



musawah

For Equality in the Muslim Family

Musawah Oral Statement: The United Arab Emirates (UAE)

62nd Session of the CEDAW Committee

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Thank you, Madam Chair.

My name is _____ from IWRRAW-AP. Today, I read the following statement on behalf of [Musawah](#), the global movement for equality and justice in the Muslim Family.

(1) Musawah asserts that discriminatory laws and practices, even those justified in the name of religion, can and should be changed to ensure equality and justice for women.

There is often a great deal of resistance to the idea of reforming Muslim family laws and practices because of the notion that they are rooted in Islam. Indeed, the UAE justifies its reservations to Articles 2(f), 15(2), and 16, by claiming that their content ‘violate[s] the precepts of the Islamic *Shari’ah*,¹ which the State considers ‘immutable.’²

The fact is there are juristic tools and concepts that exist *within* Muslim legal theory that can be used to reform discriminatory Muslim laws:

First, there is a distinction between what the State party calls *Shari’ah*, the revealed way, and *fiqh*, jurisprudence – human understanding of the *Shari’ah*. Much of what is deemed to be ‘Islamic law’ by the State party today is in fact, *fiqh* – jurisprudence. It is not divine law. It is human-made, fallible and changeable.

Second, Muslim jurists have always considered legal rulings related to marriage and family as social and contractual matters, not spiritual or devotional matters. As such these rulings have always been open to reform, given changing times and circumstances.

¹ United Nations Treaty Collection: *CEDAW Declarations and Reservations*, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en.

² UAE State party report 2015, para. 19, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fARE%2f2-3&Lang=en.

Third, diversity of opinion has always been accepted and celebrated in the Muslim legal tradition. This led to multiple schools of law, with the UAE following the Maliki school. Principles such as *maslaha* (public interest), and *istihsan* (choosing the best opinion among many) must be used to meet the demands of equality and justice today.

Fourth, laws or amendments introduced in the name of *Shari'ah* and Islam must reflect the values of equality, justice, love, compassion and mutual respect among all human beings. These values exist in the Qur'an and the Muslim legal tradition, and they correspond with contemporary human rights principles.

→ The UAE, which uses Islam as a source of law and public policy, cannot continue to argue that these laws are divine, and therefore perfect and unchangeable.

(2) The 2005 Personal Status Law retains the classical legal framework in Muslim family law, which regards the husband as the head of the household with a duty to protect and provide, in return for the wife's duty of obedience and sexual availability.

This legal framework institutionalises discrimination against women in the family, and remains impervious to the realities on the ground. More than 70% of students in government universities are women; the UAE has the highest female labour force participation rate in the MENA region at 47%; and is the highest ranked MENA country in the World Economic Forum Gender Gap Index.

→ This disconnect between law and reality must end.

The issue here is not about Islam or *Shari'ah*, but whether the State Party has the political will to end discrimination against women, its convenient use of Islam to justify male authority over women, and its decision to legitimise only certain voices as the authority on matters of religion.

Musawah recommends the CEDAW Committee to urge the UAE, and Governments everywhere that purport to speak for and in the name of Islam, to:

- **Recognise that diversity of opinions and juristic concepts exist within the Muslim legal tradition to enable reform towards equality and justice to take place;**
- **Promote human rights standards as *intrinsic* to the teachings of Islam;**
- **Encourage open and inclusive public debate regarding diversity of opinion and interpretations in Muslim family laws and practices; and**
- **Support civil society groups and individuals engaged in family law reform campaigns.**

We thank you for this opportunity, Madame Chair.