

New UAE Law Safeguarding Rights of Children

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The Islamic Shariah highlights the importance of children and the necessity to look after them and their welfare so that they can reach their fullest potential in life.

The UAE follows the same by emphasizing the rights of children and their need for strong protection. It was one of the first countries in the Middle East to sign the United Nations Convention on Child Protection, and has addressed the rights of children in different existing laws ensuring that they are carried out effectively.

Last year, the UAE issued a new law, namely the Federal Law No. 3 of 2016 concerning the rights of children. The law contains around 75 articles setting out general and specific legal provisions protecting the rights of any child.

The Law and its Preamble

The law defines a child as any human being under 18 years old.

Article 2 sets out the objectives that the UAE authorities hope to achieve for every child, such as their right for a safe life, development, freedom, and not to be exposed to any kind of abuse or negligence. Article 3 further asserts protecting a child against discriminatory acts based on race, ethnic origin, religion or disability.

Article 4 highlights that protection of a child and the child's interests must have priority in all decisions and procedures concerning the child.

The law seeks to work with other UAE law's that form a solid legal framework regulating the rights of children. This includes the Criminal, Cyber, Juvenile, Employment and Personal Status Laws, some of which are discussed below.

Fundamental Rights

The new law states that a child is entitled to a formal relationship with the child's legal parents.

The child is entitled to a name from birth. The name should not imply anything that would be considered a disgrace or an insult to the child's dignity or which contradicts with religious principles or customs.

Legal documentation evidencing a child's birth, nationality and other identification records have to be issued upon birth. Not doing so could lead to imprisonment or a fine of no less than 5,000 Dirhams as set out in Article 60 of the law.

Under Article 13 of the law, it is prohibited to expose the child to any abusive interference or illegal decision affecting the child's life, family or home.

Employment

Employment of children under the age of 15 is illegal. However it is permissible to employ those

who are 15 years old and above, subject to some conditions and reservations such as obtaining a written approval from the guardian along with a birth and medical fitness certificates from the competent medical authorities.

Under Article 68 of the law, whoever breaches the foregoing or expose a child to a dangerous workplace could be imprisoned and/or fined for an amount of not less than AED 20,000.

Employment for juveniles is regulated under the Federal Labour Law No. 8 of 1980. Article 23 of this law states that a juvenile cannot work at night, which is defined as anytime between 8pm and 6am.

Article 24 of the Labour Law also provides that a juvenile should not work in hazardous or harmful environment which adversely affect the child's health.

Article 25 of the Labour Law further states that the maximum hours of work in one day for juveniles is 6 hours. Adults and juveniles have the same rights in terms of break times, which should amount to no less than one hour.

Furthermore, anyone under the age of 17 is restricted from working in certain work conditions such as:

- Working underground in mines, quarries, and all works related to the extraction of metals, stones and rocks.
- Working in furnaces used for melting, refining, and producing metal materials.
- Oil refineries.
- Working before the ovens of bakeries.
- Cement plants.
- Ice and cooling factories.
- Running, controlling, or repairing motor machines or cleaning the same while running.
- Asphalt making.

Family Rights

The Personal Status Law No. 28 of 2005 regulates all matters relating to management of minors' funds, marriage, divorce, with emphasis on the rights of a child involved in such context.

The Personal Status Law is derived from Islamic Sharia principles and applies to UAE nationals and residents, unless non-Muslims wish to apply different rules in special cases as per their religion or laws of their home country.

There are special courts and judges with adequate expertise in the UAE that look into such matters. There are certain types of disputes that pass through a special committee first with aim to settle them amicably, failing which they get referred to the court.

The Personal Status law specifies the role of custodians and guardians of children and the conditions that need to be satisfied for taking care of a child. Article 143 of UAE Personal Status Law provides that irrespective of the gender, the custodian must be capable of raising a child. The custodian would need to be sane and hold no serious infectious diseases. These factors would be considered when determining the custody of a child in certain situations and on a case by case basis.

In short, the Courts would consider the best circumstances for the benefit and interests of the child.

The Personal Status Law also notes that in the event there are no sufficient funds for taking care of a child, then the country will assist in such expenses. The new law further confirms this.

Conclusion

It is clear from the above examples that the new law reinforces the already existing laws governing the rights of children. The new law is welcomed as it confirms the long commitment of the UAE to children's rights, and continues its efforts in safeguarding the rights of children.

In August and September 2016 Al Tamimi spoke on Pearl FM UAE radio, in collaboration with Al Jalila Centre for Children in Dubai, to discuss the new law. Al Tamimi & Company's regularly advises on these matters. For further information please contact Omar Khodeir (o.khodeir@tamimi.com) and Taiba Alsafar (t.alsafar@tamimi.com).