

Women's Rights in the United Arab Emirates (UAE)

**Note submitted to the 45th Session of the
Committee on the Elimination of Discrimination Against Women (CEDAW)
on the occasion of its first examination of the UAE**

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The Campaign for “Equality without Reservation”

In June 2006, at the conclusion of the first regional conference on the withdrawal of reservations to Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the ratification of its Optional Protocol held in Rabat, Morocco, representatives of women's rights and human rights organizations from all over North Africa and the Middle East (including the Gulf States and Turkey) launched a regional campaign entitled “Equality without Reservation.” The campaign's main objectives are: the removal of all reservations to CEDAW Convention by Arab States; the ratification of CEDAW by Arab States who have not yet done so (Sudan and Somalia); the ratification of the Optional Protocol to CEDAW; and the harmonization of national legislation with the provisions of CEDAW.

The campaign is of particular urgency given that while almost all Arab States have ratified CEDAW, they have done so with reservations that are in direct conflict with the very principles of gender equality and non-discrimination enshrined in the Convention.

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I. Introduction

The United Arab Emirates (UAE) ratified the Convention for Elimination of all forms of Discrimination Against Women (CEDAW) on 6 October 2004, but with extensive reservations:

- Article 2(f) (on the obligation to modify or abolish discriminatory laws, regulations, customs and practices):

The United Arab Emirates, being of the opinion that this paragraph violates the rules of inheritance established in accordance with the precepts of the Shariah, makes a reservation thereto and does not consider itself bound by the provisions thereof.

- Article 9 (on the right to nationality):

The United Arab Emirates, considering the acquisition of nationality an internal matter which is governed, and the conditions and controls of which are established, by national legislation makes a reservation to this article and does not consider itself bound by the provisions thereof.

- Article 15(2) (on legal capacity):

The United Arab Emirates, considering this paragraph in conflict with the precepts of the Shariah regarding legal capacity, testimony, and the right to conclude contracts, makes a reservation to the said paragraph of the said article and does not consider itself bound by the provisions thereof.

- Article 16 (on equal rights in marriage and family relations):

The United Arab Emirates will abide by the provisions of this article insofar as they are not in conflict with the principles of the Shariah. The United Arab Emirates considers that the payment of a dower and of support after divorce is an obligation of the husband, and the husband has the right to divorce, just as the wife has her independent financial security and her full rights to property and is not required to pay her husband's or her own expenses out of her own property. The Shariah makes a women's right to divorce conditional on a judicial decision, in a case in which she has been harmed.

These reservations are so wide that in many areas they effectively empty ratification of meaning. To date the state has not initiated any process to review these reservations and work toward removing them. It is also deplorable that there has been no action by the state (or existing women's organizations - all of which work very closely with the government) to raise awareness on women's rights and CEDAW.

During the latter half of the 20th Century, the UAE have undergone rapid economic development. The lifting of trade barriers and the subsequent influx of foreigners have had profound effects on Emirati society. Today, approximately 80% of the population of UAE are non-nationals.

For women in the UAE, despite some progress in access to education, health, and the economic sector, their rights continue to be widely violated. Legislation remains deeply discriminatory, in particular in the area of the family, and deep-rooted stereotypes of women's roles in society persist. Migrant women are particularly vulnerable to violations of their rights, both as non-nationals and as women.

The following is a summary of the principal concerns of the Coalition for Equality without Reservation regarding the situation of women in the UAE. It should be noted, however, that effective analysis of the situation of women's rights is rendered difficult by the absence of reliable statistics and studies.

II. Principal Concerns

Absence of legal prohibition of gender-based discrimination

Article 25 of the UAE Constitution states that all individuals are equal before the law, without distinction between citizens of the Union with regard to race, nationality, religious belief, or social status. This article makes no mention of sex as a ground for discrimination. Furthermore, national laws and policies are void of any prohibition on gender-based discrimination.

Discrimination in marriage and family relations

Prior to the adoption of the Personal Status Code in 2005, the areas of personal status and family were regulated by Sharia law. The new Personal Status Code contains numerous discriminatory provisions. For example, under Article 39 of the Personal Status Code, a woman's male guardian and her prospective husband are the parties to the marital contract (the validity of the contract is contingent upon the woman's approval and signature). Under Article 56, wives are required to obey their husbands, take care of the house and raise the children.

Concerning divorce, women can only request a divorce from the courts under the "Khul" procedure, under Article 110 of the Personal Status Code. Under this procedure, she must renounce all her financial rights under the marriage contract, most notably, her dowry or *mahr*.

Concerning custody of children, women are only considered to be the physical guardians. Women only have the right to custody up to age 13 for girls and age 10 for boys, after which time custody can be reassessed by the family courts. If a woman chooses to remarry, she automatically forfeits her rights to custody of her children from her previous marriage.

Polygamy is authorised.

Discrimination with regards to nationality and citizenship

Emirati women must obtain a license in order to marry a foreign man. If an Emirati woman marries a foreign man without prior authorisation from the Naturalization and Residence Directorate, she loses her citizenship. Furthermore, even those women who do obtain authorisation cannot confer citizenship on foreign husbands, unless the couple has obtained permission from the Presidential Court prior to marriage.

Emirati men are free to marry foreign women. In addition, under the Citizenship Law, Emirati men can transfer their nationality to their foreign wives by following various administrative procedures.

Moreover, only fathers can pass their nationality to their children. A child of an Emirati mother and a non-citizen father has no claim to UAE citizenship.

Discrimination with regards to inheritance

Articles 321-328 of the Personal Status Code codify interpretations of Shari'a law governing the right to inheritance, according to which women can inherit one-third of assets while men inherit two-thirds.

Violations of freedom of movement

Article 29 of the Constitution guarantees all UAE citizens, men and women, freedom of movement and residence within the limits of the law. However, women must have the authorisation of their male guardians to travel abroad. An Emirati man has the right to seize the passports of his wife and daughters and can even request that the Immigration authorities prohibit their departure out of the UAE.

Fathers and husbands have the legal authority to forbid their wives and daughters from working outside the home.

Under Article 71 of the Personal Status Code, women who leave their husbands can be ordered to return to the marital home. There have been several such recent court decisions.

Foreign women fall outside the purview of Article 29 altogether. They find themselves particularly subject to exploitation by employers who often confiscate their passports and force them to live in involuntary servitude.

Violence against Women

Lack of protection against domestic violence

There is no accurate information or statistics regarding violence against women in Emirati households. Women are generally reluctant to report their experiences of violence and police tend to refuse to intervene and protect abused women, considering it to be a private domestic matter.

Lack of protection against rape

Under criminal law, rape is a serious crime carrying the most severe penalties. However, in practice most victims do not report such crimes either through fear of being accused of adultery - a crime which can be punished by flogging and death by stoning -, or because it would bring shame on their families. Foreign women migrants also fear that they will be deported. Marital rape is not recognised as a criminal offence.

Female circumcision

Female circumcision is not prohibited by law but the Ministry of Health has issued regulations prohibiting it in hospitals and clinics. However, it continues to be practised within Emirati families usually by female doctors or in pharmacies. In a study published in the mid 1990's, it was reported that 30.8% of girls between the ages of 1-5 had been circumcised¹.

Particular vulnerability of women migrant domestic workers

Under the Labor Code, domestic workers are excluded from protection. They are therefore vulnerable to harsh exploitation and mistreatment. Female domestic workers receive low pay for long hours in conditions that are akin to slave labor. They are also often subjected to racist discrimination, physical and sexual abuse². They lack effective recourse mechanisms in cases of abuse and generally do not report violations due to fear of deportation and their relationship of dependence on their employers.

Human Trafficking

Although human trafficking is prohibited under law³, and the UAE has ratified the UN Convention on Organized Cross Border Crime, trafficking remains widespread in UAE. To date the government has made insufficient efforts to implement legislation. Women migrant domestic workers are particular victims.

Discrimination in political affairs

The representation of women in political institutions remains very low. In 2004, the first woman was appointed as minister. As of end 2009, there were four women ministers and 2 female ambassadors. In the first Parliamentary elections, which took place in 2006, the first woman was elected to the National

¹ Freedom House: Women's Rights in the Middle East and North Africa, 2005

² According to a study conducted by the International Labour Organisation in 2002, entitled "Migrant women in the UAE: the case of female domestic workers", half of all those domestic workers interviewed reported to have been abused verbally, physically and/ or sexually by their employers.

³ Article 33 of the Union Law No 13 of 1996 prohibits trade in human beings. A further law prohibiting trafficking was enacted in 2006

Federative Council, an advisory body that lacks legislative powers. 8 further women were appointed to the Council, in which women currently represent 22.5%.

In the UAE, political parties are prohibited and there are major limitations on freedoms of association and expression, constituting major obstacles to democratic involvement of society as a whole and posing major challenges to the increase in women's participation in the country's political life.

Access to education

There are no specific legal obstacles to women's access to education in the UAE, and indeed women comprise the majority of students in secondary and higher education. However it should be highlighted that one of the reasons for the high percentage of women in secondary and higher education is that many Emirati men pursue their studies abroad whereas Emirati women cannot travel abroad without the authorization of their male guardian. A further explanation is that women are not expected to earn an income, and when they do, it is often considered a disposable income. Therefore, women tend to complete degrees and pursue further education for longer periods than men who are expected to earn a living.

Discrimination in employment

Article 34 of the Constitution provides every Emirati citizen with the right to freely choose his or her own occupation, trade, or profession. In direct conflict with that provision are Articles 27, 29, and 34 of the Labor Laws. These articles restrict women from: working "at night" (between the hours of 10:00 p.m. to 7:00 a.m., working on a job that is hazardous, arduous, physically or morally detrimental or *any* other work that is not specifically approved by the Ministry of Labor and Social Affairs, and working without the consent of a woman's husband or male guardian. This last provision also applies to minor children. In addition to these legal restrictions, the persistence of traditional stereotypes regarding the role of women in society remains a major obstacle to Emirati women to meaningfully choose their occupations.

Although the proportion of women in the labor market has risen significantly, women's access to positions of responsibility remains very limited. Only 5% of women hold positions with decision-making responsibility within Emirate businesses⁴. Likewise, in the public sector, women make up 66% of employees, but only 30% of them are in high-level positions of responsibility⁵.

Violations of freedom to establish associations

The prohibition on the establishment of independent civil society associations, creates a significant obstacle to the promotion and protection of women's rights in the country. At present, there are only two women's associations operating in the UAE, the first is headed by the wife of the UAE's former ruler, and the second is run by the current ruler's wife. The activities and mandate of both these organizations is limited to the social welfare of women and family and does not refer to CEDAW or women's human rights as priorities. The Human Rights Association in the UAE is government run and its role is limited to receiving complaints.

III. Recommendations

The Coalition for Equality without Reservation makes the following principal recommendations to the government of the United Arab Emirates:

- To adopt a legal prohibition of gender-based discrimination and a definition of such discrimination in conformity with CEDAW;
- To abolish all discriminatory legal provisions, in particular within the Personal Status Code, Citizenship Law and Labour Law;
- Abolish all discriminatory provisions on women's freedom of movement;
- Take all necessary measures to protect women from violence, including through the adoption of laws, strengthening recourse procedures, providing shelter and assistance to victims, and raising awareness

⁴ Global Gender Gap Report, 2009

⁵ Freedom House: Women's Rights in UAE, 2009

on their rights;

- Take all necessary measures to increase women's representation in political and other decision making positions including through the adoption of special measures such as quotas;
- To ensure the protection of domestic workers under labour laws and take all necessary measures to protect domestic workers from exploitation (emotional, physical, and sexual);
- To amend laws to allow the establishment of independent associations including women's rights organisations;
- To take all necessary measures to raise public awareness on women's rights under CEDAW and eliminate discriminatory stereotypes on the role of women in society;
- To lift all reservations to CEDAW and to ratify its Optional Protocol.