

## Unequal Access to Justice in the Middle East

Women's unequal status in the Middle East has long been a major setback to the region's economic, social and political development. Despite recent attention to this issue and increasing efforts by both local and international actors to promote women's rights in the region, a number of obstacles continue to block women's access and participation in the justice system. Given the proper legal tools and mechanisms to combat these obstacles, women in the Middle East can find the way to overcome their second-rate status and secure their rightful place as equal members of society.

### Obstacles to Justice:

#### Penal Codes/Laws

Domestic laws including family, penal, and personal status laws have codified discrimination against women effectively subordinating their status compared to their male counterparts. These laws pervade all aspects of life such as marriage, divorce, citizenship and freedom of movement. They often directly regulate gender relations by upholding patriarchal structures that give men legal authority over women in their families. This legal discrimination undermines women's equal participation in society and puts women at an increased risk for violence. The legal codes provide no serious protection for women against violence and no unobstructed means to file complaints of abuse.

#### Customary and Social Practices

Even where the rights of women are formally granted in both the constitution and the legal code, these rights are meaningless in actual daily life if implementation does not follow. Informal customary practices can override formal legal or religious provisions so that state legislation is frequently ignored. For example, state legislation on a women's minimum age for marriage is disregarded or women are refused their share of inheritance despite Islamic injunctions. The state rarely interferes in such practices since decision-making is thought to be the exclusive domain of male family members. Furthermore, negative ramifications routinely await women that seek justice through legal means, making it a rarity for women to come forward with complaints. Consequently, in many contexts, it is customs and social pressure rather than laws or religions that severely limit women's access to justice.

#### Limited Judicial Participation

It is against the law in some Middle Eastern countries for women to act as judges and in some cases even as public prosecutors. In countries where it is not illegal, women can face numerous restrictions on their judicial capacity and are shut out of prominent and key positions in the nations' higher courts. Furthermore, in some regions there may not even be a professional group of judges; instead, self-appointed religious or tribal figures may "legislate" and adjudicate locally however they see fit. Most, if not all of these traditional adjudication systems exclude women. An additional problem is that male judges may have enormous arbitrary power in applying and interpreting the law. The consequence of the lack of female presence in the courts is that women have limited access to the legal system, especially with respect to issues that relate directly to their lives i.e. family and personal laws.

The following table is a list of Middle Eastern countries that have ratified CEDAW and their policies on women's participation in the judiciary:

WOMEN'S PARTICIPATION IN THE JUDICIARY		
COUNTRY	LEGALLY PERMITTED	LIMITATIONS
Afghanistan	Yes	Female judges are rarely involved in the adjudication of cases and are excluded from key positions.
Algeria	Yes	Women are well represented at 34% but are denied the right to deal with personal status law.
Bahrain	Yes	None have been appointed thus far.
Egypt	Yes	One female judge serves on the Supreme Court. Opportunities to advance in the judicial system are limited. Women have never been promoted to judges by the Ministry of Justice while men routinely are.
Indonesia	Yes	The Shariah Court headed by a man must approve the appointment of female judges.
Iraq	Yes	Highly underrepresented since women were denied access from 1984 - 2003 and face cultural resistance; a female judge in Najaf was forced to resign amid protests in 2003
Jordan	Yes	Highly underrepresented in civil courts (less than 3%) and none serving in the higher courts
Kuwait	No	Can hold positions as investigative judges but are not permitted to serve as judges in court
Lebanon	Yes	Female judges serve in the judicial and supreme courts but none in the religious courts of all sects
Libya	Yes	Underrepresented especially at higher levels
Morocco	Yes	Significant presence in the trial and appeal courts, but cannot hear cases of personal status law nor head a tribunal; women lawyers also cannot be judicial prosecutors.
Saudi Arabia	No	Women cannot participate in the judiciary, either as judges or as lawyers
Syria	Yes	Underrepresented at 13%
Tunisia	Yes	25% are female with no restrictions
United Arab Emirates	Yes	No legal restrictions exist but there are currently no female judges serving in any courts
Yemen	Varies by district; some courts allow it while others do not.	Underrepresented in general; almost non-existent at the senior levels