

## **QATAR SHADOW REPORT**

**SUBMITTED TO:** Convention on the Elimination of  
Discrimination on Women (CEDAW)

**SUBMITTED BY:** Independent Group of Concerned  
Citizens

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## Executive Summary

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Over the past few years the State of Qatar, in an effort to reform, has taken great leaps to transforming public views on the importance and necessity of integrating Qatari females into the public sphere. Unfortunately, this reformist mentality has not been without its hurdles and setbacks. This initiative of transformation cannot be implemented and integrated effectively into society by simply attempting to shift public view; the state must call for the reform of the discriminatory laws that continue to restrict females in Qatar. This report aims to focus on these laws in question in light of the CEDAW agreement and provide recommendations accordingly. Without amendments to the current discriminatory laws and enhancements to public view reform initiatives, we fear that females in Qatar will continue to face legally legitimized discrimination in both the public and private sphere.

This report focuses on six CEDAW Articles (Articles 7, 8, 9, 11, 15, 16) and General Recommendations 19 and 26. Within each of these sections, we discuss the various forms of gender discrimination witnessed within the law and within the local customs. To better understand whether this discrimination exists and how it affects females in Qatar, we interviewed various women from different fields and sectors. Based on the CEDAW agreement, Qatar must amend its laws and propose initiatives as advised in the report in order to end the gender discrimination.

The international community has repeatedly pressured Qatar to amend the laws that legitimize the exploitation of domestic workers. However, Qatar cannot continue to ignore the pleas if it seeks to convincingly assert its presence as a global leader without revising the existing laws. Based on General Recommendation 26 of the CEDAW and the set of recommendations proposed in this report, the government must make revisions to the Labor and Domestic Violence Law that protect female migrant workers in Qatar against exploitation.

Despite our quest for understanding, we faced various limitations when conducting our investigation. There is a lack of transparency, a deep hesitance to share relevant statistics on gender discrimination, access to information is limited and there is also a lack of standardization in legal procedures.

As women, we witness and experience gender discrimination daily in our lives and of those around us. This form of discrimination has penetrated throughout society in both public and private life, whereby avenues to fight against it have become restricted, both socially and legislatively. Although we do not represent a non-governmental organization, we do represent the voice of a generation of young women who do wish to see social change and legal reform, providing women in Qatar with equality and justice.

## Introduction

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In March 2009, the State of Qatar (hereby known as Qatar) ratified the CEDAW agreement in an act of identifying itself as a nation willing to change and alter present patriarchal attitudes towards women within the legal framework. Despite the notable changes Qatar has made in attempts to shift the community's view of women's involvement in the public sphere, the reality remains that women in Qatar continue to face discrimination as a result of discriminatory laws and social practices set in place. This report aims to bring these discriminatory laws and practices to the surface in an effort to support the CEDAW Committee's quest in eliminating all forms of discrimination against all women in all parts of the world.

Before delving further, it is important to note that this report has not been submitted on behalf of a NGO, rather on behalf of a group of concerned citizens, given that establishing associations in Qatar is very difficult<sup>1</sup>. As a group of Qatari women, we seek amendments to the laws and practices that continue to allow discrimination against women to prosper in Qatar. As individuals, we observed how Qatar's discriminatory laws, cultural practices, and misinterpretations of religious texts, have restricted and limited women in Qatar in all facets of public and private life. Specifically, we outline seven main areas of concern: political participation (Articles 7 and 8), citizenship (Article 9.2), discrimination in the workplace (Article 11), age of marriage (Article 15), divorce and custody (Article 16 1.d), domestic violence (General Recommendation 19) and domestic workers (General Recommendation 26). As such, we will consider these main areas within the context of the CEDAW framework and propose a set of recommendations aiming to eradicate the discrimination women in Qatar face on a daily basis.

In order to better understand the local context and how these discriminatory laws, practices and misinterpretations affect women in Qatar, the methodology used to conduct the research was based on conducting interviews, studying Qatar's Constitution and laws, and seeking the aid of pre-existing research on the matter of gender discrimination in Qatar. Being a non-recognized group, getting access to raw information was also challenging.

Moreover, given that Qatar has ratified the CEDAW agreement, on the basis of the principles set forth by the Vienna Convention on the Law of Treaties (1969), it is legally bound to take deliberate actions to revise the reservations placed in March 2009. Thus, we urge Qatar to revise these reservations and adjust its local laws to align itself with the CEDAW articles. Specifically for the purposes of this report, we press for the revision of

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<sup>1</sup> Article 45 of the Qatari Constitution states that "[t]he right of citizens to establish association is guaranteed in accordance with the conditions and circumstances set forth in the law". However, Law No. 12 was issued in 2004 regarding associations and private organizations and later amended in 2010, limited these rights by the monetary demands set forth. To establish a private organization it costs 10,000,000 QR, however, to establish professional associations it costs 50,000 QR (which must be repaid every three years in addition to an annual 10,000 QR fee). The law also prohibits the establishment of groups that have political interests.

reservations on articles 2, 9, 15 and 16, revisit articles 7, 8, and 11, and General Recommendation 19 and 26. Furthermore, we call for the ratification of the Optional Protocol, without which gender discrimination in Qatar can persist without any legal consequences.

## Political Participation

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**CEDAW Article 7:** States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

**CEDAW Article 8:** States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

In terms of public participation, both genders are struggling to have their voices heard. Nonetheless, females are deeply under-represented politically in the political establishments present. In 1999, Qatar granted women the right to vote and run for elections, however until 2003, there ceased to be any females voted to the Central Municipal Council in Qatar (one woman was voted into the Council, Shaikha Al-Jefairi)<sup>2</sup>. In 2013, there is still only one female voted into the Central Municipal Council.

The low level of female representation stems from various issues; first and foremost the deeply rooted patriarchal cultural traditions are a strong barrier against female political participation. The local community, both men and women alike, have been brought up to believe that a women's place is in the household. In addition, politics is a significantly male-dominated sphere in Qatar, for a woman to gain enough support from the community to win in the elections is highly unlikely. Furthermore, the Qatari association's law does not support setting up associations working and campaigning for female candidates<sup>3</sup>. Qatari males working in the government sector are groomed for political participation as soon as they enter the workforce, whereas females have to struggle to prove their value and capabilities. This example can be illustrated by a personal account from one of the interviewed woman (Ministry of Foreign Affairs) highlighted in our study, she stated that women work for decades before they can be considered for diplomatic status whilst, their

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<sup>2</sup> Abdulkhaleq, K. (2009). The Reality of GCC women in parliamentary elections. Al Ahram center for political and strategically studies. Retrieved May 11, 2013  
<http://acpss.ahram.org.eg/ahram/2009/11/25%20COMM.HTM>

<sup>3</sup> See footnote 1 describing the obstacles facing associations from forming.

male counterparts have managed to earn diplomatic status in a matter of months. Additionally, there is no transparency with regards to the reasoning behind the granting of diplomatic status. Overall, there is limited political awareness in Qatar; the government has done very little, if at all, in terms of educating the public on the importance, necessity and the logistics of political participation. This lack of awareness has allowed political participation to remain a male-dominated sphere.

### **Recommendations:**

As a group, we propose a number of recommendations that will allow Qatar to overcome the discriminatory laws and social values:

- Set forth a quota for a minimum percentage of women representatives within both the Central Municipal Council and the Shura Council (when enacted) in order to provide equal opportunities for female representation, despite the discriminating social norms.
- Introduce awareness initiatives aimed at increasing political representation from women in Qatar. These initiatives should help educate women better on the nature of political participation in Qatar and how to achieve a strong political foothold in the community.
- Adjust law No. 12/2004 regarding associations and private organizations, and promote women associations to be formed and actively engaged in political activism.

## **Citizenship**

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**CEDAW Article 9.2:** States Parties shall grant women equal rights with men with respect to the nationality of their children.

In relation to the matter of citizenship, Qatar's laws continue to discriminate against Qatari females. This discrimination begins at the beginning of the process when a Qatari woman makes the decision to marry a non-Qatari; Law No. 21 of the year 1989 regarding the regulation of marriage to foreigners regulates this process<sup>4</sup>. This law clearly distinguishes between male and female applicants regarding requirements. For women, in addition to the approval of the Ministry of Interior, as in all cases of marriage in Qatar, she is also required to have the approval of her legal guardian<sup>5</sup>. The other necessary criteria for both men and women are having "social reasons" to do so. This vague term has resulted in more complications for women in comparison to men. On many occasions, it is typically women who are widowed or divorced, and women, and/or reached a certain age (exceeding the 'accepted' age of marriage in Qatar) that are given leniency in the process. Qatar's government must provide more information on the application process, the number of

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<sup>4</sup> Access to full text in English is available here:

<http://www.almeezan.qa/LawArticles.aspx?LawTreeSectionID=8702&lawId=2555&language=en>

<sup>5</sup> The issue of guardianship (*wali*) is addressed in the government's report and is used as a justification for the reservation on article 16 paragraph 1 (a). However, other schools of thought such as the *hanafi* school of thought do not deem this as an Islamic requirement.

women accepted.

If the marriage takes place, and as Qatar's report submitted to the CEDAW on March 2012 admits, the discrimination continues in the case of Qatari females married to non-Qatari males. This discrimination is embedded in Law no. 38 of 2005 on the acquisition of Qatari nationality<sup>6</sup>. As opposed to Qatari males, Qatari females do not possess the same rights to transfer Qatari citizenship to their offspring and husbands. Qatari males are able to transfer their citizenship to their offspring as soon as they are born and to their wives after five years of marriage, whereas a Qatari female cannot do the same. Under special conditions, some women are granted the right to transfer citizenship after an arbitrary amount of time has elapsed. However, there is no standardized process set in motion that allows a Qatari female to know what is the 'amount of time' necessary and what are the steps to take in order to transfer citizenship.

Qatar provides reservations for Article 9.2 of the CEDAW Convention under the claim that Law No.38 possesses a level of "Constitutional Stature"<sup>7</sup>. However, Article 34 in the Qatari Constitution<sup>8</sup> states that citizens (both men and women) shall be equal in public rights and duties. Thus, Law No. 38 in itself is not in accordance with the Qatari Constitution and should be deemed unconstitutional. Additionally, for a Constitutional Stature to be valid, there are prerequisites as noted in the Qatari Constitution. These include a *Shura* Council (the expected legislative body), which was expected to start operating in the second half of 2013 yet to the date of writing this report no details are available as to when this *Shura* Council will be set in motion. This is quite concerning since it means 1/3 of the Qatari Constitution articles, which are related to the elected *Shura* Council, are not valid. Furthermore, a Constitutional Court is not operating in the country, its location is not identified and the procedures to reach the court are not publicized<sup>9</sup>.

Even if these bodies are present and operating as dictated in the Law and Constitution, it has been argued by Constitutional Law expert in Qatar, Dr. Hassan Al Sayed, that these bodies would have minimal abilities to introduce change. He has argued that the Constitutional Court is very hard to access through the legal channels set and for any change to take place through the parliament, two thirds of the council's members must vote unanimously. However, this condition will hardly be met, given that one third of the Parliament will be appointed by the Emir of Qatar and will most likely vote in favor of the laws established by His Highness. We further re-emphasize, and as dictated by the Vienna

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<sup>6</sup> Access to full text in English is available here:

<http://www.almeezan.qa/LawArticles.aspx?LawTreeSectionID=9514&lawId=2591&language=en>

<sup>7</sup> A law that has the status of a Constitutional Stature in Qatar cannot be modified until after 10 years have elapsed.

<sup>8</sup> Ministry of foreign affairs, <http://english.mofa.gov.qa/details.cfm?id=80>, Retrieved 9 May 2013

<sup>9</sup> Dr. Hassan Al Sayed's blog which documents many Constitutional issues:

<http://drhalsayed.blogspot.com/search?q=%D8%A7%D9%84%D9%85%D8%AD%D9%83%D9%85%D8%A9+%D8%A7%D9%84%D8%AF%D8%B3%D8%AA%D9%88%D8%B1%D9%8A%D8%A9>, Retrieved 9 May 2013

Convention of Law of Treaties, the government is obliged to change its laws to abide by the ratified agreements.

In some occasions, a Qatari women married to a non-Qatari may apply to a 'special committee' in order to transfer citizenship to her offspring. Unfortunately, this process is not clear and lacks transparency. Some Qatari mothers have complained that the application process, costing 3,000 QR (824\$), is very expensive. In the case that the Qatari mother has many children and needs to reapply, this could add up to a large sum of money<sup>10</sup> since this payment must be made for every application.

### **Citizenship Documented Case I: Qatari Woman Married to Arab Citizen**

In 2005, after hearing about the new procedures applied by the government of Qatar in regards to Citizenship, a Qatari woman decided it was the right time to seek a Qatari citizenship for her children. The Qatari woman in question is married to an Arab citizen from one of the neighboring states; she decided to live in Qatar as it was the right decision given her qualifications and educational background. After fulfilling all the application requirements, paying the 3,000 QR fee for each child and communicating with the relevant government officials (Ministry of Interior).

The government officials communicated to the woman that her paperwork was compliant with all the procedures and that 'all it was missing was a signature'. After years of waiting and hoping to hear back from government officials, the woman and her children never received word on why a citizenship was never processed.

### **Citizenship Documented Case II: Qatari Woman Married to GCC Citizen**

A Qatari woman married a well-known Gulf citizen from one of the neighboring states, although she had a choice to make the woman in question desired to hold on to her true nationality as a Qatari woman. The woman's husband decided it was best to approach H.H. Hamad Bin Khalifa Al-Thani (Emir of Qatar at the time), in order to seek a citizenship for himself and their children.

As he was a well-known personality, H.H. Hamad Bin Khalifa Al-Thani granted the husband an audience to hear his case. After receiving His Highness' approval, the husband applied directly to the Emiri Diwan based on the response. All matters in the proceedings went according to proper procedures and the citizenship application fee was paid for each of his children and himself. There was frequent communication with the relevant official parties within the Emiri Diwan handling his case, upon which the officials eased the husband's concerns and communicated that the application procedures were proceeding as was expected.

<sup>10</sup> From a blog specialized in this issue and run by a lawyer: <http://qatarisons.wordpress.com/>



Years passed, and the husband had to request to have his passport back as it was nearing its expiration date. Nonetheless, he communicated to the Emiri Diwan officials should they start the procedures he will hand the passport back when needed.

Once the children reached the age of adulthood, they were requested to appear before the Committee granting citizenship. Upon appearing before the Committee, the children were told that they in fact qualify for a Qatari citizenship. Unfortunately, sixteen years passed since then and the children never received their rightfully earned Qatari citizenship.

Nevertheless, it must be noted that Qatar has attempted to compensate for this discriminatory law by offering the offspring of Qatari females from non-Qatari males certain 'privileges' over other residents. It is claimed, that these 'privileges' come in the form of a 'priority' status that the children of a Qatari mother receive in certain matters such as employment. However, in reality these supposed privileges do not equate the status of children from a non-Qatari father to those of a Qatari father, in the case of salaries and other governmental services. These children are often treated as non-Qataris and their pay is substantially less<sup>11</sup>. In the case that a Qatari female is married to a non-Qatari, it is stated that among these 'priorities' is her right to obtain subsidized housing from the government. However, the bureaucratic procedures set in place do not allow these females to access these rights at all. Accordingly, as long as the law distinguishes between Qatari mothers and Qatari fathers with relation to their ability to transfer nationality, a Qatari woman and her offspring will still continue to suffer the discriminatory consequences of marrying a non-Qatari male.

### **Recommendations:**

Therefore, the government of Qatar, in its quest to achieve equality among all citizens must:

- Amend Law No. 21/1989 to equate both men and women in the process of the application with the removal of the vague term "social need" as a prerequisite.
- Amend Law No. 38/2005 in accordance with the Qatari Constitution Article 34 and CEDAW Article 8 so that both Qatari men and women have the ability to transfer their citizenship to their offspring and their spouses. This has to be implemented regardless of the Constitutional Stature the government has placed upon Law No. 38
- Until the Law No. 38/2005 and No. 21/1989 is amended the following steps must be taken by the government of Qatar:
  - Provide detailed statistics on the number of applicants to the Ministry of Interior to marry foreigners, and the number of cases approved, segregated by gender.
  - Review the 'special committee' (commissioned to deal with the application process for citizenship transfer followed by Qatari mothers) and the policies and procedures set in place. The government must submit a full report to the

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<sup>11</sup> *ibid*, Retrieved May 9 2013

- CEDAW committee on the status of these applications over the years.
- o End the discrimination that takes place in the workplace when it comes to salaries.
  - o Reduce the lengthy process and bureaucracy for house applicants, so that such an application process does not take more than a year. Similarly, the government should cover the house rent for females while this application is pending.

## **Discrimination in the Workplace** \_\_\_\_\_

### **CEDAW Article 11:**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a) The right to work as an inalienable right of all human beings;
- b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

Within Qatar's National Vision for 2030, Qatar stated that it aims to allow Qatari females to be able to work in all industries within the community by constantly re-enforcing their

status within the community. However, Qatari females at the time being are constantly undermined and this issue must be addressed.

Despite the laws that govern the State of Qatar, the country is based on a set of deeply rooted patriarchal cultural traditions and customs. At present time, the law codifies the existing cultural traditions and allows them to continue to restrict and limit women's actions in the public space. A women's community involvement, whether in the form of seeking education, employment, marriage or otherwise, is always based on the approval of a male guardian (e.g. an adult son can be his mother's guardian). There is a social stigma attached to working women in general, whereby a large faction within the local community believes a woman's place is at home 'hidden' away.

In order to alleviate the level of discrimination caused by the cultural traditions and the laws set forth, Qatar must set awareness initiatives and enforce less ambiguous laws that ensure that discrimination has no space to develop. This section will highlight how the laws and social norms set in place restrict and limit Qatari women on a daily basis and what can be done to overcome this form of discrimination in accordance with the CEDAW.

### **Discrimination in the Workplace Documented Case I: Adult Qatari Women Required to Provide Letter of Consent from Male Guardian to Seek Work**

Qatari female teachers working at local independent schools (schools created by the Government-based Higher Education Council) are required to provide a letter of approval from their male guardians in order to start working as a teacher at these schools. This letter is one of the pre-conditions necessary in order to qualify as a candidate for a teaching position.

It is also important to note that when this condition was rolled out it was also required of existing teachers. In one of the interviewed cases, a Qatari teacher who had been teaching for a little over twenty years had to pay off her abusive blackmailing husband, as he was taking advantage of his role as a 'male guardian', in order for him to write the letter of approval/consent.

Organizations and institutions all across Qatar display forms of discrimination in the workplace on a regular basis, and the government does not successfully punish gender discriminating behavior in the workplace, not setting laws in prohibition. Qatar's Human Resources Law has countless flaws and loopholes, allowing organizations to easily discriminate against females. Article 35 of the Qatar Constitution states, "All persons are equal before the law and there shall be no discrimination whatsoever on grounds of sex, race, language, or religion." However, upon interviewing women from various sectors, ministries, courts (lawyers) and the telecommunication sector, we found out that the women were deeply dissatisfied with the wages they earn. This group of women witnessed their male counterparts on average earning more than they do, despite being equal in terms of qualifications and experience. According to a study conducted by the Qatar

Statistics Authority in 2011, a man earns 25%-50% more than a woman of equal status and qualifications in the workplace<sup>12</sup>.

Although Qatar has witnessed a significant increase in the number of women in leadership positions, unfortunately the number of women in leadership positions compared to the number of working women remains low. According to the previous Prime Minister H.E. Hamad bin Jassim Al-Thani (Third Annual Qatar International Businesswomen Forum, October 2012), the percentage of working Qatari women is 53%<sup>13</sup>. However, it must be noted that the number of women in leadership positions represents a mere 14%<sup>14</sup> of working citizens in total. The disparity between the number of working women and the number of women in leadership positions is very disconcerting. This shows that females are under-represented in leadership positions, when there is an abundance of prospective candidates within the workforce.

### **Recommendations:**

Accordingly, we propose the Qatari government must:

- Set forth laws that protect against gender discriminating wages. Such laws should include clear clauses that state that a woman and a man of equal qualifications and experience should earn an equal amount of wages or salaries (with minimal disparity caused by contract negotiations).
- Impose sanctions on the companies or organizations that exhibit gender discriminating behavior within its visible or hidden Human Resources policies (including the letter of approval from legal guardian).
- Include a clause in the Qatari Human Resources Law enforcing organizations and companies to provide nurseries and child-care facilities for working mothers.
- Include a clause in the Qatari Human Resources Law enforcing Human Resources departments across all sectors to provide equal opportunity for work-related trainings for women as well as men.

## **Age of Marriage**

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### **CEDAW Article 15:**

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

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<sup>12</sup> Qatar Statistics Authority (2011). Labor force: sample survey 2011. Retrieved May 10, 2013 from <http://www.qsa.gov.qa/eng/publication/pdf-file/Social/Labor%20Force%20Report%202011.pdf> Also may be retrieved from <http://dohanews.co/post/15394368833/report-women-in-qatar-paid-25-to-50-percent-less-than>

<sup>13</sup> Ammar, M. & Bahnasawi, M. (October, 2012). Qatar prime minister: we aim to increase the number of women in leadership positions to 30% by 2016. Retrieved May 10, 2013 from <http://mowatinat.org/articles/index.php?news=5453>

<sup>14</sup> <http://wonews.net/ar/index.php?act=post&id=4581>, Retrieved May 9 2013

3. States Parties shall agree that all contracts and all private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women with the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence (*sic*).

The entry point to marriage is one of the most important safeguards to a woman's rights. There are no stringent laws against marrying a minor (under the age of 18). Similarly, faults in such marriage contracts usually reflect the faults in the entire system. According to Family Law Article 17: "A boy's marriage is not to be documented before he reaches the age 18, and not before a girl reaches the age 16, unless the guardian accepts, and ensuring both parties in this contract agree and with the permission of a specialized judge." This is one of the many laws in the family law that clearly discriminates against women when constituting different minimum age for marriage. Secondly, it depends on each judge and their interpretation of 'proper' justification to permit such a marriage. It is also not clear how a minor might consent to such a marriage. At the time being, there is nothing preventing females from getting married before reaching the age of 16. Consequently, the family can impose marriage on their children at any age if they can set forth a valid reason, it is not clear on what basis a judge would accept or reject such a request from parents.

### **Recommendations:**

Thus, in regards to age of marriage, we advise the government of Qatar in the spirit of protecting the rights of minors and in aligning itself with the CEDAW to:

- Abide by the Convention on the Rights of the Child and CEDAW Article 15 by setting the minimum age of marriage at 18 years old for both women and men, regardless of justification or reasoning.
- Provide detailed court cases that show the specialized judges rational for allowing this form of marriage, and provide statistics on the number of documented cases in Qatar.

### **Divorce & Custody**

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**CEDAW Article 16 1.d.:** The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount.

In 2006, the Family Law in Qatar was codified and issued with 301 Articles outlining various central issues such as marriage, divorce, custody, alimony and inheritance<sup>15</sup>. As described in Qatar's State Report, Qatar uses the Hanbali School of Law as its first reference, whereby, if no reference is found within the Hanbali School of Law, the other four Schools of Islamic Jurisprudence will be used as references<sup>16</sup>. If an individual does not

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<sup>15</sup> No English translation of this law is available.

<sup>16</sup> Page 91 paragraph 408.

follow the Hanbali School of Law, then the presiding judge is expected to abide by their chosen reference to extrapolate family-related laws. Moreover, the Family Law in Qatar leaves room for interpretation, most of which is done by one presiding judge. In fact, many articles in the Law also refer to Qatari norms and customs to define standards. After interviewing a number of lawyers working on family issues as well as other specialists in the field of social welfare, we found out that this 'room for interpretation' has allowed subjectivity and personal bias to prosper in Qatari courtrooms. In a patriarchal state such as Qatar where women's rights are less clearly defined and where most judges are male, this room for subjectivity can be especially dangerous, potentially leading to discriminatory judgments on the part of the presiding judge<sup>17</sup>.

On the other hand, in an effort to positively transform itself Qatar has taken strides to develop a strategic plan (2030 National Vision<sup>18</sup>) that improve upon various aspects of everyday life, including steps to better align Qatar and its laws to international standards in regards to family and marriage. However, since ratifying the CEDAW agreement Qatar has done very little, if at all, with regards to amending the gender discriminating laws in this area. This section will outline the discriminatory laws and social norms, their implications and set of recommendations proposed to alter the current situation.

### **Divorce & Custody Documented Case I: Child Custody Granted to Mother Only Upon Waiving Alimony Rights**

In one of the documented cases for the purposes of this report, we had come across a case where two Qatari citizens married at a young age decided to get a divorce. In the case in question, the two citizens had a one-year-old child from their marriage to each other. Upon divorce, the father wanted to tear mother and child away from each other by seeking full-custody. However, the mother refused and applied to the courts for custody of the child.

The father informed the mother during court proceedings he will only consent to allowing her custody of the child, if she waives her rights to alimony for both herself and for the care of the child. In effect, the father will only support her decision if he offers no monetary support to his ex-wife or their child during the course of the custody. The mother agreed to waive her rights since this was the only way she can keep her child, given the flawed nature of the divorce and custody laws in Qatar. It is also appalling, that the court allowed this condition to be a basis in which custody was granted.

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<sup>17</sup> Kassem, L. (in press). Qatari women and the personal status law. Adrien K. Wing Ed. *Family law and Gender in the Modern Middle East and North Africa*, Cambridge University press.

<sup>18</sup> The full text to the Qatari National vision can be found here:

[http://www.gsdp.gov.qa/portal/page/portal/gsdp\\_en/qatar\\_national\\_vision/qnv\\_2030\\_document](http://www.gsdp.gov.qa/portal/page/portal/gsdp_en/qatar_national_vision/qnv_2030_document), Retrieved 9 May 2013

## **Divorce & Custody Documented Case II: Family Consulting Center Witnessing a Large Number of Cases Where Children Are Forcefully Torn Away from Mothers based on Existing Child Custody Laws**

After interviewing employees at the Family Consulting Center, the employees reported numerous cases where children had to be torn away from mothers as the existing laws in Qatar favor the father in cases of divorce.

The Family Consulting Center can be asked to verify this information.

In the case of child custody, Articles 165 and 188 of the Qatar's Family law are of particular interest. The law cites a 'child's wellbeing' as the deciding factor in custody battles, however, the law is in favor of the father in most cases. The law states that a mother may have custody of her child until the ages of 13 (son) and 15 (daughter). In some cases where the judge deems appropriate, the mother may have custody of her son until he reaches 18 years of age and she may have custody of her daughter until the daughter in question is married. A mother may also be granted full custody of the child if the child suffers from a disability.

However, a mother, unlike the father, may be easily stripped of her rights to child custody if she decides to get remarried, if the court receives a testimony from the child's father without referring to other sources to present the ruling. According to the experts, this law has deterred mothers away from remarrying, as most mothers fear losing custody of their child/children. According to the interviewed experts, they stated that some fathers use this as a tool to get back at the mother for one reason or another, and not for the sake of the child. Yet, a father may remarry as many times as he wishes without fear of losing custody of his child/children. Although the law cites the 'child's wellbeing' as the deciding factor, unfortunately the reality is that the deciding factor is the father's testimony. If the deciding factor was in fact the child's wellbeing, a judge should refer to child experts and psychologists in the child custody cases and not the father. The law at present time is in clear violation of Article 16 1.d. of the CEDAW convention as it is in favor of the father.

As mentioned earlier, the Family Law in Qatar is not specific or clear when it comes to the rights of females. This means that most often than not, females are at the mercy of one presiding judge (most likely male). As the interviewed experts highlighted, this ambiguity in family laws has created a space for gender discriminating rulings to flourish. In the absence of clear and well-defined laws, the presiding judge with his own set of beliefs and ideals has the freedom to rule as he deems fit without taking into consideration the equal rights of females.

### **Recommendations:**

Thus, Qatar's government must:

- Make the law specific and clear in regards to family laws: the rights of mothers and

wives can be preserved if and when the laws leave no room for ambiguity or personal bias. Thus, the laws must be revised accordingly.

- Ensure only judges specialized in the field of family and personal status law are dealing with the related cases.
- Enforce a decree (for the time being) whereby each presiding judge, given the ambiguities in the law, must refer to experts in the fields of childcare and well-being in cases of child custody (and not simply depend on testimonies provided by the father).
- Develop a mechanism to increase the number of competent female judges presiding over matters of Family Law. In this regard, the state will be able to develop gender-balanced rulings that are not based on male-interpretations of the law.
- Increase awareness amongst both mothers and fathers in the area of child custody, embedding a belief that the primary priority must be the well being of the child/children.
- Ensure the training of specialized judges for Family and Personal Status Laws

## **Domestic Violence**

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### **CEDAW General Recommendation 19:**

6. The Convention in Article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

The local government has taken it upon itself to advocate against domestic violence and highlighting the act as 'unacceptable' within the community. Nonetheless, these initiatives have presented various challenges, which we note in this report along with a set of recommendations to criminalize domestic violence, not simply to shift public view on the matter.

Amongst a certain portion of the local community, domestic violence against women is still accepted and practiced. Some of these people believe that domestic violence is simply a form of 'disciplining one's wife'. According to statistics presented by the Qatar Statistics Authority in 2012, 16% of males and 7% of females in Qatar believe that there are times when a husband is justified in beating his wife in certain circumstances<sup>19</sup>. These statistics are even more alarming when they are age segregated, since they show that 20% of younger males (aged 15-24 years) agreed with the same statement. Meanwhile Qatar Foundation for Child and Woman Protection (QFCWP), a GONGO, has documented 639

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<sup>19</sup> Qatar Statistics Authority (2012). Qatar multiple indicator cluster survey: preliminary findings. Retrieved 10 May 2013 from:  
[http://www.qsa.gov.qa/eng/News/2012/related/Preliminary\\_Qatar\\_MICS%20\\_Report\\_2012\\_Eng.pdf](http://www.qsa.gov.qa/eng/News/2012/related/Preliminary_Qatar_MICS%20_Report_2012_Eng.pdf)



cases this past year, 461 of which are women and 178 children, which is a significant increase from the number of documented cases in 2004 (25 cases)<sup>20</sup>.

However, it must be highlighted, this number may not necessarily show that there has been an increase in cases of domestic violence; rather that more people are realizing the importance of reporting cases of domestic violence when they occur. Qatar's QFCWP must be commended for encouraging the reporting of domestic violence cases through awareness initiatives launched locally. The target audience has mainly been Qatar University students, from which a group proposed a law criminalizing domestic violence in Qatar. Unfortunately, this law has yet to be recognized as a legitimate law to be applied in Qatari courts<sup>21</sup>.

Despite these efforts, local authorities and social workers are not well equipped to deal with matters of domestic violence. Seemingly, the majority of these public figures lack training on dealing with such matters when they arise. Police officers usually persuade abused females to simply settle for a signed pledge from her abuser, rather than filing an official suit against the abuser<sup>22</sup>. In some of the conferences attended (for example The 4th Annual Symposium Organized by the Department of the Social Sciences Parenting and Child Wellbeing: Theory and Practice), the authors of this report witnessed social workers stating that when matters of domestic violence occur they recommend to the abused females not to report these cases as they are deemed to 'make things worse' and it 'wouldn't resolve anything'. In the absence of a clear law outlining the correct course of action in cases of domestic violence, local authorities and social workers are in fact allowing domestic violence against women to go undocumented and for the abusers to roam free without punishment.

Furthermore, various cases of domestic violence against women go unreported in fear of losing other rights tied to the perpetrators in question. In the case of married women, some women do not report cases of domestic violence in fear of divorce or loss of custody of their children as the law does not protect them in such cases. As for females abused by other family members within the household (father, brother, uncle, etc.), some women fear that their other rights might be jeopardized, such as traveling since a women under 25 can only travel with the consent of her male guardian. Also, employers request a letter of consent from the female's guardian before hiring her. In a collectivistic society such as Qatar, divorce is seen as a taboo and reporting other members of the family will bring 'shame' to the household. The initiatives proposed should not only increase awareness on the importance of reporting domestic violence cases, but they should also aim to dispel the social attitudes and stigmas that deter Qatari women from reporting such cases.

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<sup>20</sup> Tribune News Network (June, 2013) Retrieved June 4, 2013 from [http://www.qatar-tribune.com/data/20130602/content.asp?section=first1\\_2](http://www.qatar-tribune.com/data/20130602/content.asp?section=first1_2)

<sup>21</sup> Kassem, L. M., Ali, F. M., & Al-Malek, T. S., (2012). Domestic violence legislation and reform efforts in Qatar. In Qatar Aspiration and Realities, *Perspective*, 4, 29 – 33. Heinrich Böll Stiftung: Beirut. Retrieved May 10: [http://www.lb.boell.org/downloads/Lina\\_M.\\_Kassem.pdf](http://www.lb.boell.org/downloads/Lina_M._Kassem.pdf)

<sup>22</sup> *ibid*

### **Recommendations:**

To eliminate cases of domestic violence against women, we recommend that the government should:

- Create a court designated solely to cases of domestic violence, in order to simplify the process for victims.
- Develop a special law criminalizing domestic violence and make it imperative to adopt the definition (of domestic violence) provided in the Declaration on the Elimination of Violence Against Women and recommendation No.19 of the CEDAW.
- Educate the local community; allowing people to understand that domestic violence is a crime and not an act of 'discipline' or an act supported by Islam<sup>23</sup>.
- Intensify training for the local authorities and police officers on how to deal with domestic violence cases against women, emphasizing the correct course of action.
- Conduct independent research on the services offered by QFPCW and whether they are using the correct methodology in their implementation of domestic violence awareness.

### **Domestic Workers**

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**CEDAW General recommendation No. 26:** The Committee on the Elimination of Discrimination against Women (the Committee), affirming that migrant women, like all women, should not be discriminated against in any sphere of their life.

Before concluding this report, it is imperative to mention the struggle of migrant women workers in Qatar. According to a Human Rights Watch report published in 2012<sup>24</sup>: "Qatar has the highest ratio of migrants to citizens worldwide. Among the 1.2 million migrants who make up 94% of Qatar's workforce, workers predominantly come from India, Nepal, Bangladesh, Sri Lanka, and the Philippines and are employed primarily in construction, services, and domestic work. Migrant workers come to Qatar because they lack stable job opportunities in their home countries, or because they believe they can earn more money working abroad." Out of these 1.2 million migrant workers, the report estimated 500,000 are domestic workers.<sup>25</sup> Migrant women in Qatar can be seen as the most vulnerable group due to the lack of laws protecting them. The labor law No 14/2004 excludes domestic

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<sup>23</sup>Some excuse domestic violence on the bases of Surah 4, verse 34 of the Qur'an which states "As to those women on whose part your fear disloyalty [nushuz], first admonish them, then abandon their sleeping places, then beat them [lightly] [udribuhuna]. However, in classical Arabic, the word darba which udribuhuna is derived from has 25 different meaning. "Beat" or "chastise" are two of them but another is "go away from." In "The Sublime Quran" (2007) Laleh Bakhtiar's translation of the Quran illustrates that in fact based on the word choice and on Prophet Muhammed's (PBUH) treatment of his wives, domestic violence should not be sanctioned. The Global Muslim Women's Shura council (July, 2009). Jihad against violence: women's struggle for peace. Retrieved from [http://www.wisemuslimwomen.org/pdfs/Jihad\\_against\\_Violence\\_Digest\\_\(ASMA\).pdf](http://www.wisemuslimwomen.org/pdfs/Jihad_against_Violence_Digest_(ASMA).pdf)

<sup>24</sup> HRW, (2012, p. 31). Building a better world cup: protecting migrant workers in Qatar ahead of FIFA 2022. Retrieved June 3, 2013 from [http://www.hrw.org/sites/default/files/reports/qatar0612webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/qatar0612webwcover_0.pdf)

<sup>25</sup> Human Rights Watch, Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East, April 2010, <http://hrw.org/reports/2010/04/28/slowreform-0>.

workers from its legislations<sup>26</sup>, leaving the domestic workers at the mercy of their “sponsors”: a system that has brought worldwide criticism in recent years<sup>27</sup>.

The report of special rapporteur on trafficking in person, especially women and children (2007) emphasized that “[t]he main groups vulnerable to abuse and exploitation are domestic workers - mainly women and girls”<sup>28</sup> and continued to describe the conditions of these women as “excessive working hours of up to 18 hours a day; being on call at night to tend to babies, for example; no leave; no payment for overtime; very little food and drink or merely leftovers; being locked up and otherwise having very restricted freedom of movement; no right to make phone calls and to have contact with the outside world; humiliating treatment such as unfair punishments; poor living conditions such as inadequate sleeping quarters not respecting the worker’s intimacy; non-payment and reduction of wages as a form of punishment; denial of access to health services; confiscation of passports and other identity documents; and physical, psychological and verbal abuse, including of a sexual nature.”

These conditions are worsened by the sponsorship system (or *kafala* system), which allows these problems to manifest behind closed doors. Given the lack of regulation offered by the Qatari labor law on these issues including pay, migrant women are left to negotiate pay without legal bearing with their employers.

As Qatari women we recognize that without justice met for this vulnerable group of women, the discrimination and exploitation of this vulnerable portion of the community will continue to take place. We also recognize that thanks to this category of the community, various Qatari women are able to seek employment and leave their children in safe hands despite the lack of professional daycare services and government-provided nurseries.

Hence, we lend our voices to the voices of countless international women and labor organizations calling for legislative changes to the labor laws in order to secure this segment of the public receive justice as it deserves. These laws should seek to ensure that any form of abuse towards this group is also embedded in any future domestic violence laws. Thus, we call for an end of the *kafala* (sponsorship) system.

### **Recommendations:**

As such, we propose that the government of Qatar must adhere to the principles set forth in its constitution which states the Qatari society will stand on the pillars of justice, charity, freedom, equality and good ethics (Article 18). Also the Qatari government must adhere to

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<sup>26</sup> Article 3 which was amended as per article 3 of law no. 6 of 2009 clearly stating that the “provision of the present Law shall not apply to” the case of “[d]omestic workers, such as drivers, nurses, chefs, and gardeners.”.

<sup>27</sup> Law No.4/2009 Regulating the Entry and Exit of Expatriates in Qatar and their Residence and Sponsorship, Article 26

<sup>28</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/124/75/PDF/G0712475.pdf?OpenElement>

the committee on the protection of right of all migrant workers and members of their families, CEDAW, and international labor organization standards:

- The government of Qatar must end the *kafala* (sponsorship) system.
- Include laws in the Qatari Labor Law and Domestic Violence Law (when implemented) that protect female migrant domestic workers against exploitation and abuse.