*Unofficial English Translation*

Submission of Arab Human Rights Committee[[1]](#footnote-1)

To the Office of the United Nations High Commissioner for Human Rights

In the context of preparing a report by the OHCHR on “Child, early and forced marriage in humanitarian settings” pursuant to the Human Rights Council resolution 35/16

The Arab Human Rights Committee welcomes the preparation by the Office of the United Nations High Commissioner for Human Rights of a report on “Child, early and forced marriage in humanitarian settings”, pursuant to the Human Rights Council resolution 35/16.

First: the normative framework within the Arab Charter on Human Rights on forced marriage:

Article 33 (paragraph 1) of the Charter:

“The family is the natural and fundamental group unit of society; it is based on marriage between a man and a woman. Men and women of marrying age have the right to marry and to found a family according to the rules and conditions of marriage. No marriage can take place without the full and free consent of both parties. The laws in force regulate the rights and duties of the man and woman as to marriage, during marriage and at its dissolution.”

Second: the jurisprudence of the Arab Human Rights Committee on forced and early marriage:[[2]](#footnote-2)

The Arab Human Rights Committee has paid due attention to the issue of prohibiting forced marriage in the context of examining the periodic reports submitted by states parties to the Arab Charter on Human Rights pursuant to Article 48 of the Charter. The AHRC has issued several observations and recommendations in this regard:

- The Committee notes that the Penal Code does not hold those who commit offences of violence against women, such as rape within marriage, as being criminally liable. Also, the suspension of sentences and the annulment of their criminal effects, if a valid marriage certificate is produced, conflict with the principle that marriage should be based on free and full consent and without compulsion, pursuant to Paragraph 1 of Article 33 of the Charter.

-The Committee recommends amending the Penal Code to ensure that the perpetrators of the offence of rape do not evade criminal liability in the case of their marriage to the victim, thereby ensuring respect for the principle of marriage based on free and full consent without coercion from any of the parties to the contract and according to the provisions of the Charter.

- The Committee noted the Member State's legislation (Children's Act of 2010 and the Personal Status Law of 1991) was not clear enough regarding the development of a minimum age for marriage, the matter which likely results in coercing a minor to marry.

- The Committee recommends setting a minimum age for marriage in order to ensure the respect of the provisions of Child Act of 2010.

- The Committee noted the absence of a legislation in the State Party that regulates personal status matters and the lack of a minimum age for marriage.

- The Committee recommends that the State Party considers enacting a special law on personal status that strengthens women’s rights and ensures their full consent, without any coercion, at the time of entering into, consummating and dissolving marriage. Furthermore, the Committee recommends that such a law determines a minimum age of marriage for both women and men.

- The Committee noted that the Personal Status Law No. 51 of 1984 does not require a woman to sign a marriage contract, which may constitute a breach of the consent required by the parties in accordance with Article 33 (1) of the Charter

- The Committee recommends that the State party amend the Personal Status Act to ensure full and unqualified consent for women at marriage, at the time of marriage and at its dissolution, and to establish a minimum age for marriage at the age of 18 in line with the provisions of the Children's Code and in the best interests of the child.

- The Committee noted that exceptions could be applied to the minimum age for marriage of a girl in the Family Code No. 22 of 2006, which would weaken the guarantees of free and full consent that does not entail any coercion.

-The Committee recommends that the State party considers amending the minimum age for marriage and strengthens the safeguards guaranteeing the full consent of both parties to the marriage without coercion.

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1. The AHRC was established pursuant to the Arab Charter on Human Rights (the Council of the League of Arab States at the Summit level adopted the Charter by its resolution No. 270 dated 23/5/2004. The Charter has entered into force on 16/3/2008 ) to examine the reports of States Parties to the Charter on the measures they undertake to respect the rights and freedoms incorporated therein. The Committee is composed of 7 members who serve in their personal capacity and are highly experienced and competent and are fully independent and impartial. [↑](#footnote-ref-1)
2. This section includes unofficial English translation of the concluding observations and recommendations of the AHRC [↑](#footnote-ref-2)