



UNITED ARAB EMIRATES: A BRIEF ON THE IMPLEMENTATION
OF CEDAW COMMITMENTS FROM ARTICLES 2, 5, 11, AND
GENERAL RECOMMENDATION 12

*Information for the Committee on the Elimination of Discrimination Against Women
80th Pre-Session Working Group, March 2021*

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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 80th Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following four areas:

1. Prohibition of Discrimination in Constitutions (Article 2)
2. Non-discrimination in Work and Employment (Article 11)
3. Sexual Harassment in Work and Employment (General Recommendation No. 12)
4. Paid Maternity and Paternity Leave (Articles 11, 5)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we provide a summary of our findings, as well as suggested questions for the Committee to ask the United Arab Emirates, and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed constitutional and legislative excerpts documenting our findings. We hope the Committee will recommend that the United Arab Emirates address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended the United Arab Emirates for having provisions in place, we hope the Committee will recommend that the United Arab Emirates work with stakeholders to overcome any obstacles in implementing these provisions.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. General Equality and Non-Discrimination (Article 2)

Based on our review, Article 25 the United Arab Emirates' constitution prohibits discrimination based on race, nationality, religion, and social position. However, **the constitution does not explicitly guarantee equality and non-discrimination to women or to persons based on sex or gender.**

We hope the Committee will:

- Recommend in its concluding observations that the United Arab Emirates amend the constitution to add explicit guarantees of equality and non-discrimination based on sex and gender, consistent with CEDAW commitments. These guarantees could be added to Article 25 of the constitution, which already guarantees non-discrimination based on other personal characteristics and statuses.

2. Non-Discrimination in Work and Employment (Article 11)

Based on our review, the United Arab Emirates **guarantees equal pay for equal work between women and men.** However, legislation fails to guarantee the stronger provision of equal pay for work of equal value that is outlined in Article 11 of the Convention. We **did not identify any provisions that explicitly prohibit sex-based discrimination in other dimensions of work including employment opportunities, vocational training, promotions or demotions, and terminations.**

We hope the Committee will:

- In its list of issues, ask the United Arab Emirates: Can the United Arab Emirates outline any concrete, near-term plans to pass legislation that explicitly prohibits sex-based discrimination in other dimensions of work including employment opportunities, vocational training, promotions and demotions, and terminations?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that the United Arab Emirates pass and implement legislation that explicitly prohibits sex-based discrimination in all dimensions of work.

3. Sexual Harassment in Work and Employment (General Recommendation No. 12)

Based on our systematic review of national legislation, **Law No. 4/2019 amended the Penal Code to generally prohibit sexual harassment by anyone with functional authority.** We commend the United Arab Emirates for recently taking this important step in protecting women from sexual harassment. The development and implementation of detailed guidelines for this provision, which are always important, will be particularly important given the broad nature of the term “functional authority”, and also given that the Penal Code does not provide details around workplace sexual harassment.



We hope the Committee will:

- In its list of issues, ask the United Arab Emirates: Can the United Arab Emirates outline any planned steps, whether through additional legislation, regulation, or other implementing procedures, to ensure that workplace sexual harassment is explicitly prohibited?
- Recommend in its concluding observations that the United Arab Emirates develop a comprehensive law/regulations prohibiting workplace sexual harassment that includes the following key elements as outlined in the ILO Convention No. 190:
 - An explicit prohibition of sexual harassment that extends to anyone in the workplace, including supervisors, co-workers, and third-parties, such as customers, clients, or contractors;
 - A clear definition of sexual harassment behaviors, including quid pro quo, conduct that creates a hostile work environment, and sex-based harassment;
 - A prohibition of retaliatory actions against persons who report cases of workplace sexual harassment;
 - An effective and inclusive reporting process that ensures all women, regardless of income or social status, have legal recourse.

4. Paid Maternity and Paternity Leave (Articles 11, 5)

Based on our systematic review of national legislation and country reports, **working mothers in the United Arab Emirates are guaranteed 45 days of paid maternity leave. We did not identify any provisions that protect from dismissal or guarantee job protection for women to take paid maternity leave. We found no provisions that provide paid paternity leave to fathers.**

We hope the Committee will:

- In its concluding observations, recommend that the United Arab Emirates increase the duration of paid maternity leave to at least 14 weeks, consistent with widely accepted standards set and endorsed by global institutions such as the ILO and UNICEF.
- In its concluding observations, recommend that the United Arab Emirates amend the current provisions to ensure women who take paid maternity leave are protected from dismissal and guaranteed the right to return to the same or equivalent job, consistent with Article 11 of the Convention.
- In its list of issues, ask the United Arab Emirates: Can the United Arab Emirates outline any concrete, near-term plans to pass legislation that guarantees paid paternity leave to fathers in all sectors of employment?
 - If the United Arab Emirates does not have concrete, near-term plans to guarantee paid paternity leave to fathers in all sectors of employment, recommend in its concluding observations that the United Arab Emirates pass and implement legislation that does so.



DETAIL OF CONSTITUTIONAL AND LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured including, new legislation or policies that have not yet been published globally.

1. General Equality and Non-Discrimination (Article 2)

While the entirety of the Convention aims to eliminate discrimination against women in all spheres of life, Article 2(a) of the Convention specifically requires States Parties “To embody the principle of the equality of men and women in their national constitutions”.

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution explicitly guaranteed equality or non-discrimination on the basis of sex and/or gender by prohibiting discrimination, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

Constitutions state the values of a country, describe the rights of people living within the country, and profoundly influence norms and practice. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

UNITED ARAB EMIRATES’ CONSTITUTIONAL PROVISIONS: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION BASED ON SEX AND GENDER

Based on our review, Article 25 the United Arab Emirates’ constitution prohibits discrimination based on race, nationality, religion, and social position. However, **the constitution does not explicitly guarantee equality and non-discrimination to women or to persons based on sex or gender.**

Article 25

All persons shall be equal before the law. No discrimination shall be practiced between citizens of the Union by reason of race, nationality, religious belief or social position.

2. Non-Discrimination in Work and Employment (Article 11)

Article 11 of the Convention outlines specific measures States Parties shall undertake in order to eliminate discrimination in the field of employment.



We systematically reviewed national labor codes, gender equality, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation prohibited gender discrimination in employment. We examined legal protections across five areas covered by CEDAW:

- employment opportunities or hiring
- equal pay for work of equal value
- vocational training
- promotions or demotions
- job security or terminations

We assessed whether women were explicitly protected from discrimination at work in each of these areas and whether the definition of discrimination included both direct and indirect discrimination. We further examined whether there were provisions that protected women from retaliatory action for reporting discrimination. We also examined whether there were explicit protections from discrimination at work for statuses that intersect directly with women’s dual roles as workers and caregivers: marital status, pregnancy, and family status.

UNITED ARAB EMIRATES’ LEGISLATIVE PROVISIONS: LIMITED PROTECTIONS FROM WORKPLACE DISCRIMINATION BASED ON SEX AND GENDER

Based on our review, we identified the *Federal Law on Labour Relations* which **guarantees equal pay for equal work between women and men**. However, this provision falls short of the stronger guarantee of equal pay for work of equal value that is outlined in Article 11 of the Convention. Further, **we did not identify any explicit provisions that prohibit sex-based discrimination in other dimensions of work including employment opportunities, vocational training, promotions or demotions, and terminations.**

Article 32

The female worker shall be granted a wage equal to that of the man should she be performing the same work.

3. Sexual Harassment in Work and Employment (General Recommendation No. 12)

Referencing Articles 2, 5, 11, 12, and 16 of the Convention, General Recommendation 12 further recommends that States parties implement legislation protecting women from sexual harassment in the workplace.

We systematically reviewed national labor codes, penal codes, equal opportunity, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation prohibited sexual harassment at work. We examined whether protections from sexual harassment at work were in line with international agreement of what constitutes key components of sexual harassment. Namely, do laws define sexual harassment to cover quid pro quo and the creation of a hostile work environment; include sex-based



harassment as well as sexual-behavior based harassment; protect workers from harassment by co-workers and other actors in the workplace, as well as supervisors; and ensure workers are protected from retaliation for reporting sexual harassment?

UNITED ARAB EMIRATES' LEGISLATIVE PROVISIONS: BUILDING ON RECENT PROGRESS ON WORKPLACE SEXUAL HARASSMENT LEGISLATION

Based on our systematic review of national legislation, Law No. 4/2019 from the United Arab Emirates **added Article 359bis to the Penal Code, which generally prohibits sexual harassment by anyone with functional authority.** We commend the United Arab Emirates for recently taking this important step in protecting women from sexual harassment. The development and implementation of detailed guidelines for this provision will be particularly important given the broad nature of the term “functional authority”, and also given that the Penal Code does not provide details around workplace sexual harassment.

4. Paid Maternity and Paternity Leave (Articles 11, 5)

Article 11.2 of the Convention states that:

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

Further, Article 5(b) of the Convention emphasizes the importance of including men in the upbringing of children:

To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

We systematically reviewed national labor codes and social security laws to assess the availability paid maternity and paternity leave. We relied primarily on legislation downloaded through the International Labour Organization’s NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.



UNITED ARAB EMIRATES' LEGISLATIVE PROVISIONS: NEED TO STRENGTHEN PAID MATERNITY LEAVE AND ADD PAID PATERNITY LEAVE

Based on our systematic review of national legislation and country reports, Article 30 of the *Federal Law on Labour Relations* guarantees **45 days of paid maternity leave to working mothers**. We did not identify any provisions that protect from dismissal or guarantee job protection for women to take paid maternity leave. We also found **no provisions that provide paid paternity leave to fathers**.

Article 30

A working woman is entitled to maternity leave with full pay for a period of forty-five days including the time before and after delivery, provided that her continuous period of service with the employer should not be less than a year, but if a working woman has not completed the said period, the maternity leave shall be with half pay.

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