# Executive Summary

Sexual and Reproductive Health Laws and Policies in Selected Arab Countries
**2016**


منتدى السياسات الصحية في الشرق الأوسط وشمال افريقيا
MIDDLE EAST AND NORTH AFRICA HEALTH POLICY FORUM

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In this study, the Middle East and North Africa Health Policy Forum (MENA HPF), under an implementation agreement with the UNFPA/Arab States Regional Office (ASRO), seeks to address sexual and reproductive health in the Arab states as a priority in health development and advocacy in the post-2015 period. This exercise is intended to provide policymakers and stakeholders in the Arab states with insight about the current status of and gaps in policies for sexual and reproductive health. The report compiles data through mid 2015.

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Dr. Maha El Rabbat
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## Executive Summary

The importance of the social determinants of reproductive health (RH) has long been recognized. Indeed, sexual and reproductive health (SRH) is an area of public health in which these factors, often related to gender relations and roles within societies, are particularly salient. As Glasier and Gulmezoglu said, "Perhaps more than any other area of health, sexual and reproductive health is affected by sociocultural factors, including gender disparities, taboos, and strongly held behavioral norms."(1) Moreover, the delivery of sexual and reproductive healthcare is deeply influenced by the laws and policies in place within specific national contexts.

(1)(Glasier and Gulmezoglu. 2005.) "Sexual and reproductive health: call for papers." Lancet Vol. 366: 969 - 70.

This regional analysis was commissioned by the MENA Health Policy Forum with funding from UNFPA Arab States Regional Office (ASRO). The report summarizes the findings and reports of national consultants based in 11 Arab countries. Selected to represent the diversity of the Arab world, these countries include: three North African Francophone countries in the Maghreb region (Algeria, Morocco, Tunisia), on the African continent (Egypt, Sudan), four Middle Eastern or Mashreq countries (Jordan, Lebanon, Palestine, Syria), and two countries in the Gulf region (United Arab Emirates, Kingdom of Saudi Arabia).

Regional consultants developed a standardized mapping tool based on a review of international literature and similar exercises in other regions of the world to guide the drafting of national reports by a team of consultants based in those countries. In addition, the regional consultants provided a guidance document to the national consultants. Using the mapping tool as a guide, experts in the countries under review drafted their national reports on the basis of literature reviews, a desk review of all relevant laws and policies, and interviews with key informants and stakeholders.

In terms of international mechanisms to ensure sexual and reproductive health and reproductive rights (SRHR), all countries except one are part of the universal declaration of human rights. All countries under review have ratified the Convention on the Rights of the Child (CRC), and all countries except one have ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR). All countries under review except one have ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), but Tunisia is the only country to have lifted all reservations to the CEDAW.

Within the national legal frameworks of all reviewed countries, the right to education and the right to equality and nondiscrimination are both specifically mentioned and safeguarded in national constitutions. The right to health, which is of extreme relevance to reproductive health, is guaranteed by all countries except two. None of the countries except Morocco, however, are committed to the right to decide the number and spacing of children. Although there have been reforms in some countries, as of this writing, Lebanese, Jordanian, Palestinian, Syrian, Sudanese, and Saudi Arabian women cannot pass their nationality to their children if married to non-citizens.

Polygamy is outlawed only in Tunisia, although other countries have instituted reforms to marriages involving more than one wife. The personal status laws in most countries contain provisions to prevent child marriage, and some countries have issued laws that prohibit marriage before the age of 18. Egypt developed a strategy for the prevention of child marriage to support the law prohibiting it. Though all countries under review except two have laws that protect women against rape, the protection is insufficient. All countries except Morocco maintain statutes that allow reduced sentences for rapists if they agree to marry their victims and allow clemency in cases of rape and honor crimes.

Abortion is illegal in all countries under review except Tunisia, the only Arab country to have legalized abortion on demand. In most countries, post-abortion care is inadequate.

In countries where harmful practices against women, such as female genital mutilation/cutting (FGM/C), are prevalent (specifically, Egypt and Sudan among the review countries), there are legal measures to address the practice.

All countries except two have special family planning plans/policies in their health plans. Some countries, such as Jordan, have eliminated restrictions on access to family planning. In all countries, services for the treatment of infertility have increased rapidly, particularly within the private sector, but efforts to regulate infertility treatment have proceeded much more slowly.

It should be noted that none of the countries except Egypt have formal comprehensive policies on the notification of maternal deaths, although some countries have initiatives to thoroughly investigate maternal deaths and their causes.

Men and young people, particularly unmarried young people, remain highly neglected populations in terms of access to SRH services and public education. More work is needed to reach these groups. Moreover, the lack of a life-cycle approach, which follows individuals from a young age to the post-reproductive stage of life, was noted in all countries.

Poverty and conflict are contextual factors in the region that warrant special attention. All countries reported that inequalities persist in the provision, access, and quality of SRH care based on rural/urban residence, geographic area, and socioeconomic status.

Conflict, particularly in countries like Syria that are currently experiencing massive forced displacement, and the subsequent influx of refugees to neighboring countries, creates new vulnerabilities, strains health systems' capacity to respond, and creates new SRH problems that call for new approaches and urgent attention.

Extensive gaps in the realization of SRHR were identified by the national reports as summarized in the regional report. A number of recommendations are therefore proposed for governments, civil society, and regional and international institutions to address these deficiencies in the post-2015 period.

Results of a gap analysis organized along three themes—gaps in the legal environment; gaps in sexual and reproductive health rights; and gaps in implementation—found the following:

**a- Gaps in the Legal Environment :**

- Violations are best demonstrated by specific laws, such as the nationality law or personal status legislation (for example, in relation to early marriage or honor crimes, or the restrictions on abortion).
- No mechanisms exist to enforce existing laws in many settings.
- The cross-sectoral nature of SRHR strategies makes addressing issues such as gender-based violence (GBV) challenging given the lack of engagement by all partners (such as the Ministry of Interior, for the notification of cases).
- The lack of awareness on the part of legal professionals about the issues pertaining to SRHR and the lack of interaction between legal and health professionals in general limit the understanding of the implications of legislation for women's health.

**b- Gaps in Sexual and Reproductive Health and Reproductive Rights**

- All countries under review report the existence of national strategies on population, youth, women, and RH, but the human rights-based approach is not well represented in those strategies.
- Lack of awareness among women about their own rights is a major constraint to the realization of their rights.
- Discriminatory access to health services is reported in laws and services.
- Inherited social and cultural traditions, particularly in rural areas, deprive women of their human rights.
- All countries noted the critical gap pertaining to the SRH needs of adolescents, who constitute a major proportion of the populations in the Arab region.
- Cultural taboos are a major obstacle to informed discussions about SRH issues, particularly for young people.

**c- Gaps in Implementation**

- Despite progress in closing many health and development gaps in the Arab countries reviewed, urban/rural as well as regional disparities remain a great challenge.
- SRH services for young people are generally not well integrated into existing primary healthcare (PHC) services in all countries.
- The lack of a solid statistical basis and a clear policy for the systematic monitoring of GBV in all countries make it difficult to assess the appropriateness and scale of the response (although some countries are more advanced in this regard than others). The service component so far is patchy and largely provided on a small scale by non-governmental organizations (NGOs). Furthermore, the underreporting of cases due to stigma or women's economic dependence on men jeopardizes the care and support of victims of GBV.
- Maternal death surveillance is in urgent need of improvement, and countries with deficient reporting and documentation should mandate reporting of maternal deaths and establish mechanisms to review causes of death.
- In most countries, vulnerable populations (including women without health insurance, women with disabilities, nomads, and women under armed conflict) lack full access to SRH services. Moreover, the needs of these vulnerable groups are not fully understood.
- None of the countries under review have national policies to increase men's access to SRH services, although some micro-level initiatives are in place to further engage men.
- Many countries continue to have stigmatizing views in their policies with respect to people living with HIV/AIDS and groups susceptible to infection. Legislation in the region allowing dismissal from employment and the deportation of HIV-positive workers contradicts universal standards on the protection of the rights of people living with HIV.
- The private sector of the countries under review (especially Lebanon, Jordan, and to a lesser extent Syria) provides a large proportion of SRH services, but they are not well integrated with public health services, nor are they adequately regulated. This is particularly the case in fields such as infertility treatment.
- Though the provision of contraceptive information and services was found to be acceptable in most countries, it was clear that it does not satisfy the requirements of proper provision as per the International Conference on Population and Development (ICPD).
- None of the countries reported the full integration of SRH and HIV and other services.
- None of the countries reported implementing comprehensive sexuality education; even where curricula exist, teachers are not sufficiently trained and implementation is weak.
- Both poverty and illiteracy were cited as the main barriers to proper access of SRH services. Large out-of-pocket expenditures on SRH care are a critical constraint to access.

## A Way Forward: Recommendations for Action

Based on the findings of this mapping exercise of SRHR policies in the Arab world, for the full attainment of SRHR as consistent with the ICPD's Progam of Action, the following recommendations for action are made:

**To countries/governments:**

- Arab countries should bring laws and regulations that affect SRH into alignment with human rights laws and standards. Special focus should be devoted to gender equity, personal and family status, adolescents, child marriage, and GBV, according to each country's laws, regulations, and culture.
- Arab countries should remove all legal and regulatory barriers to services. Special focus should be devoted to GBV, HIV, and the prevention of unwanted pregnancy, according to each country's laws, regulations, and culture.
- An in-depth review of criminal law and the penal code in all countries is needed to ensure that the law is properly used and consistent with respect for SRHR. This review should consider available data on the prevalence and burden of SRH problems within each country. Specific attention should be paid to the need for the decriminalization of access to and the provision of family planning methods or access to information and services as needed. The appropriateness of criminal law provisions on rape and honor killings should be considered after a review of the relevant legislation.
- RH services, although noticeably better in all Arab countries, still need improvements to guarantee privacy, confidentiality, and informed decision-making, and importantly to guarantee the quality of services.

- Sexual health services are still stigmatized in many settings of the Arab world. All efforts should be made therefore to advance the agenda of sexual health in accordance with cultural norms.
- Access to information and education relating to sexuality and sexual health, including comprehensive sexuality education, is essential to enable people to protect their health and make informed decisions about their sexual and reproductive lives.
- Research documenting the status of special groups need to be prioritized, as these topics are not well studied or reviewed in the Arab world.
- Arab countries should continue to consider lifting any remaining reservations to CEDAW, according to each country's laws, regulations, and culture.
- Countries should review their national strategies on population, youth, women, and SRH to ensure that they respect the human rights principles to which these countries have committed.

**Regional and international partners:**

- Regional and international partners should work closely with countries to assist in creating or fostering alignment with international treaties, according to each country's laws, regulations, and culture.
- All opportunities should be pursued to ensure mechanisms through which regional and international charters are respected and implemented within the cultural contexts of each country.
- Cooperative policies between countries, local partners, and international partners should be developed.

**Civil society:**

- The strong work of civil society in many Arab countries must continue and should be encouraged.
- Partnerships with civil society organizations (CSOs) that are able to supplement decision makers with programs and measures that advance women's status should be developed to fully implement international commitments.
- Regional networks of CSOs working on SRHR should be strengthened given cultural and linguistic commonalities across the region.
- CSOs should continue to launch advocacy campaigns with the help of lawyers, judges, and women's movements, using evidence from public health research to lobby the relevant authorities to change national laws that impede the advancement of SRH, considering each country's laws and policies.
- CSOs should expand their legal and health aid services for women.
- CSOs should assist in educating women about their rights.
- CSOs should partner with the broader community, specifically religious leaders.