



fidh

**WOMEN AND  
THE ARAB SPRING:  
TAKING THEIR PLACE?**

## **WOMEN AND THE ARAB SPRING: TAKING THEIR PLACE?**

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Introduction .....	3
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### **REVOLUTIONS**

PHOTO © LAHCÈNE ABIB

Tunisia .....	8
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PHOTO © SALAH HABIBI / AFP

Egypt .....	16
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PHOTO © MOHAMMED HOSSAM / AFP

Libya .....	26
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### **DEMANDS AND DEVELOPMENTS**

PHOTO © PIERRE-YVES GINET

Yemen .....	38
-------------	----

PHOTO © CATALINA MARTIN-CHICO / COSMOS

Bahrain .....	46
---------------	----

PHOTO © ADAM JAN / AFP

Syria .....	54
-------------	----

PHOTO © VALÉRY HACHE / AFP

Algeria .....	62
---------------	----

PHOTO © FAROUK BATICHE / AFP

Morocco .....	70
---------------	----

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Conclusion and recommendations: 20 measures for equality .....	80
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On 18 January 2011, in Cairo, Asmaa Mahfouz, a 26-year-old blogger, posted a video on Facebook calling for a demonstration in Tahrir Square to protest against the Mubarak regime.

The next day, in Sana'a, Tawakkol Karman, a 32-year-old activist and journalist, demonstrating in solidarity with the Tunisian people, called on Yemenis to rise up against their corrupt leaders.

On 15 February, in Benghazi, mothers, sisters, daughters and widows of men killed in Tripoli's Abu Salim prison took to the streets to express their rejection of an oppressive regime.

From Tunisia to Bahrain, from Egypt to Syria, women from all backgrounds demanded democracy, social justice, freedom, dignity and equality. Women activists, bloggers and journalists mobilised and informed the world what was happening. These uprisings, through the demands they generated, reasserted the universality of human rights.

Across the region, women occupied public spaces despite different degrees of freedom. In Tunisia, Morocco and Tahrir Square, women demonstrated shoulder to shoulder with men. In Libya, Bahrain, Syria and Yemen the segregation of women in public has not prevented women participating as demonstrators, organisers and leaders. In each country women, as well as men, have been arrested, detained, killed and tortured by regimes clinging to power. But women have been targets of additional forms of violence including rape, "virginity tests" and abduction.

While women played leading roles in the long years of resistance to dictatorships, the movements of the Arab Spring have given them unprecedented visibility, shattering stereotypes. Images like those of a young Tunisian woman shouting and brandishing a banner proclaiming "Ben Ali, get out!" have been etched into people's consciousness around the world.

And yet the risk is all too real that this burgeoning participation will be taken away.

We must remember the lessons of history. Hard won advances towards equal rights for women face persisting opposition and are all too easily swept away. The story of Algeria epitomises the tragedy of women in revolutions: women fought for freedom from colonialism, but when independence was won they were deprived of their rights. In Yemen, in the 1960s women fought tyranny alongside men, but the change of regime brought increased discrimination.

4 Women's rights are the first to be sacrificed by politicians seeking to hold on to power and to appease the most conservative factions. In Libya, in October 2011, as the President of the National Transitional Council declared that the country had been "liberated" from Qaddafi's dictatorship, he announced that discrimination against half the population would be reinforced: any legal provision that contradicted Sharia law would henceforth be null and void, including laws limiting polygamy and authorising divorce. In Egypt, although women were massively involved in the revolutionary movement, there was not a single woman appointed to the Constitutional Committee or the Civil Consultation Committee, referred to as the "Council of Wise Men". And following parliamentary elections, women represent only 2% of seats.

In Tunisia, the reform of the election law requiring parity on electoral lists represents a great victory, a first in the region and beyond. Yet in elections in October 2011 the vast majority of parties put men at the top of the lists, thereby depriving the Assembly responsible for drawing up the new Constitution of equal representation of men and women. As elected representatives publicly challenge existing protections for women's rights, vigilance must be strengthened.

This period of political upheavals in the Middle East and North Africa is decisive for women's rights. Now more than ever we must mobilise alongside women in the region. FIDH, as part of the Coalition for Equality Without Reservation, will continue to struggle for equal rights, as the very foundation of democracy. As states in the region are being rebuilt, women must take their full place in decision-making bodies.

This report pays homage to the women who struggle for freedom, equality and dignity. It takes a country-by-country look at the role played by women in the uprisings and underlines the obstacles that prevent them from playing their full part in the political and public life of their countries. It emphasises the importance of placing women's rights at the heart of the political process, in countries where dictators have been toppled and in those where people are still struggling to change regimes. We share the reactions, proposals, strategies and hopes of activists in the region, women and men, who continue tirelessly to fight discrimination. The "20 measures for equality" which conclude our report reflect the demands formulated by human rights and women's rights organisations throughout the region.

This report is a resource for action for all those involved in the struggle for women's rights. Equality between men and women is key to the success of transition processes under-way in the region. We must not allow anyone to question the universality of human rights.

5

**FIDH**

**8 March 2012**



**WOMEN AND THE ARAB SPRING:  
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# REVOLUTIONS





## **fidh WOMEN AND THE ARAB SPRING: TAKING THEIR PLACE?**

# Tunisia

- 8 On 17 December 2010, Mohammed Bouazizi set himself on fire triggering protests throughout the country against corruption, unemployment and police repression. Within a month demonstrations led to President Ben Ali's resignation after 23 years in power. The Tunisian revolution set off the Arab Spring with repercussions throughout the region.

The transitional period has seen victories for women: the adoption of a law establishing parity on electoral lists and the announcement of the withdrawal of reservations to CEDAW. Women represent 27% of the Constituent Assembly elected in October 2011. As of March 2012, in the 41-member government, there were 3 women.

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### **I. Women's participation in protests**

Tunisian women participated massively in protests demanding democratic change. Bloggers, journalists, activists, trade unionists, students, mothers mobilised and took to the streets to call for Ben Ali's resignation, freedom and dignity.

*"Throughout the Tunisian revolution, women and men were equal. Women of all ages, from all backgrounds on all walks of life participated in strikes and demonstrations".*

Souhayr Belhassen, FIDH President

During the uprising, women were subjected to specific forms of police violence, including sexual harassment and rape. According to the *Association tunisienne des femmes démocrates* (ATFD), on 11 and 12 January, girls in



## TIMELINE OF KEY EVENTS

### ----- 2011 -----

**17 Dec:** Mohammed Bouazizi sets himself on fire in Sidi Bouzid, provoking the first demonstrations.

**24-27 Dec:** Despite severe repression by authorities, protests spread throughout the country and reach the capital.

### ----- 2012 -----

**4 Jan:** Mohammed Bouazizi dies.

**12 Jan:** A general strike begins in Sfax. Prime Minister Mohamed Ghannouchi announces the dismissal of Interior Minister Rafik Belhaj Kacem. The next day, Ben Ali announces that he will not run for re-election in the 2014 elections.

**14 Jan:** Ben Ali announces the dismissal of the government, early parliamentary elections and declares a state of emergency. He flees to Saudi Arabia.

**17 Jan:** Ghannouchi forms a transitional government and announces the release of all prisoners of conscience, the withdrawal of the ban on the activities of the Ligue tunisienne des droits de l'Homme (LTDH) and the lifting of restrictions on freedom of information. Demonstrations continue, calling for more comprehensive change including the dissolution of Ben Ali's

party, the Constitutional Democratic Rally (RCD). The RCD is eventually dissolved on 9 March.

**29 Jan:** A march for equality and freedom is organised in Tunis by civil society organisations, during which a dozen women are assaulted.

**27 Feb:** Ghannouchi, resigns and is replaced by Beji Caid Essebsi, Minister under former President Bourguiba.

**11 Apr:** A new electoral code is adopted by the High Commission for the fulfilment of the goals of the revolution, political reform and democratic transition, containing a requirement for parity between women and men candidates on electoral lists.

**13 Aug:** Women's rights organisations demand the withdrawal of reservations to CEDAW and call for women's rights to be a priority in the programmes of political parties.

**16 Aug:** The interim government announces the withdrawal of reservations to CEDAW.

**23 Oct:** The first free democratic elections are held to elect the Constituent Assembly. Ennahda wins 89 of the 217 seats; 59 seats are won by women.

**21 Dec:** The composition of the new government is announced.

9

Kasserine and Thela were raped by members of Ben Ali's special forces. In Tunis, from 14 to 15 January, several women protesters were raped while held in detention in the Interior Ministry.

After the fall of Ben Ali, women demonstrated to demand full participation in the process of political transition. On 29 January 2011, women protesters were assaulted by groups of men shouting abuse and calling for protesters "to return to their kitchens".

## II. Women's participation in the political transition

The political transition generated opportunities to increase protection of women's rights and the representation of women in political bodies. Several victories were achieved as a result of the mobilisation of women's rights organisations and other civil society actors.

*“Within the High Commission [for the fulfilment of the goals of the revolution], women mobilised to achieve the adoption of a provision in the new electoral law requiring parity on electoral lists and the mandatory alternation of male and female candidates. We had to counter arguments such as: ‘there are no competent women’, ‘women do not want these responsibilities’, ‘victory should outweigh considerations of gender’”.*

Khadija Cherif, Secretary General of FIDH, Member of the High Commission, October 2011

10 In October 2011, in the first free and democratic elections, women participated as voters, candidates and observers. Ennadha, an Islamist party, won the most seats in the Constituent Assembly, responsible for drafting the new constitution. Although parties were obliged to respect the rules requiring parity of male and female candidates on electoral lists, few placed women at the top of lists, limiting the effects of this legislation. Nevertheless, women represent more than 27% of the Assembly. Tunisia thus remains the country in the region with the highest proportion of women in parliament.

Since the adoption of the Personal Status Code (PSC) in 1956, at the initiative of former President Bourguiba (see further below), Tunisian women have acquired rights within the private sphere, facilitating their participation in public life. The PSC abolished polygamy, required the consent of both spouses to conclude a marriage contract and gave men and women equal access to divorce before a court. In 1957, women gained the right to vote and to stand as candidates in elections. In 1958, a law was adopted requiring marriages to be registered and adoption was legalised. Today, women generally have a level of education equal to that of men, they represent the majority in universities and many hold decision-making positions in both the public and private sectors.

The Ennadha party has stressed its commitment to maintaining the rights of Tunisian women. Yet several representatives of the party have made statements calling women's rights in to question. In October 2011, Rached Ghannouchi, leader of Ennahda, stated that the law allowing adoption of children could not remain in place, on the grounds that it is considered incompatible with Islamic law, and proposed a return to the system of kafala, or tutorship. In November 2011, Souad Abderrahim, member of parliament for the Ennahda party, declared that single mothers were a disgrace in an Arab Muslim society. In February 2012, Sihem Badi, Minister for Women, said that customary marriage or *orfi* was a “personal freedom”.

The new government has been slow to react to violence against women by Salafi groups, including attacks on brothels in the capital and attacks on women teachers and students in universities. According to ATFD, “individuals have tried to impose religious dress on unveiled students and teachers and, in some cases, used violence and intimidation”. The University of Manouba in Tunis is regularly disturbed by Salafi groups calling for women who wear full veils to be admitted to classes and the establishment of single-sex classrooms and prayer halls.

*“It is clear that the women who resisted the dictatorship and who participated in the revolution, will not allow themselves to be stripped of their role in building democracy in Tunisia. There can be no democracy without equality”.*

Sophie Bessis, FIDH Deputy Secretary General, Interview FIDH-Egalité, March 2011

11

## **Representation in Government**

### **Under Ben Ali:**

At the outset of 2011, there were 4 women in the 45-member government: Minister of Women and the Family, Secretary of State for Social Promotion, Secretary of State for American and Asian Affairs and Secretary of State for Information Technology.

### **After Ben Ali:**

In the transitional governments that followed the fall of Ben Ali’s regime, women held between 2 and 3 posts. In the government established following the October 2011 elections, there were 3 women in the 41-member cabinet: Minister of Environment; Minister of Women’s Affairs and the Family; and Secretary of State for Housing.

## **Representation in Parliament**

### **Under Ben Ali:**

**Chamber of Deputies (lower house):** The RCD party imposed a quota of 30% women on electoral lists. In the 2009 parliamentary elections, 59 women were elected to the 214-seat house, representing 27.6%.

**Chamber of Councillors (upper house):** 17 women sit among the 112 councillors, representing 15.2%.

## **After Ben Ali:**

**Constituent Assembly :** In October 2011 elections, 59 of the 217 seats (27.2%) went to women, representing 27.2%.

## **Representation in the judiciary**

Women have been allowed to become judges since 1968. In 2010, women represented approximately 27% of judges and 31% of lawyers.

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## **III. Legislative framework**

### **1. CEDAW**

12

Tunisia ratified CEDAW in 1985 with reservations to key provisions: article 9 (2) (on transfer of nationality to children), article 15 (4) (on choice of residence) and article 16 (g) (h) (transfer of family name to children and inheritance) would be applied only to the extent that they complied with the Personal Status and Nationality Codes. Article 16 (c) (d) (f) (concerning marriage, divorce, and custody of children) would not be respected. A general declaration (which has no legal value under international law) was also made upon ratification: the provisions of Chapter 1 of the Constitution, which states that the religion of Tunisia is Islam (art. 1), take precedence over the provisions of the Convention.

In August 2011, the transitional government announced that these reservations would be lifted. However, as of March 2012, the withdrawal had not been formally registered with the United Nations. The general declaration was maintained.

### **2. The Constitution**

The Tunisian Constitution of 1959, suspended after the fall of Ben Ali, provided: “All citizens have equal rights and equal duties. They are equal before the law” (art. 6). However, there was no explicit provision prohibiting discrimination on the grounds of sex.

The Constituent Assembly, formed following the October 2011 elections, is responsible for drafting a new constitution. Women’s rights organisations have called for the text to enshrine the principle of equality between men and women, to explicitly prohibit all forms of discrimination on the grounds of

sex, to require male/female parity in political bodies and to provide for the supremacy of international treaties over domestic laws.

### 3. Discriminatory laws

A series of reforms adopted over the past decade strengthened the protection of women's rights. In 2004, the Criminal Code was amended to criminalise sexual harassment (art. 226b). In 2007, the Personal Status Code (PSC) was amended to harmonise the minimum legal age for marriage, now 18 years for both men and women. In March 2008, a law was enacted which strengthens the right to housing for mothers with custody of minor children (Act No. 2008-20). Since 2010, mothers can transfer their nationality to their children.

Nevertheless, many discriminatory provisions remain in force.

13

#### **Discriminatory provisions within the Personal Status Code**

**Marriage:** The marriage of minors is authorised in certain cases, with the consent of the guardian and the mother (art. 5, PSC). A dowry is required to conclude a marriage (art 3, 13) but the amount of the dowry must be “reasonable” (section 12). Muslim women are not permitted to marry non-Muslims (Regulation 1973).

**Parental authority:** Both parents have the right to guardianship and custody of children. However, the man remains the head of the family and bears the responsibility of providing for the family (art. 37-38). Women lose custody of their children if they remarry after divorce, while men can retain custody on the condition that “they have at their disposal a woman who will take responsibility for looking after the children” (art. 58).

**Divorce:** After a divorce, a woman is not allowed to remarry for a period of 3-4 months (art. 20 and Book III).

**Inheritance:** In general, women inherit half the amount granted to men. The rights of non-Muslim women to own, manage, inherit and transmit property are limited (Reg.1973).

## Discriminatory provisions within the Penal Code

Rape is criminalised (art. 227), but the perpetrator can escape criminal prosecution if he marries the victim (art. 227 bis). Domestic violence is penalised (art. 218) but the withdrawal of charges by the victim brings an end to proceedings.

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### Further reading

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## **fidh** **WOMEN AND THE ARAB SPRING: TAKING THEIR PLACE?**

# Egypt

16 In January 2011, inspired by the revolution in Tunisia, massive protests broke out in Egypt, calling for social and political reforms, including an end to President Mubarak's 30-year rule.

Although women participated alongside men in the revolution leading to Mubarak's resignation, they were excluded from the political transition: there were no women in the constitutional reform committees and a quota for women's representation in parliament was abolished. Following the 2011 elections the proportion of women in the lower house diminished from 12% to 2%.

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### **I. Women's participation in demonstrations**

#### **Protests leading to the fall of Mubarak**

On 18 January 2011, Asmaa Mahfouz, a 26 year old blogger and member of the 6 April Youth Movement, launched an online appeal to Egyptian men and women to join her in demonstrations in Tahrir Square on 25 January to call for democratic rule.

*"If we have honour and want to live in dignity in this country, we must all go down to Tahrir Square on 25 January... We must demand our fundamental human rights as human beings...I will go to Tahrir Square. I will say no to corruption! I will say no to this system!"*

Asmaa Mahfouz, video blog, 18 January 2011

## TIMELINE OF KEY EVENTS

### ----- 2011 -----

**18 Jan:** Asmaa Mahfouz and other activists call for protests on 25 January (National Police Day) to denounce police brutality and demand the resignation of Habib El Adly, Minister of Interior.

**25 Jan:** Tens of thousands participate in demonstrations across Egypt.

**28 Jan:** Demonstrations meet with unprecedented police violence. Hundreds of protesters are killed and thousands injured. Mobile phone networks and the internet are shut down. Police are withdrawn and the army is deployed.

**1 Feb:** President Mubarak announces that he will not run in upcoming presidential elections and promises political reforms. The following day, pro-Mubarak thugs attack peaceful protesters in Tahrir square, leaving many dead and hundreds injured.

**11 Feb:** Vice-President Omar Suleiman, announces Mubarak's resignation and the transfer of power to the Supreme Council of the Armed Forces (SCAF), headed by Field Marshal Mohamed Hussein Tantawi.

**13 Feb:** SCAF announces the dissolution of parliament, suspends the constitution, appoints an all-male committee to draft a new constitution and declares it will remain in power for 6 months until elections are held.

**8 Mar:** Women gather in Tahrir Square to mark International Women's Day. They are attacked and harassed by a mostly male counter-protest group.

**9 Mar:** The army storms Tahrir Square and arrests protesters. 18 women protesters are detained and 7 of them are forced by the army to undergo "virginity tests".

**19 Mar:** In a referendum on the constitution 77.2% vote in favour of proposed amendments.

**1 Apr – 1 Aug:** Protesters return to Tahrir Square, calling on the government and SCAF to enforce the demands of the revolution. Protests are violently repressed by the security forces.

**9 Oct:** Army and security forces brutally attack a peaceful demonstration of Coptic Christians in front of Maspero, the State television building, killing at least 27.

**18-23 Nov:** Army and security forces attack protesters in Tahrir square resulting in more than 40 deaths.

**28 Nov:** The first round of parliamentary elections begins with high voter turnout.

**16 Dec:** Army forces attack peaceful protests at the Cabinet of Ministers and in Tahrir square, resulting in 17 deaths. They use violence against women protesters.

**20 Dec:** 10,000 women march in down-town Cairo, denouncing army violence. The following day, women march in Alexandria.

**27 Dec:** Samira Ibrahim, who was forced by the army to undergo a "virginity test", wins a lawsuit against the military. The court rules that "virginity tests" are unlawful.

### ----- 2012 -----

**21 Jan:** The final results of elections to the 508-seat People's Assembly (lower house) are announced. The Freedom and Justice Party (FJP), led by the Muslim Brotherhood, wins the largest number of seats.

**26 Feb:** The final results of elections to the Shura Council (upper house) are announced. The FJP wins 105 of 180 elected seats. Women win 4 seats.

17

In the protests that followed, culminating in President Mubarak's resignation on 11 February, women participated alongside men, calling for an end to the regime and the establishment of a civilian government.

*"Women all ages and all walks of life were involved in every aspect of this revolution: in confrontations on the front line with security forces, organising, writing slogans, shouting and sleeping in Tahrir Square..."*

*Housewives came to protest with their children. Activists from all political movements participated in demonstrations. Women and men were comrades in the protests. Women were not afraid. We witnessed no instances of sexual harassment. There was a sense of complete respect, support and solidarity towards women”.*

Amal Abdel Hadi, New Woman Foundation, Coalition for equality without reservation, Interview FIDH-Egalité, 8 March 2011

## **Violence targeting women in subsequent demonstrations**

Following Mubarak’s departure and the transfer of power to the military, protests continued across the country criticizing the ruling Supreme Council of the Armed Forces (SCAF) for not following through on demands for reform.

18 During demonstrations, women protesters and observers, were threatened, harassed and sexually assaulted. On the night of Mubarak’s resignation, journalist Lara Logan was sexually assaulted by a mob of 40 men in Tahrir Square. On 23 November 2011, journalist Caroline Sinz was covering events in Tahrir when she was sexually assaulted by a group of boys.

Women were also victims of violence perpetrated by the police and military. On 9 March 2011, 18 women protesters were arrested by the army in Tahrir Square. They were taken to the Egyptian Museum where they were severely beaten, tortured and verbally abused. They were later transferred to the military Hykestep detention centre, where 7 of them, including Samira Ibrahim, were threatened with prosecution, stripped and forced to submit to “virginity tests” administered by male army doctors. Several members of the military, including Major General Abdel-Fattah Al-Sisi, head of Egypt’s military intelligence, subsequently admitted the practice, claiming that the tests were conducted so that women could not later allege they had been raped. Samira filed a complaint against the army and released her testimony in a video posted on the internet. On 27 December 2011, Cairo’s administrative court ruled in favour of Samira’s claim. The court declared “virginity tests” illegal. Several army doctors, accused of conducting the tests, were charged with “acts in breach of public decency” and as of March 2012 trials were pending.

*“I didn’t go to court as Samira Ibrahim. The violations that occurred are against all the women of Egypt. If everyone remains silent, then nothing will change. I urge all the women who were subjected to violence and had their rights violated by the army to file legal complaints”.*

Samira Ibrahim, FIDH Interview, January 2012

On 23 November 2011, Central Security Forces arrested journalist Mona El Tahawy near Tahrir Square. She was transferred to the Ministry of Interior, where she was detained and repeatedly beaten and sexually assaulted. On 16 December 2011, military forces attacked a demonstration in front of the Cabinet of Ministers, beating and arresting many protesters, including women. Ghada Kamal was among those detained. She reported being severely beaten by the military and receiving death threats. On the same day, a veiled woman was stripped of her clothes, dragged across the ground in Tahrir Square and stamped on by members of the military. Photographs of the incident went viral. On 20 December 2011, thousands participated in an all-women march in down-town Cairo denouncing military violence. Women marched together, holding banners with the photograph of the veiled woman protester. The SCAF later issued a statement apologising to the women of Egypt, claiming that “all legal measures have been taken to hold officials accountable for transgressions”.

19

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## **II. Women’s participation in the political transition**

*“We want women to participate in building their country on an equal footing with men and to be able to enjoy the rights and future that they helped to secure. We need to build an environment that is conducive to women’s full participation in decision-making positions, without any reservations”.*

Amal Abdel Hadi, NWF, FIDH-Egalité Interview, June 2011

As Egyptians start the transition from Mubarak’s 30-year rule, women are struggling to take their place in political processes.

In the immediate aftermath of Mubarak’s resignation, the SCAF announced the formation of a constitutional review committee to propose amendments to the constitution. The committee was composed of 8 men. On 8 March 2011, women gathered in Tahrir Square to mark International Women’s Day and denounce their exclusion from the decision-making process. Groups of men shouted abuse at the protesters and several women were sexually harassed. Millions of women voted in parliamentary elections at the end of 2011, which resulted in the Freedom and Justice Party (FJP), an Islamist party led by the Muslim Brotherhood, winning the largest majority (46%) and the Salafi Al Nour Party in second place (24%). Women are hardly represented in the new parliament (see further below).

A further obstacle to promoting women’s rights in post-Mubarak Egypt is a public perception linking women’s rights to the propaganda of the former

regime. Mubarak established the National Council for Women in 2000 headed by his wife Suzanne Mubarak. Following Hosni Mubarak's resignation, civil society organisations called for the dissolution of the council. The SCAF subsequently nominated 30 new members, including prominent women's rights activists, but the existence of the council continues to be contested by the Freedom and Justice Party.

## **Representation in government**

**Under Mubarak:** At the start of 2011, there were 3 women out of a total of 37 ministers (Ministry of International Cooperation, Ministry of Immigration and Ministry of the State for the Family and Population).

**Post Mubarak:** As of January 2012, out of a total of 31 ministries, 2 are headed by women.

20

## **Representation in parliament**

### **People's Assembly (lower house)**

In 1956, women gained the right to vote and to stand for election. In 1957, Egypt was the first country in the Arab region to elect women to parliament. In 1979 a quota of a minimum of 30 seats for women was introduced by presidential decree. 35 women were elected to the 382-seat Chamber, representing 9%.

**Under Mubarak:** In 2009, a law was passed requiring 64 seats to be reserved for women out of a total of 518 seats. In the 2010 elections, 380 women stood for election, 62 were elected to the reserved seats and one was appointed by the president, representing 12%.

**Post Mubarak:** In May 2011, SCAF issued a decree abolishing the 64 seat quota. Instead, the decree required all electoral lists to include at least one woman. In practice, few women candidates were nominated and most of them were placed at the bottom of electoral lists. Women candidates won only 9 seats in the 508-seat People's Assembly and another 2 were appointed by SCAF, representing only 2%.

*“Political groups do not make women's rights a priority. This includes both liberal and Islamist parties. None of the political parties challenged the fact that no quota was imposed for women. Women's rights were compromised by all political groups”.*

Dr. Hoda Elsadda, Founding member of the Women and Memory Forum (WMF), FIDH Interview, January 2012

### **Shura Council (upper house)**

The Shura Council acts in an advisory capacity. It is composed of a combination of directly elected members and members nominated by the president.

**Under Mubarak:** In 2004, 11 women were appointed. In 2007, 10 women stood for election out of a total of 609 candidates, one woman was elected and 9 women were appointed to the 264-member Council, representing a total of 4%.

**Post Mubarak:** In the 2012 elections, women won 4 of the 180 elected seats. A further 90 seats are to be appointed by the next elected president.

### **Representation in local councils**

Over recent years, there has been a slight increase in the representation of women in local councils, from 1.6% in 2002 to 4% in 2008. In 2008, Eva Kyrolos became the first woman mayor in Egypt (Komboha, Upper Egypt). In June 2011, the Minister of Local Development stated that he would not appoint any women as mayors “due to the difficult times in the country”, declaring “I don’t want to burden them with more responsibilities that they could handle”.

21

### **Representation in the judiciary**

In 2003, Tahany El Gibaly was the first woman judge to be appointed to the Supreme Constitutional Court, but she was not allowed to hold hearings. In 2007, a long-standing ban on women judges was lifted and 30 women judges were appointed to the civil courts. However, women have not been appointed to criminal courts, nor to the Office of the General Prosecutor. The State Council (administrative court) has refused to appoint women judges on religious grounds.

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## **III. A discriminatory legal framework**

A series of legislative reforms passed between 2000-2009 increased protection of several women’s rights. In 2008, a new Child Law was adopted (No. 126 of 2008), raising the minimum legal age for marriage from 16 to 18 years for both men and women and criminalising female genital mutilation. Other reforms concerned divorce and child custody. Some of these reforms were strongly criticised by opposition parties, both secular and Islamist.

Representatives of the Muslim Brotherhood have long criticised existing laws on women’s and children’s rights. Since Mubarak’s resignation, Salafi

groups have denounced the reforms, deeming them “illegitimate” and incompatible with Sharia, and have called for the repeal of laws granting mothers parental authority and custody of children. In July 2011, the president of the Family Court of Appeal submitted a draft bill providing for the abolition of the *khula* divorce procedure and reinstating a practice allowing husbands to forcibly return “disobedient” wives to their family homes. In January 2012, a woman parliamentary candidate for the FJP called for the repeal of all laws contradicting Sharia.

*“Since the revolution, some groups have been attacking the existing family laws. They are trying to take us back to square one. So right now instead of trying to move forward with reform, we are just trying to save what we have”.*

Nehad Abu El-Komsan, Chair, ECWR, FIDH Interview, June 2011

22

Since the revolution, women’s rights and human rights activists who denounce discrimination have been the targets of attacks. In May 2011, Nehad Abo El-Komsan, Chair of the Egyptian Center for Women’s Rights, received death threats after she called on Egyptian authorities to resist attempts to reverse reforms to the Personal Status Law.

## 1. Reservations to CEDAW

Egypt ratified CEDAW in 1981 but entered reservations to several key provisions. Article 2 (on measures to eliminate discrimination against women); article 9(2) (on the transfer of nationality to children); and article 16 (on equal rights in marriage and divorce) apply only in so far as they are compatible with Sharia.

The reservation to article 9(2) was withdrawn in 2008. In 2010, the Egyptian government stated its intention to remove the reservation to article 2 “within a short time-frame” but as of February 2012 reservations to articles 2 and 16 remain in force. The CEDAW Committee has repeatedly underlined that these reservations are “incompatible with the object and purpose of the Convention”.

## 2. The Constitution

**Under Mubarak:** The Constitution of 1971 provided: “All citizens are equal before the law. They have equal public rights and duties without discrimination on grounds of race, ethnic origin, language, religion or creed” (art. 40).



There was no mention of sex as a prohibited ground of discrimination. Article 11 stated that the state will “guarantee harmonization between the duties of woman towards the family and her work in the society, ensuring her equal status with man in fields of political, social, cultural and economic life, without violation of the rules of Islamic jurisprudence”. Under article 2, “Principles of Islamic law (Shari’a) are the principal source of legislation”.

The constitution was suspended by the SCAF on 13 February 2011.

**Post Mubarak:** Constitutional reforms were approved by referendum on 19 March 2011 (the “Constitutional Declaration”). The Constitutional Declaration provides, “the Law applies equally to all citizens, and they are equal in rights and general duties” (art. 7). The same provision prohibits discrimination based on race, language, ethnicity and religion but there is no mention of sex. Under article 2, “The principles of Islamic law are the chief source of legislation”.

A constitutional committee is to be appointed by parliament to draft a new constitution.

23

### 3. Other discriminatory laws

#### Family law

The Personal Status Law (PSL, No. 25 of 1925, as amended in 1979, 1985, 2000, and 2004) applies only to the Muslim majority. Most other faiths apply their own community’s religious standards to family matters. The PSL automatically applies in marriages between Muslim husbands and non-Muslim wives. A draft personal status law for non-Muslims was submitted to the Ministry of Justice in 1998 but was never adopted. In 2010, the CEDAW Committee called for the adoption of a unified family law covering both Muslims and Christians.

Despite reforms to the PSL, many discriminatory provisions remain in force. Egyptian women’s rights and human rights NGOs have called for its immediate and holistic revision. This call was reiterated by the CEDAW Committee in 2010.

**Marriage:** The approval of a woman’s male guardian can be required to conclude a marriage contract (PSL, as amended in 2000, art. 9(7)). Customary “urfi” marriages are authorised. In such marriages husbands have no obligations to financially support wives or children; if the husband destroys the marriage document women can be accused of sexual relations outside of marriage; and fathers can refuse to recognise children. Partly due to the financial costs

of marriage, the number of customary marriages has dramatically increased in recent years.

**Divorce:** Men can divorce their wives by saying “I repudiate you” 3 times and registering the announcement at a religious notary office within 30 days (*talaq*, PSL, amended in 1985). Women are required to go before a court and prove one of the following grounds: the husband’s illness, including mental illness or impotence; failure to provide maintenance or financial support; absence or imprisonment; harmful behaviour, such as mental or physical abuse (art. 7-11). Since 2000, women can also seek a no-fault divorce under the *khula* procedure, on condition that they return the dowry and renounce all financial support (PSL, as amended in 2000).

According to the 2008 by-law on Coptic Christian marriages, divorce is allowed for men and women on the 10 stated grounds set out in the Law of 1938. In 2011, Egyptian Pope Shenouda announced that a new draft law is being discussed which would amend the 1938 law to limit the grounds of divorce to adultery only.

**Custody of children:** Women can be granted custody until a child reaches 15 years or the woman remarries (PSL as amended in 2005, art. 20).

### Legal capacity

The testimonies of 2 women are equivalent to that of one man in family courts. 2 female witnesses are equivalent to one male witness for the purposes of concluding a marriage contract.

### Freedom of movement

According to a decision of the Constitutional Court in 2000, women can travel freely without permission from their fathers or husbands. Yet this freedom can be limited by court order at the request of a male member of the family (PSL as amended in 2000, art. 1(5)).

### Nationality

The Nationality Law was reformed in 2004 (No. 154) to enable Egyptian women married to foreign men to transfer their nationality to their children. However, there have been cases of women married to Palestinians who have been refused this right. The new law does not allow Egyptian women to pass their nationality to their foreign husbands, whereas Egyptian men can transfer nationality to foreign wives after 2 years of marriage. In 2010, the CEDAW Committee called for urgent reform of this law.

## Inheritance

According to the Inheritance Law (No. 77 of 1943), which applies to all citizens regardless of their faith, women are entitled to half the inheritance granted to men. Under common law, non-Muslim women married to Muslim men have no inheritance rights.

## Criminal law

The Penal Code of 1937 provides for reduced sentences for men convicted of “honour killings” (art. 237). The crime of adultery is defined differently depending on the sex of the perpetrator: a man is guilty only if he commits the act in the marital home, punishable with imprisonment up to 6 months (art. 277); a woman is guilty regardless of where the act takes place, punishable with imprisonment up to 2 years (art. 274). There are no specific laws criminalising sexual harassment or domestic violence.

25

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## **fidh WOMEN AND THE ARAB SPRING: TAKING THEIR PLACE?**

# Libya

26 In February 2011, protests broke out across the country, calling for an end to Muammar Al Qaddafi's 42 year rule. Women participated massively in the conflict that ensued, leading to the overthrow of the Qaddafi regime. The transitional authorities (National Transitional Council) have thus far failed to take measures to ensure the representation of women in political bodies: the draft constitutional charter adopted in August 2011 contains no provision prohibiting discrimination against women; the 28-member cabinet appointed by the NTC in November 2011 includes only 2 women; and the electoral law adopted in January 2012 does not contain a quota or other measures to ensure the representation of women in the new parliament.

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### **I. Women's participation in the uprising**

On 15 February 2011, mothers, sisters and widows of men who died in the Abu Salim prison in Tripoli in 1996, gathered in front of the Court of Justice in Benghazi to protest against the arrest of their lawyer. They denounced the failure of the authorities to investigate the deaths and more broadly the corruption of the Qaddafi regime. The demonstration met with violent police repression. In the days that followed, massive protests erupted in several Libyan cities, including Tripoli, calling for the end to Muammar Al-Qaddafi's 42 year rule.

During the conflict that ensued, women participated actively in efforts to overthrow the regime. Women were involved in communicating information from one town to another, smuggling weapons, organising relief and supporting the injured and families. Some women took up arms and fought alongside men.

## TIMELINE OF KEY EVENTS

### ----- 2011 -----

**15 Feb:** Mothers, sisters, and widows of men killed in 1996 in the Abu Salim prison in Tripoli, gather in front of the Court of Justice in Benghazi to protest against the arrest of their lawyer.

**17 Feb:** A "Day of anger" ends in clashes between protesters and security forces who fire live ammunition. Protests continue in the following days and are met with violent repression.

**26 Feb:** The UN Security Council adopts Resolution 1970, imposing sanctions on Libya and referring the situation to the International Criminal Court (ICC).

**27 Feb:** Opposition leaders, including Moustapha Abdeljalil, former Minister of Justice, establish the National Transitional Council (NTC), with one woman among its 14 members.

**17 Mar:** The UN Security Council adopts Resolution 1973 authorizing states "to take all necessary measures to protect civilians", mandating member states and NATO to intervene in Libya.

**25 Mar:** Iman Al-Obaidi, a lawyer from Benghazi, tells journalists that she was raped by security forces. She is arrested by security police, forced into a car and accused of defamation against the Qaddafi government. She is held in detention for several days.

**27 Jun:** The ICC issues an arrest warrant against Qaddafi, his son, Seif al-Islam, and the head of the intelligence service, Abdoullah al-Sanousi, for crimes against humanity.

**1 Sept:** 10,000 women gather in Martyr's Square, Tripoli, to celebrate the end of Qaddafi's regime.

**20 Oct:** Qaddafi is captured in Sirte and killed.

**23 Oct:** The NTC president, Moustapha Abdeljalil announces the liberation of the country and states that all laws that contradict Islamic law will be null and void.

**22 Nov:** The NTC appoints a 28-member cabinet that includes 2 women.

**26 Nov:** Women rally in Tripoli in a silent march to demand support from the government for victims of rape.

### ----- 2012 -----

**28 Jan:** The NTC adopts a new electoral law, which contains no quota for the representation of women.

27

## Violence targeting women

There were widespread reports of rape committed by armed men during the conflict. It remains extremely difficult to document these crimes, in particular due to the stigmatisation of victims.

Fear of being raped by Qaddafi's forces caused many women to flee the country during the conflict. In July 2011, FIDH and the *Association tunisienne des femmes démocrates* (ATFD) interviewed 50 Libyan women who had sought temporary refuge in Tunisia. All those interviewed said that it was not the war that had caused them to flee, but the fear of being raped by Qaddafi's forces.

They reported that victims of rape risk being killed by male family members to “wash away” family dishonour. They had also heard about cases of husbands of rape victims committing suicide. According to several accounts, men sometimes killed wives or daughters before leaving to fight, to avoid the risk of rape. In one case a young girl was killed by her brother on the arrival of Qaddafi’s forces.

The case of Iman Al-Obeidi, a lawyer from Benghazi, who told journalists gathered in a hotel in Tripoli in March 2011 that she had been gang-raped by Qaddafi’s troops, is a dramatic illustration of the stigmatisation of victims of rape. Iman was immediately arrested by security forces, forced into a car and detained in an unknown location for 3 days. Government representatives publicly accused her of being drunk, a prostitute or mentally ill and threatened her with defamation proceedings.

28

Souad Wahabi, activist and long-standing opponent to the Qaddafi regime, met with the FIDH/ ATFD delegation in July 2011. She had documented 54 cases of rape, committed by Qaddafi’s forces. Some of the victims were pregnant. All those she interviewed said that they had been raped by several men.

There is no accountability for these crimes and little support for victims of sexual violence. According to the NGO Voice of Libyan Women, a lot of evidence, including mobile phone footage, was destroyed in order to protect victims from stigmatisation. In January 2012, lawyers and human rights organisations in Libya told FIDH that they had become increasingly reticent to document crimes of sexual violence for fear of reprisals against victims. It is very difficult to provide support or rehabilitation services to victims because of their fear of being identified. In November 2011, Libyan women participated in a silent march in Tripoli to demand more support from the new government for women raped during the conflict. Their mouths covered with tape, the protesters marched to the office of the Prime Minister, Abdurrahim El-Kib. Organizers handed him a letter calling for tougher sentences perpetrators and logistical and financial support for NGOs providing for assistance to victims. As of March 2012, no such measures had been taken.

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## II. Women's participation in the political transition

*“We know that the road will be long, but since we contributed to the revolution, we hope that Libyan women will take their full place in the reconstruction of our country”.*

Libyan woman, Interview FIDH/ ATFD, Djerba, Tunisia, July 2011

Since the 1960s, Libyan women have had the right to vote and participate in political life. The Charter of Rights and Duties of Women in Arab Libyan Society, adopted in 1997, guarantees women the right to participate in the country's political institutions.

During Qaddafi's time in power, women gained increased access to education and employment and as of 2011 the majority of university graduates were women. Yet the political system remained largely dominated by men. Qaddafi's regime adopted contradictory positions concerning the status of women, sometimes seeking to pacify the Islamic political opposition and the most conservative forces at the expense of women's rights.

29

Deep-rooted patriarchal traditions, tribal cultures and conservative social norms prevented women from participating in public and political life. Efforts to improve the situation of women in Libya were severely hampered by laws prohibiting the formation of independent associations. Membership of a non-authorised group or organisation was punishable with the death penalty (Law No.71 of 1972).

Many women who participated in the overthrow of Qaddafi are now determined to play their full part in the political transition. In recent months, women have been joining together to form associations, demanding representation in the new political bodies. However, measures adopted by the National Transitional Council (NTC) failed to ensure women's representation in the new parliament and women activists are concerned that they will be excluded from the country's new decision-making structures.

### **Representation in government**

**Under the Qaddafi regime:** During the whole period of Qaddafi's rule, only 4 women occupied ministerial posts, in the ministries of culture, media, social affairs and women. At the time of the fall of the regime, there was only one woman at the head of a ministry: the Ministry of women, family and childhood.



**Post Qaddafi:** When the NTC was established in February 2011, it had 14 members including one woman, Dr. Salwa Fawzi El-Deghali, in charge of legal affairs and women.

In November 2011, the NTC announced the composition of a new 28-member cabinet, including 2 women: Fatima Hamroush, Minister of Health and Mabrouka Sherif, Minister of Social Affairs.

### **Representation in parliament**

**Under the Qaddafi regime:** In indirect parliamentary elections held in March 2009, 36 women obtained seats in the General People's Congress, out of a total 468 members, representing 7.7%.

**Post Qaddafi:** In January 2012, the NTC adopted a new electoral law. An initial draft set a quota of 10% for the representation of women in the Constitutional Assembly, "unless there are not enough female candidates". NGOs, including The Voice of Libyan Women and the Libyan Rights Organization, organised demonstrations outside the Office of the Prime Minister in Tripoli, labelling this provision "scandalous" and calling for higher quota.

However, in the text adopted on 28 January 2012, the provision was deleted entirely. The new law stipulates that 50% of candidates on electoral lists must be women, but there is no obligation to place women candidates at the top of lists.

### **Representation in local assemblies**

According to the official rhetoric of Qaddafi's regime, women were encouraged to participate in local assemblies (Basic People's Congresses). However, participation was very limited, particularly in rural areas. Some women had positions in the secretariats, but they were generally restricted to the post of secretary for social affairs.

### **Representation in the judiciary**

Women have been able to become judges since 1981. The first woman judge was appointed in 1991, and as of 2010, there were an estimated 50 women judges. There are no women judges in the Supreme Court.

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### III. A discriminatory legal framework

#### 1. Reservations to CEDAW

Libya ratified CEDAW in 1989, but with reservations to Articles 2 and 16 (c) and (d), concerning inheritance, marriage, divorce and the custody of children. The reservations specified that these areas would be governed by Sharia law. In 1995, Libya notified the United Nations of a new general reservation, intended to replace the initial reservations, which provides that “accession cannot conflict with the laws on personal status derived from the Islamic Shariah”.

#### 2. The Constitution

**Under the Qaddafi regime:** Several laws and founding declarations took the place of a Constitution, including the Constitutional Proclamation of 1969, the Declaration on the Establishment of the Authority of the People of 1977 and the Great Green Charter of Human Rights of the Jamahiriyan Era (The Great Green Charter) of 1988.

According to the Constitutional Proclamation, “All citizens are equal before the law” (art. 5), but there is no provision explicitly prohibiting discrimination against women. According to the Great Green Charter, “The members of Jamahiriyan society, whether men or women, are equal in every human respect. The distinction of rights between men and women is a flagrant injustice that nothing whatsoever can justify” (principle 21). In his Green Book (part 3, published in 1981), Qaddafi proclaimed the equality of the sexes, but went on to state that certain functions fall to the woman as a result of biological differences, and concluded that “men and women cannot be equal”.

The Constitutional Proclamation provided that, “Islam is the religion of the State” (art. 2). According to the Declaration on the Establishment of the Authority of the People, “The Holy Koran is the Constitution of the Socialist People’s Libyan Arab Jamahiriya” (art. 2).

**Post Qaddafi:** In August 2011 the NTC adopted the Draft Constitutional Charter for the Transitional Stage. The Charter provides that Islam is the State religion and that “the principal source of legislation is Islamic Sharia” (art.1).

According to the Charter, “Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities, and be subject to the same public duties obligations, without discrimination due to religion, belief, race, language, wealth, kinship or political opinions or social status” (art. 6). This clause makes no reference to sex as a ground for discrimination.

An earlier draft, dated 3 August, mentioned “sex” among the grounds of discrimination, however this word was deleted from the later version. The Charter provides that, “The State shall guarantee for women all opportunities which shall allow them to participate entirely and actively in political, economic and social spheres” (art. 6), but does not state that this is on an equal basis with men. The Charter also states that, “Human rights and basic freedoms shall be respected. The state shall endeavour to join the international and regional declarations and charters which protect such rights and freedoms” (art. 7).

The CNT has announced that elections will be held in 2012 to form a Constitutional Assembly, to be responsible for drafting a new Constitution.

### **3. Other discriminatory laws**

- 32 According to the law on “the endorsement of freedom” (Law No. 20 of 1991), “citizens of Libya, both men and women, are free and have equal rights and these rights cannot be violated”. The Charter of Women’s Rights and Duties in Arab Libyan Society of 1997 provides for equal rights for men and women in the areas of national security, marriage, divorce, custody of children, the right to work, social security and economic independence. However, these provisions are flouted by a number of discriminatory laws, particularly in the area of the family.

On 23 October 2011, Moustapha Abdeljalil, interim president of the NTC, stated that Sharia law would henceforth be the principal source of law and that laws contradicting Islamic law would be null and void. He cited two examples: the law restricting polygamous marriages and the law authorising divorce.

#### **Family laws**

Cases concerning family law are dealt with by civil tribunals (which were merged with Sharia courts after Qaddafi’s arrival in power). There are also 10 special courts in Tripoli and Benghazi which only judge personal status matters.

The main law governing the family is Law No. 10 of 1984 (as modified by Law No. 9 of 1993).

**Guardianship:** Although a guardian cannot oblige a woman to marry against her will (art. 8), the concept of male guardianship is widely accepted.

**Marriage:** The minimum legal age for marriage is 20 for men and women, but marriages of minors can be authorised by a tribunal, with the consent of the girl's guardian (art. 6). Polygamy is permitted, on condition that the first wife consents in writing and with the authorisation of a court. A woman must take care of the comfort of her husband and his "psychological and sensory repose" and must supervise and maintain the conjugal dwelling (art. 18). In return, the woman has the right to be kept financially by her husband and not to suffer mental or physical violence (art. 17).

Women can divorce under certain conditions. If her husband does not consent, the woman must base her request on one of the following grounds: the husband's financial incapacity; his absence without justification; his unjustified abandonment for more than 4 months (art. 40, 42 and 4). Women can also initiate a "no-fault" divorce under the Khula procedure, but must return the dowry and renounce all financial maintenance (art. 48).

According to Law no. 17 of 1986, women must obtain their husband's permission to use contraceptives (art. 18).

33

**Custody of children:** In the case of divorce, if the tribunal considers that the woman is at fault, she loses her right to custody of the children. Women cannot travel abroad with their children without the consent of the children's father.

**Nationality:** Unlike Libyan men, women cannot automatically transfer their nationality to foreign husbands, or to their children. A new nationality law adopted in 2010 (Law No. 20 of 2010) permits women to grant nationality to their children in certain limited circumstances, at the State's discretion. However this law remains unenforced. Children born of a marriage between a Libyan mother and a non-Libyan father do not enjoy the same rights to education and families do not receive certain social benefits.

**Inheritance:** Succession law is based on Sharia, according to which a woman inherits half the amount granted to a man.

### **Criminal law**

The Criminal Code provides for reduced sentences for "honour crimes" (a man who kills a female relative on the grounds of adultery). If the man inflicts bodily harm on his female relative, the sentence is limited to a maximum

of two years and “lesser beatings” are not penalized at all (art. 375). The law provides that a woman’s testimony carries the same weight as a man’s, however the testimony of women cannot establish the crime of zina (extra-marital sexual relations). There is no law criminalising domestic violence.

Women who have abortions are liable to be sentenced to a minimum of 6 months imprisonment (art. 391-392). If the abortion takes place in order to “preserve the honour” of the man, in the case of pregnancy outside marriage, the legal penalty is reduced by half (art. 394).

Young women who contravene “moral codes” or who are “vulnerable to engaging in moral misconduct.” can be detained in “social rehabilitation” centres, for an unlimited period, on the decision of a prosecutor. There is no possibility of appeal.

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**WOMEN AND THE ARAB SPRING:  
TAKING THEIR PLACE?**





# DEMANDS AND DEVELOPMENTS



**fidh** **WOMEN AND THE ARAB SPRING:  
TAKING THEIR PLACE?**

# Yemen

38 Protests broke out at the start of 2011 following the ruling party's proposals to amend the constitution. The country's sluggish economy, high unemployment rate and widespread corruption fuelled further demonstrations, which met with violent repression. In the protests that followed, women were present in huge numbers, including as leaders.

Discriminatory laws and customs are major obstacles to the participation of women in political life and there are no measures to ensure the representation of women in political bodies. There is one woman in the 301-seat parliament. The 35-member National Unity Government established in December 2011, following President Saleh's departure, includes 3 women.

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## **I. Women's participation in demonstrations**

The first protests in Yemen, in January 2011, were led by students from Sana'a University, men and women, who gathered in Al-Huriya Square (Freedom Square) to express their solidarity with the Tunisian people. These demonstrations sparked off a broader protest movement in several cities across the country, calling for political and social reforms.

On 22 January, Tawakkul Karman, journalist and leader of the NGO *Women journalists Without Chains*, was arrested. Tawakkul was accused of "inciting disorder and chaos" and "organising unauthorised demonstrations and marches". Following her release 4 days later, she received death threats from the authorities. Tawakkul joined others in calling for a "Day of anger" on 3 February. Following violent repression of protests by the security forces

## TIMELINE OF KEY EVENTS

- **2011** -----
- Mid-Jan:** Hundreds of thousands of protesters gather in several cities demanding political and social reforms and contesting proposed constitutional amendments, which would allow President Saleh to seek a further term in office.
- 22 Jan:** Tawakkul Karman is arrested and detained. Activists call for a “Day of anger” on 3 Feb.
- 2 Feb:** Saleh announces that he will not stand for re-election in 2013 nor seek to have his son succeed him.
- 3 Feb:** During the following weeks, protesters call for freedom, an end to corruption and respect for the rule of law. Peaceful demonstrations are brutally repressed by security forces using live ammunition, resulting in many dead and hundreds wounded. Protests escalate into calls for Saleh’s resignation.
- 11 Feb:** Protests turn into large-scale sit-ins. Young people occupy the streets in Taez and such protests spread to Sana’a and Aden.
- 18 Mar:** Security forces fire on demonstrators in Change Square in Sana’a, killing 53 people. Saleh dismisses the cabinet and declares a state of emergency.
- 6 Apr:** Women march in al Hudaydah to protest against the regime.
- 14 Apr:** Saleh condemns the participation of women in marches. The next day, thousands of women take to the streets.
- 22 May:** Fighting erupts in Sana’a and spreads to other parts of the country, where government forces confront armed opposition factions in an increasingly violent struggle for power.
- 29 May:** In Ta’izz, security officials clear “Freedom Square”, burning tents and causing the deaths of dozens of demonstrators.
- 3 Jun:** Saleh and other senior officials are wounded by an explosion inside the presidential palace. Saleh leaves the country for treatment in Saudi Arabia.
- 7 Oct:** Tawakkul Karman is awarded the Nobel Peace Prize.
- 21 Oct:** The UN Security Council adopts Resolution 2014 condemning continued human rights violations by the Yemeni authorities.
- 26 Oct:** Hundreds of women gather in the main street of Sana’a where they burn their veils as a sign of protest.
- 23 Nov:** Saleh signs an agreement with the GCC, providing for the transfer of powers to Vice-President Abd Rabuh Mansur Al Hadi, in exchange for immunity from prosecution for the President, his family, and those who served under him.
- 7 Dec:** A transitional national unity government is established pending elections. The cabinet includes 3 women.
- 16-24 Dec:** Hundreds of thousands demonstrate against the grant of immunity to Saleh. In Sana’a, demonstrations are attacked by security forces, killing at least 9 protesters.
- **2012** -----
- 22 Jan:** Parliament passes a law granting Saleh immunity. He leaves for medical treatment in the United States.
- 21 Feb:** Abd Rabuh Mansur Al Had assumes the presidency following uncontested elections.

39

at the beginning of February 2011, the resignation of President Ali Abdullah Saleh became the core demand of the demonstrators.

In protests that took place over the following months, women participated massively, including as organisers and leaders.

*“Protesters want a modern country, respect for the rule of law, a constitution that ensures a balance of power. They want equality, an end to corruption, to an oppressive regime and to using war to solve problems”.*

Amal Basha, Director, Sisters’ Arab Forum for Human Rights, FIDH-Egalité Interview, 23 Feb. 2011

*“Women are no longer victims, they have become leaders, they are at the forefront of demonstrations... The participation of young people, men and women, without any ideological or political background, has made this movement explode”.*

Tawakkul Karman, activist, Nobel Peace Prize Laureate, FIDH Press Conference, 7 November 2011

During demonstrations, women protesters are generally separated from men, in areas reserved for women and children. On 14 April, President Saleh declared that Islam forbids men and women mixing in public places and called on women to “return home”. The next day, across the country, thousands of women took to the streets to affirm their rights to peaceful assembly and to participate in public life.

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As a result of their participation in demonstrations, women were harassed, threatened and arbitrarily arrested. On 17 October 2011, a woman demonstrator was killed by security forces during demonstrations in Ta’izz. On 19 April 2011, security forces arrested 4 women doctors, for tending to injured demonstrators. There were also reports of verbal harassment and beating of women protesters for their participation in pro and anti-government protests. On 10 October 2011, dozens of women taking part in peaceful marches in Ta’izz, to celebrate the award of the Nobel Peace Prize to Tawakkul Karman, were injured by pro-government groups, who threw stones into the crowd. Male relatives of women activists reported having received phone calls asking them to “control” their wives, daughters or sisters.

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## **II. Women’s participation in political life: opportunities and obstacles**

Yemen heads the list of countries where discrimination against women is highest (Global Gender Gap Report), yet ending discrimination against women has not been amongst the demands of protesters.

*“There are no demands specifically about women but a true democracy would necessarily mean equal rights and equal participation for men and women. I think that the youth demonstrating believe in equality”.*

Amal Basha, Director, Sisters’ Arab Forum for Human Rights, FIDH-Egalité interview, 23 Feb. 2011

### **Historical context**

Until 1990, the territory that now forms the state of Yemen was split into two. South Yemen (the People’s Democratic Republic of Yemen (PDY)) gained

independence in 1967 and was run by a Marxist regime which adopted laws and social policies protecting women's rights and enshrining gender equality. North Yemen became a Republic in 1962 (the Yemen Arab Republic). The North Yemen Constitution of 1970 provided that all laws would be based on Islamic Sharia and women in North Yemen did not have the right to vote or stand in parliamentary elections. The unification of the two countries in 1990 saw women from South Yemen lose many of their rights. In 1994 a civil war between North and South ended with the victory of Ali Abdallah Saleh and his party, the General People's Congress (GPC), supported by other Islamist parties. A series of legal reforms discriminating against women were adopted over the following years.

The Constitution of Yemen of 1994 recognises the right of all citizens to vote and stand for election (art. 43). Under the Election Law (No. 13 of 2001), the government is required to "to take all appropriate measures to encourage women to exercise their electoral rights". Yet women's representation in the political sphere remains marginal.

41

Although the number of women voters on record has increased (in 2003, 3.4 million women registered to vote, representing 42% of the electorate), the number of women elected to political office has decreased to 0.3% of the total number of parliamentary seats.

Women face huge obstacles to participation in public life. Profoundly discriminatory laws and customs persist and the enrolment rate of girls in schools is the lowest in the Middle East. There are no measures to ensure the representation of women in political bodies. None of the major political parties supported women candidates during the 2006 local elections. The main opposition Islamist party, Islah, publicly opposed women's candidacy in elections. The ruling General People's Congress (GPC) had initially promised to allocate 20% of nominations to women, but in the end women represented only 0.6%. There were widespread reports of violence targeting women candidates.

Women's rights groups and other civil society actors who denounce discrimination are routinely intimidated and subjected to harassment and detention by security forces. Some have been targeted with smear campaigns by religious leaders.

*“Women are not allowed to take part in decision making, they are not recognized as equal human beings and are not in the places they deserve to be in, despite their qualifications. Discrimination is a serious problem in Yemen”.*

Amal Basha, Director, Sisters' Arab Forum for Human Rights, FIDH-Egalité interview, 23 Feb. 2011

### **Representation in government**

In Saleh's 35-member government, there were 2 women ministers (Minister of Human Rights and Minister of Social Affairs and Labour). There was one woman ambassador out of 57 posts.

The transitional National Unity Government, established in December 2011 following Saleh's resignation, includes 3 women: Huria Mashhur, Minister of Human Rights, Dr. Umma El Razaq, Minister of Social Affairs, and Jawhara Hammoud, Minister of Cabinet Affairs, out of a total of 35 ministers.

42

### **Representation in parliament**

**House of Representatives (lower house):** In 1990, 11 women held seats in parliament. In 1993, only 2 women were elected. In 1997, 18 women stood for election out of a total of 2,096 candidates and 2 were elected. In 2003, there were 11 women candidates out of a total of 1,396. One woman was elected to the 301-seat parliament, representing 0.3%.

**Consultative Council (upper house):** The Consultative Council was created in 2001. Members are nominated by the government. Women hold 2 out of a total of 111 seats, representing 1.8%.

### **Representation in local councils**

In 2006, 131 women competed with 28,498 men. 38 women were elected out of the 7,327 seats available, representing 0.5 %.

### **Representation in the judiciary**

Until 2007, when for the first time women were allowed to enrol in the High Judicial Institute to qualify as judges, all women judges (32 out of 3000) had qualified in South Yemen prior to unification. The first woman judge was appointed to the Constitutional Court in September 2006.

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## **III. A discriminatory legal framework**

### **1. Reservations to CEDAW**

The government of South Yemen ratified CEDAW in 1984, without reservations. These treaty obligations were transferred to the unified

Republic of Yemen in 1990, but the provisions of CEDAW have not been implemented.

## 2. The Constitution

The Unification Constitution of 1991 provided that “all citizens are equal before the law” and that “they are equal in public rights and duties”. It further provided that “there shall be no discrimination between them based on sex”.

The Constitution of Yemen of 1994 (as amended in 2001), provides that “citizens are all equal in rights and duties” (art. 41) and guarantees every citizen’s right to “participate in the political, economic, social and cultural life of the country” (art. 42). All citizens have the right to vote and to stand for election (art. 43).

However, there is no provision prohibiting discrimination against women and Article 31 states that, “Women are the sisters of men. They have rights and duties, which are guaranteed and assigned by Sharia and stipulated by law”. Sharia is “the source of all legislation” (art. 3) and “the right of inheritance is guaranteed in accordance with Islamic tenets (Sharia)” (art. 23).

In 2008, the United Nations CEDAW Committee called for the reform of discriminatory constitutional provisions.

43

## 3. Other discriminatory laws

Women have an inferior status in law and are treated as perpetual minors. In 2008, the CEDAW Committee called for the urgent repeal of discriminatory provisions.

### Family laws

The Personal Status Law of 1992 (PSL, No. 20) as amended in 1998 (Law No. 27) and 1999 (Law No. 24) contains numerous provisions that discriminate against women.

**Male guardianship:** Yemeni women must have the permission of a male guardian for all activities, including marriage, travel and choice of place of residence.

**Marriage:** The permission and signature of a woman’s male guardian is required for a marriage contract to be valid (art.15). Although a woman’s consent is required (art. 10 and 23), her presence is not required to conclude a marriage contract (art. 7). In practice this leads to cases of women being married without even having been informed.

Amendments to the law in 1999 legalised the marriage of girls below the age of 15, with the consent of their guardian. Early and forced marriages are widespread, especially in rural areas, affecting girls as young as 8. The 2008 court case of a 10-year-old girl who petitioned for divorce from her 34-year-old husband sparked public debate, leading parliament to consider imposing a minimum age for the marriage of girls at 17 years. Although the parliament initially approved a draft amendment in February 2009, opposition from Islamist factions led to its postponement.

A wife must obey her husband, look after the home and fulfil his sexual desires. She must not leave the marriage residence without his permission (art. 40). Polygamy is authorised: men are allowed to marry up to 4 women (art. 12).

**Divorce:** Men can divorce by pronouncing “I repudiate you” 3 times (*talaq*, art. 58). This does not need to be said directly to the wife, witnesses are not required and it is not necessary to notify a court.

Woman must file a petition to a court for divorce if she can prove that her husband has caused her harm, for example the husband’s mental illness or alcoholism, failure to provide financial support, his absence for more than one year, or his imprisonment for more than 3 years (art. 47-55). Women can also seek a no-fault divorce under the *khula* procedure, which requires her to return her dowry and renounce all financial rights. The husband’s consent is necessary for *khula* to take effect.

### Nationality

In 2003, the Nationality Law (No. 6 of 1991) was amended (Law No. 24), allowing Yemeni women to transfer their nationality to their children in limited circumstances: if they are divorced, widowed, or abandoned by their non-Yemeni husbands (art. 10). In 2008, two further circumstances were added: if the father of the child is unknown or has no nationality.

### Legal capacity

According to the Evidence Law (No. 21 of 1992), a woman’s testimony is not accepted in cases of adultery, nor for offences that carry corporal punishment. A woman’s testimony is given half the weight of a man’s in financial cases (art. 45). The sole testimony of a woman is accepted when only women were involved in the alleged offence (art. 30).

### Criminal law

The Penal Code (No. 12 of 1994) provides that the family of a woman victim of murder is entitled to half the financial compensation (*diyya*) received if the



victim is a man. Compensation owed to a person who has been permanently injured (*aroush*) is 3 times larger for an injured man than for an injured woman (art. 42).

The Code provides for reduced sentences for perpetrators of “honour crimes”: a husband or male relative who kills a woman upon witnessing her in the act of adultery is liable for a fine or a maximum of one year imprisonment (art. 232). Women are regularly prosecuted for the offence of violating “public discipline” or “public decency” (art. 273). Violations are punishable with a fine or up to one year in prison. Women have been charged with this offence on the grounds that they have been alone with a man who is not a relative.

There are no provisions criminalising violence against women. Although a decree was issued in 2001 banning public health establishments and officials from carrying out FGM, there is still no law criminalising this practice, which remains prevalent especially in coastal and rural areas. In 2008 the CEDAW Committee expressed its grave concern at the Yemeni government’s reluctance to eradicate it.

45

*“The revolution is an ongoing struggle for the values of dignity and justice. Protesters will not put up with anyone, from any political party, who fails to respect these values. If anyone seeks to undermine our dignity, we will take to the streets”.*

Tawakkul Karman, activist, Nobel Peace Prize Laureate, FIDH Press Conference, 7 November 2011

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## **WOMEN AND THE ARAB SPRING: TAKING THEIR PLACE?**

# Bahrain

46

Demands for democratic reforms erupted in February 2011 and immediately faced violent repression. Women participated massively in protests that continued into 2012, as organisers, demonstrators and leaders.

Women continue to struggle to enter the political sphere. Constitutional reforms in 2002 granted women the right to vote and to stand for election. Following partial elections in 2011, there were 4 women in the 40-seat parliament. Profoundly discriminatory laws and practices persist, preventing women from participating in public life and no measures have been taken to increase women's representation in political bodies.

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### **I. Women's participation in demonstrations**

From the outset of protests in Bahrain, women were at the forefront of demonstrations calling for political and social reforms. Women doctors, nurses and fellow protesters provided treatment to the injured. Women teachers joined in calling for national strikes. Women journalists and activists alerted the international community to ongoing repression of peaceful protests.

*“There are thousands of women taking part in the protests at Pearl Roundabout, but they are kept aside. When they arrive at the square, they are asked to go to a corner where women are separated from the men or at the back of the demonstration. This has been the practice in any demonstration in Bahrain since 2001. [...] I don't believe that women should be put aside”.*

Interview with a woman human rights activist in Bahrain, FIDH-Egalité, 7 March 2011

## TIMELINE OF KEY EVENTS

### ----- 2011 -----

**14 Feb:** A “day of anger” marks the start of the protest movement in Bahrain. A peaceful demonstration in the capital, Manama, meets with violent repression by the security forces, resulting in 20 persons injured and 1 death.

**17 Feb:** Violent crackdown on protesters at Pearl Roundabout, Manama, resulting in 4 deaths and hundreds injured.

**14 Mar:** A state of emergency is declared. Troops sent by Saudi Arabia and the United Arab Emirates enter Bahrain.

**15 Mar:** A National Safety Court, presided by a military judge, is created to try those accused of taking part in the protest movements. Women doctors providing treatment to injured demonstrators are violently attacked by security forces.

**16 Mar:** Demonstrators at Pearl Roundabout are expelled by security forces. 5 people are killed and hundreds injured. Medical staff who try to treat the wounded are targeted and the main public medical complex in Manama is occupied by the military.

**17 Mar:** Start of a long wave of night house raids to arrest political opposition leaders, activists, teachers, medics, students and others suspected of participating in protests.

**27 Mar:** Fadhila Al Mubarak is the first woman to be arrested and detained in connection with the protests. She is charged with offending a public official and inciting hatred towards the regime by playing revolutionary music in her car and with taking part in illegal protests. She is later convicted, without legal representation, by the National Safety Court (17 May) and sentenced to 4 years in prison. She is released on 6 Feb 2012.

**29 Mar:** 5 members of the board of the Bahrain Teachers’ Society, including 3 women, are arrested by the security forces after they call for a strike. Jalila Salman and Mahdi Abu Deeb are later sentenced (25 Sept) by the National Safety Court to prison terms of 3 and 10 years respectively, for “incitement of hatred against the regime” and “attempting to overthrow the regime”.

**9 Apr:** Abdulhadi Al Khawaja, human rights defender, is arrested and detained. His daughter, Zainab Al-Khawaja, activist, starts a hunger strike to call for the release of her father, her husband, her brother-in-law and her uncle.

**3 May:** 47 doctors and nurses, men and women, are arrested for providing treatment to peaceful demonstrators. 20 of them are convicted by the National Safety Court and sentenced to 5-15 years in prison (29 Sept). The decision is upheld on appeal on 23 Oct.

**22 Jun:** 21 political opposition leaders and human rights defenders are convicted by the Primary Court of National Safety. Abdulhadi Al-Khawaja, Abduljalil al-Sengais and 6 opposition leaders are sentenced to life imprisonment. Detainees report having been tortured. Sentences are confirmed on appeal.

**23 Sept:** Women demonstrate in Manama against parliamentary elections. The protest is harshly repressed by the security forces. 45 women and girls are arrested.

**30 Sept:** Hundreds of women demonstrate in Manama against arbitrary arrests and detention.

**23 Nov:** The Bahrain Independent Commission of Inquiry (BICI) releases its report, documenting 45 killings, 1,500 cases of arbitrary arrest, and 1,866 cases of torture since February 2011.

**16 Dec:** Massoma AISayed and Zainab Al Khawaja, blogger and activist, are arrested. Both women report having been ill-treated in detention. They are released on 20 Dec 2011 pending trial.

### ----- 2012 -----

**6 Jan:** A peaceful demonstration in Manama calling for the release of political prisoners and human rights activists is violently repressed by the security forces.

During protests, women were victims of violent repression by security forces, many were assaulted and several were killed during protests. On 15 March 2011, Bahiya Abdelrasool Alaradi was shot in the head by members of the Bahrain military while driving her car. Many women were arrested, detained and tortured. Several women were prosecuted before the the emergency military tribunal, the National Safety Court, in proceedings that flagrantly violated international standards on the right to a fair trial, receiving sentences of up to 15 years imprisonment.

The regime targeted political opposition leaders and human rights defenders, but also doctors, nurses, teachers, men and women, for their perceived role in protests.

48



**Rula al-Saffar**, academic and president of the Bahraini Nursing Society, provided treatment to injured demonstrators at Salmaniya Medical Center, Manama. On 4 April 2011, she was arrested and held in custody for 5 months during which time she was subjected to torture, sexual assault and threats of rape.



**Dr Nada Dhaif** volunteered medical assistance, together with other medics, at the medical tent at Pearl roundabout and administered treatment to people who were unable to access the main hospitals during the demonstrations. She was arrested on 19 March 2011 by security forces and detained for nearly 2 months, during which time she suffered torture.

In September 2011, Rula al-Saffar and Dr Nada Dhaif were among 20 medics convicted by the National Safety Court, following a trial that lasted just a few minutes, for offences including unauthorized possession of weapons and ammunition, inciting sectarian hatred and inciting the overthrow of the regime. They were both sentenced to 15 years in prison.

Teachers were victims of arbitrary arrests, detention and torture. They suffered the suspension of salaries and collective dismissals. In April 2011, the Teachers' Association was dissolved by the government. Between April and June 2011, girls schools were raided by security forces and dozens of teachers and students were arrested from their classrooms and detained for periods ranging from a few hours to several weeks.

 **Jalila Al Salman**, Vice president of the Bahrain Teachers' Association, and 4 of her colleagues were arrested on 29 March 2011, after calling for a teacher's strike. They were charged with inciting hatred and attempting to overthrow the regime. Jalila was detained for several months, during which time she was subjected to torture. On 25 September 2011, she was convicted by the National Safety Court and sentenced to 3 years in prison.

National and foreign journalists, men and women, were summoned for interrogation, detained and prosecuted.

Bahraini journalists Nada Alwadai and Lamees Dhaif were forced into exile following death threats. Naziha Saeed (France 24) was detained and tortured. As of March 2012, Reem Khalifa was awaiting trial on fabricated charges, following a long campaign of harassment.

49

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## **II. Women's participation in political life: opportunities and obstacles**

As in other protests in the region during 2011, equal rights and ending discrimination against women were not among the demands of protesters. Yet women in Bahrain continue to be victims of deeply discriminatory laws and practices in the public and private spheres.

*"The question of women is not present [in the demonstrations]. Nobody, not even the women, demands equality or respect for their civil rights."*

Interview with a woman human rights activist in Bahrain, FIDH-Egalité, 7 March 2011

Although they generally have access to education and employment, women remain significantly under-represented in government, parliament, the judiciary and political parties. Women have been able to vote and stand as candidates in national elections since 2002, but women candidates in elections tend to be disadvantaged by a lack of support from political parties, negative social perceptions and discriminatory laws. Some parties, including the Al Asala Islamic Society (a conservative Sunni party), refuse to put forward women candidates. There are no quotas or other measures to increase women's representation. According to the Global Gender Gap Index, Bahrain is one of the countries in the world where discrimination against women is highest (110 out of 134 countries).

In 2008, the CEDAW Committee called on Bahrain to take urgent steps to improve the under-representation of women in politics.

### **Representation in government**

As of March 2012, there were 2 women out of a total of 23 Ministers: Sheikha Mai bint Mohammed Al Khalifa, Minister of Culture and Fatima Al-Blooshi, Minister of Human Rights and Social Development.

### **Representation in parliament**

**Council of Representatives (lower house):** In the 2002 parliamentary elections, 8 women stood as candidates for the first time, but none were elected. In 2006, 18 women stood for election. Only one, Latifa al-Qa'oud, was elected (uncontested), becoming the first woman to be elected to parliament in a Gulf state. In 2010, there were 9 women candidates, but only Latifa al-Qa'oud was elected in an uncontested seat. In October 2011, in by-elections organised to fill the seats of members of parliament who had resigned during the protest period, 3 more women were elected (2 following contested elections). As of March 2012, women represented 10% of the 40 seat parliament.

**Consultative Council (upper house):** Members are appointed by the King. As of March 2012, women held 11 of 40 seats, representing 27.5%.

### **Representation in local councils**

In 2006, 5 women stood in local council elections, but none were elected. The first woman municipal councillor, Fatima Salman, was elected in 2010, in Muharraq.

### **Representation in the judiciary**

There are 7 women judges in the civil courts. There are no women judges in the Sharia courts (see further below).

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## **III. A discriminatory legal framework**

### **1. Reservations to CEDAW**

Bahrain ratified CEDAW in 2002 with reservations according to which the following provisions apply only as far as they are compatible with the provisions of Sharia: article 2 (adoption of measures to eliminate discrimination); article 9(2) (transmission of nationality to children); article 15(4) (freedom of movement and the choice of residence); and Article 16 (marriage and divorce).

In October 2008, the CEDAW Committee called on Bahrain to withdraw its reservations, stressing that these reservations are “contrary to the object and purpose of the Convention”.

## **2. The Constitution**

According to the 2002 Constitution, “People are equal in human dignity, and citizens are equal before the law in public rights and duties” and “There shall be no discrimination among them on the basis of sex” (art. 18). The Constitution further 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” (art. 1 (e)).

The Constitution provides that Sharia is “a principal source for legislation” (art. 2). According to article 5 (b), “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)”. Article 5 (d) specifies that “Inheritance is a guaranteed right governed by the Islamic Sharia” (see further below).

51

## **3. Other discriminatory laws**

### **Family laws**

The Bahrain judicial system is composed of civil courts and courts applying Sharia law. The latter, which are divided into Sunni and Shi’a courts, deal with family-related matters. Presiding judges are generally conservative, religious scholars with little formal legal training and decisions are based on the judges’ individual interpretations of Sharia law. In Sharia courts, a woman’s evidence is worth half that of a man.

Until recently there was no legislation governing family life in Bahrain. In 2008, the CEDAW Committee called on Bahrain to adopt a unified family law “so that discrimination relating to marriage, divorce and child custody can be eliminated”. A Personal Status Law was drafted in containing separate sections applying to Sunnis and Shi’a, but the section relating to the Shi’a was removed in response to pressure from the main Shi’a opposition group Al-Wefaq. In May 2009, the government adopted a Personal Status Law (Law 19/2009) that applies only to Sunnis. In the absence of a written legal framework, Shi’a women remain subject to the arbitrary decisions of the Sharia courts.

**Marriage:** In 2007, the Minister of Justice and Islamic Affairs set the minimum legal age for marriage for girls at 15 and for boys at 18. Polygamy is permitted. In 2008, the CEDAW Committee called on Bahrain to increase the minimum legal age for marriage to 18 for both sexes and to ban polygamy. Although there are numerous discriminatory provisions in the 2009 Personal Status Law, it includes some provisions to protect Sunni women, such as the condition that a woman must consent to marriage.

**Divorce:** Men can initiate divorce unilaterally; Sunni men only need to express an intention to divorce orally, while Shi'a men must register a request before a court. Women must apply to a court and provide evidence of specific grounds such as the husband's impotency or desertion. Women may also initiate a no-fault divorce (*khula*), which requires the return of the dowry (*mahr*).

52

**Custody of children:** The 2009 Personal Status Law grants divorced Sunni women custody of their daughters up to the age of 17 years and sons up to the age of 15 years. Divorced Shi'a women have the right to custody up to age 7 years for sons and 9 years for daughters. In both cases, the father retains parental authority and may therefore, for example, prevent his ex-wife from travelling with their children.

**Inheritance:** The right to inheritance is governed by Sharia law for both Shi'a and Sunnis (Constitution, art. 5 (d)), according to which women inherit half the share granted to men.

**Nationality:** Women cannot transmit their nationality to their children or husbands, although the 1963 Bahraini Citizenship Act (amended in 1981) grants these rights to men (art. 4,5,7). In October 2008, the CEDAW Committee called on the government to speed up reform of the nationality law.

**Freedom of movement:** Women are required to obtain their husbands' permission to work outside the home.



## Criminal law

Under the Criminal Code, perpetrators of rape can avoid prosecution by agreeing to marry the victim (art. 535). The Criminal Code also provides for reduced sentences for the authors of “honour crimes” (art. 334). There is no specific law criminalising domestic violence.

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## **WOMEN AND THE ARAB SPRING: TAKING THEIR PLACE?**

# Syria

54

Demonstrations began in early 2011 demanding democratic reforms, including the withdrawal of the 48-year state of emergency, the resignation of President Bashar al-Assad and an end to Ba'ath Party rule. Protests were repressed by military and security forces with increasing violence. Civilians, women and men, were killed, arbitrarily arrested, detained and tortured by the military and security forces.

For the past 5 decades, the political participation of all citizens has been impeded by the repressive general climate. Discriminatory laws and practices present further obstacles to the participation of women. There are no measures to ensure the representation of women in parliament. There are 3 women in the 33-member government.

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### **I. Women's participation in the uprising**

Since the outbreak of protests for democratic reforms, women were on the frontline, organising demonstrations, strikes and all-women marches in solidarity with victims, calling for the release of family members and an end to state violence. Women protesters, like men, were arrested and detained by security forces. In response to security forces blocking access to hospitals and reports of injured people being interrogated and tortured in military hospitals, women and men attempted to treat injured protesters in makeshift clinics set up in mosques and private houses.

*“In demonstrations in the universities, women protest side by side with men. In the streets of Damascus, women gather in the centre of processions and men surround them to protect them. In villages, men*

## TIMELINE OF KEY EVENTS

### ----- 2011 -----

**Feb:** Calls for a 'Day of Rage' are launched via social networks to demand political reforms and an end to corruption. Demonstrations in Damascus are violently dispersed. Women are among those beaten by police. Activist Suhair Atassi calls for democratic reforms, the reinstatement of civil rights and an end to the emergency law. She becomes an unofficial spokesperson for the "Syrian revolution" and is forced to go into hiding in May.

**15 Mar, 'Day of Rage':** Protests take place in several cities. 6 people are arrested in Damascus, including one woman.

**16 Mar:** Families of detainees and human rights activists gather in front of the Ministry of Interior in Damascus to demand the release of political prisoners. Dozens of men and women are arrested.

**18-25 Mar:** In Dar'a, over 20 protesters are shot dead by security forces, hundreds are injured and dozens arrested. Protests spread with thousands taking to the streets of major cities each Friday. Violent repression increases.

**13 Apr:** In Bayda, hundreds of women march to demand the release of those arrested.

**14-21 Apr:** Assad forms a new Government, lifts the state of emergency and abolishes the Supreme State Security Court.

**25-29 Apr:** Soldiers backed by tanks besiege the city of Dar'a and open fire on civilians. Women march in Daraya demanding an end to the siege. Thousands of people who attempt to bring humanitarian aid to Dar'a are ambushed by security forces and more than 40 men, women and children are killed.

**May:** The army besieges many cities, including Baniyas, where over 500 men, women and children are arrested. Security forces open fire on an all-woman march in Baniyas, killing 6 people, including 4 women. Military and

security forces bar residents from obtaining food and other basic necessities. Thousands of women demonstrate across the country in the Friday Protest of Free Women". Catherine Al Talali, lawyer and activist is arrested and detained.

**Jun:** The army besieges the cities of Jisr Al Shogour and Maarat al-Numaan near the Turkish border. Thousands flee to Turkey amidst heavy artillery attacks. Military and security forces increasingly bar residents of besieged cities from obtaining food and other basic necessities.

**July:** 136 people are killed and hundreds wounded when the military and security forces attack demonstrators with tanks, artillery and snipers. Most of the deaths occur in Hama.

**Aug:** In Istanbul, several opposition groups announce the establishment of the Syrian National Council: there are 3 women in the 36-member Secretariat General.

**Nov:** Military and security forces target public assemblies and funeral processions in several cities, killing many civilians. The League of Arab States (LAS) suspends Syria's membership and imposes economic sanctions. The UN Human Rights Council denounces widespread human rights violations by security and military forces, including summary executions, arbitrary arrests, enforced disappearances, torture and sexual violence.

**4 Dec:** Razan Ghazzawi, blogger and activist, is arrested and detained.

**26 Feb:** A new Constitution is passed by referendum.

**Mar:** The UN estimates the death toll at over 7,500 civilians. Thousands have been arrested, detained and tortured.

55

*start the marches and women follow. When the security forces arrive to make arrests, women intervene to prevent them. When the security situation prevents women from participating in street demonstrations, women organise meetings inside their homes. They use social networks and online videos to let the outside world know what is happening".*

Interview with a Syrian activist, January 2012

On 16 March 2011, activists and families of detained protesters demonstrated in front of the Ministry of Interior in Damascus. Security forces arrested more than 25 protesters, including many women who were charged with “attacking the prestige of the state” and “inciting sectarian strife”. On 13 April, hundreds of women marched in Bayda, blocking the main road and refusing to leave until the men were released. On 7 May, in Baniyas, the army surrounded the city with tanks, armoured vehicles and soldiers and security and military forces broke into houses arresting more than 500 people, including women and children. Two days later, security forces open fire on an all-woman march in Baniyas, killing 6 people, including 4 women. On 13 May, women organised a “Friday protest of Free Women”, in which thousands demonstrated across the country in the name of the women killed and imprisoned during the uprising.

56

*“When protests are repressed, security forces fire indifferently at men and women. In such cases, men and women are equal...”*

Interview with a Syrian activist, January 2012

Relatives of activists were targeted. In April 2011, Razan Zeitouneh, lawyer and human rights activist, was forced into hiding after the arrests of her husband and brother. In July 2011, Samar Yazbek, writer and activist, fled the country with her family after security forces threatened to arrest her daughter. In July, following raids in Maarat Al Nouman, members of the militia (*Shabbiha*) branded houses with threats: “If you go out to demonstrate, we will kill you, destroy your house and rape your families”.

There were widespread reports of sexual assault and rape of women, men and children in detention. However, these crimes are extremely difficult to document, in large part due to the fear of reprisals and stigmatisation of victims.

*“In detention centres, women who participated in protests are insulted and labelled prostitutes. Traditionally it is considered shameful for a woman to even enter a police station, it’s even worse if she is arrested or spends time in detention. People suspect that women are sexually abused in these places. Hardly anyone makes complaints about such crimes or even talks about it. If it is known that a woman has been raped, nobody will want to marry her”.*

Interview with a Syrian activist, January 2012

There were also widespread reports of abductions of women, as a means of pressuring their families to surrender members of the family involved in protests and to prevent others joining protests. On 27 July 2011, Zainab El Hosni, sister of activist Mohamed El Hosni, was abducted. Mohamed was told that Zainab would be released only if he stopped participating in anti-regime protests. On 13 September, Zainab's body, was returned to her mother, decapitated and her arms and skin cut off.

*“In conservative areas, if a young girl is abducted, the honour of the whole village is tarnished. Kidnapping has become an instrument of terror used by the security forces. We don't know where the women are taken”.*

Interview with a Syrian activist, January 2012

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## **II. Women's participation in political life: opportunities and obstacles**

57

Women obtained the right to vote in 1949 and the right to stand for election in 1953. Women increasingly have access to higher education and paid employment. However, women remain significantly under-represented in public and political life. Despite government commitments in the 9th and 10th 5-year plans to raise the representation of women in decision-making positions to 30%, no measures were taken to implement this objective. In 2007, the CEDAW Committee expressed concern at the continuing low levels of representation of women.

The political participation of all citizens is impeded by the repressive general climate, characterised by severe restrictions on freedom of expression and association, as well as surveillance and persecution of opponents, human rights defenders and journalists, men and women. Rights have been curtailed under the state of emergency, maintained between 1963 and April 2011. Under emergency laws, women and men who criticise the government or call for reforms are regularly subjected to arbitrary arrest, detention and torture. Opposition parties are banned and all legal political parties belong to the ruling coalition, the National Progressive Front (NPF), dominated by the Ba'ath Party. The only legal women's organization is the General Women's Union of Syria (GWU), established by the government. Other women's groups operate illegally and are prohibited from receiving foreign funding. Despite these obstacles, many Syrian women have played important roles in the fight for democracy and human rights, including as leaders, and have been prosecuted and imprisoned as a result.

Discriminatory laws and practices present additional major obstacles to women's participation. The regime has adopted ambivalent positions on women's rights, often seeking to appease conservative forces by compromising women's rights for broader political purposes.

*“The regime gave certain rights to women but there is a huge gap between law and practice. Yes, there are women ministers, women judges, but they have to have a male guardian: their husband or father. When the regime is overthrown and replaced with a democracy, we will need a body that works specifically on women's rights, a body that really believes in change. Its work will be hard, because we need to change social attitudes towards women”.*

Interview with a Syrian activist, January 2012

58

## **Representation in government**

In 1976, the first woman was appointed to the cabinet as Minister of Culture. In 2006, a woman was appointed Vice-president. The 33-member government nominated in 2011, contained 3 women: Vice-president, Minister of Tourism and Secretary of State for the Environment.

## **Representation in parliament**

There is no legal minimum quota for the representation of women in the People's Assembly (*Majles El Chaab*), the unicameral parliament. The NPF is guaranteed 170 of the 250 seats, of which a minimum of 131 must go to the Baath party. The remaining seats go to “independent” candidates who are, in practice, approved by the regime. In the 2003 parliamentary elections, 30 women were elected, representing 12%. In 2007, 1004 women out of a total of 9770 candidates ran for election and 31 women gained seats, representing 12.4%.

## **Representation in local councils**

Women are particularly poorly represented in town and village councils. In the 2007 local council elections, 319 women were elected, representing 3.2%.

## **Representation in the judiciary**

Women were admitted to practise law in 1975 but their representation in the judiciary has remained low. In 1998, a woman was appointed state attorney. As of 2010, women represented 13% of judges and public prosecutors, mostly in Damascus.

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### **III. A discriminatory legal framework**

#### **1. Reservations to CEDAW**

Syria ratified CEDAW in 2003 with reservations to article 2, article 9 (2) (transfer of nationality to children) Article 15 (4) (freedom of movement and choice of residence), article 16 (1) (c), (d), (f) and (g) (on equal rights and responsibilities during marriage and at its dissolution with regard to guardianship, the right to choose a family name, maintenance and adoption) and article 16 (2) (concerning the minimum legal age for marriage, “inasmuch as this provision is incompatible with the provisions of the Islamic Sharia”). In 2007, the government declared its intention to withdraw reservations to articles 2, 15 (4), 16 (1) (g) and 16 (2) but as of March 2012, this announcement had not been implemented.

59

#### **2. The Constitution**

In response to protests, as violent repression continued, Assad announced constitutional reforms, which were passed following a referendum in February 2012. Among other changes, reforms abolished a provision which entrenched the power of the Ba’ath party (art. 8), introduced presidential elections and limited the presidency to a maximum of 2 terms of 7 years (art. 88). This limit will not apply retrospectively.

According to the 2012 Constitution, “The state shall provide women with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life, and the state shall work on removing the restrictions that prevent their development and participation in building society” (art. 23). A provision expressly prohibiting discrimination on the grounds of sex was introduced in the 2012 reforms: “Citizens shall be equal in rights and duties without discrimination among them on grounds of sex” (art. 33). Article 3 provides that “Islamic jurisprudence shall be a major source of legislation”.

#### **3. Discriminatory laws**

Despite some reforms, numerous laws that discriminate against women remain in force. In 2007, the CEDAW Committee called on national authorities to “give high priority to its law reform process and to modify or repeal, without delay and within a clear time frame, discriminatory legislation, including discriminatory provisions in its Personal Status Act, Penal Code and Nationality Act”.

## Personal Status Act (PSA)

The PSA (No. 59 of 1953) applies to Muslims (approximately 90% of Syrians are Muslims, Sunnis and Shia' - all branches combined - and Druzes). Cases concerning the family and inheritance are heard before religious courts.

**Marriage:** Under the PSA, the minimum legal age for marriage is 17 for women and 18 for men, however judges can allow the marriage of girls from aged 13 years and boys from 15 years (art. 15(1), 16, 18). Muslim women are not allowed to marry without the permission of their male guardian (*wali*), usually the father or a close male relative (*mahram*) (art. 21). The marriage contract requires the signature of the *wali* and 2 witnesses. However, a judge can override the objection of the *wali*, if the latter's objections are not reasonable (art. 20). If a marriage is contracted without the permission of the *wali*, he can request that it be dissolved only if the husband is deemed "incompatible" (art. 27). Muslim women are not allowed to marry non-Muslim men (art. 48(2)).

60 Polygamy is authorized and does not require the consent of the first wife. A man who wishes to take a second wife must prove that he has the financial means to support her and must provide a legal justification (art. 17).

A wife forfeits the right to financial maintenance from her husband if she works outside the home without his permission (art. 73) and if she "disobeys" him (art. 74-75). Disobedience is defined broadly and includes leaving the family home for reasons contravening Sharia.

Specific rules apply to the Druze community, such as the prohibition of polygamy (art. 307). Each Christian sect is allowed to adopt its own personal status law (art. 308). In 2006, a personal status law was adopted for Catholics, containing provisions granting women equal inheritance rights and guardianship rights during marriage (although upon divorce, the father has the choice of guardianship).

**Divorce:** Men can initiate divorce unilaterally, (*talaq*), on the condition the authorities are informed. Women can initiate divorce by proving fault before a court on the grounds of "dissension, prejudice, lack of affinity, absence, or ailments" (PSA, art.105-112). A woman can also initiate no-fault divorce under the *khula* procedure whereby she forfeits her dowry and rights to financial maintenance.

**Custody of children:** Following divorce, women retain custody of children until girls reach the age of 13 years and boys 15 years. Women lose all custody rights upon remarriage (art. 138).

**Freedom of movement:** A woman is obliged to travel with her husband, unless it is stated otherwise in the marriage contract, or upon decision of a



judge (art. 70). A married woman cannot leave the country with her children without the permission of the children's guardian (art. 148).

### **Penal Code**

The definition of rape excludes marital rape (art. 498) and a male perpetrator of rape can escape punishment if he marries the victim (art. 508). In 2009, the Code was amended so that those who commit "honour crimes" are sentenced to 5 - 7 years in prison (art. 548), however honour remains a mitigating factor (art. 192). A man can only be prosecuted for adultery if it is committed in the family home. This limit does not apply to women (art 239 – 242, 548). There is no law that specifically criminalizes domestic violence.

### **Legal capacity**

According to the Civil Code (art. 46) and the Commercial Law (No. 49 of 1949) (art. 15), women and men have equal legal capacity. In the criminal courts, a woman's testimony has the same value as that of a man. However in Sharia courts, a woman's testimony is worth half that of a man.

61

### **Inheritance**

Inheritance is governed by Sharia law, according to which women inherit half of the share granted to men. Non-Muslim women cannot inherit from their Muslim husbands. This law applies to all religious populations, except Catholics.

### **Nationality**

According to the Nationality Act of 1969, women cannot pass their nationality to children (art. 3 and 138).

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## **WOMEN AND THE ARAB SPRING: TAKING THEIR PLACE?**

# Algeria

62

Protests denouncing the high cost of living, unemployment, housing shortages and widespread corruption have multiplied in recent years. In January 2011, after a staggering increase in food prices and spurred by revolts in neighbouring countries, riots broke out and were followed by demonstrations demanding the end of the regime and democratic reform. However they failed to gather the momentum of demonstrations in other countries in the region.

In an attempt to ease tensions, President Bouteflika proposed a series of reforms, including a law on the representation of women in elected bodies. However, the quota adopted fell far short of expectations. As of March 2012, there were 3 women in the 38-member government.

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### **I. Women's participation in protests**

At the end of January 2011, civil society groups, including women's rights and human rights organisations, established a coalition to call for political and social reforms: the National Coordination for Change and Democracy (NCCD). The NCCD organises a series of protests, but demonstrations did not achieve mass participation. Memories of the conflict of the 1990s in which 100,000 people lost their lives and thousands were forcibly "disappeared" remain very present.

## TIMELINE OF KEY EVENTS

### ----- 2011 -----

**3 Jan:** Riots erupt in Algiers and several other cities.

**13 Jan:** Mohsen Bouterfif, 32 years old and unemployed, sets himself on fire in Boukhadra, provoking further riots.

**21 Jan:** The National Coordination for Change and Democracy (NCCD) is established by several civil society organisations.

**7 Feb:** In Oran, a demonstration organised by the NCCD is dispersed by riot police.

**12 Feb:** Despite a ban on protests, the NCCD organises a demonstration in Algiers. Thousands rally in the 1st of May Square demanding democratic reforms. About 25,000 police officers surround protesters and prevent them from accessing the city centre. Supporters of the Bouteflika regime attack demonstrators and about a hundred people are arrested.

**24 Feb:** The state of emergency in place since 1992 is lifted, however repressive laws adopted upon this basis remain in force. The powers of the army are increased. Demonstrations are banned in Algiers and other large cities.

**5 Mar:** Dozens of protesters, activists and journalists are arrested in Oran before a demonstration organised by NCCD-Oran.

**16 Mar:** Dalila Touat, representative of the National Committee to Defend the Rights of the Unemployed, is arrested in Mostaganem for distributing flyers calling for a rally. She is tried on 28 April 2011 but after a strong reaction of civil society and the international community charges are abandoned.

**15 Apr:** Bouteflika promises constitutional reforms. No steps are taken.

**Dec:** : Laws on association, political parties and information imposing further restrictions on freedoms are passed by Parliament. A law on women's representation in elected bodies is also adopted.

63

*“We were prevented from protesting by the mass deployment of security forces. But Algerians revealed their thirst for change. In the 1st of May Square, an old man said to me: I’m afraid, I’m trembling, but I’m here, so that my children live in a better Algeria”.*

Nassera Dutour, Spokesperson, Collectif des familles de disparus en Algérie (CFDA),  
Interview El watan, 18 February 2011

Women participated side-by side with men in demonstrations, including as leaders. Women were among those arrested and beaten by police. Several women activists were specifically targeted by the authorities.

In February, in the face of protests, Bouteflika announced the withdrawal of the state of emergency and promised increases in wages in several public sectors. In September 2011 draft laws on association, political parties and information, containing provisions further restricting civil liberties, were submitted to parliament. A bill on the representation of women in parliament was also presented, containing weak measures on the proportion of women candidates to be presented on electoral lists (see further below). Civil society actors, including many women's rights organisations, campaigned, unsuc-

cessfully, against the adoption of the bills and the laws came into force in January 2012. The law on associations prohibits associations from receiving foreign funding.

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## **II. Women's participation in political life: opportunities and obstacles**

Although women won the right to vote in 1958, they remain largely under-represented in the political and public spheres. In 2005, the CEDAW Committee expressed concern at the weak representation of women in decision-making positions at all levels. These concerns were reiterated by the UN Special Rapporteur on violence against women in 2011.

Women participated massively, alongside men, in the war that led to Algerian independence in 1962. The Constitution, adopted in 1963, affirmed equal rights for men and women (art. 12) and required that the State “accelerate the freedom of women in order for them to become involved in the governance and development of the country”.

However a series of legislative reforms in the 1980s and 1990s including the adoption of the Family Code in 1984 entrenched discrimination against women. During the decade of armed conflict in the 1990s, women paid a heavy price, victims of violence perpetrated by armed Islamist groups and of enforced disappearances perpetrated by State actors. The failure to establish the truth surrounding violations and to deliver justice, the impunity granted by the Charter for Peace and National Reconciliation adopted in 2005 and the absence of adequate support services to victims remain further major barriers to women's participation in public life. In 2005, the CEDAW Committee underlined the inadequate state response to violence perpetrated against women by terrorist groups and to the situation of the wives of the “disappeared”. In 2011 the UN Special Rapporteur on violence against women called on the Algerian government to create an independent commission to investigate all forms of violence committed against women during the conflict. As of March 2012, this recommendation remained unimplemented.

In 2010 Algeria was ranked 121 out of 134 countries in which discrimination against women is most prevalent (Global Gender Gap Report). The National Liberation Front (FLN), the only ruling party since independence, regularly yields on issues concerning women's rights in efforts to appease the most conservative forces.

Efforts to increase women's political participation and to promote women's rights are hampered by general restrictions on freedoms of expression, association, assembly and peaceful protest. The new law on associations which came into force in January 2012 further constrains the activities of human rights organisations.

### **Representation in government**

As of March 2012, there were 3 women in the 38-member government: Minister of Culture, Minister Delegate for the Family and the Status of Women and Minister Delegate for Scientific Research.

### **Representation in parliament**

**People's National Assembly** (lower house): Following the 2007 elections, 30 of the 389 members of parliament were women, representing 7.7%.

65

In 2008 a revision of the Constitution paved the way for the introduction of a quota for the representation of women in parliament (art. 31 bis). In January 2012 a law establishing the modalities for increasing of the representation of women in elected bodies (Law No. 12-03) came into force. However, amendments introduced during the passage of the bill through parliament significantly weakened the text. Initial drafts included a quota of at least 30% women candidates and required them to have a specific position on electoral lists but the final text set variable quotas of between 20% and 40%, depending on the number of seats in each electoral district. The law does not contain any provision requiring male and female candidates to appear alternately or that women candidates be placed at the top of lists, nor does it impose a minimum proportion of seats for women within elected bodies. Although the law provided a mechanism for regular evaluation of its implementation, the Algerian Constitutional Council declared this provision unconstitutional and it was removed from the law as enacted.

**Council of the Nation** (upper house): Since 2009, the Council of the Nation, composed of 144 senators, includes 7 women, representing 5%. There is no quota for the representation of women.

### **Representation in local assemblies**

In the 2007 local elections, women gained 13.4% of seats in the regional popular assemblies and 0.7% of seats in the municipal popular assemblies. The 2012 law fixes the quota of women candidates on electoral lists at 30% or 35% depending on the size of the region (*wilaya*). In elections for

municipal popular assemblies, the quota is 30% for constituencies of over 20,000 inhabitants.

### **Representation in the judiciary**

Women represent about a third of the 3,000 judges. Although few women hold high positions in the judiciary, in 2004, a woman was nominated President of the State Council. In 2007, there were 3 women presidents of higher courts, 29 women presidents of tribunals and 83 women presidents of sections.

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## **III. Legal framework**

### **1. Reservations to CEDAW**

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Algeria ratified CEDAW in 1996, with reservations to several key provisions. Article 2 (adoption of measures to eliminate discrimination), article 9 (2) (transfer of nationality to children), article 15 (4) (freedom of movement and choice of residency) and article 16 (equality in marriage and at its dissolution) apply only to the extent that they do not go against national law and in particular the Family Code. Algeria withdrew its reservation to article 9 (2) following reform of the Nationality Code in 2005. The other reservations remain in force.

### **2. The Constitution**

The Constitution contains several provisions guaranteeing women's rights. It affirms that all citizens are free and equal and that discrimination on the grounds of gender is prohibited (art. 29). Equal access to public positions and employment is guaranteed to all citizens (art. 51). Article 31 guarantees equality in rights and duties of citizens and provides that institutions work to ensure equality by removing any barriers that prevent effective participation. Following constitutional reform in 2008, a provision was introduced on the promotion of the participation of women in political life and their representation in elected assemblies (art. 31 bis).

### **3. Discriminatory laws**

In 2005, following a long struggle led by women's rights and human rights organisations, the Family Code and the Nationality Code were amended. The Family Code no longer contains a provision requiring women to obey their husbands (former art. 39) and women have gained rights concerning

divorce. The express prohibition on the marriage of Muslim women with non-Muslim men was deleted (art. 31) but the amended provision provides for the conditions for marriage between Algerians and foreign men or women to be fixed by regulations (As of March 2012, no such regulations had been adopted). The amended Nationality Code allows women to pass their nationality to their children. However many provisions that discriminate against women remain in force.

*“We managed to breach the sanctity of the Family Code, which was considered untouchable until then. The reforms must continue. Women must no longer have inferior status within the family, dependent on the authorisation of brothers and fathers”.*

Nadia Ait Zaia, President of CIDDEF, FIDH interview, August 2011

## Family Code

67

**Marriage:** Women are required to have a legal guardian (wali), usually the father, present at the conclusion of the marriage contract (art. 9). The legal age for marriage is 19 years for both sexes (art. 11), however a judge can authorise the marriage of a minor (art. 7). Although since the 2005 reforms, the consent of both spouses to marriage is required, in the case of a minor the consent of the minor’s guardian suffices. The Family Code allows polygamy (art. 8) on condition that the husband notifies his wife and future bride and obtains permission from a judge.

The Special Rapporteur on violence against women, in her 2010 report, expressed concern that the requirement that both parties to a marriage provide medical certificates is often used to require women to demonstrate virginity.

**Divorce:** While men can initiate divorce unilaterally and without any justification (repudiation, art. 48), women are required to prove strict conditions before a court (art. 53). Women can also initiate no-fault divorce under the *Khula* procedure, according to which it is necessary to provide financial compensation less than or equivalent to the amount of the dowry (art. 54). Following a divorce or the death of the husband, a woman must observe ‘Idda, a period of up to 4 months during which time she cannot remarry and must respect specific rules (art. 58 – 61). For example, she can be forbidden from leaving the family home. Certain categories of women are prevented from remarrying for a longer period of time (“temporarily prohibited women”, art. 30).

**Guardianship and custody:** The father is the guardian of minor children; the mother assumes this role in case of absence or incapacity. Upon divorce, the mother can obtain guardianship of children on the decision of a judge (art. 87) and custody is first given to the mother (art. 64). The custody of male children ends when they reach age 10 and ends for girls when they reach marriageable age (art. 65). A divorced woman who has custody of her children loses her rights if she remarries (art. 66).

**Inheritance:** In general, the woman receives half the amount granted to a man (Book III of the Family Code).

### Penal Code

The Penal Code criminalises rape (art. 336). However, rape is defined in Arabic – as “*hatk al’ardh*” – (libel) and not “*ightisab*” (rape). Since reforms in 2004, sexual harassment is criminalised (Art. 341 bis). There is no specific provision criminalising domestic violence. The act of adultery committed by a man is punishable only if he knew the woman was married, but this condition does not apply to women (art. 339).



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## WOMEN AND THE ARAB SPRING: TAKING THEIR PLACE?

# Morocco

70

Morocco was also shaken by the wave of popular uprisings across the region in 2011. Protest groups that had been active for years strengthened around common demands for democratic reform. In the face of mounting pressure, King Mohamed VI announced a series of measures, including the adoption of a new constitution and early parliamentary elections.

Moroccan civil society organisations seized these opportunities to push for the protection of women's rights with some significant results: Morocco withdrew its reservations to CEDAW; the new Constitution enshrines the principle of equality between men and women and contains provisions on increasing women's participation in decision-making bodies. However, an electoral law established a quota for women's representation of only 15% and the proportion of women elected to the new parliament did not exceed the quota. As of March 2012, the 30-member government contained only one woman minister.

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### I. Women's participation in protests

Protests organised throughout 2011 called for democratic reform, social justice and an end to corruption. The 20th February Movement (date of the first major demonstrations) brought together diverse groups within civil society united around these central demands. Women were at the forefront of demonstrations, including as spokespersons for the movement.

During some of the initial protests, groups carried slogans calling for hard-won rights to be withdrawn through the abolition of the Family Code (Moudawana).

## TIMELINE OF KEY EVENTS

### ----- 2011 -----

**20 Feb:** Thousands of demonstrators across the country call for democracy, justice and dignity and an end to corruption. The 20th February Movement, which initiated calls to protest via social networks, grows and unites a range of civil society actors.

**21 Feb:** King Mohamed VI announces a series of reforms. A sit-in organised in solidarity with the Libyan population meets with violent repression by the security forces. Khadija Ryadi, President of the Association marocaine des droits de l'Homme (AMDH) is wounded.

**27 Feb:** Over 2000 people demonstrate in Casablanca. The protest is marked by a strong presence of women.

**9 Mar:** The King announces the establishment of a commission (CCRC) to propose amendments to the Constitution, aimed at limiting the power of the monarchy and strengthening the roles of the prime minister and parliament. Parliamentary elections planned for September 2012 are brought forward.

**13 Mar:** Protests in Casablanca are severely repressed. Organizers report over 100 arrests and 100 wounded.

**8 Apr:** The government announces the withdrawal of its reservations to the CEDAW Convention. The government also promises to increase wages and pensions.

**11 Apr:** A dozen human rights organisations make recommendations on constitutional reforms and are auditioned by the CCRC.

**1 May:** A coalition of civil society associations, the Feminist Spring for Equality and Democracy, organises marches in Rabat and Casablanca, calling for the principle of equality between men and women to be enshrined in the Constitution. In the weeks that follow demonstrations in several cities are violently dispersed by security forces. Many injuries are reported and one protester later subsequently dies.

**1 Jul:** Constitutional reforms are passed in a referendum.

**14 Nov:** An electoral law is adopted, establishing a quota for women's representation in parliament of 15%.

**25 Nov:** 45% of the electorate vote in parliamentary elections. The Justice and Development Party (JDP), Islamist, wins the most seats (107 out of 395). Women represent 15% of members of the new parliament.

### ----- 2012 -----

**2 Jan:** The King announces the formation of a new coalition government, composed of 30 Ministers including one woman.

71

Women activists in the 20th February Movement subsequently established committees to discuss specific demands relating to women's rights.

## II. Women's participation in political life: opportunities and obstacles

Following the announcement by King Mohammed VI that political and legislative reforms would be enacted, civil society organisations mobilised to push for women's rights to be guaranteed in the reform process and for greater representation of women in political bodies. Over 30 associations formed a coalition, the Feminist Spring for Equality and Democracy, calling

for the protection of women's rights in the new constitution, and launched a campaign for one million signatures to support their demands.

Women have had the right to vote in Morocco since 1956. However, despite some positive recent steps, women's participation in political life remains hampered by prevailing patriarchal attitudes and social constraints. According to the Global Gender Gap Report, which measures discrimination against women, Morocco ranks 129th out of 134 countries. Although many women hold posts in state administrative bodies, the justice system and the private sector, they are rarely represented in decision-making positions and continue to be significantly under-represented in political bodies.

72

In October 2011, following reform of the Constitution, two laws were adopted containing provisions on the participation of women in political bodies. Both texts represent timid and inadequate steps towards increasing women's representation. Law N° 27-11 on the Chamber of Representatives (lower house of parliament) establishes a quota of 60 seats reserved for women out of a total of 395 seats, representing 15%. According to this law, 90 members of parliament are elected at the national level and the remaining 305 members are elected at the local level. The law specifies that the lists of candidates presented by parties at the national level must be composed of 60 women and 30 men aged under 40 years (art. 23). However, there is no quota applying to lists presented at the local level. In parliamentary elections held in November 2011, there were a total of 4% women candidates. At the local level, out of 1,521 lists, only 57 had a woman at the top of the list. Law N° 29-11 "on political parties" provides that "all political parties work to achieve a proportion of one-third of women in their governing bodies" (art. 26). The law does not make such representation obligatory.

### **Representation in government**

The former government, appointed in 2007, included 7 women ministers. The coalition government formed following the November 2011 elections and led by the JDP, contains one woman minister out of 30 posts. Bassima Hakkaoui, Member of the JDP, was appointed Minister of Solidarity, Women, Family and Social Development.

### **Representation in parliament**

#### **Chamber of Representatives (lower house):**

**Before 2011:** Under the previous quota system adopted in 2002, 30 of the 325 seats in the Chamber of Representatives were reserved for women,

representing 9.2%. Following elections in 2007, 10.5% of seats were held by women.

**Since 2011:** In the 2011 elections, 60 women were elected, in line with the quota, to the 395-seat parliament, representing 15%.

**Assembly of Councillors (upper house):** Women hold 6 out of 270 seats, representing 2.2% (an increase from 3 seats in 2006).

### **Representation in the judiciary**

In 2010, women represented 20% of all judicial posts: 21% of judges and 11.8% of prosecutors. In January 2012, the Moroccan association of women judges (established following the reform of the Constitution which removed restrictions on such associations) announced that it would submit a claim to the Supreme Court calling for increased representation of women in the judiciary and access to the highest positions, currently occupied exclusively by men.

73

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## **III. Persistence of discriminatory laws**

The last 10 years have seen a number of legal reforms aimed at reducing discrimination against women. In 2004 the mobilisation of women's rights and human rights organisations led to the reform of the Family Code (*Moudawana*), resulting in the removal of many discriminatory provisions. A new Labour Code was adopted in 2003 containing provisions prohibiting sexual harassment and in 2007 the Nationality Code was reformed to grant women the right to transmit nationality to their children.

Reform of the *Moudawana* was a major step. It secured several important rights for women, including the right to self-guardianship, the right to travel freely, the right to divorce and the right to custody of children. It also placed new restrictions on polygamy, raised the legal age of marriage from 15 to 18, and made sexual harassment punishable by law. However, many discriminatory provisions of this Code and other discriminatory laws remain in force, while implementation of the new Code remains limited. The CEDAW Committee has called for the urgent reform of discriminatory legislation.

### **1. Withdrawal of reservations to CEDAW**

Morocco ratified CEDAW in 1993 but entered reservations to article 16 (equality in marriage and divorce) and article 9 (2) (transfer of nationality

to children), on the basis that they were incompatible with Islamic Sharia. The government also entered declarations (which have no legal force under international law) to article 2 (adoption of laws and policies to eliminate discrimination) and article 15 (4) (freedom of movement and choice of residence), stating that these provisions would apply only to the extent that they are compatible with Sharia and the Moroccan Family Code. On 8 April 2011, the Moroccan government withdrew its reservations to the Convention. The declarations have not been removed.

## 2. The Constitution

74

The Constitution of 1996 provided that “All Moroccans are equal before the law” (former art. 5) but did not make any explicit reference to equality of the sexes, except in relation to political rights (former art. 8). During the constitutional reform process in 2011, women’s rights organisations, including the *Association démocratique des femmes du Maroc*, submitted recommendations to the Commission in charge of reform. The majority of their proposals were integrated into the draft. The new Constitution, adopted by referendum on 1 July 2011, contains several provisions that increase protection of women’s rights.

Article 19 enshrines the principle of equality between men and women in civil, political, economic, social, cultural and environmental rights and provides that the State works to achieve parity between men and women. A body responsible for parity and fighting all forms of discrimination is to be established for this purpose. Article 30 explicitly enshrines the rights of men and women to vote and stand as candidates in elections and provides that laws will establish measures to promote equal access of men and women to elective office. Article 115 fixes the proportion of women to be represented in the High Judicial Council. Article 146 provides for legislation to promote increased participation of women within regional councils. The 2011 Constitution also states in its preamble that ratified international treaties have primacy over domestic laws. This was a recommendation of the CEDAW Committee in 2008.

The reform of the Constitution has thus resulted in significant progress in the legal protection of women’s rights. However, many discriminatory provisions remain within national laws.

### 3. Discriminatory laws

#### Family Code (Moudawana)

**Marriage:** The 2004 reforms removed provisions requiring the wife's obedience to her husband and the consent of the woman's matrimonial guardian (wali) to marriage. The legal age for marriage is 18. However, a judge can authorise the marriage of minors (art. 20). As of 2012, it is estimated that 12.8% of Moroccan girls (aged between 15 and 19 years of age) are married.

Polygamy is authorised, provided that it is approved by a judge and that the first wife gives her consent (art. 40–46). This is justified in the preamble of the Moudawana by several arguments, including that the legal prohibition of polygamy would not reduce polygamy in practice.

Muslim women are not permitted to marry non-Muslims. Muslim men are authorised to marry Christian or Jewish women (art. 39).

75

**Divorce:** The 2004 reforms granted women the right to file for divorce on the grounds of harmful behaviour by the husband, such as abandonment or failure to provide financial support. Physical abuse can constitute grounds for divorce, but the wife must be able provide witnesses to support her claims (art. 100). Either spouse can also initiate divorce based on irreconcilable differences, as well as divorce by mutual consent. A woman can also initiate no-fault divorce (*khula*), according to which she must renounce financial support and traditionally must return her dowry. Husbands can still initiate divorce through “repudiation,” but the practice is now subject to more judicial oversight. Divorced women are required to wait for a period of up to 4 months before remarrying.

**Guardianship and custody of children:** According to the Family Code, “The father is the legal guardian of the children” (art. 236) as long as a court has not decided otherwise. The mother only has the power to take urgent decisions and to ensure the interests of the children when the father is absent. In the case of divorce, the mother is the first choice for custody of a child, followed by the father and then the maternal grandmother (art. 171). In a change from previous rules, the father no longer automatically assumes custody of children when mothers remarry or move away. However, a divorced woman with children over the age of 7 loses custody at her ex-husband's request if she remarries. In such instances, the woman retains legal guardianship of her minor children only if their father is dead or incompetent. Both girls and boys are entitled to choose the mother or father as custodian when they reach the age of 15.

**Inheritance:** The 2004 reform allows the children of a man's daughters as well as those of his sons to inherit from him (preamble). Previously, only the grandchildren on the son's side were eligible for inheritance from their grandfather. However, in general, a man receives twice the part received by a woman. In addition, if there are no sons, daughters can inherit only after a list of other relatives (Family Code, Book VI).

**Legal capacity:** The courts give a woman's testimony half the weight of a man's in family matters.

**Nationality Code:** Since the reform of the Code in 2007, women have the right to transmit their nationality to their children (art. 6). However, this provision only applies to the children of a marriage between a Moroccan woman and a Muslim non-citizen who married in accordance with the Moudawana. Furthermore, women do not have the right to pass their nationality to their foreign husbands, although men can transmit their nationality to their non-Moroccan wives (art. 10).

**Criminal laws:** Sexual assault and rape are both criminalised under the Penal Code, however despite recommendations made by the CEDAW Committee in 2008, there are no provisions in the Penal Code criminalising marital rape. Article 475 provides that a man who rapes a minor can be escape punishment for rape if he marries the victim. There are no laws that specifically prohibit domestic violence.



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### Further reading

- ADFM, *Bilan d'une année pas comme les autres : Le Maroc à la croisée des chemins*, October 2011, [www.adfm.ma/spip.php?article1657&lang=fr](http://www.adfm.ma/spip.php?article1657&lang=fr)
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**WOMEN AND THE ARAB SPRING:  
TAKING THEIR PLACE?**



# CONCLUSION AND RECOMMENDATIONS

# 20 measures for equality

80

Women, alongside men, participated in the protest movements that shook the Arab world in 2011, demanding freedom, equality, justice and democracy. Women, as well as men, paid and continue to pay a high price for their struggles. Today women must be able to play their full part in building the futures of their countries. Women's participation in public and political life, on an equal basis with men, is an essential condition for democracy and social justice, values at the heart of the Arab spring.

The changes sweeping the region, which in some countries have transformed the political landscapes, present real opportunities for women to push for their rights. Yet they also present risks of regression. Demands for equality are set aside while the efforts of protesters focus on bringing down regimes and dismantling oppressive state institutions. Recent history painfully reminds us that the massive occupation of public space by women during revolutions in no way guarantees their role in the political bodies of the regimes that follow.

Although the situation of women varies across the region, threats to their human rights converge. Women are now confronting attempts to exclude them from public life, as well as acts of discrimination and violence perpetrated with impunity by extremist groups and security forces. At a time when conservative forces appear to be growing in strength, it is vital that steps are taken to establish equal rights between men and women as the very foundation of democratic societies.

The signatory organisations to this appeal call upon **national governments and parliaments** to implement the following “**20 measures for equality**”.

The signatory organisations to this appeal call upon **international actors** to support the implementation of these measures by: supporting national

and regional women's rights movements and civil society organisations; systematically including women's rights in bilateral and multilateral political dialogues; and systematically including women's rights, with specific objectives and indicators, in all cooperation programmes.

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## On women's participation in political and public life

In countries in transition women are being marginalised or even excluded entirely from political bodies. In Egypt, there were no women in 2 committees nominated to draft the new constitution. A new electoral law abolished measures guaranteeing women minimum representation in parliament and women gained only 2% of seats in the recent elections. In **Libya**, the electoral law adopted by the National Transitional Council (NTC) contains no quota for the representation of women in elected bodies. In **Morocco**, a law adopted in October 2011 established a quota of only 15% and there is one woman minister in the 30 member cabinet (compared to 7 in the previous government). In **Tunisia**, the 41-member government contains only 3 women.

81

We therefore call on national authorities to:

1. Guarantee women's access to all political posts;
2. Adopt laws and policies requiring gender parity or, at a minimum, quotas of at least 30% of women in all political decision making bodies and elected assemblies;
3. Ensure the effective participation of women in all stages of elections, including within the body overseeing elections;
4. Conduct outreach and civic education campaigns to explain the rights of women, as voters and candidates in the electoral process;
5. Adopt measures aimed at increasing the representation of women in the judiciary.

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## On constitutional and legislative reforms

Concessions on women's rights are often used as bargaining chips by politicians to maintain power by appeasing the most conservative forces. In **Libya**, while proclaiming the country's liberation from Qaddafi, the President of the National Transitional Council declared that restrictions on polygamy would be removed and divorce prohibited. In **Tunisia**, several representatives of the new government have issued declarations proposing measures that would violate women's rights.

We therefore call on national authorities to:

6. Enshrine in the constitution, the principle of equality between men and women and the prohibition of all forms of discrimination against women;
7. Reform all laws that discriminate against women, including in the area of the family: marriage, divorce, guardianship, child custody, inheritance, the transfer of nationality to spouses and children and legal capacity; and ensure the full compliance of all legislation with international conventions, in particular the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

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## On violence against women

82

During the revolutions and uprisings across the region, there have been numerous reports of violence targeting women, committed by militia, soldiers and police. There have also been reports of violence against women committed by demonstrators.

In **Syria**, women have been abducted by pro-regime forces to spread fear within the population and there are many reports of rape. In **Libya**, rape was used as a weapon of war and the stigmatization of victims is such that they are condemned to silence. In **Egypt**, women participating in the demonstrations have been sexually assaulted by protesters and several women protesters were forced by the army to undergo “virginity tests”.

We therefore call on national authorities to:

8. Adopt laws prohibiting all forms of violence against women, including domestic and sexual violence and sexual harassment;
9. Put in place adequate shelters and medical and psychological support services for women victims of violence;
10. Fight impunity of all perpetrators of violence against women, by ensuring effective investigations, prosecution and punishment of these crimes;
11. Ensure that women have full access to justice, including the provision of free legal services and establishing appropriate complaint mechanisms;
12. Ensure that all actors in the justice system (police, judges, lawyers) receive adequate training on laws protecting women from violence and the treatment of victims of such crimes;
13. Adopt preventive measures, including information and education campaigns, to eliminate violence against women.

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## **On education, employment and health**

Social and economic demands have been at the heart of protests. Women are the first to be affected by unemployment and financial insecurity.

We therefore call on national authorities to:

- 14.** Establish policies to ensure access for girls and women to education and eradicate illiteracy;
- 15.** Enact laws and policies to reduce high unemployment rates among women, ensure that women and men receive equal pay for equal work; combat the gender-based division of labour; and ensure that women have full and equal access to economic resources, including in rural areas;
- 16.** Promote the representation of women in the decision-making bodies of trade unions;
- 17.** Strengthen measures aimed at increasing access of women and girls to adequate health services, particularly with regard to reproductive health..

83

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## **On implementation of international women's rights protection instruments**

While almost all Arab countries have ratified CEDAW, the majority have expressed reservations that go against the very principle of non-discrimination. The provisions of this treaty are widely violated.

We therefore call on national authorities to:

- 18.** Withdraw all reservations to CEDAW;
- 19.** Ratify all international conventions on women's rights and ensure the full implementation of their provisions;
- 20.** Cooperate with UN mechanisms protecting women's rights (including the CEDAW Committee, the Working Group on laws and practices that discriminate against women and the Special Rapporteur on violence against women) and implement their recommendations.

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## First signatures

- Association démocratique des femmes du Maroc (ADFM)
- Association tunisienne des femmes démocrates (ATFD)
- Bahrain Center for Human Rights (BCHR)
- Bahrain Human Rights Society (BHRS)
- Cairo Institute for Human Rights Studies (CIHRS)
- Coalition of Defenders of Justice for Syria
- Collectif des Familles de Disparus en Algérie (CFDA)
- Conseil national pour les libertés en Tunisie (CNLT)
- Egyptian Association for Community Participation Enhancement
- Egyptian Initiative for Personal Rights (EIPR)
- Egyptian Organization for Human Rights (EOHR)
- General Federation of Trade Unions of Palestine
- General Federation of Trade Unions of Yemen
- Human Rights Information and Training Center - Yemen (HRITC)
- International Federation for Human Rights (FIDH)
- International Trade Union Confederation (ITUC)
- Kuwait Human Rights Society (KHRS)
- Ligue algérienne pour la défense des droits de l'Homme (LADDH)
- Ligue tunisienne des droits de l'Homme (LTDH)
- New Woman Foundation - Egypt (NWF)
- Organisation marocaine des droits humains (OMDH)
- Syrian Organization for Human Rights (Sawasiah)
- Voice of Libyan Women





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