

## UNITED ARAB EMIRATES<sup>1</sup>

### OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES

(Updated as at 31 May 2017)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><b>Equality of spouses in marriage</b></p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncodified? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncodified, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly</i></p>	<p>Article 14 of the Constitution provides that equality, social justice, the provision of safety and security and equality of opportunity for all citizens shall be the bases of the community.<sup>2</sup></p> <p>Article 25 states that “all persons shall be equal before the law. No discrimination shall be practised between citizens of the Union by reason of race, nationality, religious belief or social position.”<sup>3</sup> Prohibition of discrimination on the basis of sex is not specifically mentioned in the Constitution.</p> <p>Article 15 of the Constitution states the family as the basis of society. It is supported by religion, ethics and patriotism and the law will guarantee its existence as</p>		<p>The UAE has reservations to Articles 2(f), 9, 15(2), 16 and 29 of CEDAW. With respect to Article 16, the UAE states that it would abide by the provisions of this Article insofar as they are not in conflict with <i>Shari’ah</i> principles.<sup>10</sup></p> <p>The Government of the UAE in its 2014 report to the CEDAW Committee, reiterated its position that matters concerning the regulation of</p>		<p>According to the 2016 UNDP Human Development Report, the UAE ranked 42 on the UNDP Human Development Index and 46 on the UNDP Gender Inequality Index.<sup>12</sup></p>

<sup>1</sup> This Musawah project to map Muslim Family Laws globally was led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this UAE country table, we would also like to thank Divya Srinivasan and Kierra Jones from Harvard Law School, and Dr. Lena-Maria Möller for their inputs in its preparation.

<sup>2</sup> Article 14 of United Arab Emirates’ Constitution, [https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2004.pdf](https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf)

<sup>3</sup> Article 25 of United Arab Emirates’ Constitution, [https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2004.pdf](https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf)

<p><i>state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<p>well as safeguard and protect it from corruption.<sup>4</sup></p> <p>Article 16 of the Constitution obligates society to protect childhood and motherhood.<sup>5</sup></p> <p>The Emirati Personal Status Law No. 28/2005 (PSL) is the main codified law that governs matters relating to marriage and family relations of the majority Muslim population in the UAE regardless of sect.<sup>6</sup> In the absence of codified laws that sufficiently address a particular matter of personal status of Muslims, generally, the rules of Maliki jurisprudence (<i>fiqh</i>) apply, followed by the rules of Hanbali <i>fiqh</i>, then Shafi'i <i>fiqh</i> and finally Hanafi <i>fiqh</i>.<sup>7</sup></p> <p>Despite the equality guarantees under the Constitution, the PSL provides for a marital framework based on 'reciprocal' or 'complementary' rights (as opposed to 'equal' rights) between the two spouses,</p>		<p>marriage and inheritance are based on <i>Shari'ah</i>, which treats women without discrimination in all respects.<sup>11</sup></p>		
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<sup>10</sup> United Nations Treaty Collection Website, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en)  
<sup>12</sup> UNDP, "Human Development Report 2016", Table 5, pp. 214-217, [http://hdr.undp.org/sites/default/files/2016\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf)  
<sup>4</sup> Article 15 of United Arab Emirates' Constitution, [https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2004.pdf](https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf)  
<sup>5</sup> Article 16 of United Arab Emirates' Constitution, [https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2004.pdf](https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf)  
<sup>6</sup> Article 1(2) of the Personal Status Law (2005), <https://legaladvice.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>  
<sup>7</sup> Article 2(3) of the Personal Status Law (2005), <https://legaladvice.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

	<p>whereby in return for maintenance and protection from her husband, a wife is expected to obey him. Thus:<sup>8</sup></p> <ul style="list-style-type: none"> <li>• Article 19 of the PSL defines marriage as a contract that legitimises enjoyment between spouses. Its aim is form and protect a steady family under the husband’s care based on affection and compassion between the spouses;</li> <li>• Article 54 provides that the mutual rights and obligations between the spouses are: (i) legitimate mutual enjoyment of each other within the boundaries of the law; (ii) lawful cohabitation; (iii) good treatment, mutual respect and compassion and preservation of the family welfare; (iv) care of the children and their education thus assuring their upbringing on a sound basis;</li> <li>• Article 55 provides that the wife is entitled to the following from her husband: (i) financial maintenance; (ii) not to prevent her from completing her education; (iii) not to prevent her from</li> </ul>				
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<sup>11</sup> United Arab Emirates State party report, U.N. Doc. CEDAW/C/ARE/2-3 (2014), para. 90, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>  
<sup>8</sup> Articles 19, 54-56, 71, 74 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

	<p>visiting and receiving her parents, extended family and siblings as is customary; (iv) non-interference with her personal properties; (v) non-infliction of material or moral prejudice; (vi) equitable treatment between her and the other wives, in case the husband has taken more than one wife. In addition, Article 74 obligate the husband to provide a marital home commensurate with their social standing;</p> <ul style="list-style-type: none"> <li>• Article 56 provides that a husband is entitled to the following from his wife: (i) willful obedience; (ii) house supervision and preservation of its contents; (iii) suckling his children unless there is an impediment;</li> <li>• Article 71 provides that a wife will lose her financial maintenance if she: (i) refuses to give herself to her husband without lawful excuse; (ii) abandons the marital home; (iii) forbids her husband from entering the marital home without a lawful excuse; or (iv) refuses to travel with her husband without a lawful excuse.</li> </ul> <p>Marriage and family relations of UAE's non-Muslim minority communities are governed by the</p>				
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	principles of their respective religions. <sup>9</sup>				
<p><b>Minimum and equal legal age for marriage</b></p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>The minimum legal age for marriage is 18 (in lunar years) for females and males based on Article 30(1) of the PSL. However, Article 30(2) provides that a judge may permit girls and boys below 18 to marry if it is deemed to be in their interest.<sup>13</sup></p> <p>The law does not stipulate an absolute minimum age below which a marriage may not be authorised.</p>			<p>The marriage officer is required to verify the age of both parties at the time of concluding the contract. If either party is below 18, they are referred to the local judge or committee for approval. The procedures are outlined in the Emirati government's e-Guides for each state e.g. Abu Dhabi.<sup>14</sup></p>	<p>According to media reports:<sup>15</sup></p> <ul style="list-style-type: none"> <li>• Official data shows that the average age of first marriage among Emirati females rose from 23.7 in 1995 to 25.9 in 2010 and among males, from 24.8 to 26.8;</li> <li>• Child marriages, while they still occur, are no longer as common as they were in the past. Education is a reason cited for the change in societal norm;</li> </ul>

<sup>9</sup> Article 1(2) of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>13</sup> Article 1(2) of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>14</sup> Abu Dhabi e-Government Website: [https://www.abudhabi.ae/portal/public/ar/citizens/family/getting\\_married?\\_adf.ctrl-state=14729vkugm\\_4&\\_afLoop=11695308549441011#!](https://www.abudhabi.ae/portal/public/ar/citizens/family/getting_married?_adf.ctrl-state=14729vkugm_4&_afLoop=11695308549441011#!)

<sup>15</sup> Ola Salem, "Women waiting longer to get married, new statistics show", *The National*, 20 October 2013, <http://www.thenational.ae/uae/women-in-the-uae/women-waiting-longer-to-get-married-new-abu-dhabi-statistics-show>; Vivian Neriem, "Emirati women marrying in teens no longer the norm", *The National*, <http://www.thenational.ae/news/uae-news/emirati-women-marrying-in-teens-no-longer-the-norm>; Manal Ismail, "Brides should be at least 21 years old: survey", *The National*, 10 September 2011, <http://www.thenational.ae/news/uae-news/brides-should-be-at-least-21-years-old-survey>

					<ul style="list-style-type: none"> <li>A survey of 755 people by YouGov Siraj indicated that 2/3s or UAE residents do not want their daughters to marry before 21.</li> </ul>
<p><b>Women's consent to marriage</b></p> <p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>Regardless of their age, both prospective brides and grooms must consent to the marriage.<sup>16</sup> Consequently, <i>ijbar</i> marriages are prohibited.</p> <p>The mandatory registration of marriages is provided for in Article 27(1) of the PSL. However, non-registration of a marriage does not necessarily invalidate the marriage. Article 27(3) provides that a marriage may be proven by evidence admitted by <i>Shari'ah</i>.<sup>17</sup></p>		<p>The Government of the UAE in its 2008 report to the CEDAW Committee explained that agreement based on explicit or implicit acceptance of the offer is a necessary condition, with the contracting parties retaining their legal capacities at the time of conclusion of the contract.<sup>18</sup></p>	<p>There is a standardised marriage contract.</p> <p>Procedures to register a contract are available on the website of the Judicial Department of each state (e.g. Abu Dhabi).<sup>19</sup></p> <p>It is mandatory to submit a medical report, from a competent medical committee formed by the Minister of Health, certifying that the spouses are free of any disease that the law</p>	

<sup>16</sup> Articles 38-39 of the Personal Status Law (2005), <https://legaladvice.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>17</sup> Article 27 of the Personal Status Law (2005), <https://legaladvice.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>18</sup> United Arab Emirates State party report, U.N. Doc. CEDAW/C/ARE/1 (2008), p. 58, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>19</sup> "Abu Dhabi Judicial Department Website", <http://www.adjd.gov.ae/portal/site/adjd/Marriage.Contracts.Concluded.inside.the.Judicial.Department/>

				considers a ground for separation. <sup>20</sup>	
<p><b>Women’s capacity to enter into marriage</b></p> <p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her marital rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>Regardless of her age, a prospective bride requires the consent of a marital guardian (<i>wali</i>) to enter into marriage. The <i>wali</i> must be a Muslim and a male relative of the prospective bride (father, followed by brother and then uncle).<sup>21</sup></p> <p>A judge can act as a guardian in the absence of a <i>wali</i>. In addition, if the guardian opposes the marriage, the prospective bride may seek the authorisation of a judge to get married. The judge may authorise the marriage after providing the <i>wali</i> with the opportunity to be heard and determining that the prospective bride’s guardian’s objections are not convincing.<sup>22</sup></p> <p>Pursuant to Article 20 of the PSL, both spouse may stipulate any condition in their marriage contract so long as the conditions: (i) are not inconsistent with the purposes of marriage; (ii) do not involve anything that is illegal. An aggrieved spouse may file for di-</p>				

<sup>20</sup> Article 27 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>21</sup> Articles 32-33, 38-39 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>22</sup> Articles 30, 34-35 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

	<p>force for breach of a condition in the marriage contract.<sup>23</sup></p>				
<p><b>Polygamous marriages</b></p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? Is the permission of an existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recognised? Is it necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>	<p>A Muslim man may marry up to four wives at one time. He is not required by law to seek the permission of the court or his existing wife or wives to enter into a polygamous marriage.</p> <p>Article 55(6) of the PSL requires the husband to ensure equitable treatment between wives if he has more than one wife.<sup>24</sup></p> <p>Article 77 of the PSL prohibits the husband from requiring his wife to live with his other wives in the marital home unless she agrees. The wife has the right to change her mind if she deems the presence of the other wives as being detrimental to her interests.<sup>25</sup></p> <p>The law is silent on the prohibition or otherwise of temporary marriages (misyar). Article 57 of the PSL states that a marriage is either valid or invalid. Article 58 states that a valid marriage is one where the basic tenets and conditions are fulfilled.<sup>26</sup></p>			<p>A woman can include a stipulation in the marriage contract that if her husband enters into a polygamous marriage, she has a right to a divorce.<sup>27</sup></p>	<p>According to academic research and media reports, although anecdotal evidence suggest that polygamous marriages are on a decline among young Emiratis, the practice is still prevalent.<sup>28</sup></p> <ul style="list-style-type: none"> <li>• A survey of 70 men and 130 women from across the UAE conducted by a student in Zayed University found that 4/5 of those surveyed in Abu Dhabi and 2/3 in Dubai said that they agreed with the concept of polygamy compared with fewer than half</li> </ul>

<sup>23</sup> Article 20 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>  
<sup>24</sup> Article 55(6) of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>  
<sup>25</sup> Article 77 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>  
<sup>26</sup> Articles 57-58 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>



					<p>from the Northern Emirates;</p> <ul style="list-style-type: none"> <li>• A survey of 200 male high-school pupils from Ras Al Khaimah (RAK) in 2007 and 2013 conducted by the Al Qassimi Foundation for Policy Research showed that 20-25% of families in RAK were polygamous;</li> <li>• A 1998 study by the UAE Central Department of Statistics found that about 12% marriages in the UAE were polygamous.</li> </ul> <p>According to media reports, it is</p>
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<sup>27</sup>  
<sup>28</sup> Article 20 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>  
Shireena Al- Nowais, "Polygamy with equality is 'impossible', says Emirati spouse", *The National*, 27 May 2015, <http://www.thenational.ae/uae/polygamy-with-equality-is-impossible-says-emirati-spouse>; Melanie Swan, "Zayed University Study gives snapshots of opinions on polygamy", *The National*, 26 May 2015, <http://www.thenational.ae/uae/zayed-university-study-gives-snapshot-of-opinions-on-polygamy>; Melanie Swan, "Young Emiratis See Polygamy Declining", *The National*, 27 May 2015, <http://www.thenational.ae/uae/young-emiratis-see-polygamy-declining>; Wadha Saeed Alnuaimi & Dudley L. Poston Jr., "Polygyny and Fertility in the United Arab Emirates at the End of the 20th Century", *Paper presented at the 26<sup>th</sup> IUSSP International Population Conference in Marrakech, Morocco*, 27 September – 2 October 2009, pp.2-3, <http://iussp2009.princeton.edu/papers/93083>

					debatable whether <i>misyar</i> marriages is legal in the UAE. In any event, one estimate suggest that more than 20,000 marriages in the UAE are <i>misyar</i> marriages. <sup>29</sup>
<p><b>Divorce rights</b></p> <p><i>Is there equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to</i></p>	<p>The PSL provides for three different mechanisms for divorce: (i) unilateral repudiation (<i>talāq</i>); (ii) judicial divorce; and (iii) redemptive divorce (<i>khul'</i>). The marriage may also be annulled.<sup>30</sup></p> <p>A husband may unilaterally repudiate the marriage which may be effectuated: (i) verbally or in writing; (ii) with or without reason; (iii) with or without the presence of the wife; and (iv) inside or outside the court room. If the husband pronounces the repudiation in court, the judge will record the pronouncement. If the husband pronounces the repudiation outside the court, the repudiation may be proved by evidence or admission.<sup>31</sup></p>	<p>Both the Dubai and the Abu Dhabi Court of Cassation have clarified that if a marriage is irretrievably broken, the union should be dissolved by <i>khul'</i> even if the husband does not consent to the divorce or the particular consideration determined by the court.<sup>39</sup> In such cases, women were either asked to return their dower and waive any remaining claims,<sup>40</sup> or they were even allowed to keep the prompt</p>			<p>According to a media reports in 2014:</p> <ul style="list-style-type: none"> <li>The three major causes of divorce were disagreement (17%); having different moods (6%); and temperaments and a high number of problems within the marriage (5%). In addition, about 3% of divorce took place or were registered due to</li> </ul>

<sup>29</sup> Ali Al-Dahiri, "Emirati Society does not recognize Misyar and its Likes", *Al-Bayan*, 15 March 2015, <http://www.albayan.ae/across-the-uae/news-and-reports/2015-03-14-1.2331998>; Muna Ahmed, "No rights, no obligations – just companionship", 23 August 2010, <http://www.emirates247.com/news/emirates/no-rights-no-obligations-just-companionship-2010-08-23-1.282481>

<sup>30</sup> Article 98 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>31</sup> Articles 99-109 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<p><i>divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>A husband may delegate his unilateral right to divorce to his wife (<i>isma</i>) through a stipulation in the marriage contract,<sup>32</sup> thus permitting her to pronounce <i>talaq</i> upon herself (<i>talāq-i-tafwid</i>).</p> <p>Valid grounds for seeking a judicial divorce by a wife include a husband's: (i) failure to provide financial maintenance; (ii) incurable or severe physical or mental illness; (iii) infertility; (iv) prolonged absence of more than one year; (v) imprisonment of more than three years (wife may seek divorce after one year); (vi) failure to copulate with his wife for more than four months; (vii) adultery. In addition, a wife may seek divorce on the basis of prejudice and discordance that make the harmonious constitution of marital life impossible.<sup>33</sup></p>	<p>dower that they received when the marriage was concluded and only had to waive their entitlement to its deferred portion.<sup>41</sup></p>			<p>a decision by a man to take another wife.<sup>42</sup></p> <p>The Explanatory Memorandum, a first official commentary to the Personal Status Law, explicitly states that the UAE did not intend to follow other Arab states – Egypt and Jordan in particular – in making <i>khul'</i> an individual act on the part of the wife.<sup>43</sup></p>
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<sup>39</sup> Appeal No. 69/2008 (Abu Dhabi Court of Cassation (personal status chamber), 31 March 2008); Appeal No. 67/2008 (Dubai Court of Cassation (personal status chamber), 20 January 2009), cited in Lena-Maria Möller, "Struggling for a Modern Family Law: A Khaleeji Perspective", in *Changing God's Law: The Dynamics of Middle Eastern Family Law*, ed. Nadima Yassari (Abingdon: Routledge, 2016), p. 97.

<sup>40</sup> See Appeal No. 77/2007 (Dubai Court of Cassation (personal status chamber), 25 December 2007), Appeal No. 90/2008 (Dubai Court of Cassation (personal status chamber), 24 March 2009), cited in Lena-Maria Möller, "Struggling for a Modern Family Law: A Khaleeji Perspective" in ed. Nadjma Yassari, *Changing God's Law: The Dynamics of Middle Eastern Family Law* (Abingdon: Routledge, 2016), p. 98

<sup>32</sup> Article 100 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>33</sup> Articles 112-131 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>41</sup> Appeal No. 61/2007 (Abu Dhabi Court of Cassation (personal status chamber), 28 November 2007), cited in Lena-Maria Möller, "Struggling for a Modern Family Law: A Khaleeji Perspective", in ed. Nadjma Yassari, *Changing God's Law: The Dynamics of Middle Eastern Family Law*, (Abingdon: Routledge, 2016), p. 98

<sup>42</sup> Nada Altaher, "Divorce rate among Emiratis down in Abu Dhabi", *Gulf News*, 10 May 2016, <http://gulfnews.com/news/uae/society/divorce-rate-among-emiratis-down-in-abu-dhabi-1.1823749>

	<p>In the case of a divorce petition based on prejudice and discordance, if the claim of prejudice is proven and reconciliation between the spouses is impossible, the judge will grant a divorce and decide on the amount of compensation due to the wife. If the claim of prejudice is not proven and the wife insists on her claim, the judge must appoint two arbitrators (one from the husband's family and one from the wife's family) who will attempt to reconcile the couple. If reconciliation is impossible, the arbitrators will submit a report to the judge on their attempts to reconcile the couple and their opinion on the extent to which each of the spouses contributed to the breakdown in the marriage. The judge will then review the report and either appoint two new arbitrators to start the reconciliation afresh or a third arbitrator to assist the existing two or proceed to make the appropriate ruling. Generally, if the source of the dispute is:<sup>34</sup></p> <ul style="list-style-type: none"> <li>• The husband, the judge will grant a divorce without prejudice to the rights of the wife</li> </ul>				
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<sup>43</sup> Notes to Article 110, Explanatory Memorandum to the Personal Status Law No.28 of 2005, Official Gazette No. 439 of 30 November 2005, pp. 199–478  
<sup>34</sup> Articles 117-122 of the Personal Status Law (2005), <https://legaladvice.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

	<p>resulting from the marriage and divorce;</p> <ul style="list-style-type: none"> <li>• The wife, the judge will grant a divorce with the appropriate amount of compensation to be paid by the wife to the husband as determined by the arbitrators and affirmed by the judge;</li> <li>• Shared between the spouses, the judge will grant the divorce without consideration or with one in proportion to each one's share in the offence;</li> <li>• Unclear, the judge will grant the wife a divorce without consideration.</li> </ul> <p>A wife may seek redemptive divorce (<i>khul'</i>), whereby she is granted a divorce in exchange for a mutually-agreed compensation to be paid to the husband. Generally, a <i>khul'</i> divorce requires the consent of both parties. If the husband persistently objects to the <i>khul'</i> divorce and if it is feared that the spouses will transgress the limits of God, the court will rule for divorce (<i>mukhala'a</i>) and determine the 'appropriate</p>				
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	<p>consideration' (<i>badal munāsib</i>) owed to the husband.<sup>35</sup></p> <p>Article 110(2) of the PSL prohibits the waiver of child custody or any of the rights of the children as part of the <i>khul</i> compensation.<sup>36</sup></p> <p>The registration of divorce is mandatory and a standard procedure must be followed.<sup>37</sup> However, non-registration of a divorce does not necessarily invalidate the divorce. Pursuant to Article 106(2) of the PSL, a non-registered divorce may be proved by evidence or admission in the court.<sup>38</sup></p>				
<p><b>Women's financial rights after divorce</b></p> <p><i>Is there a legal concept of matrimonial assets? Is there equal division of marital property upon</i></p>	<p>Generally, upon divorce, a woman may be entitled to: (i) financial maintenance during the waiting period after the divorce (<i>iddah</i>); (ii) a consolatory gift (<i>mut'ah</i>); and (iii) a share in a financial venture,</p>			<p>The couple may agree on the division of assets acquired during the marriage in the marriage contract<sup>48</sup></p>	<p>According to legal experts:<sup>50</sup></p> <ul style="list-style-type: none"> <li>• Generally, couples do not include clauses in</li> </ul>

<sup>35</sup> Articles 110-111 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>36</sup> Articles 110(2) of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>37</sup> Article 106 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>; Hassan Elhais, "UAE Family Matters Q&A: What is the divorce process for a Muslim couple?", *The National*, 6 January 2016, <http://www.thenational.ae/uae/uae-family-matters-qa-what-is-the-divorce-process-for-a-muslim-couple>; Nita Maru, "If you really must divorce, this is how it happens in the UAE", *The National*, 20 June 2014, <http://www.thenational.ae/business/personal-finance/if-you-really-must-divorce-this-is-how-it-happens-in-uae>; Mohammad Badr and Niharika Singh, "Family Matters: An Overview of Divorce and Child Custody in UAE", *Marwan Mohammed Advocates & Legal Consultants*, December 2014, <https://www.stalawfirm.com/en/blogs/view/family-matters-an-overview-of-divorce-and-child-custody-in-uae.html>

<sup>38</sup> Article 106(2) of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>48</sup> Article 20 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>50</sup> Information obtained from Emirati family law expert, February 2017; Hassan Elhais, "United Arab Emirates: Marriage Dissolution: Compensation", *Mondaq*, 1 February 2012, <http://www.mondaq.com/x/162798/Family+Law/Marriage+Dissolution+Compensation>

<p><i>dissolution of the marriage? Is the woman's role as wife and mother recognised as contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mu'tah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<p>the building of a house or anything similar to which she has been made a partner together with her husband.</p> <p>Under the PSL, a woman may be entitled to financial maintenance during the waiting period after the divorce (<i>iddah</i>). The maintenance amount is dependent on the husband's financial capacity as well as the wife's circumstances and economic conditions. The <i>iddah</i> period ranges from three months to a maximum of one year and depends on the woman's situation e.g. whether she is pregnant, menstruating, etc.<sup>44</sup></p> <p>Article 140 of the PSL provides that In case the husband divorces his wife by his unilateral will without a request from her, she is entitled to a <i>mu'tah</i> compensation in addition to the <i>iddah</i> maintenance depending on the financial status of the husband provided it does not exceed one year's worth of maintenance. The judge may order that it be paid by instalments depending on the degree of solvency or insolvency of the husband. In assessing the amount thereof, the prejudice</p>			<p>As opposed to <i>khul'</i> consideration, <i>mu'tah</i> does not automatically become part of an in-court divorce proceeding. As the <i>talaq</i> can be pronounced extra-judicially, women have to file a separate case in order to be awarded post-divorce compensation, and a husband's right to unilaterally repudiate his wife remains unchallenged.<sup>49</sup></p>	<p>the marriage contract regarding the division of assets acquired during the marriage. However, some spouses agree on a transferral of certain assets from one spouse to another during marriage; and</p> <ul style="list-style-type: none"> <li>• In practice, the <i>mu'tah</i> compensation is usually set at 25% of the husband's yearly income.</li> </ul>
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<sup>44</sup> Articles 63, 91, 107, 138-139 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

	<p>sustained by the wife must be taken into consideration.<sup>45</sup></p> <p>Article 62(1) of the PSL provides that if one spouse makes the other a partner in a financial venture, the building of a house or anything similar, each is entitled to their share based on their respective contribution in case of divorce.<sup>46</sup></p> <p>Following a divorce, the father is responsible for the financial maintenance of his children. If the mother is the custodian, the father is obligated to house both the mother and his children in a rented accommodation and pay the mother maintenance to cover the expenses of his children (but not remuneration for looking after the children). A daughter is entitled to maintenance until she is married and a son is entitled to maintenance until he reaches an age where he would be expected to earn a living, unless he is a student, in which case until he completes his education successfully.<sup>47</sup></p>				
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<sup>49</sup> Lena-Maria Möller, “Struggling for a Modern Family Law: A Khaleeji Perspective”, in: ed. Nadjma Yassari, *Changing God’s Law: The Dynamics of Middle Eastern Family Law* (Abingdon: Routledge, 2016), p. 99

<sup>45</sup> Article 140 of the Personal Status Law (2005), <https://legaladvice.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>46</sup> Article 62(1) of the Personal Status Law (2005), <https://legaladvice.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>47</sup> Articles 78, 148 of the Personal Status Law (2005), <https://legaladvice.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>



<p><b>Custody of Children</b></p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon re-marriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>During marriage, both parents have custodial rights over their children. In the event of a divorce, a mother has priority over the custody of her children (followed by the children’s father, maternal grandmother, paternal grandmother, etc.), until her daughter reaches 13 and her son reaches 11. Thereafter, custody of both girl and boy reverts to the father unless a judge determines that it is in the interest of the child for her or him to remain in the custody of the mother.<sup>51</sup></p> <p>A mother loses custody of her child as a result of her: (i) unsound judgement; (ii) immaturity; (iii) lack of fidelity; (iv) inability to raise, maintenance and care the child in the child’s best interest; (iv) dangerous, contagious or infectious diseases; (v) previously convicted for a crim against honour; (vi) re-marriage to a man who is not closely related to the child unless the court considers it to be in the best interest of the child to remain in the custody of the mother; (vii) not being a Muslim unless a judge deems it in the interest of the child; but the mother’s custodial</p>	<p>Courts have exercised a lot discretion regarding lines of custodianship and termination of custodianship, and at times have gone beyond some of the restrictions traditionally placed on the women’s custody of her children. A 2006 case looked at the bond between mother and children and her ability to provide care as determining factor of a child’s best interest.<sup>53</sup></p>		<p>In order for courts to consider any custody claims, it has to first be brought in front of the Family Guidance Committee which is tasked with trying to reconcile the couple.<sup>54</sup></p>	<p>According to academic research, in practice, the PSL has done little to provide legal certainty. Wide discretion is placed in the hands of judges court based on the concept of the best interests of a child (<i>maslahat al-mahdun</i>), and courts have refrained from defining what can be considered as the welfare of the child.<sup>55</sup></p>
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<sup>51</sup> Articles 146, 156 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

	rights over the child ends when the child reaches five. <sup>52</sup>				
<p><b>Guardianship of Children</b></p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A father has priority right over the guardianship of his children during and after a divorce until the children reach the age of civil majority (21). However, a father may be deprived of guardianship if he: (i) is deemed to be not of unsound mind, untrustworthy, and incapable of bearing the duties as a guardian; (ii) is a non-Muslim; (iii) is convicted of a serious crime; (iv) exposes the child to severe danger.<sup>56</sup></p> <p>A custodian mother may:<sup>57</sup></p> <ul style="list-style-type: none"> <li>Take the child to another city within the UAE without permission of the father (as</li> </ul>				

<sup>53</sup> Lena-Maria Moller, "Custody Regulations in the United Arab Emirates: Legal Reforms and Social Realities", *Max Planck Private Law Research Paper No. 13/10*, 2010, p. 13,

<http://pubman.mpdl.mpg.de/pubman/item/escidoc:1740042:8/component/escidoc:1834548/Max%20Planck%20Private%20Law%20Research%20Paper%20No.%2013%2010>

<sup>54</sup> Lena-Maria Moller, "Custody Regulations in the United Arab Emirates: Legal Reforms and Social Realities", *Max Planck Private Law Research Paper No. 13/10*, 2010, p. 9,

<http://pubman.mpdl.mpg.de/pubman/item/escidoc:1740042:8/component/escidoc:1834548/Max%20Planck%20Private%20Law%20Research%20Paper%20No.%2013%2010>

<sup>55</sup> Lena-Maria Moller, "Custody Regulations in the United Arab Emirates: Legal Reforms and Social Realities", *Max Planck Private Law Research Paper No. 13/10*, 2010, p. 3,

<http://pubman.mpdl.mpg.de/pubman/item/escidoc:1740042:8/component/escidoc:1834548/Max%20Planck%20Private%20Law%20Research%20Paper%20No.%2013%2010>

<sup>52</sup> Articles 143-144, 152 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>56</sup> Articles 148, 172, 180-183, 188, 210 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>57</sup> Articles 150(2), 157(3) of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

	<p>guardian) provided the move does not affect the children's education, is not prejudicial to the father and does not cost the father unusual effort and expense to be informed of the child's welfare; and</p> <ul style="list-style-type: none"> <li>• Keep the originals or certified true copies of the child's birth certificate, identity card and any other official documents pertaining to the child.</li> </ul> <p>A father (as guardian):<sup>58</sup></p> <ul style="list-style-type: none"> <li>• May not travel with the child whilst the child is under the custody of the mother without the mother's permission; and</li> <li>• May keep the child's passport unless ordered to surrender it to the custodian by a judge.</li> </ul>				
<p><b>Family Planning</b></p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12</p>	<p>Article 15 of the Law on Medical Responsibility provides that no action shall be taken with respect to family planning, except by consent of both spouses.<sup>59</sup></p> <p>Article 14 further states that no procedure on intervention may be used to assist either in pregnancy</p>				<p>According to World Bank data, the total fertility rate decreased from 6.9 children per woman in 1960 to 1.8 in 2015.<sup>62</sup></p> <p>According to the UN</p>

<sup>58</sup> Articles 151, 158 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>59</sup> Article 15 of the Law on Medical Responsibility (2016), <http://www.alkhaleej.ae/alkhaleej/page/a52c11a8-d96c-41e2-aa90-04bfec18267c>

<p>Paras. 21-23 GR21</p>	<p>or sterilisation without consent of both spouses.<sup>60</sup></p> <p>Article 16 of the Law on Medical Responsibility provides that abortion is only permitted in two cases: (i) to save a mother's life; or (ii) if there is evidence that the baby will be born with fatal deformities and will not survive.<sup>61</sup></p>				<p>Population Division's 2015 Trends in Contraceptive Use Worldwide:<sup>63</sup></p> <ul style="list-style-type: none"> <li>• 48% of married women aged 15-49 are using a method of contraception, with 39% of women using a modern method;</li> <li>• 20% of married women aged 15-49 have an unmet need for family planning services; and</li> <li>• 57% of marriage women aged 15-49 had their demands for family planning satisfied by modern methods of contraception.</li> </ul>
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<sup>62</sup> World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

<sup>60</sup> Article 14 of the Law on Medical Responsibility (2016), <http://www.alkhaleej.ae/alkhaleej/page/a52c11a8-d96c-41e2-aa90-04bfec18267c>

<sup>61</sup> Article 16 of the Law on Medical Responsibility No. 4 of 2016, art. 16, <http://www.alkhaleej.ae/alkhaleej/page/a52c11a8-d96c-41e2-aa90-04bfec18267c>

<sup>63</sup> United Nations Population Division, "Trends in Contraceptive Use Worldwide 2015", Annex Table 1, pp. 36-42, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

<p><b>Personal rights of spouses</b></p> <p><i>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>Article 26 of the Constitution guarantees the personal freedom of all Emiratis.<sup>64</sup></p> <p>Article 29 of the Constitution guarantees Emiratis the freedom of movement and choice of residence within the limits of the law.<sup>65</sup></p> <p>Article 34 of the Constitution guarantees Emiratis the right to freely choose their occupation, trade or profession, within the limits of the law.<sup>66</sup></p> <p>Despite the constitutional provisions stating otherwise, the PSL potentially restricts the personal rights of a married woman as a result of the maintenance-for-obedience legal framework provided for under the law. Thus:<sup>67</sup></p> <ul style="list-style-type: none"> <li>• A wife will lose her financial maintenance if she refuses to</li> </ul>			<p>A wife may stipulate in the marriage contract that she has the right to work, travel, study, etc. She has the right to seek a divorce if a valid condition is violated.<sup>69</sup></p>	<p>According to World Bank data, female labour force participation increased from 25% in 1990 to 42% in 2016.<sup>70</sup> During the same period, male labour force participation was stable at 91%.<sup>71</sup></p> <p>According to the 2016 UNDP Human Development Report:<sup>72</sup></p> <ul style="list-style-type: none"> <li>• 77% of women over 25 have at least some secondary education as compared to 65% of men of the same age group;</li> <li>• 99% of females aged 15-24 are</li> </ul>
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<sup>64</sup> Article 26 of United Arab Emirates' Constitution, [https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2004.pdf](https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf)

<sup>65</sup> Article 29 of United Arab Emirates' Constitution, [https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2004.pdf](https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf)

<sup>66</sup> Article 34 of United Arab Emirates' Constitution, [https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2004.pdf](https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf)

<sup>67</sup> Articles 71-72, 75 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>69</sup> Article 20 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>70</sup> World Bank, "Labour force participation rate, female (% of female population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

<sup>71</sup> World Bank, "Labour force participation rate, male (% of male population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>

<sup>72</sup> UNDP, "Human Development Report 2016", Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, [http://hdr.undp.org/sites/default/files/2016\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf)

	<p>give herself to her husband or travel with her husband without a lawful excuse;</p> <ul style="list-style-type: none"> <li>• A wife may not go out of the marital home without the permission of the husband unless it is in instances that allow her to do so by law, custom or in case of necessity;</li> <li>• A wife may only seek employment without the permission of the husband unless she was already working prior to their marriage or she retained her right to work as a stipulation in the marriage contract. Her work must not be against the interest of the family;</li> <li>• A wife is obligated to live in the marital home provided for by the husband unless she has stipulated otherwise in the marriage contract or if the purpose of the move is prejudicial to her interest.</li> </ul> <p>However, a wife has the right not to be prevented from completing her education or visiting and receiving her parents, extended family and siblings.<sup>68</sup></p>				<p>able to read and write a short simple sentence. The ability to read and write a short simple sentence is almost universal among males in that age group; and</p> <ul style="list-style-type: none"> <li>• 52% of women are satisfied with their freedom of choice as compared to 50% of men.</li> </ul> <p>According to a mediate report, women can be imprisoned by their husbands in the marital home and there have been reported cases where a husband may cut off a wife's communication with the outside world, effectively preventing her from reporting abuse or seeking law enforcement assistance.<sup>73</sup></p>
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<sup>68</sup> Article 55 of the Personal Status Law (2005), <https://legaladvice.me/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<p><b>Inheritance rights</b></p> <p><i>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo their inheritance in favour of their mother upon the death of their father?</i></p> <p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21 Paras. 49-53 GR29</p>	<p>Generally, inheritance rights between women and men are unequal.</p> <p>Book 5 of the PSL details the inheritance shares among beneficiaries. In many instances, such as in the cases of widows and widowers and siblings, a woman is entitled to half the share of a man.<sup>74</sup></p>		<p>The UAE has a reservation to Article 2(f) of CEDAW on the basis that it violates the rules of inheritance established in accordance with <i>Shari'ah</i> principles.<sup>75</sup></p>	
<p><b>Violence against women in the family</b></p> <p><i>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault and violence that affect a woman's mental health</i></p>	<p>Article 26 of the Constitution provides that no person shall be subjected to torture or other indignity.<sup>76</sup></p> <p>Article 55(5) of the PSL provides that a wife has a right to not be injured physically or mentally.<sup>77</sup></p>	<p>In 2010, the Federal Supreme Court upheld a husband's right to "chastise" his wife and children as long as there were no physical marks.<sup>81</sup></p>		<p>According to media reports, the Federal Law No. 7 of 2016 introduced sweeping reforms to the Emirati Penal Code. Among them is the deletion of Article 53(1) of the Penal</p>

<sup>73</sup> Haneed Dajani, "Abuse Law Needed to Protect Women, Legal and Social Experts Say", *The National*, 24 January, 2016, <http://www.thenational.ae/uae/abuse-law-needed-to-protect-women-legal-and-social-experts-say>

<sup>74</sup> Book 5 of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<sup>75</sup> United Nations Treaty Collection Website, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4&clang=en)

<sup>76</sup> Article 26 of United Arab Emirates' Constitution, [https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2004.pdf](https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf)

<sup>77</sup> Article 55(5) of the Personal Status Law (2005), <https://legaladviceme.com/legislation/140/uae-federal-law-28-of-2005-on-personal-status>

<p><i>which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 &amp; 19 Para. 40 GR21</p>	<p>The UAE has not adopted specific legislation to criminalise acts of domestic violence.<sup>78</sup></p> <p>The Penal Code contains some general prohibitions that are applicable to domestic violence. For instance: murder, assault and battery, kidnapping, exposing another to danger, verbal threats, rape and indecent assault.<sup>79</sup></p> <p>The Penal Code does not specifically criminalise marital rape.<sup>80</sup></p>				<p>Code which specifically allowed husbands to chastise their wives and parents and custodians of minor children to punish them within the limits prescribed by <i>Shari'ah</i> or the law.<sup>82</sup></p> <p>According to civil society reports:<sup>83</sup></p> <ul style="list-style-type: none"> <li>• There is no accurate information or statistics on domestic violence;</li> <li>• Women are</li> </ul>
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<sup>81</sup> International Center for Justice and Human Rights, "End All Injustice against Women in the United Arab Emirates, *Submission to the CEDAW Committee for the 62<sup>nd</sup> Session*, 2015, p. 4, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT\\_CEDAW\\_NGO\\_ARE\\_21873\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT_CEDAW_NGO_ARE_21873_E.pdf)

<sup>78</sup> International Center for Justice and Human Rights, "End All Injustice against Women in the United Arab Emirates, *Submission to the CEDAW Committee for the 62<sup>nd</sup> Session*, 2015, p. 2, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT\\_CEDAW\\_NGO\\_ARE\\_21873\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT_CEDAW_NGO_ARE_21873_E.pdf)

<sup>79</sup> Articles 327-359 of the Penal Code (1987), <http://mublegal.com/wp-content/uploads/2014/07/Federal-law-penal-code.pdf>

<sup>80</sup> International Center for Justice and Human Rights, "End All Injustice against Women in the United Arab Emirates, *Submission to the CEDAW Committee for the 62<sup>nd</sup> Session*, 2015, p. 4, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT\\_CEDAW\\_NGO\\_ARE\\_21873\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT_CEDAW_NGO_ARE_21873_E.pdf)

<sup>82</sup> Rayana Khalaf, "The UAE has a new penal code, here's what you need to know", *Step Feed*, 26 October 2016; Haneen Dajani, "Sweeping reforms to UAE penal code include harsher penalties and up to Dh1m in fines", *The National*, 25 October 2016, <http://www.thenational.ae/uae/sweeping-reforms-to-uae-penal-code-include-harsher-penalties-and-up-to-dh1m-in-fines>

<sup>83</sup> International Center for Justice and Human Rights, "End All Injustice against Women in the United Arab Emirates, *Submission to the CEDAW Committee for the 62<sup>nd</sup> Session*, 2015, p. 4, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT\\_CEDAW\\_NGO\\_ARE\\_21873\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT_CEDAW_NGO_ARE_21873_E.pdf); Human Rights Watch, "UAE: Weak Protection Against Domestic Violence", *Human Rights Watch News*, 4 August, 2014, <https://www.hrw.org/news/2014/08/04/uae-weak-protection-against-domestic-violence>



					<p>generally reluctant to report their experiences of violence for reasons that include: (i) fear of being penalised themselves (e.g. losing custody of their children) should they fail to meet the required evidentiary standard to prove domestic violence;(ii) the tendency of the police to refuse to intervene and protect abused women, considering it to be a private domestic matter;</p> <ul style="list-style-type: none"> <li>• While 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</li> </ul>
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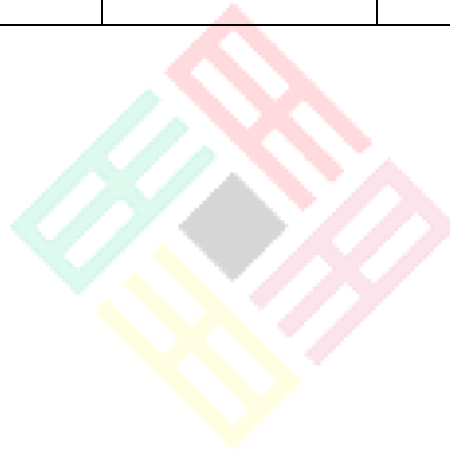
					which can be punished by flogging and death by stoning – or because it would bring shame on their families.
<p><b>Nationality rights</b></p> <p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p> <p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>Article 8 of the Constitution provides that no Emirati may be deprived of his nationality nor may his nationality be withdrawn except in exceptional circumstances which shall be defined by law.<sup>84</sup></p> <p>An Emirati man may pass his nationality to his non-Emirati wife, provided she meets various conditions. However, the law does not specifically provide for an Emirati woman to confer her nationality to her foreign husband.<sup>85</sup></p> <p>An Emirati woman who marries a non-Emirati may retain her Emirati nationality unless she has acquired the nationality of her non-Emirati husband.<sup>86</sup></p> <p>An Emirati father passes his citizenship to his children wherever</p>		<p>The UAE has a reservation to Article 9 of CEDAW as it considers “the acquisition of nationality an internal matter which is governed, and the conditions and controls of which are established, by national legislation.”<sup>89</sup></p> <p>The Government of the UAE in its 2014 report to the CEDAW Committee informed that in December 2011, the President issued royal directives that required citizenship be granted to children of female</p>		<p>According to the Emirati government, Ministry of Interior statistics indicate that 2,047 children of female citizens have been granted UAE nationality since the decree was issued.<sup>91</sup> According to a media report, in November 2016, 97 children of Emirati women married to foreigners were granted Emirati citizenship,<sup>92</sup></p>

<sup>84</sup> Article 8 of United Arab Emirates’ Constitution, [https://www.constituteproject.org/constitution/United\\_Arab\\_Emirates\\_2004.pdf](https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf)

<sup>85</sup> Article 3 of the Nationality Law (1972), <http://www.refworld.org/docid/3fba182d0.html>

<sup>86</sup> Article 14 of the Nationality Law (1972), <http://www.refworld.org/docid/3fba182d0.html>

	<p>they are born. The law does not specifically provide for an Emirati mother to confer her nationality to her children.<sup>87</sup></p> <p>Children of an Emirati woman and a non-Emirati man are given Emirati citizenship only if the father is unknown or without nationality.<sup>88</sup></p>		<p>citizens married to foreigners under certain circumstances.<sup>90</sup> However, the nationality law has not yet been amended to reflect these directives.</p>		
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<sup>89</sup> United Nations Treaty Collection Website, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en)

<sup>91</sup> United Arab Emirates State party report, U.N. Doc. CEDAW/C/ARE/2-3 (2014), para. 40, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>92</sup> Staff Report, “97 children of Emirati mothers get citizenship”, *Gulf News*, 20 November 2016, <http://m.gulfnews.com/news/uae/culture/97-children-of-emirati-mothers-get-citizenship-1.1937940>

<sup>87</sup> Article 2 of the Nationality Law (1972), <http://www.refworld.org/docid/3fba182d0.html>

<sup>88</sup> Article 2 of the Nationality Law (1972), <http://www.refworld.org/docid/3fba182d0.html>

<sup>90</sup> United Arab Emirates State party report, U.N. Doc. CEDAW/C/ARE/2-3 (2014), para. 39, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>