



**Musawah Submission**  
**for 73<sup>rd</sup> Pre-Sessional Working Group on**  
**QATAR**

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*Musawah*, the global movement for equality and justice in the Muslim family, in collaboration with the International Human Rights Clinic at Harvard Law School, submits this list of key issues and questions for consideration by the CEDAW Committee in its second periodic review of Qatar, following the State party report. These issues of concern and list of questions seek to (1) identify gaps in the State party report and outline follow-up questions, and (2) inform the CEDAW Committee's engagement with the Qatari Government.

The below issues and questions focus on marriage and family relations (Art. 16), based on a review of the national legal framework, the State party report (2018), and evidence of challenges in these areas.

## **I. ISSUES OF CONCERN**

### **A. Addressed in State party report (2018)<sup>1</sup>**

1. Different minimum age of marriage (16 for females; 18 for males); legal exceptions enable child marriage. (SPR para. 166)
2. Guardian (*wali*) required for woman to enter marriage. (SPR paras. 166-67)
3. Custody of children is transferred to the father once the child reaches age 13 (boys) or 15 (girls). (SPR para. 153)
4. Women with foreign spouses cannot transmit nationality to spouses or children. (SPR paras 91-93).

### **B. Not addressed in State party report (2018)**

5. Men's right to unilateral divorce (*talaq*), including pronouncement outside of courts.
6. Women's right to obtain compensated (*khul'*) divorce.
7. Default guardian of children in the case of divorce is the father.
8. Domestic violence and marital rape are not specifically criminalized.

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<sup>1</sup> CEDAW 73<sup>rd</sup> Session, Qatar State party report (February 2018), U.N. Doc. CEDAW/C/QAT/2, [hereinafter SPR] available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fQAT%2f2&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fQAT%2f2&Lang=en).

## II. SUGGESTIONS FOR LIST OF QUESTIONS

### A. Marriage

♦ **Exceptions to minimum age of marriage:** Child marriage is permitted for girls ages 16-18, and under 16 with consent from both parties to the marriage, consent of the girl's guardian, and permission from a competent judge.<sup>2</sup>

Please provide data from the past 12 years (since the adoption of the new family law, Family Act No. 22, 2006) on how many marriages have been approved for girls below 16,<sup>3</sup> the number of marriages of girls from age 16 to 18,<sup>4</sup> the ages of the husbands in marriages to girls under 18, and the specific criteria used by judges to evaluate whether the marriages are in the interest of the child party.

♦ **Capacity to enter marriage:** In Qatar a woman may enter marriage only if she has permission from a guardian (*wali*), a male relative.<sup>5</sup> If a guardian denies permission the woman may seek authorization in court, where the judge will consider whether the marriage is in the interest of the couple.<sup>6</sup>

Please provide information on whether the State party is considering amending the law to provide women equal capacity to enter marriage, and what changes will need to be made. Please also provide information on cases in which a woman seeks court authorization; how often it is denied; and for what reasons.

### B. Unequal rights to divorce

♦ **Unilateral (*talaq*) divorce:** Although Qatar's constitution provides for equality, family law still discriminates against women in access to divorce. Men are able to unilaterally divorce their wives (*talaq*), women do not have the same ability, without providing compensation.<sup>7</sup> The only way a woman may have unilateral divorce rights is if this right is conferred through the marriage contract.<sup>8</sup>

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<sup>2</sup> SPR para. 166; Law no. 22 of 2006 Promulgating "the Family Law" Art. 17 (2006) [hereinafter the Family Law] <http://www.almeezan.qa/LawPage.aspx?id=2558&language=en>.

<sup>3</sup> The State party has shared data demonstrating that girls are disproportionately married at a young age: 15.3% of women under 20 are married, compared to only 2.1% of men in this age group. See The State of Qatar, *Marriage and Divorce* at 12, 13 (2016), [https://www.mdps.gov.qa/en/statistics/Statistical%20Releases/Population/MarriagesDivorces/2016/Analytical\\_Summary\\_Marriage\\_and\\_Divorce\\_2016\\_En.pdf](https://www.mdps.gov.qa/en/statistics/Statistical%20Releases/Population/MarriagesDivorces/2016/Analytical_Summary_Marriage_and_Divorce_2016_En.pdf).

<sup>4</sup> While the State party has reported statistics on marriage starting at age 15, see *id.* at 8, this data should be disaggregated to understand the prevalence of marriage for children age 15-18, and additional data is required on marriage prevalence for children under 15.

<sup>5</sup> Art. 26 of the Family Law.

<sup>6</sup> Arts. 27, 29 of the Family Law.

<sup>7</sup> Art. 101 of the Family Law.

<sup>8</sup> Art. 109 of the Family Law.

Please provide data from the past six years on the *talaq* practice: is Qatar planning to take any steps to address this inequality and provide for equal access to divorce? What percent of marriage contracts confer *talaq* rights to the wife? What percentage of *talaq* pronouncements are made outside of the court? What compensation amounts are paid to the woman by the man after the divorce, disaggregated by marriages with one wife and polygamous marriages (10% of total marriages).<sup>9</sup>

♦ **Compensated (*khul'*) divorce:** Qatari law allows for compensated (*khul'*) divorce, initiated by the wife in which she pays the husband a mutually agreed upon amount.<sup>10</sup>

Please also provide information on compensation amounts women must pay their husband for *khul'* divorce, both as a gross figure and percent of the woman's income. Considering that Qatari law requires husbands agree, how many women seek *khul'* divorce and are denied? Please also provide information on the criteria used to determine the amount of *khul'* compensation women must pay, and on measures being taken to limit the amount of *khul'* compensation required.

♦ **Guardianship of children:** While the law is silent on guardianship, the implication is that priority is with the father,<sup>11</sup> regardless of custody. He has the right to make decisions on important matters of the child's life, such as controlling access to the child's passport.<sup>12</sup>

Please provide information on whether the State party is considering granting mothers equal right to legal guardianship of children, and if not, what rational underlies maintaining this inequitable system? Please provide information on how women are able to become formal guardians, and how often this occurs.

♦ **Custody of children:** Divorced mothers lose custody of their children at predetermined ages (13 for boys, 15 for girls),<sup>13</sup> or at the time they remarry a man who is not close relatives of the child(ren).<sup>14</sup> However, the law also specifically allows judges to consider the interests of the child in allowing custody to remain with the mother upon her remarriage.<sup>15</sup>

Please provide a rational for why women should lose custody of the child. Please provide data from the past six years on how many women with young children (sons under 13, daughters under 15) remarry after divorce, and how often mothers lose

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<sup>9</sup> The State of Qatar, *Marriage and Divorce* at 14 (2016), [https://www.mdps.gov.qa/en/statistics/Statistical%20Releases/Population/MarriagesDivorces/2016/Analytical\\_Summary\\_Marriage\\_and\\_Divorce\\_2016\\_En.pdf](https://www.mdps.gov.qa/en/statistics/Statistical%20Releases/Population/MarriagesDivorces/2016/Analytical_Summary_Marriage_and_Divorce_2016_En.pdf).

<sup>10</sup> Art. 101 of the Family Law.

<sup>11</sup> Arts. 26, 75, 171, 176, 178, 180, 183 of the Family Law.

<sup>12</sup> Art. 176 of the Family Law.

<sup>13</sup> Art. 173 of the Family Law.

<sup>14</sup> Art. 168 of the Family Law.

<sup>15</sup> Art. 170 of the Family Law.

custody of their children upon remarriage. Please also provide an explanation of the inequitable ages for girls and boys at which mothers lose custody.

Please also provide information on how often judges are called to consider the 'best interest' of the child in cases when mothers are about to lose their right to custody, and the specific criteria judges use to determine a child's welfare.

### C. Violence

♦ **Protection from violence within the family:** Qatar has not adopted specific legislation to criminalize acts of domestic violence.<sup>16</sup>

Please provide data on the use of general penal code prohibitions on violence<sup>17</sup> that have been applied to domestic violence. Please also provide data on the use of state services for domestic violence victims, including shelters, hotlines, and legal services,<sup>18</sup> and whether current capacity is sufficient. Additionally, what measures is the State party taking to reduce discriminatory and patriarchal social norms related to bodily integrity, in particular any efforts to engage men in norm change? Finally, please provide information on plans to criminalize marital rape, and an explanation of why the State party has not yet done so.

### D. Nationality

♦ **Woman's right to confer citizenship:** Women with foreign spouses cannot confer citizenship rights to their spouses or children.<sup>19</sup>

Please provide data from the past six years on the number of non-citizen children and stateless children of Qatari mothers. Please also provide data on how many foreign men divorce or leave Qatari women, thus leaving Qatari women alone with non-citizen children in the State party territory. Finally, please provide an update on the current efforts to amend Qatari law or constitutional provisions to allow women to confer citizenship.<sup>20</sup> and an expected timeline for adoption.

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<sup>16</sup> SPR para. 65.

<sup>17</sup> Arts. 279-89, 300-17 of the Penal Code (2004), [http://www.qfcra.com/en-us/legislation/Laws/Law%20No.%20\(11\)%20of%202004%20\(Penal%20Code%20of%20Qatar\).pdf](http://www.qfcra.com/en-us/legislation/Laws/Law%20No.%20(11)%20of%202004%20(Penal%20Code%20of%20Qatar).pdf).

<sup>18</sup> SPR paras 19, 24.

<sup>19</sup> SPR para. 92. Art. 1 of Qatari Nationality Law (2005)  
<http://www.almeezan.qa/LawView.aspx?opt&LawID=2591&language=en>.

<sup>20</sup> SPR para. 93.