree No. 15 on 19 December 1925. 7. Yemeni Nationality Law No. 6 of 1990. 8. *Ibid.* 9. *Ibid.*

Source: Developed by the OECD, based on CAWTAR's legal research (2014)

Good practices in Arab countries

Most countries in the MENA region have enshrined the principles of equality with regards to nationality within their constitutions and legal system but certain gaps and national differences remain with respect to the transmission of nationality to children, and with regards to the nationality of the wife.

Over the last few years, however, several countries in the MENA region have recognised the equal rights of the father and the mother to transmit their nationality to their children (Algeria, Egypt, Tunisia) and some of them have allowed foreign husbands to acquire the nationality of their wife (Algeria, Morocco). Other MENA countries could withdraw their reservations to the CEDAW Convention and reform their nationality laws to establish genuine equality between men and women in this field (Table 7.5).

Overall, despite the international standards in this area, such as the CEDAW and the CRC, the nationality laws in many MENA countries establish restrictions on the attribution of nationality from women to their children and on the ability to transmit nationality by marriage between a foreign woman and a country national or vice versa. Although, as the examples in this chapter have shown, a number of Arab countries have already legally established full equality between a mother and a father in their ability to transfer their nationality to their children, or between men and women to their spouse, many others have not and may consider amending the current legislation to address these gaps. The most advanced country in this area is Algeria, which does not impose any conditions in either case.

Summary recommendations

To ensure equality in nationality rights:

- Enable full equality between the mother and the father in their ability to transfer their nationality to their child(ren).
- Provide for full equality between men and women with regard to the privileges in obtaining and attributing their nationality by marriage, as recommended by the CEDAW.

Access to justice

Access to justice is a central issue that either can facilitate or hinder gender equality in all areas of public life. It is critical to protect women's rights in all areas of life, including economic participation.[32] Access to justice mainly means: legal mechanisms and legislations that establish a right to access to court and to a fair judicial remedy; that promote legal and judicial assistance to women; that help them become aware of their rights to access justice; and that provide legal services and advice. It also means the right for women to go to court, the right to work in a legal profession, a chance for women to access the same positions as men in the judiciary, according to principles of equality and fairness. Limited access to justice impedes progress on women's equality as it not only perpetuates existing inequalities but it also reinforces impunity and a lax judicial framework for the protection of human and civil rights.

Table 7.5. **Nationality laws: Good practices in MENA countries**

Country	
Algeria	Algerian law establishes full equality between mothers and fathers in attributing their nationality to their children by virtue of a February 2005 revision that covered Article 6 of the Algerian Nationality Law, and Instruction No. 01.05. The article now clearly states: "a child born to an Algerian mother or father is considered Algerian." Algerian law also granted men and women equal rights in citizenship attribution by virtue of marriage. Revised Article 9 affirms repeatedly that "Algerian nationality can be obtained by marriage with an Algerian man or woman by decree when the following conditions are met: a) the marriage is legal and effective for at least three years prior to submitting the naturalisation request; b) there has been a permanent and regular residence in Algeria for a period of at least two years; c) the person requesting citizenship has had good conduct and behaviour; and d) the means of livelihood are sufficient." With these amendments, the Algerian law is considered to be forward-looking in the Arab world because it treats men and women equally in nationality attribution to their children without condition. It is noteworthy that Algeria also removed its reservation to Article 9 of the CEDAW related to nationality in 2008.
Djibouti	Nationality is granted on an equal footing (Article 4).
Morocco	Section 2 of the revised Nationality Law (No. 06-62, implemented by Dahir Sharif 1.07.80 on 23 March 2007) states: "A child born to a Moroccan mother or father is considered Moroccan." The revised law reflects the Moroccan legislature's goal of equality for the mother and father in the attribution of Moroccan nationality on an equal basis and without discrimination between men and women. Article 10 of the revised Nationality Law (No. 06-62, implemented by Dahir Sharif 1.07.80 on 23 March 2007) addresses the case of nationality acquisition by marriage: "It is possible for a foreign woman married to a Moroccan man after a minimum period of five years of living together and on a regular and normal basis with her husband in Morocco, to approach the Minister of Justice to request Moroccan nationality (...)." Article 19 enumerates cases of lost nationality, particularly: "(...) a Moroccan woman who marries a foreign man and acquires his citizenship by virtue of her marriage is authorised by a decree before this marriage to give up her Moroccan nationality." It is also possible for: *i)* a Moroccan by birth of a Moroccan mother, in a bi-national marriage to express his/her desire, by a statement presented to the Minister of Justice, to retain only the nationality of one of his parents, provided that he/she does it between the age of 18 and 20; and; *ii)* a Moroccan by birth of a Moroccan mother, in a mixed marriage, and before the age of majority, to express his/her desire, in a statement presented to the Minister of Justice, for her/his [the child's] desire to retain the nationality of one of his parents …". The legislation recognises exceptions to the Moroccan nationality attribution cited in Article 45 as follows: "Every person native from a country whose population consists of a group speaking Arabic or belonging to Islam, and he/she being a member of this group is authorised to choose Moroccan nationality within a year starting from the date of publication of this law, taking into account the right of the Minister of Justice's opposition according to the provision of the Articles 26-27, and if he/she meets the following conditions: 1) His/her place of residency is Morocco, on the date of publication of this law; 2) and to prove in addition that: a) he/she has been living in Morocco on a regular basis for at least the last 15 years; b) or has occupied a public function in the Moroccan administration for at least the last ten years; c) or is married to a Moroccan woman with accommodation in Morocco for at least one year, provided that the marriage is not promiscuous ...". This article illustrates that the Moroccan legislation allows women to attribute their nationality by marriage. In other Arab countries, the possibility of attributing nationality by marriage is limited only to men who marry foreign women.
Tunisia	The Tunisian legislation represents a positive step for Tunisian women married to foreigners. By virtue of Amendment No. 62 of 1993, it is now possible for a child born abroad to obtain the mother's Tunisian nationality before reaching the age of majority simply on the basis of a joint declaration made by the mother and the father of the child. Article 12 of the Nationality Law (modified by Amendments No. 4 of 2002 and No. 62 of 1993) states: "A child born outside Tunisia of a Tunisian mother and foreign father shall become Tunisian provided that he claims that status by declaration within a year before the age of majority." However, "Before reaching the age of 17, the applicant shall become Tunisian upon joint declaration by his mother and father". Article 6 of the code related to the attribution of nationality by descent states: "is Tunisian: a) who was born to a Tunisian father; b) who was born to a Tunisian mother and an unknown father or with no nationality or an unknown nationality; and c) who was born in Tunisia to a Tunisian mother and a foreign father."
United Arab Emirates	Emirati women can pass their nationality on to their children.

Source: Developed by the OECD, based on CAWTAR legal research (2014)

In the MENA region, similar to many countries around the world, women tend to have less access to, and ownership of, judicial processes in light of their marginalised status *vis-à-vis* men. In some countries, women enjoy equal legal access to justice, yet other institutional and legal impediments, limited awareness and understanding, and persistent societal restrictions continue to hinder *de facto* their access to such justice. Irrespective of whether women legally have equal access to the judicial system, discrimination and their subordinate status in other areas of life – such as family law – may have an impact on women's ability to access judicial services easily and effectively.

This effectively denies them legal autonomy, which diminishes their standing as independent, responsible and valued members of society.

This section assesses the legal and institutional framework related to ensuring equal access to justice by men and women, and identifies potential barriers and factors that may affect the overall ability of women to access the legal system. First, it assesses conformity of national legislation with international standards related to access to justice. Next, it reviews the legal and institutional frameworks for legal capacity, the equality of women before the law and access to the legal system, including such issues as the availability of legal aid and recourse and enforcement mechanisms for women. Thirdly, it explores issues related to women's awareness and understanding of legal rights. Finally, it highlights social considerations in accessing justice.

Legal review and conformity assessment

International standards in accessing justice

Several of the CEDAW's provisions contain mandates for governments as states parties that are relevant for gender-responsive justice programming. These include:

- Establishing legal protection for the rights of women on an equal basis with men and ensuring the effective protection of women against any act of discrimination through competent national tribunals and other public institutions. (Article 2.c)
- Taking all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women. (Article 2.f)
- Repealing all national penal provisions that constitute discrimination against women. (Article 2.g)
- [According] women equality with men before the law. (Article 15.1)
- [According] to women, in civil matters, a legal capacity identical to that of men, and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property, and shall treat them equally in all stages of procedure in courts and tribunals. (Article 15.2)

Most MENA countries have ratified this convention and included the principle of equality in matters of access to justice in their constitutions and legislations. However, in practice, gaps remain and lead to discrimination against women. Indeed, in most MENA countries, women often hesitate to appeal to courts in order to denounce discrimination, abuse or violent acts they are subjected to inside or outside their family environment. One of the main reasons cited for this reluctance includes a fear of social exclusion. Women often do not dare to ask for help from judicial institutions or report discrimination or violent acts. In Jordan, for instance, although the Jordanian civil code grants women the

legal capacity to conclude all legal proceedings and to have access to justice by the age of 21, in practice they often do not exercise this right from fear of being rejected by society and because it could have negative consequences for their families.

Differences among countries do remain, however, in terms of efficiency in implementing these principles. The impact of customs and inherited traditions and of stereotypes in certain societies also complicates the effectiveness of this implementation. In other MENA countries, cultural specificities, which do not recognise the human rights of women, are so anchored in their societies that they go against the universality of women's rights. These discriminatory customs and traditions violate the principle of equality in certain cases, when the health of women is jeopardised in order to comply with men's wishes, such as early marriage or female genital mutilation.

Legal capacity and equality before the law

Most MENA countries regard men and women as equal in their legal and civic capacity to testify before criminal and civil courts. Although some discrepancies exist, they also secure equal rights for men and women to engage in litigation, including women's right to conduct legal actions, file lawsuits and sign contracts. Women's rights are often explicitly stated in various legal texts.

MENA countries maintain relatively adequate access to justice, at least, theoretically. In practice however, women are often unable to access justice due to the relatively high litigation and lawyers' fees. Provision of legal aid services has to be improved and implemented.

Differences in legal capacity and equality before the law also exist in some cases between men and women, particularly in criminal, civil and personal laws. For example, while national laws do not restrict women's access to land or property ownership, bank loans or credit, adult women in MENA countries do not have the legal capacity to break a marriage contract. While the right of access to justice is guaranteed by the Kuwaiti Constitution, marriage and the traditions of Kuwaiti society have been cited as reasons for delays in equal access to justice for women compared with that for men (Article 166).[33] Similar types of legal inequalities (e.g. custody of children, property division following divorce, inheritance rights) negatively influence women's overall ability to protect their rights by reducing their bargaining power within the family. Family relations and other legal inequalities mediate women's access to justice in ways that undermine their rights.

Much of the persistence of *de facto* difficulties in access to justice stems from legal capacities originating from institutional dichotomies and legal plurality that leave women's legal capacity and equality before the law vulnerable to discretionary interpretation. Many cases in which personal or family matters are in the jurisdiction of religious courts differ based on religious affiliation. For example, in the Palestinian Authority, conflicting legal heritages and jurisdictions exist throughout the West Bank, Gaza and East Jerusalem based not only on geopolitical and administrative complexities, but also due to religious affiliation. This includes dichotomies in religious law based primarily on religious heritage (*sharia* law or Christian law for family and divorce matters) as well as differences between the application of laws in the different geopolitical areas (area A, B and C).

In these cases, women are often vulnerable to finding themselves in a situation of legal inequality and reduced legal capacity depending on the discretion of family members. There is a clear discrimination between men and women in facilitating

litigation processes and providing evidence before courts of law in a manner that restricts women – but not men – and prevents women from accessing certain areas of justice.

There is persistent opposition from religious movements such as the Muslim Brotherhood towards movements to free Kuwaiti women and enforce their right to access to justice. Similarly, despite the legal capacity granted to women to conclude all legal proceedings and have access to justice from the age of 21 years under the Jordanian civil code, in practice, women often do not go to courts to claim their rights for fear of rejection by society and negative consequences for their families.[34]

In the UAE, the rights of men and women to sue and lodge complaints with judicial authorities are guaranteed by the Constitution,[35] although the access to justice rights of foreign domestic women workers need to be clarified.[36]

Table 7.6. **Good practices in strengthening the legal capacity of women in MENA countries**

Country	
Djibouti	Recognition of women's full legal capacity to manage their assets, draft contracts and initiate all legal action.
Egypt	Acceptance of witness testimony from women in all types of courts, except for family courts in marriage contracts because of their nature and religious requirements.
Tunisia	The initial initiatives of the government after Tunisia's independence in 1956 included the promulgation of the Code of Personal Status before the Constitution with a view to ensuring justice and equality for women. Reform of the Code of Personal Status widened the commitment to more equal participation of women in all stages of proceedings before the courts.

Source: Developed by the OECD, based on CAWTAR legal research (2014).

Legal services

There are several areas where adjustments are needed in order for women to be able to exercise equal access to justice. Mostly, deep cultural changes are necessary to adjust the organisational mandates and procedures of justice institutions to strengthen accountability and accessibility to women. All justice and government institutions should have clear mandates to implement and enforce laws in a gender-sensitive manner. Specialised legal services can also help women from all societal groups to better protect their rights. These services can include provisions for free legal aid and paralegals, information sessions on legal processes and community awareness campaigns. In particular, the use of community level paralegals, legal empowerment programmes and the provision of free legal aid has had a positive impact on access to justice for women, especially in rural areas and for women of limited means.

Some MENA countries report taking steps to increase women's access to justice (Table 7.7), which include: the provision of free legal aid services in areas related to family and civil law (Bahrain, Egypt, Jordan, Lebanon, the Palestinian Authority, Tunisia and Yemen); the establishment of non-judicial mechanisms to protect women's and human rights, such as a Human Rights and Gender Equality Commissioner or ombuds office (Bahrain, Egypt, Jordan, the Palestinian Authority and Yemen); encouraging independent women's shelter workers, sexual assault and rape crisis advocates, and employees in women's centres to help women understand their rights (Bahrain, Egypt, Jordan and the Palestinian Authority); mandatory annual reporting to the parliament on women's access to the judiciary (Bahrain); the implementation of a free phone service that provides legal advice and information in several languages (Bahrain, Egypt, Jordan,

Kuwait, the Palestinian Authority and Tunisia) and the provision of safe and quality childcare services during legal advisory sessions (Egypt).

In Algeria, national help and orientation centres for women victims of violence have been created to provide legal assistance and facilitate the intervention of security and justice organisations to punish criminals and help the victims of violence. In Morocco, social assistance is provided regarding family matters, under the supervision of a comittee within the Ministry of Justice, with the introduction of a mediation system for families. In Lebanon, women can work in a legal profession and are on equal footing with men: they have full legal capacity to testify and to work in the judiciary, Supreme Court and military courts.

The profile of individuals that experience the judicial process and access to legal services is not homogenous; as such, services need to be tailored to meet the needs of each individual group of women. In effect, the frequency and percentage of individuals that go through different judicial processes and use legal services are not the same for men and women. International evidence suggests that civil and family matters are likely to be the most relevant for women. New Zealand, for example, provides sex-disaggregated data in its Family Court Statistics, which show that in 2007, 91% of applicants requesting protection orders against violence were female, 61% of applicants requesting custody of children were female, 62% of applicants requesting the division of property were female and 51% of applicants requesting one-party dissolution of marriage or civil union were female. As such, in order to understand the profile of justice clients, MENA governments may consider collecting sex-disaggregated court data, particularly in relation to family court statistics, to establish a clearer picture of women's needs in terms of legal aid and counselling.

Table 7.7. **Actions to ensure equal access to justice for women in MENA countries**

	Yemen	Egypt	Lebanon	Jordan	Tunisia	Morocco	Bahrain	Palestinian Authority	Kuwait
Provision of free legal aid services in areas related to family and civil law	x	x	x	x	x		x	x	
Establishment of non-judicial mechanisms to protect women's and human rights, such as a Human Rights and Gender Equality Commissioner or ombuds offices	x	x		x			x	x	
Encouraging independent women's advocates shelter workers, sexual assault and rape crisis advocates, employees in women's centres to help women understand their rights		x		x			x	x	
Mandatory annual reporting to the parliament on women's access to justice							x		
Implementation of a free phone service that provides legal advice and information in several languages		x		x	x		x	x	x
Provision of safe and quality childcare services during legal advisory sessions		x							
Total	2	5	1	4	2	–	5	4	1

Source: MENA-OECD Survey on National Gender Frameworks, Gender Public Policies and Leadership (updated in 2014).

The lack of free legal counselling and aid services may deter national and foreign women, who often have an inferior economic status than men, from seeking legal assistance and pursuing their legal claims. Enhancing women's free access to legal aid and counselling, particularly for civil and family affairs, may significantly contribute to their empowerment. Governments may provide earmarked funds for legal aid and counselling services in all areas of the law (including family and civil matters) to specific ministries dealing with social issues, private law firms and non-governmental women's organisations. These public, private and non-governmental organisations may be well placed to clarify incorrect information on women's legal rights, explain to women the potential benefits and risks associated with various legal options, and provide individual advice and guidance. They may also assist women in gathering information and documents, preparing relevant administrative procedures, filing legal complaints with the courts and accompanying them to court.

Table 7.8. **Good practices for access to justice in the MENA region**

Country	
Algeria	Establishment of national help centres and guidance for female victims of violence, which provide legal assistance to help access justice and allow for the intervention of security and justice bodies to punish criminals and assist the victims of violence.
Bahrain	Establishment in 2007 of the Institute of Legal and Judicial Studies specialising in the organisation of workshops for solicitors and judges and the broader legal profession and judicial system to publicise better the activities and learning programmes for women and to apply it in the field of personal status and proceedings before the courts. Creation of family advice offices to deal with martial problems before they become legal proceedings in the courts. Creation of a complaint centre within the Supreme Council for Women to provide free legal assistance to female complainants who have been victims of violence or have family difficulties.
Djibouti	Strengthened capacities of support centres, media and advice from the Ministry for the Promotion of Women for medical and psychological aid and legal assistance to female victims of violent crimes.
Egypt	Free legal advice for women from branches of the Bureau of Complaints and monitoring from the National Council for Egyptian Women.
Jordan	Production of a guide by the Network for Arab Women to increase awareness on the rights of women to access justice and monitoring and documentation procedures for women before the courts. Establishment of a list from the female section of the Jordanian National Committee for Businesswomen, which will be submitted to parliament to improve access to justice, equality and the situation for Jordanian women.
Kuwait	Publication of a guide from the Institute of Kuwait for legal and judicial studies in collaboration with the United Nations Development Programme and the Ministry of Planning to strengthen the legal culture and alleviate the financial burden and costs on female complainants. Creation of a family representation office within the Ministry of Justice for amicable settlement and resolutions of conflicts related to the family instead of resorting to the courts.
Lebanon	Lebanese women have the right to practise law and appear equally with men before the courts and to have the full legal capacity to give evidence, to work in the magistrate courts, the Supreme and military courts. Women cannot work in religious courts, with the exception of the Anglican Community.
Morocco	Social assistance provided in family matters, under the supervision of a committee in the Ministry of Justice, with the introduction of a family justice mediation system before the magistrates to develop the idea.
Palestinian Authority	Implementation of a project aimed at increasing access to justice for women in marginalised zones in the Gaza Strip, within the borders to provide legal advice and free legal representation for women and develop legal clinics for women through 80 workshops. Participation of the Palestinian Bar Association in the draft for legal assistance for those requiring it and the creation of an independent body financed by the European Union.
United Arab Emirates	Participation of the Supreme Council for Women in supporting women in formulating their complaints; trials conducted on issues related to family and personal status to help women from disadvantaged environments with legal costs and assessment of appropriate alimony. The Supreme Council for Women provides legal assistance to women, with complaints submitted to the council exceeding 11 000 per year. In 2011, the observation programme launched in the Dubai courts ensured the monitoring of court rulings from the emirate of Dubai, including legal provisions related to personal status, alimony and divorce. A co-operation programme between family counselling and personal status services in the courts was created in 2012, in the context of out-of-court settlements of family disputes in different parts of the Emirate states, thereby minimising problems for women to access judicial courts.
Yemen	Creation of the National Commission for Women within the Council of Ministers in 1996 responsible for monitoring the implementation of provision in the CEDAW. Creation of special courts for matters of family and personal status.

Source: Developed by the OECD, based on CAWTAR legal research (2014).

Enforcement and recourse mechanisms

It is not enough to have laws in place; they must be supported by effective enforcement and implementation mechanisms, including recourse mechanisms to protect violated rights. Ombuds offices are often used as a tool to reinforce access to justice when direct access is more complicated. Ombuds offices are used rather frequently in MENA countries. The use of these institutions can be fortified by enabling access to these focal points of complaints. Bahrain, Egypt, Lebanon and the Palestinian Authority all use ombuds offices. In Egypt, for example, the Ombudsman is located within the National Council for Women. This office works to co-ordinate different institutions and ministries that may be involved with the issues at hand.

In OECD countries, examples of how to improve enforcement and recourse mechanisms effectively include Australia and Norway. Norway established an Equality and Anti-Discrimination Ombudsman, who can submit complaints and appeals to an Equality and Anti-Discrimination Tribunal. Similarly, Australia created an Office of the Anti-Discrimination Commissioner and an Anti-Discrimination Tribunal under its Anti-Discrimination Act in 1998.

To enhance the legal protection of women's rights in the workplace, governments may pursue further means to address cases of discrimination, harassment and other violations of women's rights in private and public sector employment (in addition to the efforts already initiated in public sector employment). These efforts can be supported by a central gender institution and be linked to the proposed national commissions or committees on gender equality and human rights. Evidence also suggests that institutions such as public interest litigations (PIL), formed to improve access to justice through recourse mechanisms, are useful in protecting the rights of historically disadvantaged minorities. PILs exist in the Czech Republic, Hungary and the Slovak Republic, as well as in India.

Awareness and understanding of legal rights

Restricted awareness, knowledge and understanding of legal rights can pose significant barriers to women's equal access to justice services. Low levels of legal literacy and poor understanding of the legal process may prevent women from seeking protection of their rights or reporting abusive behaviour. In order to effectively exercise their rights and responsibilities, individuals must first understand them. Awareness of the protection mechanisms and services available to women enables them to reach their full potential, as well as to ensure the realisation and protection of their human rights. Women need to be both aware of their rights and confident that their rights will be upheld so that legal reforms can be effective.[37]

There have been limited efforts in the MENA region to strengthen awareness of women's rights; however, some regional reform examples are relevant, such as in Tunisia and in the Palestinian Authority (Box 7.7). In April 2013, an initiative undertaken by the Palestinian Centre for Development and Media Freedoms (MADA) and the Geneva Centre for the Democratic Control of Armed Forces (DCAF) proposed a draft law specifically on access to information. To further advance women's awareness and knowledge of their rights and legal literacy, greater efforts are needed to compile and disseminate information on women's rights in concise and easy-to-understand manners. These goals can be achieved by providing an appropriate mandate to the central gender institution (see Chapter 3) or encouraging and supporting action by NGOs and academic institutions.[38] The central gender institutions may also consider systemising national and

international experiences with knowledge dissemination and capacity development in order to identify the most appropriate approach for each country.

Box 7.7. **Promoting Women's and Children's Rights through Access to Information (WRCATI)**

Women face numerous difficulties and challenges in MENA countries, often due to ignorance and insufficient or misconceived knowledge about their human and legal rights. Women's and Children's Rights through Access to Information (WRCATI) is an initiative that aims to address this situation and empower women by reducing their legal illiteracy and the gender-based digital divide. The WRCATI is implemented by the UNDP's Information and Communication Technology for Development in the Arab Region (ICTDAR) Initiative. The WRCATI focuses on increasing women's understanding and knowledge of their human and legal rights – as well as their entitlements as citizens, spouses, mothers and workers – through the use of ICT. This increased knowledge enables women – specifically women in difficult circumstances – to improve their quality of life by better understanding their legal rights and subsequently empowering them to claim their rights.

The WRCATI has been implemented in six MENA countries since 2004 (Egypt, Jordan, Lebanon, Morocco, the Palestinian Authority and Tunisia), with the technical support of local partners and international donors. The initiative makes use of various communication channels. It developed and disseminated digital packages in simplified Arabic (and sometimes French) such as CDs, websites and audiotapes. The WRCATI also runs telephone hotlines in some countries, where operators who speak the national language have been trained in answering legal questions and offering advice. The information provided through these channels covers several relevant legal aspects relating to family law, including legal information on child support payments, marriage, divorce, adoption, custody, labour and violence.

The initiative offers quick and immediate answers to women's concerns through simplified FAQs and by providing the legal forms that need to be completed for filing cases in tribunals. The WRCATI also distributes lists of non-governmental organisations (NGOs) concerned with women's and children's issues. Moreover, it reinforces the capacity of women's support mechanisms by improving social workers' and legal counsellors' access to legal information to better advise women. The initiative also has provided some local community centres with computers and organised trainings for social workers and volunteers on basic IT knowledge and the content of the digital package. A website created to form a network that links the countries provides them with an opportunity to exchange good practices (www.wrcati.org).

Building on the WRCATI initiative's achievements, the Center for Arab Women Training and Research (CAWTAR) and the UNDP carried out a project in 2011-12 with a broadened, regional scope entitled "Promoting Legal Empowerment of Women in the Arab Region". The goal is a regional community of practice on women's legal empowerment in the six pilot countries and three additional countries (Bahrain, Kuwait and Yemen) to improve access to legal information for women, raise awareness of their rights, and strengthen the capacity of key partners and stakeholders to address women's legal rights and promote gender-sensitive legislation and policies.

Sources: Website of the Center of Arab Women Training and Research (CAWTAR), dedicated to the WRCATI initiative: www.cawtar.org/index/Lang/en-en/Topic/WRCATI; www.wrcati.org; http://wrcati.cawtar.org.

The educational system also plays an important role in providing foundational knowledge about the human rights of men and women. MENA governments can capitalise on the strong role that the educational system plays in shaping the development of society to ensure that it integrates key elements of civic education. A number of

MENA countries have already successfully integrated human rights education into their basic curricula, for example, in Morocco (Box 7.8).

Box 7.8. **Government initiatives for gender equal education policies: Morocco's Strategic Plan to institutionalise gender equality in the educational system**

Acknowledging that gender equality represents an essential component of good governance and a key factor for sustainable development, Morocco has worked to mainstream gender equality in all ministerial departments. The Department of Education established a strategic medium-term Action Plan (2009-12) for the Institutionalisation of Gender Equality in the Education System. The plan falls under the framework of the National Strategy for Gender Equality through the Integration of Gender Objectives in Public Policies and Development Programmes, which was adopted by the government in May 2006, as well as the NAJAH Emergency Plan (2007), which aimed to give new impetus to educational reform.

The action plan aims at accelerating progress in the field of educational reforms in Morocco through the establishment of an administrative and educational environment conducive to the elimination of discrimination and disparities between girls and boys. It also aims to ensure that the state secretariat in charge of education has the adequate institutional capacity to mainstream gender in the educational system in terms of the design, budgeting, delivering, monitoring and evaluation of educational services. The action plan was designed in partnership with the Gender Equality Support Fund (FAES) of the Canadian International Development Agency (CIDA).

The action plan focuses on three axes:

- developing institutional capacity to ensure the anchoring of gender equality in the governance of educational systems
- ensuring equal access of girls and boys to quality education
- developing the school environment as a space that teaches gender equality values and gender-aware behaviour.

Thirteen sub-projects fall under these three axes, including:

- developing institutional measures to accelerate women's access to decision-making positions in the education sector
- reinforcing the capacities of organisational mechanisms for gender equality in the ministry
- supporting the development of incentives to counter dropout rates in primary and secondary education
- eradicating gender stereotypes and biased or degrading portrayals in curricula, textbooks, teaching and school life
- eradicating gender-based violence in schools.

The action plan includes expected results and performance indicators to ensure the successful implementation of the projects, efficient monitoring and evaluation.

Source: Ministry of National Education, Higher Education, Staff Training and Scientific Research of Morocco (2008), Strategic Medium-Term Action Plan for the Institutionalisation of Gender Equality in the Education System 2009-2012.

Other examples of initiatives to improve awareness and understanding of legal rights come from OECD countries. These initiatives involve raising awareness within demographic groups or within sectors through the educational system, mass media campaigns or targeted programmes. Educational programmes that target raising

awareness are conducted for students at different levels of their educational career. Some OECD countries place requirements for education about equality directly in the education sector. Box 7.9 highlights an example from Spain which demonstrates the legal framework for incorporating awareness of equality and understanding of legal rights through education policy.

In addition, supporting grassroots campaigns that promote women's issues and women's equality often positively affect women's access to justice because of the empowering nature of the activities; individual networking and professional growth opportunities are also important. Civil society organisations often act as facilitators for improving access to justice in rural areas and areas that have less access to government services by providing human resources, targeted initiatives and a unique capacity to connect with women and men who live in precarious situations. The support of an individualised approach through partnership with civil society organisations can have the effect of reducing costs and taking a realistic approach to reducing the barriers to awareness and understanding of access to justice.

Box 7.9. **Spain's legal framework for the education of equality and the integration of the gender dimension in educational policies**

Article 23 of the Constitutional Act 3/2007 of 22 March for Effective Equality between Women and Men: Education for Equality between Women and Men states that:

> The education system will include among its aims the teaching of respect for fundamental rights and freedoms and equal rights and opportunities for women and men. The principles defining the quality of the education system will include the elimination of obstacles that thwart the effective equality between women and men and the furtherance of full equality between the sexes.

Article 24 of the Constitutional Act 3/2007 of 22 March for Effective Equality between Women and Men: Integration of the Principle of Equality in Education Policy states that:

1. Education authorities will guarantee equal rights to education for women and men through the active integration, in educational objectives and practice, of the principle of equal treatment, preventing the generation of inequalities between women and men due to sexist behaviour or its associated social stereotypes.
2. To this end and in the scope of their respective competence, education authorities will take measures to:
   - Lend special attention in syllabi and in all stages of education to the principle of equality between women and men.
   - Eliminate and reject behaviour with a sexist content and stereotypes that entail discrimination between women and men, particularly in textbooks and other teaching materials.
   - Include the study and application of the principle of equality in courses and programmes for initial and lifelong teacher training.
   - Further the balanced presence of women and men in school management and supervisory bodies.
   - Co-operate with all other educational authorities to implement projects and programmes geared to fostering an understanding and the dissemination of the principles of co-education and effective equality between women and men throughout the education community.

Box 7.9. **Spain's legal framework for the education of equality and the integration of the gender dimension in educational policies** (*cont.*)

- Establish educational measures designed to acknowledge and teach women's role in history.

Article 25 of the Constitutional Act 3/2007 of 22 March for Effective Equality between Women and Men: Equality in Higher Education states:

1. In the domain of higher education, the central, regional and local governments, in the exercise of their respective areas of competence, will further teaching and research on the significance and scope of equality between women and men.
2. To that end, the central, regional and local governments will foster, in particular:
   - inclusion in the curricula, where applicable, of education on equality between women and men
   - creation of specific post-graduate studies
   - conduct specialised surveys and field research.

Source: Spain's Constitutional Act 3/2007 of 22 March for Effective Equality between Women and Men.

Examples of programmes that can increase access to justice and promote inclusive governance include support for external monitoring of the protection of human rights. For example, in Finland (among other countries), independent non-governmental anti-discrimination institutions monitor the protection of human rights in the mass media and advertising. Such an institution may be instrumental in achieving the strategic objective of the Beijing Platform for Action to "promote a balanced and non-stereotyped portrayal of women in the media".[39] This institution could be composed of lawyers, journalists, publishers, media representatives, advertisers and representatives of women's organisations; its goals would be to uphold the protection of women's rights in reporting and advertising, without infringing upon freedom of speech, publication, press or media.

Finally, the use of the media as a tool for improving community awareness and understanding of women's rights figures prominently in several grassroots campaigns and government-led initiatives. With respect to the portrayal of women in the media and the protection of their dignity and rights, governments may consider the governmental initiative launched in 2005 by Morocco (Box 7.10). The practice of using different forms of media campaigns and censoring unfavourable stereotypes of women in mass media is also common in OECD and other countries. This type of campaign can target demographic groups that are not part of the education system. For example, in France, the Ministry of Women's Rights recently sponsored the "Festival International des Très Courts", a short-film festival in which a specific prize was awarded to films promoting awareness and understanding of women's rights.

Social barriers to accessing justice

Offering a legal framework and providing initiatives to improve awareness and understanding are insufficient to ensure access to justice for women. Other barriers such as social customs may encumber access to justice on a community level. These informal institutions and rules can effectively undermine women's access to justice.

Box 7.10. **Morocco's national charter to improve the image of women in the media**

To address the pejorative image women have in the media, the detrimental effects of this image on society, and the breach of women's right to dignity, respect and equality this represents, the Moroccan State Secretary for Family, Child and Disabled Affairs, in collaboration with the Ministry of Communication, established a national charter of deontology for the media in 2005. The charter aims to combat the degrading and stereotyped image of women in the media that does not reflect the vital role they play in society. It establishes and defines the forms and modalities whereby national media (meaning all channels of communication and information, written and audio-visual, such as newspapers, magazines, flyers, posters, videos, websites and advertisements) are held accountable for just and respectful portrayals of women.

Acknowledging the potential of media to circulate an enhanced and positive image of women, the charter proposes to mobilise media, political and social actors to urge them to defend and instil a culture of gender equality and respect of human dignity in the media, to increase the access of women working in the information sector to decision-making positions and establish a media culture based on the principles of human rights, non-discrimination and respect of women's dignity. For example, Article 4 of the charter stipulates that the advertising sector shall avoid exploiting women's bodies or confining them to stereotyped roles and social clichés. On the contrary, the media is encouraged to underline women's role as economic, social and political actors. Article 12 calls upon media institutions to integrate a gender approach in the design and elaboration of articles and programmes.

The charter also includes proposals for implementation such as:

- creation of a national prize for advertisements that positively portray women
- financial support to productions that underline women's role in society and challenge stereotypes
- the establishment of a national commission to follow up on the implementation of the charter (e.g. by publishing an annual report on the image of women in the media).

The charter is in line with the provisions of the Islamic *sharia* regarding the preservation of women's dignity, the articles of the Moroccan Constitution on the respect of human rights, and international conventions signed by Morocco (such as the Human Rights Declaration, the Convention on the Political Rights of Women and the CEDAW).

Source: State Secretary for Family, Child and Disabled Affairs of Morocco (2005), National Charter to Improve the Image of Women in Media.

In the MENA region, women often hesitate to access the legal system, including justice for protection against discrimination, abuse and violence. This can also include reluctance in pursuing claims against family members due to inheritance law. A primary reason for their reluctance may be the social unacceptability of being seen at a police station or any other legal institution, particularly when the matter concerns family or private matters. The fear of social ostracism often prevents women from reaching out for help from institutions and for reporting cases of discrimination, abuse and violence. Not unlike in other countries in the region and around the world, a 2009 UAE study involving 980 UAE residents shows that 77% would report rape attacks to the police; however, the majority of national women would refrain from doing so. When asked about what discourages them, 55% of the interviewed female nationals claimed concern about family honour or their own reputation, and 49% of female national respondents feared being judged by society or unjustly accused of immoral behaviour. To support and protect

victims from further trauma, the DFWAC provides support services to all women in the UAE exposed to any forms of abuse, offers victims immediate protection and support services such as shelter, social and psychological care for women and children exposed to violence regardless of race, class, ethnicity, nationality, marital status, legal status or religion. This exposes a deep-rooted fear among women that dealing with law enforcement authorities can lead to trouble. According to a statement from a female professor, "refraining from dealing with police is partly caused by the fact that it is not acceptable to report many problems, such as violence against children or women." This consideration is reinforced by the perception that private matters should not be discussed in the public sphere, including with the police.

The lack of women in the justice system further discourages the use of judicial services by women. This trend is similarly observed in access to all types of public services. Countries such as Algeria and Tunisia have been successful in increasing the participation of women as lawyers and judges.[40] In Tunisia, employment as a lawyer is regarded as a socially acceptable and laudable employment choice for educated women. Law schools are largely populated with women and, over the last decade, the participation of women in the Supreme Court of Tunisia (or the *Cour de cassation* that is divided into several civil and criminal chambers) has been increasing steadily. For example, in 2004, women made up approximately 30% of the Supreme Court justices. This number increased to slightly over 40% in 2010.[41] In Algeria, 38% of magistrates are female. Similarly, Egypt and Jordan have undertaken strategies to increase their number of female judges (see Chapter 4).

Historically, law enforcement authorities have tended to play an oppressive role in several MENA societies, influencing the present-day social view of the police despite the fact that they now fulfil a more service-based function. Given that there is officially no requirement for gender-sensitivity training, some police officers may lack sensitivity and understanding when dealing with women who are abused. In some MENA countries, initiatives to support reform of the police and security sector are provided mostly on an *ad hoc* basis with the support of donors. One such programme includes an assistance programme from the Geneva Centre for Democratic Control of Armed Forces (DCAF). Within the mandate of the programme and in partnership with the government, gender-sensitive training to police and security forces is offered. Training women to become police officers is an additional emphasis.

To encourage access to justice, the Palestinian Authority is creating protection units for families confronted with gender-based violence specifically aimed at providing additional mechanisms for access to justice and protection for victims.[42] In Egypt, a total of 20 shelters for women exist across the country. Demand for the shelters is low, however, due to the stigmatising nature of the shelters and their unwelcoming environment. In response to this, the government of Egypt has developed a strategy to improve the conditions of shelters. Low trends of reporting incidences related to domestic violence also have resulted in fewer prosecutions. Box 7.11 provides further information on the approach to violence against women in Egypt.

Fear and stigma are serious issues that have to be dealt with by police and governments; they may preclude women from reporting abuses, discrimination and violence, particularly within their homes. Increased social dialogue can alter society's attitude and educate communities about the role of the police in protecting rights. According to media reports, the Dubai police has already launched awareness-raising campaigns to educate the public about the protective role of the police and the need to

report crimes in order to live in a safe society. Broader campaigns are needed to change deeply rooted beliefs and social perceptions about the acceptability of reporting gender-based discrimination, abuses and crimes. In addition, countries in the region may need to strengthen discreetness protocols such that complaints and court proceedings that involve sensitive areas of personal integrity remain excluded from personnel files or employment forms.

Box 7.11. **Partnerships with civil society for combatting violence against women in Egypt**

Since the Arab Spring, the National Council for Women (NCW) has been particularly vocal on increasingly violent and systematic attacks on women, particularly in Tahrir Square. Amnesty International published a briefing in which it warned that continued impunity would only lead to more attacks, detailing the brutal attacks that some women have faced in recent months.

Recommendations were introduced to ensure that investigations were conducted into all cases of sexual assault, to introduce legal provisions combating sexual harassment, and to amend legislation to ensure that the definition of rape in Egyptian legislation complies with international law and standards.

While few details have emerged on the law itself, the NCW stated that the law would:

1. ensure a clear definition of sexual assault as a crime
2. increase the severity of punishments for sexual harassment and assault crimes.

In regards to violence against women, the Egyptian law criminalised all forms of violence against persons, including domestic violence. Moreover, domestic violence serves as legal grounds for divorce. All international instruments to which Egypt is party, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, were incorporated into domestic law and can be invoked by the national courts.

Egypt's response to domestic violence is not restricted to enacting legislation. The government is aware of the pressing need to develop a comprehensive strategy to address the question of domestic violence. Such a strategy would be developed in co-operation with the National Council for Women and would include preventive measures, development and awareness raising programmes, legislative reform and the provision of services.

Non-governmental organisations have been at the forefront of raising awareness and conducting research on domestic violence. Unfortunately, the studies published by those organisations are unscientific.

The NCW implemented an ambitious programme to educate society about the role of women in collaboration with the Centre for Development and Population Activities in Egypt (CEDPA), an international NGO. It has established local coalitions and strategic action networks among different sectors of society, including the grassroots base, academicians, businessmen, government employees, representatives of private organisations, etc. in selected rural governorates to spread concepts concerning gender equality and the importance of women's role and participation in developing their communities. These very successful efforts have had a noticeably positive effect. However, the NCW only implemented this programme in six governorates and was unable to implement it in the other governorates due to limited support.

Source: Consultations with National Council for Women in Egypt, 2013.

Summary recommendations

To improve equal access to justice for men and women:

- Ensure complete equality before the law, especially in instances concerning the marriage contract, nationality, child custody and alimony and simplify the procedures involved in access to justice through specifically targeted mechanisms and financial aid.
- Make courts more accessible, including through the provision of affordable legal aid services in areas related to family and civil law based on needs assessments.
- Strengthen non-judicial mechanisms to protect women's and human rights, such as a Human Rights and Gender Equality Commissioner or Ombudsman and encourage independent women's advocates to help women understand their rights, how the system works and how to fight for justice.
- Enhance awareness of legal rights through a range of methods, including free legal advice, information dissemination via commonly used media and childhood education programmes.
- Address social barriers to accessing justice by changing institutional behaviour towards women who report incidents to the police and judiciary, through criminalising all forms of discrimination or violence against women, launching an anti-stigma media campaign and using the educational institutions and the media to build women's confidence of the police, judicial and law enforcement processes.

Notes

1. Countries which made reservations on Article 16 included Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman and Tunisia.
2. The Cabinet of Ministers agreed on 16 March 2014 to reformulate some of the reservations of the Kingdom of Bahrain to the CEDAW, and therefore the draft law was transferred to the Legislative Authority. The proposed amendment states "The Kingdom of Bahrain is committed to implement the provisions of Articles (2), (15) para (4) and (16) of the CEDAW without prejudice to the provisions of the Islamic *sharia*". Furthermore, the first part of the Family Law was issued in 2009 and therefore granted many rights to women in light of the Islamic *sharia*. The Legislative Authority is currently reviewing the proposal of the second part of the Family Law (information provided by the government of Bahrain).
3. Decree Law (42) of 2002 regarding the judicial authority regulated the *sharia* courts through establishment of Sunni and Jaafari departments according to Article (13) of the decree law. With the issuance of Law No. (19) of 2009 regarding the Family Law (Part 1 – the Sunni Part), judges are obliged to refer to it. With regards to parts that are not mentioned in the legal text, judges refer to the rulings of Maliki school. Otherwise, judges could refer to texts from the rulings of one of the four schools,

stating the reason for choosing one school over the others. If this is not possible, judges could refer to apply the general Fiqh rulings of Islamic *sharia*. Contradictory verdicts in Sunni Courts have been considerably decreased along with the issuance of Family Law (Part 1). With regards to the Jaafari courts, Family Law (the Jaafari part) is pending. Judicial rulings are currently issued based on Jaafari Fiqh. Law No. 462/1955 was cancelled according to Article (4) of Law (1) of 2000 on the issuance of the law regulating the conditions and procedures of litigation in matters of personal status. Article (3) of the law states that "rulings are issued in accordance with the laws of personal status and applicable Waqf laws. With regards to cases not mentioned in the legal texts of these laws, rulings to be based according to the proven statements of the school of Imam Abu Hanifa (information provided by the government of Bahrain).

4. *Ibid*.

5. The Family Law (Part 1), Article 18, stipulates that "marriage of a minor female below the age of 16 shall be with the consent of the *sharia* court after the appropriateness of the marriage is ascertained". Hence, the judiciary is required to supervise and authorise the marrying of minor females. The Family Law (Part 1), Article 35 (d), also requires that a judge determine the appropriateness of the age of the two parties before permitting them to marry, as follows: "Proportionality between the ages of the members of the couple is deemed a right of the female alone" (information provided by the government of Bahrain).

6. Jordanian Personal Status Law No. 61 of 1976 as amended in 2010.

7. Bahraini Family Law: Article (36) Reciprocal marital rights and duties and Article (37) Rights of the wife upon the husband. The Family Law (Part 1) and other related laws do not consist of any legal texts requiring women to fully obey their husbands without considering their will and rights. The legal texts such as the ones stated in Articles (36) and (37) clarify that marital duties are mutual and reciprocal. In addition, there is no legal text that prevents women from the right of mobility or to travel. The mobility right is granted by the Bahraini Constitution. Although Article (58) of Family Law (Part 1), requires women to stay in the accommodation provided by their husbands, women have the right to apply this article if it is so stipulated in the marriage contract or if a substantial hindrance is proven before the judiciary. This text is intended to address the husband's responsibility of providing accommodation rather than to hinder the wife's mobility (information provided by the government of Bahrain).

8. Kuwaiti Personal Status Law No. 51 issued on 23 July 1984.

9. Jordanian Personal Status Law of 1976.

10. *Ibid*

11. Two types of custody exist in Bahrain: *i)* custody that gives preference to the father, related to financial issues and marriage, stated in the law of custody on financial issues; *ii)* custody that gives preference to the mother, which is related to maternal custody and breast-feeding, stated in the Family Law Article (132) (information provided by the government of Bahrain).

12. Tunisian Personal Status Code of 1956.

13. Moroccan Personal Status Code (*Mudawana*) of 2004.

14. Moroccan Family Code (*Mudawana*) of 2004.

15. *Ibid*.

16. *Ibid*.

17. Djibouti Family Law of 1992 as amended in 2002.

18. Tunisian Personal Status Code of 1956 as amended by Law No. 93-74 of 12 July 2013.

19. Moroccan Personal Status Law (*Mudawana*) of 2004.

20. Djibouti Family Law.

21. Tunisian Personal Status Code of 1956.

22. Moroccan Personal Status Code (*Mudawana*) of 2004.

23. Djibouti Family Law of 1992.

24. The right of a woman to seek a divorce from her husband for compensation (usually monetary) paid back to the husband.

25. *Ibid*.

26. Djibouti Law No. 152/AN/02/4th related to Family Law of 2002.

27. Article 72 of the Djibouti Law No. 152/AN/02/4th related to Family Law of 2002.

28. Physical abuse is abuse involving contact intended to cause feelings of intimidation, pain, injury or other physical suffering or bodily harm. Physical abuse includes hitting, slapping, punching, choking, pushing, burning and other types of contact that result in physical injury to the victim. Sexual abuse is any situation in which force or threat is used to obtain participation in unwanted sexual activity. Coercing a person to engage in sexual activity against their will, even if that person is a spouse or intimate partner with whom consensual sex has occurred, is an act of aggression and violence. Verbal abuse is a form of emotionally abusive behaviour involving the use of language. Verbal abuse can also be referred to as the act of threatening. Economic abuse is a form of abuse when one intimate partner has control over the other partner's access to economic resources. Economic abuse may involve preventing a spouse from resource acquisition, limiting the amount of resources to use by the victim or by exploiting economic resources of the victim.

29. A woman's acceptance of marriage to a person who raped her may take place solely with her consent and may not be imposed upon her, as stipulated in the Family Law Promulgated by Legislative Decree No. 19 of 2009, Article 23, paragraph (b), which requires a woman's consent for the conclusion of a marriage contract.

30. For example, a study of the United Nations Secretary-General (2006) on "Ending Violence Against Women – From Words to Action" identifies good practices for collecting data on violence against women.

31. National Centre for Domestic Violence, www.ncdv.org.uk.

32. The need for legal and justice services varies depending on individual demographic characteristics, such as gender and cultural characteristics, as well as geographic location (rural or urban) and socio-economic characteristics (level of income, social welfare, education and health status). These differences in needs come as a result of intrinsic and extrinsic inequalities and trends in societal roles for each demographic, whether in regards to men and women or in regards to different minorities or regional populations. Accordingly, it is evident that inequalities in access to justice due to

capacities, knowledge, physical accessibility or societal norms are often integrated into the legal and institutional framework (Chiongson et al. 2011).

33. Kuwaiti Constitution of 11 November 1962.

34. In 2010/11, the National Report on the Progress of Jordanian Women in Justice and Participation was launched. In 2012, the Centre for Justice and Human Rights, in partnership with the Swiss Agency, organised a discussion panel on the "shadow report" of civil society organisations in order to activate the CEDAW in Jordan. Several CSOs participated in delivering a Jordanian women's manifesto, which included several topics to encourage women's legal and political rights in the media and economic spheres.

35. United Arab Emirates Constitution of 18 July 1971, Article 41.

36. In 2009, a seminar organised by the Women's Committee of the Sharjah charity, in collaboration with the Department for Information and Public Relations, explored the strengths and weaknesses of the Law on Personal Status and the legal issues linked to the female question in legislation in the United Arab Emirates.

37. PILs involve the use of ordinary courts in ways that are slightly different than traditional court use because it focuses on "empowering otherwise marginali[s]ed and disenfranchised individuals and groups to vindicate equal rights." It engenders promoting equal rights and access to justice through policy reform drawn from litigation that go beyond issues of the individual plaintiff.

38. Gender units in police stations in Palestine have also been established to support women exposed to violence and in need of counselling. There is also a unit in the *sharia* courts, headed by women's lawyers to support women's awareness and understanding of legal rights. This unit counsels and helps women in their rights. For example, one CSO described the following situation: "In regards to inheritance rights, if the brother/husband dies the family takes advantage of the woman to sign off her inheritance… she often loses everything. Now the court, because of the pressure of Palestinian women, introduced a law that forces at least a six-month waiting period before a woman can be asked to sign off her inheritance to a brother-in-law, father or brother. After this, she has to be aware of how much the inheritance is and how much the cost of it is. They explain that this is their right." NGO, Jordan/Palestinian Authority.

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Annex A
Family law and the principle of equality across the MENA region

Women's consent to marriage	
Bahrain	The woman's consent is mandatory for a marriage contract (Article 23). Such consent may be expressed in an implicit or explicit manner, to validate the contract, thus reinforcing the right of women to exercise their capacity in entering the marriage contract (Article 25). However, the marriage contract is valid only if it is concluded in the presence of a matrimonial guardian.
Djibouti	The marriage contract is consensual since it can only be entered into with the consent of both the man and the woman (Article 7). The law includes an obligation to mention the identity of the couple and their agreement and the identity of the witnesses in the marriage contract (Article 8).
Jordan	Jordanian law requires the presence of a matrimonial guardian as part of the marriage contract (Article 14).
Kuwait	A marriage contract is valid with the consent of the woman's tutor and acceptance from the man or his representatives (Article 8). The woman has the right to choose to marry a man whose age is proportional to her own (Article 36). The presence of the matrimonial guardian at the time of the marriage contract is compulsory. A woman younger than 25 years old may give her opinion on marrying, but does not have the legal capacity to finalise a marriage contract without a guardian (Article 30).
Morocco	The *Mudawana* Code provides: – Equal consent for men and women to conclude a marriage contract, to highlight the importance of such a contract (Article 4). – Equality in the conclusion of the marriage contract by deleting the tutorship (*wali*). An adult woman is authorised to conclude her marriage contract alone and without the presence of her tutor, as was the case in the past (Article 24)
Yemen	The Personal Status Law enshrines the principle of equality of Yemeni women to marry, and the marriage contract is valid when both the man and the woman consent (Article 10). However, Articles 14, 16 and 21 require the presence of a tutor and that of a legal representative (Articles 14 and 16).
Nubile age	
Bahrain	The marriage of a minor female under the age of 16 shall be with the consent of the *sharia* court (Article 18 of Family Law).
Djibouti	Nubile age is fixed at 18 years for men and women (Article 13). The marriage of minors is allowed with approval by a legal guardian (Article 14).
Jordan	Nubile age is fixed at 18 years for both boys and girls (Article 10, paragraph 1). However, the judge may authorise the marriage of a 15-year*old girl in particular cases according to instructions issued by the chief of judges and in case of necessity (Article 10, paragraph 2). The law prohibits a marriage contract with a man aged more than 20 years older than the woman except in cases authorised by a judge (Article 11).
Kuwait	Legislation authorises the marriage of a minor female of 15 years old (Article 26).
Morocco	The *Mudawana* Code enshrined the principle of equality with regards to the age of marriage for men and women, fixed at 18 years (Article 19).
Saudi Arabia	If a 15-year-old person asks to be married but his guardian refuses, he may forward the case to the judge. The judge shall request the guardian to appear before him to explain his position. If he fails to appear or if his objection is not justifiable, the judge may authorise the marriage (Article 9).

Yemen	Yemeni Law on Personal Status does not prohibit minors from becoming engaged, and has not set a minimum age for doing so. The minimum age for marriage is 15 and the law authorises engagements to girls younger than 15 years, bearing in mind that the minor does not yet have legal capacity (Article 15).
Polygamy	
Bahrain, Kuwait and Jordan	Polygamy is authorised and husbands have absolute freedom to marry up to four wives without restrictions or conditions. Women do not benefit from the right to divorce due to husbands' marriages.
Djibouti	Polygamy, up to four wives, is permitted by law on the condition that the husband is fair with all of his wives. This right to polygamy is not absolute but is not restricted by a derogation.
Yemen	Polygamy is legal. The Yemeni legislative body has no plans to end this practice and has granted absolute freedom for men to marry up to four women on the condition that they are fair with them and meet their needs. Yemeni legislation does not grant women the right to divorce due to the marriage of the husband.
Duty of the wife to obey her husband	
Bahrain	Family law requires the wife to obey her husband and imposes duties on her, including taking care of the children, looking after her husband, saving his money and running the house, which belongs to the husband (Article 38). However, Articles 36 and 37 clarify that marital duties are mutual and reciprocal.
Djibouti	The wife has the duty to obey her husband's orders as he is the sole head of the family (Article 31).
Jordan	Legislation on personal status obliges Jordanian women to obtain permission from their husband to exercise their fundamental rights, including freedom of movement (Article 62).
Yemen	Yemeni women are subject to their husbands who can oblige them to move to the marital home, force them into sexual practice and prohibit them from working and driving (Articles 40 and 151).
Divorce	
Bahrain	Men and women have the right to request divorce for causes that render the couple's life impossible (Article 101). Repudiation on unilateral initiative from the husband is allowed.
Djibouti	Women have the right to terminate the marital relation and to seek divorce or *khul* (Article 39); however, she must reimburse the dowry to the husband.
Jordan	The Family Law grants the husband unilateral right to divorce his wife (Articles 80 and 155). The wife may also request judicial divorce on several grounds.
Kuwait	Each spouse, before or after consummation of the marriage, may request the cancellation of the marital relation if the other spouse has a serious defect which is repugnant or harmful, which inhibits the enjoyment of the conjugal relation, whether the flaw existed before the marital contract or occurred after (Article 139).
Morocco	The *Mudawana* Code allows divorce on the initiative of one of the spouses due to disagreement, divorce subject to compensation or judicial divorce (Article 71).
Yemen	Women have the right to terminate or cancel the conjugal link due to mental breakdown, lack of capacity or religious differences. Faults specific to the man that can provide the grounds for divorce include failure to provide upkeep, absence or imprisonment, hatred, and dependency on alcohol or drugs. In turn, the husband has the right to terminate the marriage contract due to physical anomalies in the woman (Article 47). He may request the divorce in person or appoint a proxy to do so, while a judge may authorise the proxy of a mentally deficient husband to request the divorce in his place (Article 60). Yemen has repealed Article 71 of the Law on Personal Status, which granted the woman the right to compensation for an amount equivalent to one year's alimony, while giving the husband the right to request redemption of the dowry in case of a request by the woman to dissolve the marriage by compensation or *khul*.

Annex B
Legislation on violence against women in MENA countries

Domestic violence	
Algeria	The Algerian criminal code punishes: acts of family violence by imprisonment, for a specified period or life, as well as additional penalties for acts leading to a permanent disability; acts of psychological domestic violence such as injury, threats and acts of neglecting the children; acts of sexual domestic violence, such as infringement of the dignity and intimate life of a minor (either daughter or son) under the age of 16 years; rape, incest, sexual relations between parents and children, and between siblings; adultery; prostitution and the incitement of prostitution with stricter sanctions when the guilty party is the husband, the father, the mother or the guardian of the victim.
Bahrain	Cases of domestic violence are often taboo so in most cases the woman accepts her fate in order to remain free from scandal; in some cases, she does not disclose the violence she has suffered for fear of retaliation from the husband, or due to an inability to prove the violence, which may be committed either by the husband, father or brother; in other instances her silence may be due to a lack of knowledge about how to prove these acts of violence. Yet, according to the Bahraini Penal Code, the wife has the right to file a case to the court if the husband commits any harmful acts against her. Moreover, efforts have been reported by the Bahraini officials to strengthen public awareness on women's rights and risks of violence against women.
Egypt	The law does not contain legal text which punishes domestic violence, and women who seek to obtain a divorce for reasons of domestic violence must demonstrate, through medical reports, the extent of the damage suffered, which excludes any form of psychological violence; even with the availability of such evidence, the final decision remains at the discretion of the judge. The new Constitution adopted in 2014 affirms the state's commitment to protect women against all forms of violence. A law is in the process of being approved.
Kuwait	There are no laws criminalising domestic and sexual violence against women in the family and in the workplace. The criminal code states that acts of sexual violence or rape against women committed by the husband or relatives are considered criminal acts and are punished with death penalty (Article 186).[1]
Lebanon	Legal reforms have been launched with the goal of establishing a special law on marital violence and violence in the family between spouses as well as between parents and children.
Morocco	A national strategy to eliminate violence against women was developed in 2005, but there is no framework legislation on violence against women and female minors, including domestic violence and violence against female domestic workers.
Palestinian Authority	The cycle of violence experienced by women in Palestinian society has negative effects on the family and particularly on women. Increased physical violence against women within the family, in addition to the political violence that the Palestinian society suffers from, has deep effects on women, including feelings of negativity and self-abnegation, a lack of self-confidence, avoidance of confrontation in the defence of her rights and a sense of fatalism.[32]An increasing number of females have been removed from public life in Palestinian society, and early marriages are on the rise, which may disrupt family relationships and lead men to exercise violence against women. A young single Palestinian woman living in her father's house cannot complain about violence committed by a male member of her family unless this is submitted by her legal guardian.
Tunisia	The Criminal Code on Violence and Threats as amended in 1993 included aggravating circumstances in the event of physical violence. In fact, any person who deliberately injures, or commits any violence or assault which does not fall within the provisions of Article 319, shall be punished by imprisonment for one year and a fine of 1 000 dinars. If the perpetrator is a descendant or the spouse of the victim, the penalty is two years in prison and a 2 000 dinars fine. If there was premeditation, the penalty is three years imprisonment and a 3 000 dinars fine (Article 218).[3]

United Arab Emirates	The UAE's law punishes rape, abuse and harassment, yet,the husband has the legal right to discipline his wife without causing serious injury. Article 53 of the UAE's penal code allows the imposition of "chastisement by a husband to his wife and the chastisement of minor children" so long as the assault does not exceed the limits prescribed by *sharia*. Article 56 of the UAE's Personal Status Code obligates women to "obey" their husbands.[4]
Yemen	There is no legal protection for women who suffer domestic violence. While married women may report acts of violence committed against them by their husbands, they must prove the physical impact of the violence on their bodies. In such cases, the court may request compensation for the woman, at the discretion of the judge.
Female genital mutilation (FGM) and violence outside the home	
Bahrain	Certain regions have recorded cases of excision practices in which the women involved confirmed that they suffered these mutilations before the age of 20 or 30, although, women have proven their ability to speak up and submit their cases with proof to the concerned authorities.
Egypt	FGM or excisions have been banned since 1996. The leaders of d'Al-Azhar – the central authority for Islam in Egypt – has condemned the inaccuracy of information that claims that female genital cutting is a religious obligation; holy men continue to consider it as a religious practice which ensures that the practice is continuing for girls aged 9-12 years old.[5] According to the criminal code: whoever causes a wound or beating to another that results in sickness or disability to perform personal works for a period exceeding 20 days, shall be punished with detention for a period not exceeding two years or a fine of not less than 20 Egyptian pounds and not exceeding 300 pounds. However, if the beating or wound was preceded with malice, or premeditation, or caused by using any arms, canes, machines or other tools, the penalty shall be detention. The penalty shall be imprisonment for a period not exceeding five years if either injury is committed in execution of a terrorist purpose (Article 241).[6] If the beating or the wound does not reach the degree of gravity prescribed in the two previous articles, the perpetrator shall be punished with detention for a period not exceeding one year or a fine of no less than 10 pounds and not exceeding 200 Egyptian pounds. If it occurs with preceding malice or premeditation, the penalty shall be detention for a period not exceeding two years or a fine of not less than 10 pounds and not exceeding 300 Egyptian pounds. If the beating or wound occurs by using any arms, canes, machines or other tools, the penalty shall be detention. The penalty shall be imprisonment for a period not exceeding five years if any of them is committed in execution of a terrorist purpose (Article 242).[7]
Djibouti	The penal code prohibits the practice of female genital mutilation; however, public opinion does not necessarily support this prohibition, meaning that there is no effective application of the law (Article 333).[8] The 2009 legislative reform aimed to define the concept of "female genital mutilation" and impose criminal sanctions for "persons who are aware of the planning of an operation to conduct genital mutilation on women or who are aware of this but fail to inform the authorities." On the procedural front, the law introduced an amendment to Article 7 of the Criminal Procedure Code that lifts the conditions imposed on associations defending the rights of women to bring complaints in the case of an offence related to female genital mutilation.[9]
United Arab Emirates	The Ministry of Health prohibits the practice in state hospitals and clinics.
Yemen	Women are faced with diverse forms of violence in the street, and in particular verbal harassment. Social standards in the country often impose the burden of poor social conduct on women instead of placing them under the control of men. Verbal harassment humiliates women and often leads to them being prohibited by their family to leave the house. There are still some very harmful traditional practices, such as FGM or excisions performed on girls, which are often performed over a period of 40 days after the birth of a daughter.[10]
Trafficking of women and prostitution	
Algeria	The penal code punishes actions that promote trafficking in persons and its related criminal offences, and those such as prostitution and procuring for prostitution or sexual acts.[10] Algeria has ratified the main international legal instruments relating to trafficking in persons: the United Nations Convention against Transnational Organised Crime, the additional protocol in the fight against transnational organised crime aimed at prohibiting the trafficking in persons, especially women and children, and on the basis of its international law texts. In 2009, amendments to the Algerian Penal Code No. 09/10 defined trafficking in persons and determined the penalties for such crimes (Article 343).[12]
Bahrain	The legislation guarantees the protection of women from prostitution. Bahrain has acceded to the UN Convention against Transnational Organised Crime and the two additional protocols against the smuggling of migrants by land, sea and air as well as the protocol aimed at suppressing and punishing trafficking in persons, especially women and children.

Djibouti	Trafficking in human beings is defined as "the operation by which any person is subject to the adaptation or removal, transport or transfer, accommodation or reception of any person inside or outside the national territory by a person or a group of natural or legal persons under threat or any other form of enforcement by fraud, by deception or by corruption, or by the abuse of power for the purposes of the operation".[13]
Egypt	The Egyptian state accedes to regional and international conventions relating to the criminalisation of trafficking in women and the exploitation of prostitution. Law No. 68 of 1951 (amended by Law No. 10 of 1961) on fighting prostitution applies to crimes of trafficking in persons and related criminal offences and those carried out by modern means of communication technology such as the computer or the Internet.[14] Egypt has ratified the United Nations Convention against Transnational Organised Crime, as well as the additional protocol to the convention to suppress and punish trafficking in persons, especially women and children, and the additional protocol supplementing the convention that fights smuggling of migrants by land, sea and air.
Jordan	Law No. 9 of 2009 prohibits human trafficking and punishes all forms of trafficking in persons in accordance with the protocol aimed at suppressing and punishing trafficking in persons, especially women and children and the exploitation of persons through forced labour, slavery or servitude, or prostitution or any form of sexual exploitation of women and children. Articles 4 and 5 of the 2009 law include provision for the creation of a National Committee for the Prohibition of Trafficking in Human Beings.[15] The Jordanian Penal Code of 1960 punishes prostitution and the profession of prostitution and punishes each woman who makes a profit from prostitution and forces other women to engage in the same activity.
Lebanon	There are no special laws to protect women and girls from employment agencies working primarily to traffic persons. In 2005, Lebanon ratified the United Nations Convention against Transnational Organised Crime and its additional anti-smuggling protocols relating to migrants by land, air and sea and the protocol to prevent, suppress and punish trafficking in persons, especially women and children.[19]
Morocco	Morocco's legislation punishes prostitution and those who incite debauchery or act as intermediaries to facilitate prostitution. Sex tourism is prohibited. Moroccan legislation applies the principle of implementing the law outside of national jurisdiction to combat human trafficking, prostitution and pornography, particularly that related to children. For this purpose, the Moroccan legislation has been augmented with a significant number of provisions designed to ensure better protection of women and children against all forms of exploitation, namely child labour, child victims of trafficking, pornography, paedophilia, violence against women, or the problems arising from managing the influx of immigrants, particularly the fight against immigration.[17] Moroccan criminal legislation prohibits the facilitation or incitement of the prostitution of others or the sharing of income from the prostitution of others, or encouraging or coercing a person (either minor or adult) into prostitution, with or without their consent. These acts are punishable by imprisonment and fine (Article 498).[18]
Saudi Arabia	The anti-trafficking legislation does not provide criminal sanctions but it is a common practice to withhold passports and deny exit visas. The legislation does not provide provisions for trafficking victims to remain in Saudi Arabia during investigations and court proceedings.
Tunisia	The Tunisian penal code punishes by one to three years imprisonment and a fine of 100-500 dinars anyone who helps, protects or knowingly assists the prostitution of others or soliciting; shares the avails of prostitution of others or receives money from a person who habitually engages in prostitution; who knowingly lives with a person who habitually engages in prostitution, cannot possess adequate resources to enable him to support himself; procures, entices or keeps, even with his consent, an adult person for prostitution or engaging in prostitution or debauchery; acts as an intermediary in any capacity between persons engaged in prostitution or debauchery and individuals who exploit or remunerate the prostitution or debauchery of others. Attempted prostitution is also punishable (Article 233).[19]
United Arab Emirates	Federal Law No. 13 of 1996 prohibits trafficking in persons. Any captain of any means of transport who brings or attempts to bring any person inside the country by violation of the provisions of this law shall be punished with imprisonment for a period not less than three years and not exceeding 15 years, and with a fine not less than 5 000 dirham. Anyone who guides or assists anyone who is illegally crossing the borders, for the purpose of entering the country, shall be subject to the same punishment (Article 32).[20] Women are often victims of trafficking in the UAE for the purposes of labour or sexual exploitation. The state has taken measures such as limiting the number of visas granted to single women and prohibiting the granting of visas to women under 30 years of age from former Soviet Union republics. Police conduct regular patrols in places suspected of undertaking such illegal activities. The government of the UAE ratified the United Nations Convention against Transnational Organised Crime in May 2006 and promulgated Federal Law No. 51 the same year that focuses on fighting trafficking and the punishment for such crimes.
Yemen	Yemeni law does not provide special protection against trafficking in human beings and has no special protection in place for victims. Nevertheless, many other Yemeni laws continue to pursue perpetrators of trafficking. In Yemen, trafficking in women has not been regarded as a serious problem. There is no significant information available on this practice, but cases of trafficking in children from Yemen to work in Saudi Arabia have been reported, in addition to an increasing number of female victims of trafficking from Iraq in Yemen for prostitution.

Notes:

1. Kuwait Penal Code No. 16 of 1960.

2. Violence perpetuated against women by family members is a widespread problem and women face increased risk in Yemen. It is difficult to quantify the extent and range of this violence, given that it is very difficult to inform women about domestic violence for various reasons, and also due to the dearth of studies on the subject at the national level.

3. Tunisian Criminal Code as amended in 1993 and reorganised by Law No. 2005-46 of 6 June 2005.

4: Information consulted at the webpage of Human Rights Watch, www.hrw.org/news/2014/08/04/uae-weak-protection-against-domestic-violence.

5. Egyptians believe that FGM is a practice of Islamic origin despite the fact that Christian Egyptians practice it as well, although the majority of Islamic countries beyond the Nile basin do not.

6. Egyptian Penal Code.

7. *Ibid*.

8. The campaign to eliminate the phenomenon of female genital mutilation in Djibouti began in the 1980s, at the initiative of the National Union of Djiboutian Women. Since 2006, a national strategy to eliminate all forms of genital cutting has been implemented by the Ministry for the Promotion of Women, in collaboration with UNICEF, an initiative which was crowned by the adoption of a significant legal reform in 2009, both in form and in content.

9. Despite this reform, these associations are still condemning these practices and to do so they now must provide legal justification of their existence dating back at least three years, as opposed to the five years foreseen under the previous law.

10. This practice is mainly widespread in the coastal zones of Aden and Hadramawt, El Mahra and Hodeidah. Although the Health Ministry has released a public decision for banning the practice of female genital mutilation in official hospital facilities, the Yemeni government continues to turn a blind eye to cutting practiced by traditional community women in particular locations.

11. Articles 342-349 and Articles 291, 293 and 293 bis of the Algerian Penal Code of 8 June 1966.

12. Algerian Penal Code of 1966.

13. Djibouti Law of 27 December 2007.

14. With the arrival of many citizens from African countries and from transit countries, Egypt is becoming a transit zone for women, or crossing South-East Asia, the former Soviet Union and Eastern Europe. What is more, since 2003 the Suez Canal has been considered a very important factor in the trafficking of human beings and of counterfeit goods.

15. Amongst these missions, the committee must draw up plans for the implementation, supervised implementation and revision of legislation in order to prevent human trafficking, and also to draw up proposals or recommendations, and to publish a national directory including instructions and pertinent educational material, and the adoption of measures that aim to protect victims of human trafficking. The committee will also lead an awareness-raising campaign for the benefit of employers who bring in foreign workers, on issues relating to human trafficking, and will also examine reports of national and international organisations on the banning of human trafficking, and co-operate with all official and non-official programmes that provide social support for victims affected physically or psychologically or people affected by human trafficking crimes. The committee will also support accommodation in places and facilities which are certified to that effect.

16. The same year, in order to implement the agreements and protocols, the Lebanese Ministry of Justice launched a project including various procedures to prevent human trafficking in Lebanon and to fight this phenomenon, with technical support provided by the United Nations Office on Drugs and Crime (UNODP). The project mainly aims to develop mechanisms to support the penal code in the area of human trafficking.

17. The amended Moroccan Penal Code of 1962 expressly punishes the various forms of sexual exploitation, and also includes severe penalties for all forms of abuse and sexual exploitation of children, ranging from fines and imprisonment in cases of breaches of decency, to life imprisonment in cases of incest of rape.

18. Moroccan Penal Code of 17 June 1963, as amended in 2013.

19. Tunisian Penal Code of 1913 as amended in 2010.

20. Federal Law No. 13 of 1996 concerning “Aliens Entry and Residence” amending some provisions of the Federal Law No. 6 of 1973 relating to immigration and residence.

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