

## **End All Injustice against Women in the United Arab Emirates**

### ***Submission to the CEDAW Committee in its review to the United Arab Emirates' Periodic Report - 62<sup>nd</sup> Session***

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#### **Introduction**

The International Center for Justice and Human Rights (ICJHR) is a Non-Governmental Organization that was created on May 9, 2014. The Center was founded according to the articles 60 ss of the Swiss Civil Code and its main activities aim to protect and promote human rights in the Gulf Area.

The ICJHR has been in touch with several women who suffered from different kinds of oppressions inside the United Arab Emirates (UAE). In this report, the ICJHR will shed the light on different forms of injustices facing women in the UAE on the basis of the government reply to the list of issues. It will also highlight the main gaps in the reply of UAE to the CEDAW Committee and it will eventually address shortcomings of Emirati laws and regulations.

*Every woman has our deepest appreciation. Every role a woman takes to contribute to society makes her a partner in building our nation."*

So said Shaikh Mohammed bin Rashid Al Maktoum, Vice-President and Prime Minister of the United Arab Emirates (UAE) and Ruler of Dubai, in an April 2014 twitter posting. Yet, instead of fulsome praise, what women in the UAE really need is for their government to act to end discrimination they face in law and in practice.

Women in the UAE are subjected to everyday injustice and human rights abuses. They have different rights based on citizenship status, nationality, occupation, political views, and political views of husband or relatives. For example, many professional Emirati women, and those who belong to the ruling class, are able to enjoy full social benefits, including free housing, health care and education, they are allowed more rights such as liberty of movement, access to information...etc. However, challenging social and cultural norms or political dogma prohibits most women as well as their families to enjoy their fundamental rights. Hence, women activists in addition to daughters, wives and mothers of male activists or reformers, find themselves on

the margin of the UAE society. Many Emirati women, who claimed their rights or their families' rights were persecuted, deprived of liberty, education and other basic rights to consequently become second-class citizens.

The Emirati Constitution, states in article 25 that "All persons are equal before the law, without distinction between citizens of the Union in regard to race, nationality, religious belief or social status". This important text unfortunately lacks a legal prohibition of gender-based discrimination; there is no mention of sex as a criteria of non-discrimination. Therefore, other national laws also lack this important detail. In this context, women face discrimination not only because of strict social norms but also because of the discriminatory laws.

Women in the UAE are not considered equal to men as they still need a "male guardianship", incorporated in UAE law, that denies women the right to make autonomous decisions about marriage and other important issues. Besides, woman who takes work without her husband's consent can be deemed "disobedient" under the law and face several forms of abuses.

Furthermore, the UAE has no specific law on domestic violence. While general Penal Code provisions, such as on assault, can apply to spousal abuse, UAE law fails to spell out protection measures and the responsibilities of police, courts, and other government agencies in addressing domestic violence and other abuse.

Migrant women, particularly those working in the informal sectors, have fewer benefits and even fewer rights, including employment protections.

Despite the huge and valuable contribution of Emirati women to the different realms of their society, neither regulations nor laws in the UAE succeeded to protect and promote women's rights.

## **Injustices faced by women in the UAE: Addressing the UAE replies**

### **Question 5: Civil society organizations**

Neither men nor women in the UAE enjoy true freedom of assembly, association, or expression. Article 33 of the constitution guarantees freedoms of assembly and association "within the limits of law." In practice, women's rights organizations are banned from these activities and all public gatherings require government permits. Freedom of expression, whether oral or written, is guaranteed under Article 30 of the constitution, also "within the limits of the law". However, there are both de jure and de facto limitations on this right. Most important, Articles 372 and 373 of the penal code criminalize speech and writing that causes "moral harm" or defamation to a third party. The Court of Cassation has defined both terms liberally. As a result, women activists and journalists are forced to exercise self-censorship or face punishment.

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 non-independent 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, in addition to Children's Rights Associations mentioned by the CRC during its 70th Session, are government run, not independent, and their role is limited to receiving complaint.

Things became worse when the UAE took actions in 2011 against civil society organizations that claimed reforms such as Al-Islah association. According to the government, these organizations violated the UAE's 2008 Law on Associations, which prohibits non-governmental organizations and its members from interfering "in politics or in matters that impair State security and its ruling regime."

### **Question 6: Human rights defenders and women activists**

It is worth noting that the State party have completely and intentionally disregarded the answer to the 6th question in a try to disguise the flagrant human rights violations committed against human rights defenders and their families inside the UAE.

In fact, the families of prisoners of conscience and human rights defenders in the UAE, are subjected to collective punishment to make pressure and intimidate their families, which is considered a violation of the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

In this context, the ICJHR would like to bring the Committee's attention to a new case of persecution inside the UAE, which is the case of a prisoner's daughter who was tried along with the UAE 94 group. Right after the 2011 crackdown of the UAE government on reformists, dissidents and human rights defenders, the daughter was forced to leave the UAE using her Emirati ID as the authorities confiscated her passport. Now, she lives abroad with her husband who is also sentenced in absentia and she cannot return to the UAE as she is denied her freedom of movement, which is enshrined at the Universal Declaration of Human Rights.

As mentioned in the report sent to the Committee on 18 February 2015, the ICJHR would like to recall the unchanged situation of many Emirati women who claimed political reforms and were persecuted and eventually tried during the so called "UAE 94" trial for threatening state security, belonging to terrorist groups and similar crimes. Some of them were acquitted but still facing, in addition to their families, different forms of daily restrictions and abuses such as:

- Denying security clearance to have a job, although highly qualified.
- Travel ban and prevention from working.
- Discharge from work

The above mentioned human rights violations are clear violations of article 7-paragraph (c) of the Convention on the Elimination of all forms of Discrimination against Women, which affirms the right of women to "participate in nongovernmental organizations and associations concerned with the public and political life of the country", in addition to the Human Rights Council's recommendation, No. 128-100, on promoting women's participation in political and professional spheres. These abusive practices breach also Article 29 of the UAE Constitution, which states

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that “the freedom of movement and residence is guaranteed to citizens within the limits of the law”.

Besides, some relatives of the “UAE 94” detainees were discharged from their jobs, in the Ministry of Education, and were given other positions.

Wives, mothers and daughters of prisoners are continuously exposed to ill-treatment during the visit to prisons, especially the ill-reputed Rezin prison. They are often prevented from the visit without prior communication. A striking example is that of the family of a political prisoner, including his three autistic children, who were barred from the visit after travelling in intense summer heat.

In January 2014, the UAE security forces kidnapped the wife of a political prisoner, and his child aged less than two years, in order to prevent them from travelling out of the country to join the father. The son was delivered to his grandfather, at a border station between UAE and Oman.

State security authorities refused to renew the passport of a young woman because of the political affiliation of her father, sentenced to ten years of prison with the UAE94 group.

The ICJHR has reported cases of arbitrary detention as well as enforced disappearance such as the case of the three sisters, **Asma Khalifa Al-Suwaidi**, **Mariam Khalifa Al-Suwaidi** and **Alyaziyah Khalifa Al-Suwaidi** that highlights restrictions of freedom of expression. The three sisters disappeared after being summoned, on 15 February 2015, by Abu Dhabi security forces due to their activism on social media for their brother’s cause who was sentenced to 10 years of prison in the “UAE 94” trial.

After their arrest, the sisters disappeared, they had no contact with their family, their fate and whereabouts have remained unknown for three months. They were eventually released on 15 May 2015. The letter sent by the UAE Mission in Geneva to the Special Procedures Branch stated that the three sisters were arrested and charged of being members of a terrorist organization, according to the article 22 paragraph 2 of the law on Counter-terrorism which is an unfounded accusation.

### **Question 9: Violence against women**

#### 1- 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.

#### 2- 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.

### 3- 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 abuse<sup>1</sup>. 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.

#### **Question 13: Education**

The report devoted a paragraph to women's education yet it lacks precision of data and statistics. The ICJHR has reported that security authorities deprived a number of girls from higher education because of their political affiliation or political views of their relatives.

A daughter of a prisoner of conscience, was deprived of her scholarship allocated by the State and was prevented from registering in public universities. Her sister, was also deprived from her right to a scholarship to study nuclear chemistry and she was told that orders came from State security authorities.

By depriving these girls from their right to education, the UAE violated:

-Article 28 of the Emirati constitution, which states that "the penalty is purely individual", while the families of political prisoners suffer of collective punishment in violation of the Constitution.

- Paragraph (d) of article 10 of the Convention on the Elimination of all forms of Discrimination against Women, about equal access to scholarships and study grants.

-Article 2 of the Convention on the Rights of the Child, which stresses that "States parties shall respect the rights set forth in the present Convention to each child within their jurisdiction without any type Discrimination, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status".

- Article 2, paragraph 2 of the Convention on the rights of the child, which stipulates that "States parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status of the child's parents or legal guardians, or family members, or their activities or opinions expressed or beliefs."

#### **Question 19: Equality before the law and in civil matters**

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.

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<sup>1</sup> 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.

## **Question 20: Marriage and family relations**

Federal law No. 28 of 2005 codified matters of personal status for the first time in the UAE; some of its provisions, particularly those relating to marriage and divorce, discriminate against women.<sup>2</sup> The concept of male guardianship incorporated in UAE law undermines women's right to make autonomous decisions about marriage. For a woman to marry, her male guardian must conclude her marriage contract. Her guardian can also request an annulment of the marriage.<sup>3</sup>

The law requires a husband to provide "maintenance" to his wife during marriage and, when he has more than one wife, to treat each wife equitably.<sup>4</sup> Under the law, a wife can lose her right to maintenance if, for example, she refuses to have sexual relations without a lawful excuse.<sup>5</sup> The law also requires a wife to be obedient to her husband, maintain the house and its belongings, and breastfeed infant children unless there is an impediment.<sup>6</sup> A woman may be considered disobedient, with few exceptions, if she decides to work without her husband's consent.<sup>7</sup> One case documented concerned a woman victim of domestic violence who police arrested in May 2011 after her husband filed a complaint alleging that she had taken work without his permission; in October 2011, a Dubai court ruled that she had breached the law by working without her husband's permission.<sup>8</sup>

The law provides that a man may unilaterally divorce his wife, whereas a woman who wishes to divorce her husband must apply for a court order, which may be granted only on limited grounds, unless her husband has formally given her a right to unilateral divorce<sup>9</sup>.

## **Recommendations**

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<sup>2</sup> Article 1(2) of the Federal Law No. 29 of 2005 on Personal Status (hereafter Personal Status Law) provides that the law applies "to all UAE citizens so long as the non-Muslims among them do not have special rulings of their sect and community (milla); and to non-citizens in so far as one of them does not adhere to the application of his [personal] law.

<sup>3</sup> Article 21, Personal Status Law

<sup>4</sup> Personal Status Law, art. 55. The UAE Personal Status law does not explicitly state how many wives a man can marry. But it provides for judges to look at other Shari'a jurisprudence beyond the law, in which case all the four schools of Islamic Law agree that a man can marry up to four wives with certain conditions.

<sup>5</sup> Personal Status Law, art. 71

<sup>6</sup> Personal Status Law, art. 56

<sup>7</sup> Personal Status Law, art. 72.

<sup>8</sup> See case A in Human Rights Watch news release, "UAE: Weak Protection Against Domestic Violence," August 4, 2014, <http://www.hrw.org/news/2014/08/04/uae-weak-protection-against-domestic-violence>

<sup>9</sup> Personal Status Law, art. 100

The CEDAW committee in its last review made a number of recommendations that have not been implemented, and asked questions that were not addressed, including those in relation to families and wives of the “UAE 94” group of prisoners, legislation on violence against women, reforms to provide women with equal rights in marriage, divorce, property relations, the custody of children, inheritance and other matters.

We encourage the Committee to make the following recommendations to the UAE government:

1. Ensure equality between citizens and respect the Convention in promoting women's rights without discrimination on the basis of gender, nationality or political loyalty
2. Amend laws to allow the establishment of independent associations including women's rights organisations.
3. Abolish all discriminatory provisions on women's freedom of movement.
4. Stop the prosecution of women activists and recognize the right of women to exercise political and associative activity without fear or restriction of freedom.
5. Refrain from preventing families and wives of prisoners from visiting their husbands and join those who are outside the country to preserve family unity for the best interest of children.
6. Allow the daughters of detainees to enjoy their full legitimate rights such as equal access to education, scholarship and employment.
7. Lift reservations to CEDAW that are inconsistent with the purpose of the Convention.
8. Undertaking initiatives to eliminate gender stereotypes and biases regarding the roles of women in private and public life.
9. To abolish all discriminatory legal provisions, in particular within the Personal Status Code, Citizenship Law and Labour Law.
10. 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 on their rights.
11. Ensure the protection of domestic workers under labour laws and take all necessary measures to protect domestic workers from exploitation (emotional, physical, and sexual).

