

**Bahraini NGO's Report on the response of the Kingdom of Bahrain Government concerning the report of the follow-up inquiries to the CEDAW Committee.
April 2016**

Recommendation No. 62 of the Committee on the Elimination of Discrimination against Women - CEDAW Committee reiterates its previous recommendation of paragraph 72 that the State party should:

- a- Approve and apply a national strategy to combat of human trafficking that includes criminal justice measures require to prosecute and punish traffickers and protect victims of trafficking for the purposes of forced labor and / or sexual exploitation and rehabilitate them.
- b- Provide statistical data on cases of trafficking for the purposes of forced labor and / or sexual exploitation in this domain and for the victims who have benefited from existing programmes.
- c- Promote training and awareness programs for members of the police and border control authorities and other law enforcement agencies, in addition to labour inspectors regarding the role of each one of them in preventing and combating trafficking in women and girls.
- d- Assembling form of measures to ensure that victims have access to legal aid and assistance , support and protection including facilitating the granting of residence permits when required.
- e- Increase awareness of the dangers of trafficking and exploitation of women for the purposes of forced labor and prostitution with a focus on immigrant women.

- f- To provide comprehensive information on the issue of prostitution, including measures adopted by the State party to discourage the demand for prostitutes and prosecute and punish the exploiters of prostitution.

Article (6) of CEDAW stated that States Parties should take all appropriate measures, including legislation, to combat all forms of trafficking in women and exploitation of prostitution of women. Despite the importance of the law (1) of 2008 on trafficking in persons, and the official efforts to activate its articles and the formation of the National Committee to combat trafficking in persons, yet, there is still a large group of women and men of immigrant labor category suffer from practices fall under the classification of human trafficking; although fighting trafficking in women and exploitation of prostitution as it has been included in the article (6) of the Convention, requires the implementation as recommended by the CEDAW Committee in its concluding observation No. 26 and 27 , and, as mentioned previously in the clause of the rights and freedoms (page 3) , it requires a revision of the legislation in Article 353 of Chapter III (introduction to debauchery and prostitution) , which stipulates that "no prosecution against an individual who commits any offense of indecent assault, offenses or rape if a valid marriage contract between him and the victim proceeds, if criminal sentence released before the marriage contract executed it should be terminated", The rule of this article constitutes discrimination and confiscation of huge fundamental right of women's rights and a flagrant violation of their humane Besides, this law reinforces the stereotype prevailing in Bahraini and Arab society that women are not worth more than the existential physical body, and that it is possible to compensate a paper marriage that will transfer the

ownership of women from the birth giving family to the ownership of the rapist husband, which will increase the crime not decrease it.

The number of cases received by the Union of Bahraini Women and some nursing homes have shown that it is a form of trafficking and exploitation of women, as men offender intentionally concludes a marriage contract to escape from punishment and then being able to divorce a woman at any time, which would result in the loss of women's right to be protected of various forms of violence and sexual offenses in the application of the punishment that the perpetrator deserves; and in return encourage men perpetrators to commit more of such crimes under the pretext that there is no legislative text strictly deter them from committing the act. Moreover parents often prefer that the contract is terminated by the law of divorce after a period of time just to protect the family's name and fending off scandal according to the social norm without taking notice or compensation to the victim for her right out of the physical, psychological damage; we have many examples at our hands

On human trafficking, the problem of housemaids is highlighted, the Labor Market Regulatory Authority estimates their number at 70,000 they constitute nearly 40% of expatriate labour force ,where they are vulnerable to many of the problems of sexual and physical abuse, also, holding their official documents and refuse to pay them their salaries for a long time, and the denial of giving them the right to have a weekend or a day off , leading some of them to escape from their employers house and be victims of prostitution networks; moreover, shelters are inadequate to provide the right services to the needs of victims of

trafficking, the local press have reported such cases of trafficking crimes, one of them is the case of an Ethiopian housemaid who hasn't been given a salary for almost 8 years , and the police did not make him release her passport, which he claimed that he lost, and did not make him buy her a ticket to go back to her country.

Although the new Labor Law No. (36) published in the Government Gazette / No. 3063 issued on August 2, 2012 gives this category of employment (housemaids, and the like) rights which were not included in the previous law such as work contract, the annual leave, not to overdue earned salary, and to compensate a certain percentage in the event of ending their services, as well as the right to indemnity, which is a good amendment, but this law is not yet placed on the ground, and the officials did not speak or discuss such articles concerning this category of employment and even the employers (families who have housemaids) practically do not know of such law and its application, even expats workers in the Kingdom of Bahrain do not know that the shelter of the Migrant Workers Protection Society accommodates on temporary basis, more than 1,200 migrant women workers in 2012, most of them are housemaids , the reports also states that the practice of holding the passports of workers is still widespread and people get away without impunity and in spite of the presence of urgent matters court of law which has been created specifically for such cases, passports are not returned in most cases although with the involvement of the court.

In the field of migrant workers as well, especially housemaids, a method that emerged which became to be

known as (FREE VISA), where labors or housemaids buy work permit from an Asian citizen, in return to pay him the amount of the work permit every two years, which is illegal but widespread widely, this phenomena resulted on the exploitation of these women in prostitution networks by both Bahraini contractors and Asian citizens.

We summarize our observations in this regard as follows:

In spite of all the efforts and improvements made by the Kingdom of Bahrain in human trafficking issue which led to the improved rating of the Kingdom of Bahrain to become part on the third category in the annual report of the US Foreign Affairs Department concerned with human trafficking, however, the absence of a comprehensive national strategy to combat human trafficking is still a challenge before addressing and fighting human trafficking cases at practical level

- The new composition of the National Committee to combat trafficking in Persons came free from the authorities directly concern with women and migrant workers, to the fact that these two groups are most vulnerable to the crime of trafficking in persons.
- Lack of data on rates and cases of human trafficking, and the official authorities do not deal transparently with the dissemination of data , and persons trafficking crimes ratios.
- The continuation of migrant labor rights abuses, hold back their official papers and extort the worker in order to obtain his/her official papers , especially those who work in the

three- stars hotels and below .

- We reiterate our call for the empowerment of civil society institutions to information on the numbers of persons trafficking.
- The persons trafficking combat Law No.1 of 2008 lacks the deterrent penalties.
- The importance of incorporating the subject of persons trafficking within the curricula of the Government schools in order to raise awareness of future generations to this issue.
- Passing a law that protects against sexual harassment and violence against gender in the workplace as a form of human trafficking.
- Amending persons trafficking law No.1 of 2008 to expand in the definition of the crime of persons trafficking and add the word (employ) or (hire) to the word (recruit).

Recommendation No. 44 of the Committee on the Elimination of all Forms of Discrimination against Women (CEDAW):

The International Committee encourages the State party to continue the progress achieved of the completion of the first part of the Family Law - Law No. 91 of 2009. And to haste the adoption of the second part of the law in order to justice in family issues, and the adoption of a unified family law provides for equal and effective access to them, and in this regard, the Committee recommends that the State party should:

- a. Take steps to ensure access to justice to the family issues of the Shiite group in our country.
- b. Raise awareness of the need for a unified family law that ensures women's rights under the Convention.
- c. Benefit from experiences of other countries with similar religious backgrounds and legal systems, which managed to reconcile their national legislations and the international legally binding instruments, which it has ratified it, particularly in the field of equality of rights between men and women in the area of marriage and divorce, and child custody and inheritance.
- d. The Committee also reiterates its recommendation and invites the State party to raise the minimum age of marriage of girls to 18 years of age like the boys; and to take specified measures to end the practice of polygamy; the Committee also calls the State party for reconsidering its reservation about the two articles 15 and 16 of the Convention in order to be withdrawn.

Personal Status "Article 16": Family law provisions of the second part (Jaafari)

Still the absence of family law provisions constitutes a discrimination against Bahraini women from Jaafari sect in the country, where women suffered in the Sharia courts of differences jurisprudence and the lack of standardized texts of litigation in respect of divorce and the rights of custody, alimony and the overall family relations.

Official statistics also showed from the family conciliation office of the Islamic Jaafari courts and was presented by the lawyer and legal adviser Fawzia Janahi at the end of «CEDAW is women rights conference», organized by the

Bahrain Women Union to highlight women's rights, and focused on the fact that there are 12000 causes binding from 2009 to 2015 issue between alimony, custody, divorce and take off, as there are 3000 divorce cases of harm indicated pending since 2011.

And it also showed that the cases remain in the courts between 4 to 16 years, which emphasizes the need for the approval from the slit-Jaafari of the family law, she said: » the absence of slit-Jaafari from the Family law is a waste and injustice of women's right as a human beings that ensured a constitutional text rights to justice and safety, also Bahraini women that belong to the slit-Jaafari suffer most as a result of the absence of law despite the ongoing demands, which went so far more than 20 -year-old claim » .*

Also, while we emphasize the necessity and importance of the issuance of a unified personal status law and a confirmation of the national campaign, we did not feel seriousness from the official side for the re-launch of the file on the legislature's agenda to revive the community groups towards societal consensus towards the issuance of the second part of the law, where the last period has seen only limited efforts of the official side to approve the second part of the law which did not go beyond the press and media statements,

As well as that the civil society organizations considered that the country has made no real effort to meet its obligations related to the creation of societal consensus to achieve this, citing the sensitivity of the file and could spark posed problems, it is assumed that the official report clearly defines the executive steps necessary for the issuance of the

second part of the family law, despite our awareness of the societal difficulties that hinder it.

We also find that the reality of women in the courts necessarily indicates the presence of a defect in the stages of litigation in the courts that requires a research and intervention by the official side that concern about women severely affected by the slow implementation of verdicts in personal status rulings for issues of the right to visit and see the children in case of divorce and self-custody of the father, the court does not take rapid action when the intransigence of the father and his resistance to implement the judgment, while the mother take a long and continuous time (extended in some cases up to two years) in the corridors of the courts

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without success, as well as in spite of alimony fund was established in the case of a verdict alimony which a lot of women suffer from the very slow implement of the rules as they are not taking swift action by the Court of implementation to transfer the alimony fund for the disbursement of the amount of alimony to the wife and the husband's return.

Raising the minimum age of marriage for girls:

Article 18 of the provisions of the Bahraini family law which the first part includes "young girls married less than the age of sixteen years with the consent of the Court after checking the suitability of marriage". Through the text of the article, which suggests that it is legal to marry the young girls with the consent of the Court, leaving the door open for individual interpretations and not to restrict marriage of young girls cases provided by law. The legislator has ignored the

situation to determine age of marriage for girls, creating a legal vacuum and opens the way for the discretion and interpretation.

Polygamy:

The limits that have been developed within the law are not sufficient to achieve justice and human dignity for women with the need to educate women about their rights during a marriage contract even enable the establishment of conditions to protect their rights in the marriage contract.

Lifting of the restrictions:

The issuance of Decree No.70 of 2014 that amends some provisions of Law No.5 of 2002, agreeing to join the Convention on the Elimination of All Forms of Discrimination against Women, which was discussed by the House of Representatives, where it ensures the Decree reformulation of the restrictions after it was impossible on Article 15, paragraph 4, and article 16 specifically in narrowing the scope of the restrictions, which is a positive and a good step towards the right path. And assure the need to raise the full restrictions and work with the civil society organizations to educate the community that all the raise of restrictions does not conflict with the Islamic law, especially since there are many Islamic countries have lifted all its restrictions on the Convention, which brings to our attention the benefit from their experiences and be guided by those experiences to improve for the women in our society.

And based on all of the above from the impact on women and the realization of the principle of equality, we

recommend the following:

1. The issuance of the family law (section II) so that it is legal for the interests of fairness and equality for women in all stages of litigation.
2. Withdraw the reservation about Article 16 of CEDAW .
3. Review and reform of the judicial system in Sharia courts, particularly in the implementation phase of the provisions.
4. Introduce a mechanism to follow up the implementation of judgments of Sharia courts to find out what women suffer from slowness in implementing provisions.
5. Raising the marriage age for girls at 18, similar to boys in implementation of the concluding observations of the recommendations of the CEDAW Committee and in line with the Convention on the Rights of the Child.
6. Coordination and consultation between the government and the Bahrain women union with respect to Section II version of the family law and all issues suffered by women in the courts of law.

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