



## Human Rights Watch Submission to the CEDAW Committee of the United Arab Emirates' Periodic Report 62nd Session

February 2015

We write in advance of the 62<sup>nd</sup> Session of the Committee on the Elimination of Discrimination against Women and its review of the United Arab Emirates' (UAE) compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This submission addresses articles 1, 2, 3, 6, 11, 12, 14, 15, and 16 of the Convention.

This submission is based on information contained in Human Rights Watch's October 2014 report, "I Already Bought you": Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates,<sup>1</sup> other Human Rights Watch publications, and media reports.

### ***1. Discrimination against women in its Personal Status Laws: (CEDAW articles 1, 2, 11, 15, and 16)***

Federal law No. 28 of 2005 codified matters of personal status for the first time in the UAE; some of its provisions, particularly those relating to marriage and divorce, discriminate against women.<sup>2</sup>

The concept of male guardianship incorporated in UAE law undermines women's right to make autonomous decisions about marriage. For a woman to marry, her male guardian must conclude her marriage contract.<sup>3</sup> Her guardian can also request an annulment of the marriage.<sup>4</sup>

The law requires a husband to provide "maintenance" to his wife during marriage and, when he has more than one wife, to treat each wife equitably.<sup>5</sup> Under the law, a wife can lose her right to

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<sup>1</sup> Human Rights Watch, "I Already Bought you": Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates," October 23, 2014, <http://www.hrw.org/news/2014/10/22/united-arab-emirates-trapped-exploited-abused>

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

<sup>3</sup> Article 39, Federal Law No. 29 of 2005 on Personal Status discusses the requirement of a male guardian to conclude the contract. If her guardian refuses to provide permission and she is at least 18 years old, she can appeal to the judge to act as her guardian to enter her into marriage. Article 34, Personal Status Law.

<sup>4</sup> Article 21, Personal Status Law.

<sup>5</sup> Personal Status Law, art. 55. The UAE Personal Status law does not explicitly state how many wives a man can marry. But it provides for judges to look at other Shari'a jurisprudence beyond the law, in which case all the four schools of Islamic Law agree that a man can marry up to four wives with certain conditions.

maintenance if, for example, she refuses to have sexual relations without a lawful excuse.<sup>6</sup> The law also requires a wife to be obedient to her husband, maintain the house and its belongings, and breastfeed infant children unless there is an impediment.<sup>7</sup> A woman may be considered disobedient, with few exceptions, if she decides to work without her husband's consent.<sup>8</sup> One case documented by Human Rights Watch concerned a woman victim of domestic violence who police arrested in May 2011 after her husband filed a complaint alleging that she had taken work without his permission; in October 2011, a Dubai court ruled that she had breached the law by working without her husband's permission.<sup>9</sup>

The law provides that a man may unilaterally divorce his wife, whereas a woman who wishes to divorce her husband must apply for a court order, which may be granted only on limited grounds, unless her husband has formally given her a right to unilateral divorce.<sup>10</sup> The limited grounds on which courts may agree to a divorce include failure of the husband to provide "maintenance;" his disappearance, unjustified absence, or effective (and sexual) desertion of his wife; or because he has been sentenced to imprisonment for a term in excess of three years.<sup>11</sup> Other grounds—including (the crime of) adultery, infertility, or contraction of particular diseases or illnesses<sup>12</sup>—are available to both husband and wife, although in practice the former may prefer to opt for unilateral divorce.

As an alternative, women can dissolve their marriage through *khul'* if her husband is willing to agree to divorce in return for financial compensation.<sup>13</sup> In practice, a woman who obtains a divorce through this method often relinquishes her right to the *mahr*—the dowry she received as part of the marriage contract.

## ***2. Discrimination against women in the Penal Code and other laws (CEDAW articles 1, 2, 12, and 15)***

*Zina* offenses that criminalize consensual sexual relations outside marriage and other "moral" offenses under UAE law violate international human rights law, as do the punishments associated with them.

The UAE courts convict and sentence people for *zina* offenses under article 356 of the Penal Code, which criminalizes but does not define "indecency," punishable by at least one year of imprisonment.<sup>14</sup> In some cases, courts have gone beyond codified laws and imposed harsher sentences of stoning and flogging.<sup>15</sup> According to one news report, a judicial official stated that

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<sup>6</sup> Personal Status Law, art. 71.

<sup>7</sup> Personal Status Law, art. 56.

<sup>8</sup> Personal Status Law, art. 72.

<sup>9</sup> See case A in Human Rights Watch news release, "UAE: Weak Protection Against Domestic Violence," August 4, 2014, <http://www.hrw.org/news/2014/08/04/uae-weak-protection-against-domestic-violence>

<sup>10</sup> Personal Status Law, art. 100.

<sup>11</sup> Personal Status Law, arts. 116, 124-131.

<sup>12</sup> Personal Status Law, arts. 112-115.

<sup>13</sup> Personal Status Law, arts. 110-111.

<sup>14</sup> Federal Law No.3 of 1987 on the Penal Code (hereafter referred to as Penal Code), art. 356.

<sup>15</sup> Under the Penal Code, Shari'a law rules apply to offenses such as *hadd* (prescribed offenses under Islamic law) which is not codified in the Penal Code or any other UAE law. However, *ta'zir* (discretionary) offenses are to be determined in accordance with the Penal Code or in other UAE laws. See article 1 of section 1, Penal Code. To invoke a *hadd* punishment for *zina*, the prosecution has to have a confession from the accused or four adult male witnesses to the sexual act. In such cases, the accused can be sentenced to stoning if he or she is married, or 100 lashes and one year of imprisonment if they are unmarried. In most cases the evidentiary requirements are not met, and as such

stoning sentences have not been implemented.<sup>16</sup> Migrant workers are automatically sentenced to deportation following their sentence if they are convicted of *zina* offenses.<sup>17</sup>

*Zina* offenses are often applied in a way that discriminates on the basis of sex: women are disproportionately impacted due to prevailing social attitudes and because pregnancy serves as “evidence” of the offense.<sup>18</sup> Men can deny the act of *zina*, whereas women are less able to do so if they are found to have miscarried or are pregnant. For instance, according to one newspaper report, a married man was advised by a judge either to retract his confession of adultery or face a sentence of stoning.<sup>19</sup> Moreover, hospital staff members are required to report women who have miscarried or are pregnant outside of marriage to the police. *Zina* offenses can also impact vulnerable women, such as migrant domestic workers, disproportionately. Some employers accuse domestic workers of *zina* to counter rape or sexual assault allegations that the worker has made against the employer. As domestic migrant workers live in their employer’s homes, they face the risk that employers will report them to the police if they suspect them of having a sexual relationship.

In some cases, when women have children out of wedlock they cannot obtain birth certificates from the UAE authorities, unless they are able to show a marriage certificate. The registration authorities may compare the date of the marriage against the date of birth.<sup>20</sup> For some migrant women, if they are unable to obtain a birth certificate, this may prevent them from having their child or children accompany them when they return to their home country.

In addition to *zina* offenses, women can also be convicted under article 358 of the Penal Code, which makes it a crime to commit a ‘flagrant indecent act’ but fails to define that term.<sup>21</sup> This charge has been used to convict people for public acts of affection, such as kissing or hugging, regardless of whether they are married or not.<sup>22</sup>

Abortion is illegal in the UAE except where the woman’s life is in jeopardy or the unborn child has deformities that will prove fatal.<sup>23</sup> Abortion in cases of pregnancy resulting from rape is not

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judges use *ta’zir* (discretion) to convict people under article 356 of the Penal Code. See Butti Sultan Butti Ali Al-Muhairi, “The Incompatibility of the Penal Code with Shari'a,” *Arab Law Quarterly*, Vol. 12, No. 3 (1997), <http://www.jstor.org/stable/3381845> (accessed August 28, 2014), pp. 307-329.

<sup>16</sup> “‘Change plea or you’ll be stoned’: Husband who admits cheating given legal advice by judge,” *7 days in Dubai*, April 6, 2014, <http://7daysindubai.com/change-plea-youll-stoned-husband-admits-cheating-given-legal-advice-judge/> (accessed February 12, 2015).

<sup>17</sup> Penal Code, art. 121.

<sup>18</sup> For example of pregnant women sentenced to lashes and stoning see “Pregnant maid to get 100 lashes after being found guilty of illegal affair,” *7 days in Dubai*, November 9, 2013, <http://7daysindubai.com/news-14918/> (accessed August 28, 2014), and “Expat faces death by stoning after admitting in court to cheating on husband,” *7 days in Dubai*, May 6, 2014, <http://7daysindubai.com/expat-faces-death-stoningadmitting-court-cheating-husband/> (accessed February 12, 2015).

<sup>19</sup> “‘Change plea or you’ll be stoned’: Husband who admits cheating given legal advice by judge,” *7 days in Dubai*, April 6, 2014, <http://7daysindubai.com/change-plea-youll-stoned-husband-admits-cheating-given-legal-advice-judge/> (accessed February 12, 2015).

<sup>20</sup> “Birth Certificate Issuance,” Health Authority Abu Dhabi, <https://www.haad.ae/haad/tabid/1077/Default.aspx> (accessed February 12, 2015).

<sup>21</sup> Article 358 of the Penal Code provides: “Whosoever has flagrantly committed an indecent act shall be sentenced to detention for a minimum term of six months”.

<sup>22</sup> “Public kissing can lead to deportation”, *The National*, July 7, 2008, <http://www.thenational.ae/news/uae-news/public-kissing-can-lead-to-deportation> (accessed February 12, 2015).

<sup>23</sup> Penal Code, art. 340. See also “Abortion and the law in the UAE”, *The National*, January 18, 2011, <http://www.thenational.ae/news/uae-news/health/abortion-and-the-law-in-the-uae> (accessed February 12, 2015). For medical terminations, it has to be within 120 days, the procedure also requires the approval of a medical panel and

permitted.<sup>24</sup> A woman who is found to have aborted faces a penalty of up to one year of imprisonment and/or a fine up to Dh10,000 (US\$2,723); a woman found to have attempted to abort faces half this sentence.<sup>25</sup> Women who seek hospital treatment for a miscarriage may be accused of attempted abortion, particularly if they are suspected of becoming pregnant out of wedlock.<sup>26</sup>

### ***3. Violence against women (Articles 2, 3, and 16)***

#### **(a) Inadequate Protection from Domestic Violence**

The UAE has no specific law on domestic violence. While general Penal Code provisions, such as on assault, can apply to spousal abuse, UAE law fails to spell out protection measures and the responsibilities of police, courts, and other government agencies in handling such abuse. In March 2014, local media reported that the Abu Dhabi public prosecutor had written to the Attorney General to request that a new family abuse law be enacted.<sup>27</sup>

Article 53 of the UAE's penal code allows the imposition of "chastisement by a husband to his wife and the chastisement of minor children" so long as the assault does not exceed the limits prescribed by Sharia, or Islamic law. In 2010, the UAE's Federal Supreme Court issued a ruling—citing the UAE penal code—that permits beating and other forms of punishment or coercion of wives by their husbands, so long as they do not leave physical marks.<sup>28</sup> Otherwise, Article 339 of the penal code states that anyone who physically assaults another person in any manner "shall be punished by detention and by a fine" if the assault results in "illness or the inability to perform his personal work for a period of 20 days." If the results of the assault are "less serious," the law stipulates a maximum period of detention of one year and a maximum fine of Dh10,000 (\$2,723).

Human Rights Watch has documented three cases in which UK nationals married to Western expatriates who were residents in the UAE alleged that police there discouraged them from reporting domestic violence and failed to properly investigate their complaints.<sup>29</sup> Two of the women subsequently lost child custody cases after proceedings in which the police failure to properly investigate their allegations appears to have violated their right to a fair hearing. According to one woman, a police officer told her, "In the UAE husbands are allowed to beat their

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the written consent of the woman's husband or male guardian. See "Illegal abortions a fatal choice", *Gulf News*, July, 7 2011, <http://gulfnews.com/news/gulf/uae/general/illegal-abortions-a-fatal-choice-1.834605> (accessed February 12, 2015).

<sup>24</sup> "Illegal abortions a fatal choice", *Gulf News*, July, 7 2011, <http://gulfnews.com/news/gulf/uae/general/illegal-abortions-a-fatal-choice-1.834605> (accessed February 12, 2015).

<sup>25</sup> Penal Code, art. 340.

<sup>26</sup> "Runaway maid's abortion attempt lands her in trouble", *Gulf News*, June 2, 2012, <http://gulfnews.com/news/gulf/uae/crime/runaway-maid-s-abortion-attempt-lands-her-in-trouble-1.1030587> (accessed February 12, 2015). According to media reports, in some attempted abortion cases, it has resulted in death. See "Attempted abortion in UAE ends in tragedy," *Gulf News*, February 24, 2012, <http://gulfnews.com/news/gulf/uae/crime/attempted-abortion-in-uae-ends-in-tragedy-1.985404> (accessed February 12, 2015).

<sup>27</sup> "Domestic abuse in Abu Dhabi triples in three years," *The National*, March 30, 2014, <http://www.thenational.ae/uae/courts/domestic-abuse-in-abu-dhabi-triples-in-three-years> (accessed February 12, 2015).

<sup>28</sup> Human Rights Watch news release, "UAE: Spousal Abuse Never a 'Right,'" October 19, 2010, <http://www.hrw.org/news/2010/10/19/uae-spousal-abuse-never-right>

<sup>29</sup> Human Rights Watch news release, "UAE: Weak Protection Against Domestic Violence," August 4, 2014, <http://www.hrw.org/news/2014/08/04/uae-weak-protection-against-domestic-violence>

wives.” Only one of the three husbands was prosecuted and convicted; the authorities also prosecuted, and the court convicted, the wife for damaging a door at the time her husband assaulted her. The court fined them both the same amount.

Marital rape is not a crime in the UAE. The UAE Personal Status Law provides that a woman can lose her right to maintenance if she refuses to have sexual relations with her husband without a lawful excuse.<sup>30</sup>

In March 2014, according to *The National*, officials reported that there had been a threefold increase in reports of domestic violence in Abu Dhabi in the previous three years.<sup>31</sup> The report noted that there had been 507 cases in 2013 of husbands abusing their wives by “physical attacks, verbal insults, defamation and threats.”<sup>32</sup> But it did not contain details of convictions. There are no independent women’s rights organizations in the UAE. However, according to its 2012 annual report, the Dubai Foundation for Women and Children (DFWAC), a government-founded shelter for women and children who have suffered domestic violence, afforded shelter to 17 victims of domestic violence in 2012 (6 Emiratis and 11 expatriates), and took action on behalf of another 139 “external clients” (apparently women who did not reside at the shelter) who reported domestic violence.<sup>33</sup>

### **(b) Inadequate Protection from Sexual Assault and Harassment**

UAE law criminalizes rape and harassment, but women subjected to these crimes face serious obstacles when seeking justice.<sup>34</sup> Women who have suffered rape or sexual assault face a risk that they will face *zina* charges if they report the crimes committed against them. UAE and international media have reported several cases of women who were convicted for having illicit relations after alleging rape.<sup>35</sup>

According to a survey of 323 women in the UAE by YouGov Siraj, more than half of women respondents said they would not report a rape to police. The chief executive of YouGov Siraj, Iman Annab, was quoted in the media as saying: “In many cases, women are concerned about ending up on trial.”<sup>36</sup>

Prosecuting and convicting rape cases is challenging given prevailing social attitudes of moral behavior. For instance, factors that police, prosecutors, and courts consider when assessing the

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<sup>30</sup> Personal Status Law, art. 71.

<sup>31</sup> “Domestic abuse in Abu Dhabi triples in three years,” *The National*, March 30, 2014, <http://www.thenational.ae/uae/courts/domestic-abuse-in-abu-dhabi-triples-in-three-years> (accessed February 12, 2015).

<sup>32</sup> Ibid., see also “Domestic abuse among Emirati women is ‘more verbal than violent,’” *The National*, May 30, 2013, <http://www.thenational.ae/news/uae-news/domestic-abuse-among-emirati-women-is-more-verbal-than-violent> (accessed February 12, 2015).

<sup>33</sup> Dubai Foundation for Women and Children, “DFWAC Annual Report 2012,” covering the year 2012, <http://www.lorewing.ae/dfwac/pdf/DFWAC%20ANNUAL%20REPORT%202012.pdf>

<sup>34</sup> Penal Code arts. 354, 355, and 359.

<sup>35</sup> See for example “Woman claiming rape was jailed for adultery”, *The National*, December 13, 2009, <http://www.thenational.ae/news/uae-news/woman-claiming-rape-was-jailed-for-adultery> (accessed February 12, 2015); “How the UAE condones sexual violence,” June 29, 2010, *The Guardian*, <http://www.theguardian.com/commentisfree/2010/jun/29/uae-rape-victims-women> (accessed February 12, 2015); and “Dubai sentences Norwegian woman who reported rape”, BBC News, July 20, 2013, <http://www.bbc.co.uk/news/world-middle-east-23381448> (accessed February 12, 2015).

<sup>36</sup> “Survey says women unlikely to report rape,” *The National*, January 6, 2010, <http://www.thenational.ae/news/uae-news/survey-says-women-unlikely-to-report-rape> (accessed February 12, 2015).

credibility of a woman who alleges rape include whether or not she had consumed alcohol, whether she already knew the alleged perpetrator, whether she was deemed to have resisted the attack sufficiently, and, in one case, whether she had agreed to go for a car ride.<sup>37</sup>

Apart from the risk of prosecution, a rape survivor in the UAE generally faces social ostracism, even ostracism by her family. For many Emiratis, a family's honor depends on a woman's good reputation, and society is quick to judge sexual assault victims as "immoral." By making it especially difficult for a victim to prove rape, and by treating those who allege rape as potential criminals and/or social outcasts, the UAE effectively discriminates against women and violates their fundamental right to due process of the law.

#### **4. *Migrant Domestic Workers (Articles 2, 3, 6, 11, and 15)***

At least 146,000 female migrant domestic workers—possibly more—are employed in the UAE.<sup>38</sup> Many of these may enjoy good working conditions but others do not. In its 2014 report, Human Rights Watch documented how the UAE's visa sponsorship system, known as *kafala*, and the lack of labor law protections leave migrant domestic workers exposed to abuse.<sup>39</sup> Before compiling its report, Human Rights Watch spoke to 99 domestic workers in the UAE. They complained about many abuses, including not being paid earnings due to them, not being permitted rest periods or time off, confinement to the homes of their employers, and excessive work, with working days of up to 21 hours. They described being deprived of food and reported psychological, physical, and sexual abuse. Many said their employers treated them like animals, or as if they were dirty and that any physical contact with them would be contaminating. In some cases, the abuses amounted to forced labor or trafficking.

In the UAE, the *kafala* system ties migrant workers to individual employers who act as their visa sponsors, and restricts migrant workers' ability to change employers. The system gives employers great power over employees because it entitles them to revoke sponsorship at will. This automatically removes the right of a worker to remain in the UAE and triggers repatriation procedures.

The UAE authorities have reformed some aspects of the *kafala* system in recent years and introduced labor law protections for certain categories of migrant workers, but not for domestic workers. For instance, other migrant workers can legally leave an abusive employer without penalty. Domestic workers who wish to leave employers, even if they are abusive, may not transfer to another employer before the end of their contractual period (generally two years) without their current employer's permission, trapping many in abusive situations. A domestic worker who leaves her sponsor before the end of her contract without the approval of her

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<sup>37</sup> "International coverage of UAE law: ignorance is no excuse," *The National*, July 23, 2013, <http://www.thenational.ae/news/uae-news/international-coverage-of-uae-law-ignorance-is-no-excuse> (accessed February 12, 2015) and "How the UAE condones sexual violence," June 29, 2010, *The Guardian*, <http://www.theguardian.com/commentisfree/2010/jun/29/uae-rape-victims-women> (accessed February 12, 2015).

<sup>38</sup> International Labour Organization (ILO), *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (Geneva: ILO, 2013), Appendix II, p.129, quoting statistics from the National Bureau of Statistics of the United Arab Emirates, *Labour Force Survey 2008*, [http://www.ilo.org/wcmsp5/groups/public/---dcomm/---publ/documents/publication/wcms\\_173363.pdf](http://www.ilo.org/wcmsp5/groups/public/---dcomm/---publ/documents/publication/wcms_173363.pdf) (accessed February 12, 2015).

<sup>39</sup> Human Rights Watch, "'I Already Bought you': Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates," October 23, 2014, <http://www.hrw.org/news/2014/10/22/united-arab-emirates-trapped-exploited-abused>

sponsor and the UAE authorities is deemed by law to have “absconded.”<sup>40</sup> “Absconding” is an administrative offense that can result in fines, deportation, and a one-year entry ban.<sup>41</sup> Moreover, the UAE standard contract (updated in 2014) specifically states that a domestic worker’s rights are “null and void” if the worker leaves work without informing the sponsor (i.e., “absconds”).<sup>42</sup> Domestic workers are explicitly excluded from the UAE’s labor law and from the basic protections that the law and other labor policies afford to most other workers, such as limits on working hours and provision for overtime pay.<sup>43</sup> Domestic workers have virtually no legal safeguards governing their employment.

As domestic workers are excluded from the labor law, their work is also not regulated by the Ministry of Labor. Instead, domestic workers fall within the domain of the Ministry of Interior’s General Directorate of Residency and Foreign Affairs (the immigration department). This results in a parallel system whereby domestic workers have fewer rights and remedies than other types of migrant workers. Protective memoranda of understanding that sending countries have negotiated with the UAE Ministry of Labor simply do not apply to domestic workers. Domestic workers also are excluded from Ministry of Labor regulations that apply to other migrant labor sectors, including the imposition of fines on employers who make the workers they contract pay recruitment fees.<sup>44</sup>

A draft law on domestic workers has been pending since 2012, when the UAE government stated that the cabinet had approved a bill on domestic workers and that it would be promulgated once the Interior Ministry completed implementing regulations.<sup>45</sup> Human Rights Watch made several requests to the government to obtain the draft law but received no response.<sup>46</sup> While Human Rights Watch cannot confirm the content of the draft law, *Gulf News*, which said it had seen a copy of the draft law, reported in 2012 that it proposed to entitle domestic workers to one paid day of leave each week, a period of paid annual leave, and paid and unpaid sick days.<sup>47</sup> This would be less than the entitlements that the current labor law affords to workers in other sectors. Human Rights Watch does not know what, if anything, the draft law proposes in relation to daily working hours for domestic workers and their entitlement to regular rest breaks while at work.<sup>48</sup> According to media reports, however, the draft law proposes to make domestic workers criminally liable if they disclose “secrets” of their employer and punish them with up to six

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<sup>40</sup> Article 95 and 96(a) of the Executive Regulations of the Entry and Residence of Foreigners Law provide that persons who have escaped their sponsors are subject to arrest and prohibited from leaving the country of their own accord.

<sup>41</sup> Article 63 of the Executive Regulations of the Entry and Residence of Foreigners Law provides for the sanction of a one-year entry ban where a domestic worker has their residence visa cancelled before the end of their contract outside of the transfer rules. Article 79(d) of the same regulation provides for the expulsion of a foreigner whose entry permit or residence visa has been cancelled and has not left the country within the prescribed period.

<sup>42</sup> 2014 UAE Employment Contract for Domestic workers and the Like, art. 7(4).

<sup>43</sup> Federal Law No. 8 of 1980 on the Regulations of Labor Relations, art. 3(c).

<sup>44</sup> Ministers Council Resolution No. 10 of 2012 amending Cabinet Decision No. 27 of 2010 and Ministerial Resolution No. 703 of 2013.

<sup>45</sup> UN Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 United Arab Emirates, A/HRC/WG.6/15/ARE/1, November 2, 2012, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/179/70/PDF/G1217970.pdf?OpenElement> (accessed February 12, 2015), para. 26.

<sup>46</sup> Human Rights Watch, “I Already Bought you”: Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates,” p.29.

<sup>47</sup> “Domestic workers get more protection from exploitation,” *Gulf News*, May 2, 2012, <http://gulfnews.com/news/gulf/uae/employment/domestic-workers-get-more-protection-from-exploitation-1.1016692> (accessed February 12, 2015).

<sup>48</sup> Ibid.

months in prison and a fine of Dh100,000 (US\$27,227).<sup>49</sup> Media reports also say the draft law proposes severe penalties, including imprisonment, for anyone who “encourages” a domestic worker to quit her job or offers her shelter.

Several sending countries have their own standard employment contracts for domestic workers travelling abroad with terms that differ from the UAE standard contract. Upon arrival in the UAE, domestic workers must sign the standard UAE contract (the UAE Employment Agreement for Domestic Workers and Sponsors) in order to secure a residence visa. This replaces the earlier contract, which is unenforceable in the UAE.

The UAE authorities issued a new standard contract for domestic workers in June 2014.<sup>50</sup> This differs from its predecessor inasmuch as it provides for at least eight continuous hours of rest (i.e., sleep) each day; one day off per week or compensation equal to that day’s work; and an annual paid vacation of 30 days. However, it also allows the employer the right to deduct at source from the domestic worker’s salary any damage “or loss of any goods or property attributable to default or negligence” of the worker.<sup>51</sup> The new standard contract contains no limit on working hours (other than the daily eight-hour rest period), no provisions for overtime pay, and no workers compensation. Many of the workers Human Rights Watch interviewed said they signed contracts in their home country but then found when they arrived in the UAE and signed the UAE standard contract that they would be paid less than the original contract indicated.

Most domestic workers Human Rights Watch interviewed said their employers kept possession of their passports, posing a major hurdle for any worker wishing to escape an abusive employer. Passport confiscation is unlawful in the UAE, yet the authorities expect employers to be in possession of their employees’ passports when they cancel sponsorship visas or report “absconding” workers.

Some of the workers interviewed by Human Rights Watch suffered abuses that amounted to forced labor or trafficking. The UAE criminalizes both forced labor and trafficking, but applies the law narrowly. Much of the UAE’s efforts have focused almost entirely on one aspect of human trafficking—trafficking for purposes of sexual exploitation—while neglecting to address trafficking into forced labor, including domestic servitude. The UAE authorities treat human trafficking and “labor issues” separately rather than deal with the key structural factors that lead to trafficking of forced labor and other forms namely the abusive *kafala* system and the lack of labor law protections for domestic workers.<sup>52</sup> Human Rights Watch is not aware of any case in which the UAE authorities prosecuted employers for exposing domestic workers to forced labor. Workers who find themselves in abusive conditions have little recourse to shelter or justice. While there are several government-founded shelters for women subjected to sex trafficking or

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<sup>49</sup> It is not yet clear from available media reports how the law will define “secrets,” nor whether that definition will exclude disclosure by domestic workers of alleged criminal behavior against them by their employers.

<sup>50</sup> See also “Standard contract for maids in the UAE,” *Gulf News*, March 2, 2014, <http://gulfnews.com/news/gulf/uae/employment/standard-contract-for-maids-in-the-uae-1.1297972> (accessed February 12, 2015) and Ministry of Foreign Affairs website, “Ministry of Foreign Affairs releases brief on ‘The Protection of the Rights of Domestic Labour in the U.A.E.’,” June 11, 2014, [http://www.mofa.gov.ae/mofa\\_english/portal/abc551e4-d350-4202-af7d-722d4022a340.aspx](http://www.mofa.gov.ae/mofa_english/portal/abc551e4-d350-4202-af7d-722d4022a340.aspx) (accessed February 12, 2015).

<sup>51</sup> 2014 UAE Employment Contract for Domestic workers and the Like, art. 2(3).

<sup>52</sup> The National Committee to Combat Human Trafficking (NCCHT) stressed in its report that “the UAE—with expatriates making up about 85 percent of its population—believes that labour issues should not be linked to human trafficking, and should be treated separately.” NCCHT, “Combating Human Trafficking in the UAE: Annual Report 2013-14” p.21, on file with Human Rights Watch.

domestic violence, the authorities have not established any official emergency shelter specifically for domestic workers who are exposed to physical or psychological abuse. Some embassies provide shelter and assistance to their nationals, but many do not. UAE law criminalizes “harboring” a migrant worker without a valid visa, including workers who have fled abusive employers. The penalty can be a heavy fine or imprisonment.<sup>53</sup>

Workers who reported abuse said their recruitment agencies had provided little help, in some cases forcing them to return to abusive employers or to transfer to work for new families against their will. Some said recruitment agents told them they could not return home unless they first reimbursed the high recruitment fees their sponsors had paid. Several said agents confined them to their agency residence and deprived them of food or beat them when they sought their help.

Domestic workers who leave their place of work to escape abuse or for other reasons face a risk that their employers will file criminal complaints against them. Some workers who spoke to Human Rights Watch said that when they escaped and sought to report their employers to the police or immigration authorities for committing abuses, they learned that their employers had already filed trumped-up charges of theft against them. In most cases, such charges were intended to intimidate workers into forgoing wages or dropping charges against employers for a variety of abuses, and were not pursued once they had achieved that purpose. In other cases, however, domestic workers did face trial.

Domestic workers who said they had turned to immigration officials or the police for help against abuse by their employers reported a mixed response. Some said police officers had encouraged certain abused workers to return to their employers. Workers complained about delays and other problems they had encountered when seeking remedies through the courts. This had led some to abandon efforts to achieve judicial redress because the process was lengthy and they were not allowed to work in the meantime. Many said they were resigned to return home unpaid and without justice.

## *5. Recommendations*

The CEDAW committee in its last concluding observations made a number of recommendations that have not been implemented, including the calls on the UAE to “to enact legislation on violence against women, including domestic violence, to ensure that it is a criminal offence,” “to introduce legislative reforms to provide women with equal rights in marriage, divorce, property relations, the custody of children and inheritance,” and to “guarantee equal application of all labour laws to women and men regardless of their nationality.”

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

- Reform the Personal Status Law to provide women with equal rights in entering marriage, during marriage, and at its dissolution, including in all issues concerning children, inheritance, and property rights.
- Enact laws to make all forms of violence against women and girls, including domestic violence, a criminal offense. Ensure that legislative reform includes provisions for victim

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<sup>53</sup> Anyone found to have harbored a “fugitive” can be sentenced to a term of imprisonment of no less than two months and fined Dh100,000 (US\$27,227). The fines can go up to Dh5 million (\$1,361,348) for those harboring multiple “fugitives.” Entry and Residence of Foreigners Law, arts. 34(3) and 34(4).

assistance such as protection orders, and appropriate protocols and guidelines for all government officials responding to violence against women.

- Decriminalize adult consensual sexual relations in private such as by repealing or amending ‘indecency’ offenses in the Penal Code. Allow women to acquire birth certificates without the requirement of a marriage certificate.
- Reform discriminatory evidence standards for prosecution of rape and train police, investigators, public prosecutors, and judges on handling sexual violence cases, and ensure policewomen with specialised training are available to assist and support women who report rape. Rape victims should receive medical treatment, psychological counselling, and other support services. Undertake a number of specific reforms to ensure the rights of migrant domestic workers such as:
  - o Reform the *kafala* visa-sponsorship system so as to allow domestic workers to transfer employment without employer consent and without losing valid immigration status. Remove sanctions on “absconding,” including deportation and bans on future work.
  - o Enforce the prohibition on the confiscation of workers’ passports. Sanction employers and recruiters who violate this prohibition.
  - o Amend and pass the draft labor law on domestic workers. Ensure that it provides protections at least equal to those contained in the UAE’s other labor laws and complies fully with the ILO Convention on Decent Work for Domestic Workers.
  - o Ratify the ILO Convention on Decent Work for Domestic Workers, the Protocol of 2014 to the ILO Forced Labour Convention, 1930, and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
  - o Create a domestic work inspection task force to monitor working conditions and legal compliance for this sector, including inspecting places of work where domestic workers have alleged violations and expediting dispute-resolution for domestic worker complaints. Improve provision of emergency shelters and other assistance, and publicize their existence in Arabic and languages spoken by larger migrant populations in the UAE. Ensure that domestic workers can access such shelters.
  - o Expand government monitoring of domestic worker recruitment agencies to ensure accountability for abuse.
  - o Undertake regular public information campaigns to inform domestic workers and employers of their rights and responsibilities under UAE law, and provide information and contact details for sources of assistance for abused workers.