



Committee on the Elimination of Discrimination against Women **United Arab Emirates**

80th Pre-Sessional Working
Group (1 - 5 Mar 2021)



Committee on the Elimination of Discrimination against Women
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Re: United Arab Emirates – 80th Pre-Sessional Working Group (1 Mar 2021 - 5 Mar 2021)

29 January 2021

Distinguished Committee Members,

We respectfully submit this letter in advance of the Committee on the Elimination of Discrimination against Women's (CEDAW) discussion on United Arab Emirates at its 80th pre-sessional working group from 1 Mar 2021 - 5 Mar 2021. The co-submitting organizations are greatly concerned about prevailing gender discrimination against Emirati women, who are denied the right to confer nationality on their children and spouses on an equal basis with men, with severe consequences for women and their families. This letter will focus on violations of women's nationality rights in the United Arab Emirates (UAE) in direct violation of Articles 2 (non-discrimination including in law and policy measures) and 9 (nationality), resulting in further violations of articles 3 (guarantee of basic human rights and fundamental freedoms), 5-a (eliminating prejudices and customary and all other practices), 13-a and b (economic and social benefits), and 16-1 b and d (marriage and family life) of the Convention on the Elimination of All Forms of Discrimination against Women. Discriminatory laws and the harmful practice of female genital mutilation in the UAE, in violation of Article 2(f) (abolishing discriminatory laws and practices), are also of great concern.

The [Global Campaign for Equal Nationality Rights](#) mobilizes international action to end gender discrimination in nationality laws through its coalition of national and international organizations and activists. Steering Committee members include Equality Now, Equal Rights Trust, the Institute on Statelessness and Inclusion, Women's Learning Partnership, and Women's Refugee Commission, which houses the Global Campaign. The [Institute on Statelessness and Inclusion](#) (the Institute) is an independent non-profit organization dedicated to promoting an integrated, human rights-based response to the injustice of statelessness and exclusion. [Equality Now](#) is an international human rights organization working to achieve legal and systemic change that addresses violence and discrimination against all women and girls around the world.

The Committee's previous review of United Arab Emirates

In its previous Concluding Observations following its review of the United Arab Emirates in November 2015, the Committee reiterated its recommendation regarding women's inability to confer citizenship on their children and non-citizen spouses on an equal basis with men, stating:

“[...] Grant Emirati women the same rights as Emirati men to acquire, change and retain their nationality and to confer it on their children and foreign spouse. In this regard, it recommends that the State party revise its national law, withdraw its reservation to article 9 of the Convention and ratify the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (see CEDAW/C/ARE/CO/1, para. 33). The Committee also recommends that the State party regularize the situation of stateless families and ensure their right to a nationality without discrimination.” (CEDAW/C/ARE/CO/2-3, para. 36)

Several other UN treaty monitoring bodies, including the Committee on the Rights of the Child (CRC) and the Committee on the Elimination of Racial Discrimination, have also addressed this issue in their most recent reviews of the UAE’s implementation of their respective human rights treaties. Furthermore, the issue of gender discrimination in its nationality laws has been addressed by the Human Rights Council and member states during UAE’s previous Universal Periodic Review (UPR). In the last UPR cycle, the UAE received three recommendations regarding the amendment and implementation of laws to guarantee equality. All of these human rights mechanisms, as well as yours, have urged the UAE to amend its gender-discriminatory nationality laws.

United Arab Emirates’ Gender Discriminatory Nationality Law

The UAE is one of 25 countries globally that deny women the right to confer nationality on their children on an equal basis with men, and one of approximately fifty countries to deny women the right to acquire, change, or retain their nationality or confer nationality on spouses on an equal basis with men. Article 2 of the United Arab Emirates: Federal Law No. 17 for 1972 Concerning Nationality¹ states that a citizen is:

B. Anyone born in the country or abroad to a father who is a citizen by law.

C. Anyone born in the country or abroad to a mother who is a citizen by law, whose fatherhood is not substantiated.

D. Anyone born in the country or abroad to a mother who is a citizen by law, whose father is unknown or without nationality.

In 2017, partial reforms were enacted by decree permitting the naturalization of the children of Emirati women and non-citizen fathers after the child has reached six years of age if the child meets conditions included in the Implementation Regulation.² While a step forward, this still contravenes international human rights law, as the law continues to discriminate against women by denying them the equal right to confer nationality upon their children and spouses. Furthermore, a mother’s transmission of nationality according to this decree is neither automatic

¹ Available at: https://elaws.moj.gov.ae/UAE-MOJ_LC-En/00_NATIONALITY/UAE-LC-En_1972-11-18_00017_Kait.html?val=EL1. See also: UN High Commissioner for Refugees (UNHCR), Background Note on Gender Equality, Nationality Laws and Statelessness 2020, 14 July 2020, available at: <https://www.refworld.org/docid/5f0d7b934.html>

² Ibid. N.B. The Implementing Regulations do not seem to be available online.

nor non-discretionary, as required under international standards.³ Furthermore, the UAE Constitution contains no provisions regarding prohibition of discrimination on the basis of gender.

As Emirati nationality law does not have a general provision that would entitle a child born on its territory a nationality if it would otherwise be born stateless, the discriminatory nature of Emirati nationality law also puts children at heightened risk of statelessness when a child cannot obtain the nationality of the father.⁴ With a substantial number of stateless individuals in the country, this is a particular problem. If the father is stateless, the child will then become stateless regardless of the status of the mother. In order to transfer nationality to their children, unless the father is stateless, the mother has to actively demonstrate that the father is unknown or that fatherhood was not substantiated, which can be very difficult to do, especially in a culture where having children outside of wedlock is often not accepted and may lead to stigmatization and even criminal charges, further exacerbating the risk that their children will remain stateless. Therefore, even though the child in theory may be able to acquire nationality at six years old, they may have been rendered stateless since birth, without access to fundamental human rights including freedom of movement.

The Nationality Law also discriminates on the basis of gender with regard to the conferral of nationality on non-citizen spouses. Article 3 of the Nationality Law enshrines the right of Emirati men to confer nationality on foreign spouses, a right that is denied to Emirati women.⁵ Women's inability to equally confer nationality on spouses and children also further entrenches traditional stereotypes regarding the primacy of the male spouse's legal identity. Affected families have suffered through lack of access to social services and equal economic opportunities.

Despite the creation of the National Strategy for the Advancement of Women in the UAE, which aims to promote gender equality and the empowerment of women and girls at all levels, since 2017 there has been no action taken to remove existing discrimination and uphold women's substantive equality in the nationality law.

The Impact of Gender Discriminatory Nationality Laws

Gender discrimination in the UAE's nationality law also results in wide-ranging human rights violations and hardships faced by Emirati women and their families. Gender discrimination in the nationality law jeopardizes family unity, and undermines affected persons' equal access to education, healthcare, formal employment, financial services, inheritance, property rights, and

³ See UN High Commissioner for Refugees (UNHCR), *Good Practices Paper - Action 3: Removing Gender Discrimination from Nationality Laws*, 6 March 2015, available at: <http://www.refworld.org/docid/54f8377d4.html>

⁴ For more information see UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness* 2016, 8 March 2016, available at: <http://www.refworld.org/docid/56de83ca4.html>

⁵ Article 3 As amended by Decree-Law no. 16/2017 dated 18/09/2017:

1- A foreign woman married to a UAE National may be granted the nationality by citizenship after the lapse of seven years from the date of submission of the application to the Authority in case they got one child or more. Said period shall be increased to ten years should there be no children, provided that the marriage is actually ongoing, and according to the provisions of the present Decree-Law.

2- Subject to the provisions of paragraph (1) of the present Article, if the husband dies or is divorced before the expiry of the period referred to in Clause (1) of this Article, and if the wife has one or more children of said husband, she may be granted the nationality after the lapse of the period as long as she remained a widow or divorcee or got married to a national after her husband's death or the divorce and maintained her residence in the State.

freedom of movement. As discussed above, gender discrimination in the nationality law can also render affected persons stateless.

During the COVID-19 pandemic, gender-discriminatory nationality laws has exacerbated the vulnerability of affected families in many countries, as some non-citizen children and spouses of female citizens have been denied equal access to healthcare, emergency relief, and economic stimulus packages, and many have suffered from family separation.⁶ The submitting organizations would therefore encourage the CEDAW Committee to raise with the Emirati government whether the children and spouses of Emirati women have access to the same COVID-19 relief benefits as the families of Emirati men.

The denial of equal nationality rights leads to both the denial of proof of legal identity and the denial of the right to a nationality. Furthermore, discrimination in the UAE's nationality laws inhibits women's ability, in practice, to freely choose a spouse, in violation of CEDAW Article 16, further entrenching traditional stereotypes regarding the primacy of male legal identity, and contributing to women's inequality within the family and society at large.⁷ Further entrenchment of such stereotypes is in breach of the UAE's obligations under CEDAW Article 5(a).

Discrimination against Emirati women in the nationality laws also contributes to gender-based violence, as recognized in CEDAW General Comment No. 19. Preventing affected women from family stability, and their children from equal access to citizenship, stable residency, education and healthcare, and social services on equal basis with Emirati men is a form of legally-sanctioned gender-based violence, depriving Emirati women of equal protection under the law.⁸

Discriminatory Laws, Including on Inheritance

In its previous Concluding Observations, *the Committee called upon the State party "to repeal as a matter of priority all legal provisions that continue to discriminate against women, including those contained in the Penal Code and the Personal Status Law.* (CEDAW/C/ARE/CO/2-3, para. 14) Article 334 of the Federal Law No. 28 of 2005 on Personal Status prescribes that males inherit twice as much as females where there are both male and female heirs.⁹ This and other discriminatory provisions should be amended or repealed so that women are no longer discriminated against in matters of inheritance or any other aspect of their family, personal status or public life.

Action to address Female Genital Mutilation (FGM) in the United Arab Emirates

⁶ See the Joint Statement in Solidarity with the Stateless- An urgent call to states, donors and other stakeholders to promote and protect the right of stateless persons in their COVID-19 response, 2020, available at: https://files.institutesi.org/Joint_Statement_in_Solidarity_with_the_Stateless.pdf

⁷ Global Campaign for Equal Nationality Rights – UNHCR, "CEDAW Quick Reference Guide: Statelessness and Human Rights Treaties," 2017, available at: <http://equalnationalityrights.org/images/zdocs/CEDAW-Quick-Reference-Guide.pdf>

⁸ See Comm. on the Elimination of All Forms of Discrimination against Women, General Recommendation No. 19, Violence against Women, Paragraph 1, 4, 6, 7-e and f, and 8 (11th session, 1992)

⁹ Available at: [https://elaws.moj.gov.ae/UAE-MOJ_LC-En/00_PERSONAL_STATUS/UAE-LC-En_2005-11-19_00028_Kait.html?val=EL1&Words=Personal Status - Anchor6](https://elaws.moj.gov.ae/UAE-MOJ_LC-En/00_PERSONAL_STATUS/UAE-LC-En_2005-11-19_00028_Kait.html?val=EL1&Words=Personal+Status+-+Anchor6)

There is currently no data available on the nation-wide prevalence of FGM in the UAE. However, small-scale studies and independent research have indicated a fairly high prevalence of FGM within the sample of women surveyed. A 2011 survey of 100 Emirati women found that 34% of respondents had undergone FGM. In April 2020, the available evidence on FGM in the UAE was significantly enhanced by the publication of a new study which surveyed 1035 persons in Abu Dhabi (of which 831 were women). The study found an FGM prevalence rate of 41.4% amongst the female participants of the study. It also found that the most common type of FGM performed in the UAE was Type 1 (partial or total removal of the clitoris and/or the clitoral hood). However, the lack of national data on FGM in the country means that it is difficult to determine whether the practice of FGM is spread throughout the country, to identify areas/communities where prevalence is highest, and to design prevention and protection interventions to effectively tackle FGM and provide care for survivors.

FGM is not specifically prohibited by law in the UAE. Article 2(f) of CEDAW obliges States Parties to undertake all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women.

Suggested Questions for the State Party's List of Issues

In the context of the issues raised in this submission, and drawing the Committee's attention in particular, to the UAE's failure to implement the previous recommendations of the Committee and other human rights mechanisms, the co-submitting organizations respectfully urge the Committee to raise with the Emirati Government in its State Party's List of Issues the following questions with regard to violations of the Convention on the Elimination of All Forms of Discrimination against Women addressed in this letter:

- What steps is the Emirati Government taking and within what timeframe to amend the nationality laws to ensure that all female citizens have the same rights as male citizens to confer nationality on their children and non-national spouses?
- What further proposals are being considered by the Emirati Government to alleviate the effects of the discrimination in the nationality laws, including violations of economic and social rights, until Emirati nationality laws can be fully amended?
- What conditions must be met for a child of an Emirati woman and non-citizen father to acquire Emirati citizenship, once an application has been submitted after the child's sixth birthday?
- What steps is the Emirati Government taking to not discriminate in COVID-19 responses on any grounds including nationality, documentation or migration status?
- What steps is the Emirati Government taking to repeal or amend all sex discriminatory legislation, including specific laws such as Article 334 of the Federal Law No. 28 of 2005 on Personal Status which allows *de jure* discrimination in inheritance?

- What measures has the UAE undertaken to raise public awareness of the unacceptability of FGM under any circumstances?
- What are the government's plans and timeframe for enacting and enforcing a comprehensive law that prohibits FGM and guarantees the protection of women and girls who are at risk of undergoing FGM?
- What measures has the government taken to generate statistical and other relevant data to demonstrate the extent of the practice and impact of FGM in the UAE?

Thank you very much for your kind attention, and please do not hesitate to contact us if we can provide further information.



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For and on behalf of all co-submitting organizations