



# UNITED ARAB EMIRATES

by Serra Kirdar

POPULATION: 5,066,000  
GNI PER CAPITA: US\$41,031

<b>COUNTRY RATINGS</b>	<b>2004</b>	<b>2009</b>
NONDISCRIMINATION AND ACCESS TO JUSTICE:	1.7	2.0
AUTONOMY, SECURITY, AND FREEDOM OF THE PERSON:	2.1	2.3
ECONOMIC RIGHTS AND EQUAL OPPORTUNITY:	2.8	3.1
POLITICAL RIGHTS AND CIVIC VOICE:	1.2	2.0
SOCIAL AND CULTURAL RIGHTS:	2.3	2.5

(COUNTRY RATINGS ARE BASED ON A SCALE OF 1 TO 5, WITH 1 REPRESENTING THE LOWEST AND 5 THE HIGHEST LEVEL OF FREEDOM WOMEN HAVE TO EXERCISE THEIR RIGHTS)

## INTRODUCTION

The United Arab Emirates (UAE) is quickly transforming its formerly tribal Bedouin society into an emerging economy that is catching the eye of the world. Dubai, one of the seven emirates, has established itself as a financial hub that has attracted expatriate workers and investors from around the world. Over the past decade, it has become a sprawling metropolis sporting an array of ambitious real-estate projects. However, the billions of dollars of debt incurred by Dubai-based investors during this period left the emirate particularly vulnerable to the global economic downturn that emerged in late 2008. Abu Dhabi, the largest of the seven emirates and home to the federal capital, has also driven the UAE's economic growth. It is the top oil producer in the federation, controlling more than 85 percent of the country's total output capacity and over 90 percent of its crude reserves.<sup>1</sup> As of mid-2009, Emirati citizens comprised only 20 percent of the country's five million inhabitants.

Emirati women are undergoing a transition as their society, exposed to foreign influences, adapts to changing identities while protecting cultural and religious traditions. The government has worked to improve several aspects of women's rights over the last five years, though some reforms have been slow to take effect. Certain steps in the right direction are obvious:

women are entering new professional fields such as engineering and information technology; there has been a rapid expansion in higher education for women; the ratio of females to males in the workforce is increasing; and women have been appointed to high-profile positions within the government and the business world. Nevertheless, restrictions still apply to some professions, and support for advancements in women's rights varies among the emirates. Moreover, societal and familial perceptions of a woman's proper role continue to pose a significant barrier to advancement.

Women have experienced little change since 2004 in their ability to access justice through the courts and combat discrimination, although they are now able to serve as judges and prosecutors. However, their personal autonomy and economic rights have improved. Furthermore, women have experienced gains in political, social, and cultural aspects of their lives, as the government has recognized both the need to support women's participation in these areas and the significance of such participation as a measure of success in national development. Although legal changes have been made to acknowledge women's pivotal role, there remains considerable resistance to change in practice. The UAE must carry out reforms at both the governmental and societal levels for any lasting development to take root.

## **NONDISCRIMINATION AND ACCESS TO JUSTICE**

Women in the UAE are informally divided in several categories based on their standing in the society: UAE citizens, foreign professional women temporarily residing on an employment contract, foreign women employed in the informal sector such as domestic work, and the wives of temporary foreign workers. This division is particularly evident in the ability of women to access justice through courts and exercise their rights. Female domestic workers are the most vulnerable group, as they are often denied basic protections under the law. Despite some modest improvements over the last five years, many noncitizen women remain uninformed of the rights and legal protections available to them.

The UAE is governed both by Shari'a (Islamic law) and civil law. Some criminal activities as well as personal status and family issues are subject to Shari'a, while the codified criminal, civil, and commercial law apply to select issues such as traffic rules, immigration, fraud, and the trafficking of illegal substances. The extent to which Shari'a-derived legislation applies varies

from emirate to emirate. Shari'a rules on marriage only apply to Muslim marriages and where a Muslim man marries a Christian or Jewish wife.

Article 25 of the constitution provides for equality among Emirati citizens, "without distinction between citizens of the Union in regard to race, nationality, religious belief, or social status."<sup>2</sup> Although the law states that all people are equal, there is no mention of gender equality, nor are there any laws or policies designed to eliminate existing gender-based discrimination. Additionally, the constitution controls personal status in two separate articles. Article 15 states that the family is the basis of society, while Article 16 requires that welfare and social security legislation be promulgated to protect "childhood and motherhood," as well as those who are unable to look after themselves. As a result, laws and policies tend to reinforce traditional roles for women rather than encourage true equality between the genders.

Gender discrimination is built into the laws governing citizenship in several ways. First, an Emirati woman loses her citizenship upon marriage to a foreign man in the absence of a special dispensation from the Naturalization and Residence Directorate of the emirate in which the wife lives. Even with such a dispensation, she may not transfer her citizenship to her foreign husband unless the couple was granted permission from the Presidential Court prior to marrying. Conversely, in the case of a marriage between a national man and a non-national woman, the man need only submit a copy of his wife's passport, a copy of the marriage contract, and proof of his nationality, at which time a family book is issued within 24 hours as proof that their marriage is sanctioned by the state. Second, only fathers can pass their nationality to their children. The children of an Emirati mother and noncitizen father have no claim to UAE citizenship. On the other hand, the children of an Emirati father, whether he is dead or divorced from their mother, automatically receive his nationality. These children, even if they are minors, can sponsor their non-national mother's residency in the UAE.<sup>3</sup> Related to this, foreign women continue to be unable to sponsor their children's residence permits in the UAE, unlike their male counterparts.

The extent to which women are treated equally under criminal law has not changed much over the past five years. Apart from immigration cases and prostitution by noncitizens, crimes committed by women in the UAE receive very little publicity and little material is published about the subject. Due to the lack of data, it is difficult to determine a specific rule

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regarding the treatment of women accused of crimes. Instead, several factors affect the outcome of each individual case, including the woman's identity, family name and influential standing, the identity of the victim, the location, the severity of the crime, and the level of publicity that the crime received. Discussions with legal sources confirm that often, to avoid bringing shame on an arrested woman's family by sending her to prison, police officers "allow women to pay a penalty" instead of facing prosecution, but the issue is left to the discretion of the local police station and arresting officer.

All articles in the Federal Penal Code (No. 3 of 1987) are addressed to both men and women equally. Although citizens and noncitizens are generally subject to the same crimes, except those related to immigration, the penal code is often applied to them in a discriminatory manner, particularly if the offender is female. One journalist has noted that the "punishment for drug offences is severe, although the severity of your sentence is likely to depend upon your nationality." She cites a case in which a Pakistani woman was sentenced to death by Fujairah's Shari'a court after having been found guilty of possessing cannabis with intent to supply. Conversely, a male UAE national convicted of the same offense had his sentence reduced from 12 to 8 years upon appeal.<sup>4</sup> There are numerous cases in which the severity of sentences appears to correlate closely to one's ethnic background and status within the society.<sup>5</sup>

Article 26 of the constitution guarantees personal liberty to all citizens and prohibits arbitrary arrest, searches, detainment, and imprisonment, as well as torture and other degrading treatment. Article 28 protects criminal defendants by stipulating a presumption of innocence, guaranteeing the right to appoint one's own legal counsel, providing for publicly funded defense counsel in certain circumstances, and prohibiting physical and "moral" abuse of accused persons. The Criminal Procedure Law (No. 35 of 1992) permits public prosecutors to hold a suspect for up to 21 days without charge, which may be extended by the judge and court. No reports indicate that women are particularly subject to arbitrary arrest or harassment by the police.

Women are not considered full persons before the law in all instances. According to the Hanbali school of Shari'a, a woman's testimony in criminal matters is equal to only half of a man's, although their testimony is considered to be equal in some civil matters.<sup>6</sup> A woman may seek legal counsel and representation without a guardian at the age of 18 and, with the exception of

cases involving marriage contracts, no cases were reported in which a woman was required to appear in court with her husband or father. Such a request would be in violation of Article 41 of the constitution, which grants all persons the right to submit claims before competent authorities concerning abuse of or infringements upon their constitutional rights.

No specific provisions or allowances guarantee gender equality with respect to access to justice at all levels. In practice, social mores discourage women from seeking legal protection because it involves recourse to the male-dominated public sphere. As such, family-related problems are typically dealt with in private. Women are similarly discouraged from entering the legal profession, even if they studied law at university, because it would entail mixing with men in courts and police stations, and with male clients and lawyers.

The UAE ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in October 2004, but has reserved the right to implement Articles 2(6) (inheritance), 9 (discrimination in granting nationality to children), 15(2) (testimony and right to conclude contracts), 16 (discrimination in marriage and family relations), and 29(1) (jurisdiction) in a manner compatible with Shari'a.<sup>7</sup> Several cases that have occurred since then—most notably a case in which a 14 year-old girl was sentenced to 60 lashes for engaging in illicit sex while the male involved was sentenced to six months' imprisonment—have led human rights organizations to claim that the UAE is in contravention of CEDAW's prohibition of gender-based violence.<sup>8</sup> Such cases serve to highlight the fundamental inequality and injustice of mandating different sentences for the same "crime," irrespective of which punishment is considered to be worse.

Significant restrictions are placed on the formation and effectiveness of independent women's rights groups. In 1975, the UAE Women's Federation was established by Sheikha Fatima bint Mubarak, the wife of the former president. It now serves as an umbrella group for women's organizations in the country and covers such topics as religious affairs, mother care, both pre- and postnatal care and childcare, social affairs, cultural affairs, arts, and sports.<sup>9</sup> In essence, it serves to reinforce the accepted female gender roles as perceived by Emirati society.

The Women's Federation also provides access to legal counsel for women who cannot afford their own lawyer, but this is rarely used, either out of shame, concerns about confidentiality, or lack of knowledge about

the service.<sup>10</sup> It does not deal with the promotion of women's freedoms, nor does it address, aside from the occasional press conference, the issues of human trafficking, domestic and public violence against women, discrimination, or other controversial problems that hinder women's rights. Some governmental and charitable organizations such as the Red Crescent and the Dubai Foundation for Women and Children attempt to address such issues, but few NGOs are able to do the same. Activists and philanthropists have run up against bureaucracy that has made it nearly impossible to gain the necessary approvals to operate legally as a NGO in the traditional sense seen in the West.

### *Recommendations*

- ❖ The nationality law should be amended to permit Emirati women to transfer citizenship to their husbands and children.
- ❖ The Women's Federation should publish a legal resource guide for women that clearly defines their political and legal rights and provides them with practical tips on how to better exercise such rights.
- ❖ The government should encourage women to participate more at every level of the judiciary, particularly as lawyers, by offering scholarships and awards to female law students and introducing a gender-based quota system at the Ministry of Justice.
- ❖ The government should fully adhere to CEDAW by removing its reservations and prohibiting all forms of gender-based violence.
- ❖ The government should remove the obstacles that currently exist to the formation of independent women's rights NGOs. Instead, such NGOs should be encouraged to develop in recognition of their importance for a healthy civil society that adequately addresses the needs of Emirati women.

## **AUTONOMY, SECURITY, AND FREEDOM OF THE PERSON**

The Personal Status Law (No. 28 of 2005), enacted in November 2005, is the first of its kind for the UAE. Previously, personal status issues were decided by individual judges' interpretations of Shari'a. The codification of such issues is viewed by many as a positive development for women's rights as it guarantees Emirati women certain rights, including greater personal freedom regarding marriages. Most notably, it legally recognizes *khula*

(divorce that may be initiated by a woman in exchange for her dowry) and permits women to make stipulations within marriage contracts. The extent to which these measures have in fact improved women's autonomy, however, is subject to debate, and other provisions of the personal status law simply codify pre-existing inequalities.

Under Article 32 of the constitution, women enjoy the right to practice their religion and follow their religious beliefs in a manner "consistent with public order and with public morals," while Article 7 establishes Islam as the state religion. All mosques, including those in Dubai, are accountable to the federal Ministry of Islamic Affairs and Awqaf for the content of their sermons, whether they are publicly or privately funded, Sunni or Shiite. The ministry releases weekly lists of approved topics and follows up on individual imams to ensure compliance.<sup>11</sup> In recent years, various emirates have individually authorized increases in non-Muslim houses of worship.<sup>12</sup> Women are permitted to serve as religious teachers, both in schools and for adults through the Ministry of Islamic Affairs and Awqaf. Moreover, women, like men, may convene private religious discussion groups and study sessions, but they are subject to government restrictions if they intend to publish anything discussed.

Article 29 of the constitution guarantees all UAE citizens, men and women, freedom of movement and residence within the limits of law. However, in practice, some restrictions on freedom of movement for both Emirati and foreign women still exist. Women who are citizens may be restricted from leaving the country if they lack permission from their husbands or guardians. According to custom, a man may prevent his wife, children, and adult unmarried daughters from traveling abroad by confiscating their passports, and government institutions will not challenge a husband's right to do so. In addition, the courts have restricted freedom of movement for a small number of women who have left their husbands by ordering them to return to the marital home.<sup>13</sup> Foreign women are not protected by Article 29, an oversight that employers often exploit by illegally confiscating their passports, thereby restricting their ability to leave the country or run away and forcing some to live in involuntary servitude.<sup>14</sup>

The new personal status law codifies many of the common Shari'a provisions that previously controlled the UAE's family courts, interpretations of which were left to individual judges. Some, such as the Article 56 requirement that a husband has the right to obedience from his wife

“in accordance with custom,” sanction and encourage the perpetuation of traditional gender roles and stereotypes. Others potentially provide safeguards for women, assuming they are properly enforced. For instance, Article 110 codifies the Shari’a practice of *khula*, which allows women to request a divorce from their husbands if they return their *mahr* (dowry).<sup>15</sup> This is a welcome alternative to their other option, a cumbersome judicial procedure that only allows women to petition for divorce based on extremely limited circumstances.

Additionally, Article 20 permits women to include stipulations regarding education and work in the marriage contract, another significant assurance of women’s rights. This has precedents in all four Sunni schools of jurisprudence, and some women made such stipulations prior to the law’s codification, but the status of the practice was ambiguous. Now women are officially permitted to include terms in a marriage contract specifying that, among other things, they have the right to work or finish a master’s degree. However, because the vast majority of Emirati nationals are not aware of these new amendments, they are not often used in practice.

The ability of women to negotiate an equal marriage remains limited. Under Article 39 of the personal status law, a woman’s guardian and prospective husband are the parties to the marital contract, although its validity is contingent upon her approval and signature. The guardian’s signature is necessary except where the woman was previously married, is over a specific age, or, in certain circumstances, where she has asked the court to serve as her marriage guardian. The justifications given for requiring a guardian vary, but in general, it is regarded as protection for the bride.<sup>16</sup>

Muslim women, unlike men, are prohibited from marrying outside their faith. Moreover, men are legally permitted to have up to four wives, as long as they obtain permission from their existing wives. The *khula* reform has been applauded as a step in the right direction, but it still requires women to give up all their financial rights from the marriage (namely, the *mahr*) for the sake of their freedom. By contrast, Muslim men are permitted to divorce their wives simply by verbally proclaiming their wish to do so. In such cases, the women keep the *mahr* if the marriage has been consummated.

If a woman is granted a divorce, she receives custody of female children until they reach the age of 13 and male children until they reach the age of 10. According to the UAE government, once the children reach these predetermined ages, the family courts reassess custody.<sup>17</sup> If a woman chooses to



remarry, she forfeits her rights to custody of her children from the previous marriage.<sup>18</sup>

The UAE remains a destination country for trafficked men and women, but the government has invested certain efforts to combat the problem in recent years.<sup>19</sup> While men tend to be trafficked for the purpose of forced labor in the construction industry, women of a variety of nationalities tend to be trafficked either into the sex industry or as domestic workers, where their passports are often removed and they are forced to work without pay. To combat forced labor, employers are now required to pay foreign workers via an electronic system monitored by the government.<sup>20</sup> Additionally, Federal Law (No. 39 of 2006) lays the framework for bilateral cooperation with countries that supply labor to the UAE. Enacted months later, Federal Law (No. 51 of 2006) defines human trafficking as an element of organized crime and sets stiff penalties for convicted traffickers, ranging from one year to life in prison, as well as civil fines of between 20,000 and 1 million dirham (approximately US\$5,500 to US\$270,000).

These new antitrafficking laws appear to be the result of the government's effort to improve the country's human rights reputation. The UAE ratified the UN Transnational Organized Crime Convention in May 2007, which calls for international cooperation in efforts to combat human trafficking. In January 2008, the Red Crescent Society in Abu Dhabi announced the establishment of the first shelter exclusively for victims of human trafficking,<sup>21</sup> but despite these gains, victims continue to be prosecuted for prostitution if they turn to the police for assistance.

Domestic laws regarding torture and degrading forms of punishment have not changed in recent years. Despite the prohibition against torture under Article 26 of the constitution, Amnesty International reports that flogging sentences continue to be carried out, most commonly as punishment for adultery. In June 2006, in the emirate of Fujairah, a Shari'a court sentenced a Bangladeshi national to death by stoning for adultery with a migrant domestic worker. Although the death sentence was revoked, he was imprisoned for one year and subsequently deported.<sup>22</sup> What became of the female domestic worker, who was sentenced to 100 lashes and imprisonment for one year, is unknown. In October 2005 it was reported that Shari'a courts in the emirate of Ras al-Khaimah sentenced a female domestic worker to 150 lashes for becoming pregnant outside marriage.<sup>23</sup> Other such cases of cruel and inhumane punishments are not uncommon in the

UAE.<sup>24</sup> Furthermore, the UAE still has not ratified the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (UN Convention against Torture).

Physical abuse is prohibited under the law, but many women are subjected to domestic violence by their male family members. Women remain at the mercy of their husbands because the police are reluctant to get involved in the private affairs of married couples and do not afford them appropriate security.<sup>25</sup> No formal studies have been conducted or authorized by the government to document domestic violence, so the available figures on women abused at home are rough estimates. However, Dubai now has two safe houses where women may seek shelter from domestic abuse.<sup>26</sup> One, City of Hope, is privately run, while the other, the Dubai Foundation for Women and Children, is public.

Men who harass women on the street or in public places such as shopping malls are subject to legal penalty. Pictures of men caught harassing women appear weekly in newspapers, a source of shame for the men's families. However, these legal and social punitive measures have not eradicated the problem.

Rape is a serious criminal offence punishable by death under Article 354 of the penal code, but many victims remain reluctant to report the crime for fear that they will be accused of adultery, shamed before society, and disowned by their families. For this reason, many offenders are left unpunished. For example, when a French woman reported that she was gang-raped in Dubai in 2002, she was taken to jail under allegation of having "adulterous sexual relations." A similar incident occurred in 2008 when an Australian woman was jailed for eight months on charges of "illicit sexual relations" after reporting to the police that she had been drugged and gang-raped.<sup>27</sup> Furthermore, a significant number of non-citizen victims of abuse have been reluctant to report rapes, assaults, and other crimes, fearing that they could jeopardize their residency status and risk deportation.<sup>28</sup> The lack of official data on this matter exacerbates the problem because the government feels no need to implement countermeasures.

As previously noted (see "Nondiscrimination and Access to Justice"), the only established entity specifically designed to address women's rights is the state-sponsored UAE Women's Federation. All other civil initiatives working to promote women's freedoms are still in their nascent phases. Some receive funding and support from the U.S. Middle East Partnership

Initiative, but no legal framework currently exists to accommodate civil society organizations outside the state's sphere of influence.<sup>29</sup>

### *Recommendations*

- ❖ The government should launch an educational public-awareness campaign that portrays domestic violence as being intolerable, illegal, and socially unacceptable, and the police should strictly enforce laws that prohibit physical abuse.
- ❖ Enslaved human trafficking victims should be protected from prosecution, encouraged to testify against their captors, and provided with resettlement assistance.
- ❖ The UAE should ratify the UN Convention against Torture, and the penal code should be brought into compliance with the agreement.
- ❖ Recent changes to the personal status law should be widely publicized in mediums that will reach all segments of the community, particularly those who are traditionally vulnerable to abuse such as the poor and those with less education. A radio and television campaign should be launched that depicts the practical repercussions of the changes, and the print media should feature articles that detail the changes and their affects.
- ❖ Additional reforms to the personal status law should be enacted that ensure freedom of movement for adult women, regardless of their marital status.
- ❖ Foreign women should be provided with the legal means to resist—and the practical means to report—exploitation or confinement by employers.

## **ECONOMIC RIGHTS AND EQUAL OPPORTUNITY**

Educational awareness campaigns, scholarships, and Emiratization laws, described below, have allowed women to make steady inroads into universities and public and private sectors jobs in recent years. The proportion of working adult women has grown from 25 percent (in 1990) to 35 percent (in 2000) to 40 percent (in 2007).<sup>30</sup> Nevertheless, women in the UAE are significantly underrepresented in upper level positions both in governmental institutions and particularly in the private sector. Moreover, the Labor Law (No. 8 of 1980) continues to place certain restrictions on women's employment options and rights based on gender stereotypes.

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Women in the UAE exercise the right to own land and have full, independent use of their property from the age of 18. A married woman need not share her assets with her husband, who has no legal claim to her property whether they are married or divorced. Article 21 of the constitution guarantees the protection of private property, which states that deprivation of private property is only permissible in “circumstances dictated by the public benefit in accordance with the provisions of the law and on payment of a just compensation.”

The concept of joint property arising through marriage does not exist, and property is only regarded as jointly owned where both husband and wife contributed financially to its purchase during the course of marriage. Upon divorce, the property would be divided according to each party's contribution, so where a husband purchased the family home using his salary alone, he is regarded as the sole owner. Additionally, while female citizens are not entitled to government housing benefits, male citizens are given either a house or a piece of land and money with which to build a house. The premise for this disparity is the presumption that it is a legal obligation under Shari'a for the husband to financially support his wife. According to a law adopted in April 2009, Emirati women married to non-nationals may receive government housing benefits if their husband is unable to provide housing to them.<sup>31</sup>

The right to inheritance for Muslims in the UAE is governed by Shari'a, which controls how estates are divided. Under Shari'a, women inherit one-third of the assets while men inherit two-thirds. As with their wives, men bear the responsibility of caring for their unmarried sisters and all other female members of their family, although there are no effective complaint mechanisms in place that would hold men accountable if they do not fulfill this role.

Under Shari'a, any gift given to a woman by her fiancé before marriage is her property, and the husband has no legal right to it after marriage. At the time of marriage, a Muslim woman receives mahr, often in the form of money that is her property. Even if the woman is independently wealthy, she is not responsible both legally and culturally for expenses relating to her clothing, health care, household needs, food, and recreation. Any income or profits a wife earns is hers alone. In the event of divorce, any unpaid part of the agreed-upon mahr is owed to the woman immediately, and the husband is responsible for maintaining her financially until she is remarried.<sup>32</sup>

Emirati women are permitted to license, own, and head their own businesses. Their actual economic involvement spans across many sectors, including trade, real estate, restaurants, hotels, and retail. Though women are free to enter into businesses of their choice, some municipalities have created barriers that prevent women from applying for licenses without the signature of a male guardian.<sup>33</sup> Some of these barriers are not always as apparent at first glance. In the case of the Sheikh Mohammed Establishment for Young Leaders, business capital is provided for residents of any emirate provided that the business itself is based in Dubai. This presents a challenge to women who live with their families outside of Dubai. While they are technically eligible for such grants, they face social challenges if they were to move away from home to pursue a business.

No legal or policy changes regarding women's access to education have been made since 2005. Education in the UAE is free for all nationals and compulsory for both boys and girls up to the age of 11. With exception of a few private universities, most academic institutions are gender segregated, and curriculums and textbooks are provided by the government. As of 2004, 65 percent of all university students were women, the majority of whom choose to study social sciences and humanities. Although these are the most recent government-published statistics, individual university figures show that women are filling an ever-increasing percentage of university slots every year.

The disparity in numbers between men and women at Emirati universities is substantial and is not simply because more men study abroad or join the military. One common explanation is that women are not expected to earn an income, and when they do, what they earn is often considered to be disposable income. Free from the pressure to earn a living, women enjoy greater space to complete degrees and pursue further studies and are more likely to graduate than men. For instance, at the University of Sharjah in 2006, 50 percent of the students admitted and 71 percent of graduates were women.<sup>34</sup> Unpublished statistics from the class of 2007 at UAE University indicate that 74 percent of those admitted and 79 percent of graduates were women.<sup>35</sup>

Nevertheless, social mores and gender biases play a large part in subject choices, and the long-term result has been the "feminization" of certain fields of study.<sup>36</sup> Girls are particularly discouraged to study science in the emirates outside of Dubai and Abu Dhabi. Some evidence suggests that this process has resulted in employers' devaluation of degrees in

traditionally “female” subjects, such as humanities or social sciences. This trend has been well documented internationally, but published research on the issue in the Arab world is scarce. Regardless of the rationale behind it, upon graduation women are more likely to earn less than men by virtue of the positions they tend to assume in addition to gender discrimination they may encounter.

Women’s economic rights in the UAE have remained largely unaltered in recent years, although a draft labor law is currently under consideration. Article 34 of the constitution provides every Emirati citizen with the right to freely choose his or her own occupation, trade, or profession within the limits of the law and subject to regulations on that profession or trade. However, Article 29 prohibits the recruitment of women for “hazardous, arduous, or physically or morally harmful work” or other forms of work to be decided by the Ministry of Labor.<sup>37</sup>

Article 27 of the labor law states that “no woman shall be required to work at night,” which is defined as “a period of no less than 11 successive hours between 10 p.m. and 7 a.m.” This has generally been interpreted by international organizations as a ban on women working at night. However, the plain language of the article is unclear and seems only to prohibit employers from mandating that their female employees work at night, instead leaving it to the discretion of each woman. Exceptions to this prohibition exist under Article 28 for instances in which a woman’s nighttime work is necessitated by force majeure, is executive, administrative or technical in nature, is in the health services, or does not involve manual labor as decided by the minister of labor and social affairs.

These provisions hinder a woman’s right to freely choose her profession, treating women as if they are incapable of making independent decisions regarding the best interest of their health and safety. Additionally, Article 34 holds a woman’s guardian responsible if he has consented to employment that violates these provisions. In so doing, women are treated as minors whom guardians have a responsibility to protect. By fostering the concept of a dependent female, this provision opens the door for guardians to have further control over the occupational choices of their female charges.

The proposed draft labor law, released for public review in February 2007 and currently under consideration by the government, would retain these discriminatory provisions while simultaneously bolstering protection

against discrimination in other areas. Article 3 of the draft labor law would, for the first time, specifically prohibit any form of discrimination between people with equal qualifications and experience levels. It also protects the rights of all persons to enjoy equal opportunities to find and remain in their jobs and enjoy full employment rights and benefits. Under this same provision, rules promoting increased participation by UAE nationals in the workforce do not constitute discrimination. Additionally, the draft labor law would amend current Article 32, which requires equal pay for equal work among male and female employees, to also prohibit discrimination against women in regards to their job security. In particular, the amended article would prohibit termination of employment on the basis of marital status, pregnancy, delivery, or maternity.

Article 3 of the draft labor law directly addresses “Emiratization,” a nationalization program introduced by the government to promote employment in the private sector in an effort to reduce the UAE’s dependence on foreign labor. One aspect of the program is a quota system that requires companies in fields such as finance and insurance to increase the number of nationals they employ by 4 to 5 percent annually.<sup>38</sup> As a result, private-sector companies have started to aggressively recruit young Emirati women to fill these quotas, and the Ministry of Labor no longer allows work permits for foreigners working as secretaries, public relations officers, and human resource personnel, effectively limiting all new hires for these positions to nationals.<sup>39</sup> Often, the perception is that the women are hired strictly to satisfy the regulations, and many Emirati women have complained of difficulty in advancing beyond entry-level positions. In effect, the program has resulted in a “‘sticky floor’ for young and ambitious UAE national women.”<sup>40</sup>

In reality, cultural rather than legal barriers are what constrain women from entering certain professions. In many instances, familial conflicts are cited as the cause of both resignations by and termination of employment for many women. Women, particularly nationals, are inclined to join the public sector rather than the private sector because it is deemed more respectable by society, requires shorter working hours, and shows commitment to the country. Generally, women still have few opportunities for professional development and promotion, and local men often show more respect in the workplace for foreign than for Emirati women, since the former are free from the traditional cultural stigma placed on working

women. As stipulated in the personal status code, sexual harassment is prohibited and can be reported at any police station, though no such reports have ever been made.

The labor law provides gender-specific benefits and protections in the workplace. Article 30 entitles all female employees to a 45-day paid maternity leave if they have completed at least one year of service to their employer. Women who have not met that requirement are entitled to half-pay leave. An additional 100-day unpaid continuous or discontinuous leave is available if the mother is unable to resume work at the end of her paid leave as a result of an illness linked to pregnancy or delivery. Article 31 entitles all breastfeeding women to two half-hour rest periods daily during the 18 months following delivery, in addition to their regular rest break. If enacted, the draft labor law would increase maternity leave to 100 days; the first 45 days would be at full pay and the remaining 55 days would be at half-pay. Those who have been employed with their current company for less than a year would only be entitled to half pay for the first 45 days; subsequent time off for illness related to birth would be reduced to 45 days of unpaid leave.

The chambers of commerce and industry for both Dubai and Abu Dhabi established women's business councils in 2002 as a means of encouraging Emirati women to participate in the economy. The Dubai Business Women Council partnered with the private company Naseba Group to organize the Women in Leadership Forum in Dubai. This three-day conference was an opportunity for hundreds of female leaders and entrepreneurs from around the world to network and learn from one another's experiences.<sup>41</sup> The UAE Women's Federation is also involved in promoting women's economic participation through a number of ongoing programs.<sup>42</sup> However, these initiatives neither lobby for change nor challenge government policies.

### *Recommendations*

- ❖ The government should amend the draft labor law so that it removes all gender-based barriers to employment and guarantees women access to the same professional and vocational opportunities as men.
- ❖ The government should withdraw provisions of the draft labor law that fail to recognize women as autonomous adults with legal rights equal to those of men, including rules requiring a husband or guardian's permission for a woman to seek employment.



- ❖ In an effort to avoid the “sticky floor” syndrome created by setting hiring quotas for nationals, the government should make the private sector responsible for developing and training women for professional advancement.
- ❖ Municipal-level obstacles that prevent women from starting or operating businesses without the permission of male relatives should be eliminated.
- ❖ Local chambers of commerce should create programs specifically tailored to empower women in business and launch nationwide campaigns in which they partner with local universities and private companies to encourage more women to pursue careers in the private sector.

## POLITICAL RIGHTS AND CIVIC VOICE

Women in the UAE have made significant inroads into high level government positions in recent years. With the introduction of elections for the Federal National Council, one woman successfully ran as a candidate, joining eight other women appointed to their positions in this advisory body. Additionally, amendments to federal judicial law paved the way for the appointment of female federal judges and prosecutors. However, it remains to be seen to what extent these high-level appointments will permit greater women’s representation in middle management and leadership positions in the realm of public policy.

The UAE is not an electoral democracy. All decisions about political leadership rest with the hereditary rulers of the seven emirates, who form the Federal Supreme Council, the highest executive and legislative body in the country. In 2006, the UAE became the final Gulf state to introduce elections into its political system, albeit to a very limited extent for both men and women. Previously, the 40-member Federal National Council (FNC), an advisory body that lacks legislative powers, was appointed by the seven rulers in numbers proportionate to each emirate’s population.<sup>43</sup> Under the new arrangement, the seven rulers appoint members to electoral colleges, each of which consists of at least 100 times more members than the emirate has FNC members. These electoral colleges choose half of the FNC members for their emirates, while the remaining half continues to be appointed by the rulers. Only those appointed to the electoral colleges are entitled to vote or stand for office, meaning just 6,595 people—less than 1 percent of the total population—voted in 2006. This also represents

Sanja Kelly and Julia Breslin, eds., *Women’s Rights in the Middle East and North Africa* (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010). Available in paperback, as a CD-ROM, and online at <http://www.freedomhouse.org>.

a tiny fraction of the country's 825,000 citizens, more than 300,000 of whom are over the age of 18.

Of the 6,595 electoral college members, 1,163 were women, as were 63 of the 438 who stood for office. Amal Abdullah al-Kubaisi, a female architect, was elected to the FNC, marking the only time that a woman has won an election during the first national vote in any of the Gulf states.<sup>44</sup> Eight other women were appointed to the FNC by the emirate rulers. At 22.5 percent, this level of representation indicates the expanding participation of Emirati women in government and politics.

Although far from ideal, the introduction of indirect elections is seen as a first step in enhancing the political role played by the FNC. There are also plans to expand the number of FNC members, to strengthen the body's legislative powers, and to develop more effective channels of coordination between the FNC and the executive authorities, namely the cabinet. Discussions regarding the introduction of local elections have also been initiated, although no dates have been set for this.

Significant breakthroughs regarding women's participation in the judiciary occurred in early 2008. UAE law was amended to allow women to serve as federal prosecutors and judges, and in March, Kholoud al-Dhahiri was appointed as the first female judge in the Abu Dhabi Justice Department. Meanwhile, two women were hired as the first female prosecutors that same year.<sup>45</sup> In March 2009, Ebtisam al-Bedwawi became the second female judge and the first to be appointed to the Dubai court system.<sup>46</sup> Sultan Saeed al-Badi, undersecretary of the Abu Dhabi Justice Department, said that the appointment reflects government efforts to increase participation by women in the UAE's development.<sup>47</sup> At present, however, women's representation in the judiciary remains limited, which has negatively affected women seeking legal counsel to uphold their rights.

Women are also increasingly represented in cabinet positions. In 2004, Lubna al-Qassimi was appointed as minister of the economy and planning, and in 2008 she became the minister for external trade. Her groundbreaking appointment in 2004 marked the first time a woman had been appointed to the Council of Ministers. As of February 2008, there were four female ministers.<sup>48</sup> Additionally, the first female ambassadors were appointed in September 2008, with Shaikha Najla Mohammad al-Qasimi appointed to Sweden and Dr. Hussa al-Otaiba appointed to Spain.<sup>49</sup> Aside from high-profile appointments, however, evidence suggests that women are failing to achieve promotions at a rate comparable to that of men in management

positions within the executive branch. In March 2008, the UAE's permanent representative to the United Nations, Ahmad Abdul Rahman al-Jarman, noted that women constituted 66 percent of public-sector employees, but only 30 percent of those held "leadership and decision-making posts."<sup>50</sup> Political parties continue to be banned in the UAE.

Some analysts have cynically argued that the government's recent campaign to increase participation by women in civil and political arenas is simply "state-sponsored feminism," and it does not present a meaningful change on the societal level.<sup>51</sup> Women have received numerous high-profile appointments, but most were to institutions with no real power. The FNC has no legislative authority, and of the four women serving on the Council of Ministers, one serves "without portfolio" and the other leads the Ministry of Social Affairs. Moreover, mid-level management positions are still occupied disproportionately by men. Taken together, the evidence shows that although women are making inroads into the public sphere in the UAE, they still lack influence over policy decisions.<sup>52</sup>

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, labor unions are banned and all public gatherings require government permits; the government has only granted one such permit for a pro-Palestinian demonstration in 2006, and women were free to participate.<sup>53</sup> Freedom of expression, whether oral or written, is guaranteed under Article 30 of the constitution 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, journalists are forced to exercise self-censorship or face punishment. Although Sheikh Mohammed issued an announcement banning the imprisonment of journalists who express their opinions, many journalists still exercise a degree of self-censorship due to high fines and penalties that newspapers may incur.<sup>54</sup>

### *Recommendations*

- ❖ The government should grant universal adult suffrage and convert the FNC into a fully elected legislature with functioning political parties that has the capacity to draft, recommend, and reject legislation rather than acting solely in an advisory capacity.

- ❖ Women should be trained and promoted into positions of leadership within the government at a proportion that truly reflects equality between men and women rather than nominal representation.
- ❖ The government should permit and encourage free debate regarding women's rights in the press. Journalists should receive special training on how to avoid gender stereotyping in news stories and television programming.
- ❖ The government should lift restrictions on the freedoms of assembly and association, allowing the formation of labor unions and other independent groups that can champion women's interests as workers and citizens.
- ❖ A program should exist that encourages cooperation between potential and existing female members of the FNC and female politicians abroad, both in the Arab world and beyond, so that Emirati women can learn innovative strategies to help them campaign more effectively in the future and, once elected or appointed, retain the confidence of their constituents.

## SOCIAL AND CULTURAL RIGHTS

Although the UAE is comprised of many nationalities, the country still remains segregated, not only in terms of gender but also by ethnicity. Schools, mosques, and hospitals are segregated by gender, and the large expatriate population also tends to self-segregate, forming separate communities and attending their own schools and hospitals.

There have been few significant changes to women's freedom with respect to health and reproductive rights since 2004. Women in the UAE are free to make decisions regarding their own medical care except in regard to cosmetic procedures intended to "restore" their virginity, which requires a guardian's permission. However, such permission is not required for procedures related to child birth, such as cesarean sections.<sup>55</sup> Birth-control pills are widely available, and women are free to purchase them without a prescription or permission from a spouse. Abortion is still prohibited under the penal code, but Federal Law (No. 7 of 1975) permits the Ministry of Health to grant applications for abortions when there is a threat to the life of the mother.<sup>56</sup> The Ministry is currently working with the religious and legal experts on a draft law that would permit termination of pregnancy within the first 120 days of pregnancy for the life of the mother or if the

fetus would have serious congenital defects; after the first 120 days, abortions would only be granted to save the life of the mother.<sup>57</sup> However, abortions for financial reasons or due to concerns over family size remain illegal.<sup>58</sup> As a result of the abortion ban, there is some extralegal use of labor-inducing drugs purchased on the black market, although the extent of this practice is unknown.<sup>59</sup>

All citizens have free access to publicly funded health services. Due to substantial government investment, major improvements have been made to the national health system, and the UAE now ranks 39th out of 177 industrialized and developing countries of the Human Development Index and Gender-Related Development Index in the latest United Nations Development Programme *Human Development Report*.<sup>60</sup> According to the Ministry of Health, there are nine specialized centers, 95 clinics, four specialized maternity hospitals, and 14 general hospitals that provide medical services to women and children. Over 97 percent of births now take place in hospitals, and infant mortality rates have dropped to one per 100,000 births, approximately equal to rates in developed countries.<sup>61</sup> Ninety-five percent of pregnant women receive professional prenatal care.

Policies vary between the emirates on the question of health care for foreign nationals. The Abu Dhabi government enacted a new Code of Regulations of the Health Insurance Policy in July of 2007 that requires all employers to purchase health insurance for their employees. To the extent the employees are informed about this regulation, they can lodge a complaint with the Ministry of Labor if their employer fails to respect the code. Dubai is expected to eventually follow suit. Foreign nationals without a residency visa, however, are entitled only to free emergency medical care and must pay for all other care. Female genital mutilation is not widely practiced in the UAE.

Women are subjected to gender-based discrimination regarding their right to own and use housing. Traditionally, Emirati women live either with their husband or, if unmarried, their parents, and there is a powerful social stigma associated with women living away from their families. In the event that they wish to acquire property for investment or other purposes, they are free to do so. With respect to foreign nationals, there has been a growing movement in the last three years to segregate housing for married and single people. Single residents have been banned from Dubai villas and limited to housing in nonresidential zones in Sharjah, and there are a number of proposals for the construction of separate “bachelor housing” in Abu Dhabi.<sup>62</sup>

Unmarried couples may not live together legally, but this is not generally enforced for foreigners. However, in some areas, foreign women who have children out of wedlock may be imprisoned and deported if they are found living with a man to whom they are not married.

Women are increasingly participating in business, medicine, arts, politics, and education.<sup>63</sup> However, there is a disparity between women's progress as measured in literature published by the UAE and as measured in international sources. With the exception of a few high-profile women from the social elite who hold important positions, women's overall influence in the UAE remains limited.<sup>64</sup> As noted above (see "Political Rights and Civic Voice"), there is talk of conducting local elections in the same manner as the FNC elections, which would increase women's voice in society, but no changes have been made to date. Currently, women's ability to influence policies at the emirate level is minimal, both formally, as members of each ruler's advisory council, and informally.

The Emirati media provides little opportunity for women to shape its content, and they remain underrepresented in the media both as employees and subjects. The General Women's Union (GWU), led by Sheikha Fatima bint Mubarak, recently held a workshop intended to improve the image of women in Arab media.<sup>65</sup> Under the auspices of the GWU, the Arab Women's Organization has planned a series of initiatives, conferences, and workshops to encourage women in the field, though progress has been slow.

A number of women who have achieved high-profile status on television use their fame as a platform to discuss women's issues in the emirates and the Arab world in general. While there are no legal obstacles to women's participation in the media, social stigmas related to what is acceptable for women must be fully challenged and addressed if there are to be significant changes. One successful initiative started four years ago with *Kalam Nawaem*, a talk show hosted by four Arab women that remains one of the top-rated programs across the Arab world.<sup>66</sup> It is aired by a Saudi-owned company headquartered in the UAE.

Women are not required by law to cover themselves, but women nationals often wear a *sheila*—a traditional black scarf that covers some, or all, of a woman's hair—and an *abaya*—an article of clothing that covers the entire body from the shoulder to the ankles. Those inclined to dress differently are not likely to face verbal and physical abuse from male family members or restrictions that might be imposed on their freedom to leave

home. Rather, many women wear sheila and abaya by choice as a sign of religious and national pride.

The UAE affords its citizens generous social welfare benefits, but there is little research on how poverty affects foreign-national women in particular. The Ministry of Social Affairs pays unemployment benefits to men and women equally, provided that they meet certain minimum requirements such as actively seeking work. Furthermore, the Beit Al-Khair society pays a type of social security to those who are unable to work, including divorcees, widows, the disabled, and the elderly. These payments are usually reserved for nationals. Moreover, Marriage Fund payments are still made exclusively to national men to encourage marriages among Emirati citizens. Begun in 1992, these grants are intended to help new Emirati families set up a home, and only national men who marry national women qualify. A common justification is that men are traditionally expected to pay for wedding-related expenses, including the mahr.

Limited progress has been made regarding the ability of women's rights organizations to freely advocate for social and cultural rights. In 2006, the Ministry of Social Affairs granted a license to the first and only human rights NGO, the UAE Human Rights Association (UAE/HRA), according to the criteria laid down in Federal Law (No. 6 of 1974). However, the UAE/HRA has thus far failed to effectively pursue sensitive women's issues, and instead has opted to act as an ombudsman and liaison between social-welfare bodies and the public. No other human rights organizations are authorized to operate in the country.

### *Recommendations*

- ❖ The government should launch a campaign to positively influence the image of women in the media. An award should be granted to the best female Emirati journalist each year, enticing more women to participate in and influence the press and its content.
- ❖ Media outlets should spearhead serious programs that address critical social issues in an effort to educate the public about the challenges and successes of Arab women in the UAE.
- ❖ A writing competition should be sponsored for high school and university-aged women that calls for essays analyzing the societal and cultural realities of women in the UAE. By highlighting the experiences of average women, the project will encourage a social dialogue regarding the pros and cons of the cultural status quo.

- ❖ The Women's Federation should work with local universities to establish gender studies programs in an effort to raise awareness of women's rights and the challenges that women face in their daily lives.

## AUTHOR

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