DISCUSSION PAPER

RESERVATIONS TO CEDAW: AN ANALYSIS FOR UNICEF

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Executive Summary

This study is undertaken to provide UNICEF with recommendations for supporting the withdrawal of reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). While the problem of reservations is well documented as a legal issue, the practical effect of reservations on the primary stakeholders—women, girls, families, and communities—and the practical issues surrounding withdrawal of reservations have received much less attention.

CEDAW has been ratified by 186 states, with many reservations. A considerable number of those reservations arguably go to the heart of state accountability for the obligation to eliminate discrimination against women, or, in the legal formulation, are "incompatible with the object and purpose" of the treaty. While this is dismaying, both the legal framework and the practical approach of the United Nations Committee on the Elimination of Discrimination against Women (the CEDAW Committee) allow for dialogue on some of the most critical reserved provisions during State Party reviews. Moreover, the nature and context of many reservations provide opportunity for discussions in both international and domestic venues and, eventually, progress towards eliminating them.

This paper provides an overview of the legal and practical implications of reservations; an examination of the different domestic legal systems in which reservations are entered; a "mapping" of the current reservations to CEDAW; and an exploration of the domestic legal and political contexts in which some of the most critical reservations have been withdrawn.

It is apparent from the available literature as well as from the experience of NGOs and the CEDAW Committee's observations, that the entering of reservations is a legal action that rests in a political and cultural context, and that their withdrawal requires a carefully designed approach that acknowledges the legal, political, and cultural aspects of the issue.

Reservations are a serious issue throughout the international treaty system. Some of the reservations to CEDAW are particularly problematic, going to the heart of fundamental issues such as nationality, legal capacity, and equality in the family. The International Law Commission has undertaken a multi-year expert study of reservations, and the human rights treaty bodies have been as proactive as possible under the constraints of the treaty system. Maintaining polite pressure on States parties can have an effect, but generally withdrawal of reservations appears to result from a confluence of factors: well-organized (and sometimes endlessly patient) efforts by civil society, internal political changes, and external events that have an impact on the parties in power.

Since the mid-1990s the CEDAW Committee has consistently pressed States parties on the scope of their reservations and their intentions with respect to withdrawal. While entering a reservation would seem to preclude discussion of the reserved provision(s), as a practical matter the nature of many reservations suggests that, while States parties are not yet unequivocally committed to the international norms articulated in the Convention, they want to remain in the conversation. The reservations discussion is essentially a negotiation around this fact. Indeed, in some cases the existence of reservations can promote useful dialogue with the CEDAW Committee and civil

society by focusing on clearly identified issues and giving states the opportunity to burnish their international standing by withdrawing them. This study suggests that, undesirable as they are, the entry of reservations does not negate the value of ratification and can provide opportunities for meaningful dialogue on key issues and, ultimately, increased implementation of the Convention's equality norms.

A number of States parties have withdrawn all or part of their reservations. Most of the reservations are to all or parts of Article 2 (obligation to review and change constitutions, laws and policies), Article 5 (abolition of discriminatory customs and traditions and of gender stereotyping); Article 7 (participation in public life); Article 9 (nationality); Article 15 (legal capacity, including choice of domicile); and Article 16 (equality in the family). The proffered rationale for many of the reservations is conflict with religious law or with a State party's constitution that enshrines religious law. Several states have entered reservations based on more general policies of leaving matters of personal status to their ethnic and religious communities.

This study outlines the practical impact of State parties' refusal or inability to implement CEDAW with respect to major issues such as nationality, participation in public life, legal capacity, equality in the family, and child marriage. This inaction perpetuates discrimination and hardship in the lives of women and girls, and the reservations would suggest an effort to avoid any scrutiny of discriminatory policies. But closer examination of State parties' actions with respect to reservations suggest that, despite the alleged entrenchment of discriminatory ethnic, religious, or other community-based practices, significant movement is possible. This study examines the experience in selected states (Morocco, Egypt, Malaysia, Turkey) that have entered relatively comprehensive reservations and ultimately withdrawn some or all of them. The closing observations and recommendations are drawn from these experiences.

Introduction

This study is undertaken to provide UNICEF with recommendations for supporting the withdrawal of reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). While the issue of reservations is the subject of considerable discussion in both academic literature and United Nations meetings and documents, the practical effect of reservations on the primary stakeholders—women, girls and the families and communities whose wellbeing is negatively affected by discrimination against women and girls—and the practical issues surrounding withdrawal of reservations have received much less attention.

CEDAW has been ratified by186 states, with many reservations. A considerable number of those reservations arguably go to the heart of state accountability for the obligation to eliminate discrimination against women, or, in the legal formulation, are "incompatible with the object and purpose" of the treaty. While this is dismaying, both the legal framework and the practical approach of the United Nations Committee on the Elimination of Discrimination against Women (the CEDAW Committee) allow for dialogue on some of the most critical reserved provisions during State Party reviews. Moreover, the nature and context of many reservations provide opportunity for discussions in both international and domestic venues and, eventually, progress towards eliminating them.

This paper provides an overview of the legal and practical implications of reservations; an examination of the different domestic legal contexts in which reservations are entered; a "mapping" of the current reservations to CEDAW; and an exploration of the domestic legal and political contexts in which some of the most critical reservations have been withdrawn. The discussion of the domestic dynamic is by design representative rather than exhaustive, as the terms of this study did not include field research and interviews. However, it is apparent from the available literature as well as from the experience of NGOs and the CEDAW Committee's observations, that the entering of reservations is a legal action that rests in a political and cultural context, and that their withdrawal requires a carefully designed approach that acknowledges all aspects of the issue. Advocates' efforts to evaluate the legal, political, and cultural context in any given state and to address reservations on this basis can in itself be a positive and empowering experience.

1. Reservations to CEDAW: An Overview

1.1. The Legal Regime

The history of reservations to international treaties is long and complex. In 1969 the Vienna Convention on the Law of Treaties was adopted to codify practice and provide legal guidance on the meaning of reservations and a uniform procedure for entering them. The Vienna Convention provides that reservations may not be made that are "incompatible with the object and purpose of the treaty."[1] This provision raises as many questions as it answers, as the Vienna Convention does not define "object and purpose," nor does it indicate what body has the power to determine validity.

The Vienna Convention also provides for States parties to object to a reservation within twelve months of its entry. However, objections do not dispose of the question of validity, although some states have objected to reservations to CEDAW on the ground of invalidity. The significance of objections is discussed below in Section III.B.4.

In 1994, in response to the difficulties experienced by States parties in dealing with reservations to all treaties, the International Law Commission (ILC) established a Special Rapporteur on Reservations. The Special Rapporteur, M. Alain Pellet, has issued thirteen reports (the most recent in 2008) addressing various aspects of the reservations issues. The most significant for purposes of dealing with CEDAW and other human rights treaties is his discussion of reservations to "normative" treaties. Normative treaties establish standards for government behavior towards individuals (and, under some treaties, entities) under their jurisdiction, as opposed to treaties that are agreements between states as to their behavior towards other states.

The international human rights treaties differ from most other treaties in that their implementation is monitored by bodies that are established by the terms of the respective treaties.[2] The makeup of the treaty monitoring bodies also is unique in that they are "independent experts" rather than appointed representatives of the States parties. As such they do not formally take instruction from their governments. Each of the treaty bodies establishes its own procedures and internal management structure, and develops its own jurisprudence through State party reviews, adoption of General Comments/ Recommendations, and, under the provisions of or protocols to some of the treaties, through reviewing individual complaints and holding inquiries. The practices of the treaty bodies have evolved at different paces and in somewhat varying directions since their inception.[3] All, however, have struggled with the issue of reservations.

Largely because certain reservations are a particular threat to universality of human rights, the human rights treaty monitoring bodies began to address the issue of reservations on their own even before the ILC embarked on its detailed examination. In 1994 the Human Rights

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[1] *Vienna Convention on the Law of Treaties* (23 May 1969), *Entered into force* 27 January 1980. United Nations, Treaty Series, vol. 1155, p. 331.
[2] With one exception: the Committee on Economic, Social and Cultural Rights was established by ECOSOC. In most respects it operates in the same manner as the other treaty monitoring bodies.
[3] Since 2002, the Office of the High Commissioner for Human Rights has promoted harmonization of treaty body procedures. This is the subject of a different discussion. See /http://www2.ohchr.org/english/bodies/treaty/reform.htm (go to Treaty Reform topics on left column).

Committee, which monitors the International Covenant on Civil and Political Rights, adopted a General Comment on Reservations,[4] indicating that the Committee has the power to determine whether a reservation is "incompatible with the object and purpose" of the Covenant. Other treaty bodies have not followed suit in adopting a formal statement.[5] By 2007, however, the human rights treaty monitoring bodies had concluded individually that they are competent to determine the permissibility of reservations to their respective treaties, a position that parallels that of the ILC Special Rapporteur. The human rights treaty bodies generally have developed a practice of persuasion rather than legal confrontation, engaging in dialogue with the States parties which is "extremely useful for understanding the political considerations underlying reservations."[6] The CEDAW Committee's practice is similar in this respect to that of the other human rights treaty bodies.

1.2. The CEDAW Committee and Reservations to the Convention[7]

The CEDAW Committee was concerned from its inception about the scope of reservations to the Convention but was not as assertive as the Human Rights Committee. It adopted General Recommendations (interpretive statements) in 1987[8] and 1992[9] that referred to the problem of reservations to the Convention, and its contribution to the 1993 World Conference on Human Rights also expressed concern over the number and scope of reservations and encouraged States parties to reexamine their reservations in view of their reservations to other treaties and to consider withdrawing or narrowing them. With the adoption in 1994 of General Recommendation No. 21, on Articles 9, 15, and 16,[10] the Committee indicated that certain interrelated Convention articles were clearly fundamental to the object and purpose of the treaty.[11] This position was reconfirmed in the Committee's statement adopted for the Fiftieth Anniversary of the Universal Declaration of Human Rights, stating that it considered Articles 2[12] and 16 "to be core provisions of the Convention," "central to the objects [*sic*] and purpose of the Convention," and that reservations to Article 16 are impermissible.[13] During its 13th Session, in

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[4] Human Rights Committee, General Comment No. 24 on Reservations, CCPR/C/21/Rev.1/dd.6 (November, 1994), republished as HRI/GEN/1/Rev.6.

[5] The Convention on the Elimination of Racial Discrimination does provide a mechanism in Article 20 for determining the permissibility of reservations. CERD, adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965, entry into force 4 January 1969.

[6] See International Law Commission, [Alain Pellet's report of] *Meeting with Human Right Bodies* (15 and 16 May 2007), ILC(LIX)RT/CRP.1 (26 July 2007).

[7] For a comprehensive history and analysis of the CEDAW Committee's approach to reservations to 2004, see Hanna Beate Schoepp-Schilling, "Reservations to the Convention on the Elimination of All Forms of Discrimination against Women: An Unresolved Issue or (No) New Developments?" in Ineda Ziemele, ed., *Reservations to Human Rights Treaties and the Vienna Convention Regime: Conflict, Harmony or Reconciliation* (Leiden: Martinus Nijhoff Publishers, 2004), pp. 3-39.

[8] CEDAW General Recommendation No. 4, Reservations to the Convention (Sixth session, 1987), U.N. Doc. A/42/38 at 78 (1987), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 231 (2003).

[9] CEDAW General Recommendation No. 20, Reservations to the Convention (Eleventh session, 1992), U.N. Doc. A/47/38 at 2 (1993), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 249 (2003).

[10] Article 9 relates to nationality and women's ability to transmit nationality to their children; Article 15 relates to full legal capacity and to choice of residence and domicile; Article 16 relates to equality in marriage and divorce. The full Convention is attached as Appendix A.

[11] Report of the Committee on the Elimination of Discrimination against Women (Thirteenth Session), A/49/38 (1994), pp. 1-9.

[12] Article 2 refers to State parties' general obligations, including conforming constitutional provisions, adopting statutes and policies to implement the Convention, and taking "all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women."

[13] Report of the Committee on the Elimination of Discrimination against Women, Nineteenth Session, A/53/38/Rev.1 (1998), pp. 47-50.

1994, the Committee also made a number of requests and suggestions to the Division for the Advancement of Women and the Centre for Human Rights for additional support on dealing with reservations.[14]

Since 1997 States parties have been including in their periodic reports a discussion of their reservations and the rationale for entering them. The Committee engages the States parties on the subject of reservations during the constructive dialogue (review) and in its Concluding Comments. A number of the Concluding Comments have included statements indicating the Committee's determination that certain reservations are contrary to the object and purpose of the Convention or are on articles that are "central" to the Convention.[15]

In 2008 the Committee adopted new guidelines for State party reports. With respect to reservations, the Committee specifically noted the requirement to explain reservations and that their "continued maintenance [should be] clarified." In addition, the Committee specified Articles 2, 7, 9 and 16 as particularly significant:

> States parties that have entered general reservations which do not refer to a specific article, or which are directed at articles 2 and/or 7, 9 and 16 should report on the interpretation and the effect of those reservations. States parties should provide information on any reservations or declarations they may have lodged with regard to similar obligations in other human rights treaties.[16]

The legal consequence of a reservation's impermissibility is that the Committee may examine a State party's implementation of the reserved provision. The State party could refuse to discuss that provision on the basis of its having reserved. However, as indicated in the 2008 reporting guidelines, the Committee expects to have a dialogue about progress on the specific issues reserved and whether and when the reservations could be withdrawn.

1.3. The Impact of Reservations on States Parties' Reporting and CEDAW Reviews

Many reservations to CEDAW cite relatively technical matters such as descent of royal or customary titles (Luxembourg, Cook Islands, Monaco, Spain) and jurisdictional issues (for example, sovereignty over the Falkland Islands). The single most reserved provision is Article 29, relating to arbitration of disputes over the application of treaty provisions. Quite understandably, scholars and treaty experts have primarily focused on the number and scope of reservations to key provisions such as Articles 2, 9, 15, and 16.[17] As a practical matter, however, in terms of reviewing implementation, the most interesting aspect of these reservations is not their existence, but the treatment of reserved provisions in the Committee's dialogue with the States parties.

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[14] See Report of the Committee on the Elimination of Discrimination Against Women, Thirteenth Session, A/49/38, at pp. 1-9.
[15] Schoepp-Schilling, *supra* note 6, pp. 34-35.
[16] Report of the Committee on the Elimination of Discrimination against Women, Forty-first Session, A/63/38 Supp (2008), pp. 78-83.
[17] Article 2 refers to State parties' general obligations, including conforming constitutional provisions, adopting statutes and policies to implement the Convention, and taking "all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women." Articles 9, 15, and 16 are noted in footnote 6 above.

One of the earliest significant sets of reservations to CEDAW was entered by Bangladesh upon its accession in 1984**.** Bangladesh reserved Articles 13(a),[18] 16 (1)(c) and (f),[19] and Article 2, which requires examination of constitutions, laws, and policies and the enactment of a legislative and administrative framework to implement the Convention. However, the government of Bangladesh proceeded to submit reports, including information required by Article 2, and to nominate experts. The Committee proceeded to review those reports, and it did comment on the remaining reservations in its 2004 State party review.[20] While a reservation to Article 2 is clearly contrary to the object and purpose of the Convention, neither the Committee nor the State party has belabored the issue. Bangladesh withdrew the reservations to Articles 13(a) and 16 (1)(f) in 1997 but has not withdrawn the Article 2 or 16 (1)(c) reservation. The Committee continues to press on the question of withdrawing the remaining reservations.

Similarly, many states have reserved all or part of Article 16. The Committee has clearly declared such reservations to be contrary to the object and purpose of the Convention, and therefore invalid, so reserving Article 16 would not allow a State party to avoid implementation. The Committee's constructive dialogues with States parties that have reserved all or part of Article 16 refer to issues under that provision.

The pattern of reservations, withdrawals, and continuing dialogue on the reserved issues suggests that factors in addition to incompatibility with State parties' laws are involved in their approach to reservations. Efforts to promote withdrawal of reservations must be based on the political and cultural as well as the legal context.

[18]Relating to equal family benefits (social security).
[19]Relating specifically to "(c) same rights and responsibilities during marriage and at its dissolution" and (f) same rights as to custody, guardianship, adoption of children.
[20] Committee on the Elimination of Discrimination against Women, Concluding Comments: Bangladesh, A/59/38(SUPP) paras. 228-267 (Aug. 18, 2004).

2. The Domestic Context of Reservations

Generally speaking, the number of ratifications and accessions to CEDAW suggests that non-discrimination against women has become a universal norm. Regardless of intent or motivation, states seem compelled to engage with the Convention and its procedures.

But obstacles to equality between women and men also remain universal and persistent. The nature of the reservations suggests that some states currently do not accept all aspects of non-discrimination norms,[21] but they do not wish to remove themselves entirely from the conversation. The reservations discussion is essentially a negotiation around this fact. Indeed, in some cases the existence of reservations can promote useful dialogue with the CEDAW Committee and civil society by focusing on clearly identified issues and giving states the opportunity to burnish their international standing by withdrawing them.

2.1. The Reservations Map

The greatest proportion of substantive reservations to CEDAW has been entered by States parties that cite *Sharia* (a) as a basis of all state law;[22] or (b) as regulating matters of personal status (marriage, divorce, custody, guardianship and adoption, inheritance). Three states have entered reservations to Article 16 (equality in marriage) on the more general ground that matters of personal status are determined by the law of the various religious and ethnic communities in the state. The effect of these reservations on women and girls is the same, regardless of how they are stated: they relegate laws and practices that critically affect women's human rights to a system that is unreachable by and unaccountable to international norms.

The article with the greatest number of reservations, either to the entire provision or to individual subsections, is Article 16 (34 states reserved). Thirteen states have reserved Article 15 (legal capacity, residence and domicile), and most of the reservations are to 15(4), the subsection that provides for freedom of movement and equality in choice of domicile. Nineteen states have current reservations to Article 9, particularly to 9(2) providing for equality in the right to transmit nationality to one's children. A number of states that entered reservations to Article 9 upon ratification or accession have since withdrawn them; two are discussed in Section III.C below.

Four states have remaining reservations to Article 7, relating to participation in public life. Each of these reservations is limited to specific aspects of public life: service on religious courts; inheritance of hereditary titles; voting.[23]

Ten states have entered general reservations, seven of them using language such as reserving "all provisions of the Convention not in accordance with the provisions of the Islamic *Sharia* and legislation in force in [name of state]." The effect of these reservations is the same as that of a

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[21] The *travaux préparatoires* (records of Convention drafting and adoption process) indicate the points of resistance and the resulting compromise language of various provisions. The pattern of reservations echoes in many respects the discussion in the drafting sessions.

[22] Pakistan requires its courts to follow Sharia; Bangladesh has made Islam the state religion.

[23] Qatar reserved Article 2, citing "rules on transmission of hereditary authority" under the Constitution, which effectively reserves the right to participate in public life.

more specific reservation, because the "conflict" with *Sharia* or constitutional provisions that privilege *Sharia*, will be found primarily in Articles 9, 15, and 16.

Several states have reserved some aspect of Article 11 (employment), usually with reference to disparities in pensions or to continuing protective laws.

Reservations to Article 2 are particularly problematic as that article lays out the fundamental requirement to comply with all articles of the Convention in the State party's constitution, statutes, and policies. States are required to be proactive in adopting laws and policies to eliminate discrimination against women and in attempting to modify or abolish discriminatory "customs and practices." Twenty-two states have reserved all or part of Article 2.

A number of State parties in which personal status matters are determined by the law or custom of their religious and ethnic communities have not entered any reservations at all. Most of these are sub-Saharan African states, in which ethnic custom is highly discriminatory and in some cases relegates women to the status of minors—unable to own or inherit some or all forms of property and entirely dismissed as potential custodial parents in the case of widowhood or divorce.[24] Some State parties with indigenous communities that regulate family and property relations according to discriminatory community custom also have not entered reservations on that basis.[25] And a number of states in which religious law is a basic element of the social and legal fabric have not reserved or have reserved only Article 29, a procedural provision.

2.2. Relationship of Reservations to Status of Women

The pattern of reservations described above in Section II.A does not yield a clear picture of State parties' motivations for reserving or deciding not to reserve. For example, none of the Latin American states entered substantive reservations, but many have struggled with implementing women's human rights, particularly related to violence and reproductive rights. European states entered no reservations or limited ones, but wage gaps and violence against women persist. States may enter reservations to key articles to indicate the areas in which they acknowledge falling short and intend to change, and a number of states have withdrawn such reservations as their political and cultural contexts have changed.

This pattern—or lack of pattern—suggests that human rights commitments have political as well as legal aspects. States may undertake human rights obligations for a variety of reasons that have little to do with their commitment to their own citizens and everything to do with their status in the international community. Some of these states enter no reservations; others enter reservations that stake out large swaths of territory as off-limits to change and then withdraw them as their political context changes.

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[24] Of sub-Saharan African States parties, only Lesotho, Malawi, and Niger entered reservations. Malawi's reservation to Article 5, citing the tenacity and importance of custom, was withdrawn in 1991. Lesotho's reservation related only to succession to chieftainships and to the throne and was withdrawn in 2004. Niger's reservations are discussed below, Section III.C.

[25] For example, many Central and South American states.

Regardless of motive, reservations indicate areas in which status of women is of concern to the reserving State parties. They offer an opportunity for engagement by the CEDAW Committee and by civil society in a dialogue with the state on both the rationale and the necessity of the reservations.

Status of women may be measured in legal (formal) terms and in terms of indicators such as health, literacy, per capita income, violence, and participation in public life (*de facto* status). CEDAW requires State parties to pursue both formal and *de facto* equality. With the preponderance of State parties now coming before it for periodic rather than initial reviews, some of them with more than twenty years of post-ratification history, the CEDAW Committee increasingly focuses on *de facto* equality. However, the Committee clearly indicates in all its reviews that formal equality, as stated in constitutions, laws, and administrative regulations, is fundamental to the achievement of *de facto* equality.

In its reviews, the CEDAW Committee regularly engages States parties in "constructive dialogue"[26] on the possibility of re-examining statutes, religious dictates, and customary practice to determine whether reservations may be withdrawn. The experts focus on the consequences of the reservations for women, families, and society. They encourage States parties to narrow reservations if they cannot be completely withdrawn, and they remind States parties that have changed their laws to withdraw the relevant reservations. Withdrawal of reservations is important, well beyond a procedural and legal gesture. It provides affirmation to domestic civil society advocates and inspiration to advocates in other countries, suggests to other State parties that they could re-examine their reservations, signifies progress towards true universality of women's human rights, and—perhaps most important for women in that country—formalizes the State party's commitment to improving the status of women and increases state accountability.

2.3. Impact of Reservations on Women's Human Rights in Selected States

The key substantive reservations are to CEDAW Articles 2, 5, 7, 9, 15, and 16. The content of Article 2 is discussed in Section III.A. above. Article 2 reservations frequently are linked to other reservations, as Article 2 refers to the basic constitutional, legal, and policy infrastructure that must be examined and changed to implement CEDAW.

A reservation to Article 5 suggests that a State party does not wish to examine closely and address the fundamental attitudinal issues that underlie sex discrimination. Implementation of Article 5 requires a major effort to monitor public attitudes towards women, take measures to eliminate customary practices that disadvantage or harm women, and promote fresh thinking about gender roles. This is admittedly difficult, but it is not impossible. It goes to, for example, evaluating educational materials and curricula and eliminating sex stereotyping and adopting codes relating to portrayal of women in the media. States sometimes suggest that they act minimally because of concern over freedom of expression or religion. However, it is a fundamental premise of international human rights law that rights should not be seen as

[26]The Committee uses this term consistently to describe its State party reviews.

conflicting with each other as all derive from the Universal Declaration of Human Rights. States have a duty to find the balance that supports all human rights equally and to target sex discrimination through all permissible means.

Reservations to Article 7 usually relate to law or custom that prevents women from serving as judges or as high-status representatives of their government. Women thereby are excluded from making high-level policy or judicial decisions that have a major impact on women's lives and the enjoyment of their human rights. The specific reservations relating to women's exclusion from serving on religious courts must be examined in light of their individual religious freedom rights rather than being readily accepted as a matter of the group's "freedom to practice" religion.

Most of the Article 9 reservations are to 9(2), the right to transmit nationality to one's children. Women's inability to transmit their nationality results in major hardship to children and families as well as to the mothers. Lack of nationality may exclude a child from educational opportunity, health care, mobility to be with other family members, and opportunities for military or national service that are critical to career path. In many states women cannot travel out of the country with the children unless she has proof that the father has given permission, even if they have their own passports. Similarly, many states that limit women's nationality in this manner do not allow children to be endorsed to their mother's passport. If the parents are divorced, this becomes particularly problematic if the mother wishes to raise the children in another country, even with the father's agreement.

Article 15 reservations go to the heart of women's legal capacity, the recognition of their right to make and carry out decisions for themselves and their families and to inherit, own and manage property. Within the family, lack of legal capacity renders women dependent on males and subject to male authority with little bargaining power and no recourse outside the family. Article 15(4), which is reserved specifically by many states, provides for freedom of movement and equality in choice of residence and domicile. In many states the choice of domicile is that of the husband or male head of household. As a practical matter, this limits women's educational and employment opportunities as well as rendering them powerless in negotiating a fundamental aspect of family life.

Article 16 comprehensively covers equality in marriage and dissolution of marriage. All its provisions are critical to women's ability to live as equal partners in the family and to care for themselves and their children. Article 16(2), concerning child marriage, reconfirms principles that have been internationally acknowledged as fundamental since the adoption of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages in 1964.[27] An undifferentiated reservation to Article 16 therefore calls into question the State party's commitment to address child marriages, with all their negative consequences for women and girls.

[27] Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 521 U.N.T.S. 231, *entered into force* Dec 9, 1964.

CEDAW Article 16(1) refers to basic measures of equality within marriage, presumably between two adults who have freely consented. Reservations to any provision of Article 16 (1) indicate a reluctance to recognize women's full competence as adults within the family. Inequality in marriage has a tremendous impact on children, as in most cultures—even those in which women have negotiating space—women have great responsibility for the welfare of the children. If they do not have equal access to the resources of the household and equal decision-making power, the consequences usually are visited on the children (or, in polygamous households, her children). If women do not have equal property and inheritance rights, they are hampered in decision-making within marriage and can be left destitute upon divorce or death of the husband. And it should be noted that the CEDAW Committee decided in 1994 that polygamy is a violation of women's human rights under Article 16.[28]

States with multiple legal systems

Most if not all sub-Saharan African states as well as a number of Asian and Pacific states have multiple legal systems. In these systems, areas such as commerce and crime are governed by modern legal codes, frequently held over or adapted from a colonial era, but personal status matters (marriage, divorce, death of spouse, child custody, guardianship and adoption, inheritance) are governed by religious and customary law.[29] In some states, individuals may choose between religious or customary law and civil (statutory) law; others do not have a civil (statutory) code relating to personal status and require individuals to conduct all such matters according to the religious or customary law of the community with which they identify (cross-religious or cross-ethnic marriages create special issues in these settings).

Generally these states have a colonial history. Their independence and subsequent constitutions include the usual provisions delineating state powers and establishing the institutions of the state, and frequently they include a bill of rights or other provisions relating to equality and non-discrimination. Because of their experience as colonies in which ethnic and religious identity was tolerated or used for purposes of the colonial power rather than respected, they typically carve out special constitutional protection for customary and religious practices that reaffirm identity: marriage, divorce, custody, adoption, inheritance (personal status), indicating that these matters are exempt from scrutiny as to discrimination.. These states may retain or adopt formal legal and judicial systems on the model of their prior colonizers. They also may establish parallel or subordinate customary dispute resolution systems and/or recognize the power of religious tribunals to deal with family issues and minor or very local crimes or property disputes. The details of these systems vary from state to state, as does the appealability of customary and religious tribunal decisions to the formal courts. Frequently women cannot be appointed to the

[28] General Recommendation No. 21, Equality in marriage and family relations (Thirteenth session, 1992), U.N. Doc. A/49/38 at 1 (1994), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 250 (2003), paragraph 14.

[29] The term "customary law" is somewhat problematic. By its nature, custom is a living thing, "inherently negotiable" as described by Niger in its reservation, changing with time and defying codification. However, the recognition of custom as normative frequently results in some form of codification and/or recognition by the formal court system. Courts may determine the content of a custom and refer to it as law, that being the language of the formal legal system, but it is really only a snapshot of the custom at the time of the determination. Scholars refer to this as "lawyers' customary law." States may use the term to refer to codified, court-sanctioned, or evolving community-based custom and are rarely clear about the distinctions.

customary and religious tribunals, compounding the discrimination inherent in the religious law or ethnic custom.

Remarkably, only two sub-Saharan African states, Malawi (acceded 1987) and Niger (acceded 1999), entered reservations to CEDAW on the basis of customary law and practice. (Lesotho entered a reservation relating only to chieftainships and male succession to the throne and withdrew it in 2004.) Malawi withdrew its reservation in 1991. The basis for the withdrawal was not stated.

Niger

Niger's population is Muslim, but the reservations entered with its accession in 1999 allude more to custom than to religion.

In its 2005 Combined Initial and Second Periodic Report, the government acknowledged the complexities of women's legal and *de facto* status that result from the intersection of customary practice and Islamic principles taken together with the formal invalidity of any law that conflicts with CEDAW.[30]

> Under the country's legal system, there are three categories of norms including norms on individual human rights: The Napoleonic Civil Code is applicable to the Niger; The Act of 16 March 1962 on the organization and jurisdiction of the courts stipulates that the customary law of the parties shall apply provided that they are not contrary to public policy and to the free exercise of the rights of the individual and family; Islamic law.
>
> Owing to these three categories of norms, issues concerning the family are surrounded by uncertainty because of the inherently negotiable nature of custom.

In addition, the *Combined Initial and Second Periodic Report* noted that

> The Government of the Niger has expressed reservations on article 5 (a) with regard to the modification of social and cultural patterns of conduct of men and women.
>
> The Government considers that social and cultural patterns of conduct that are deeply rooted in the collective consciousness cannot be modified simply by enacting legislation. Modifications can take place only gradually.

[30] Committee on the Elimination of Discrimination against Women, Consideration of States Parties Reports: Niger, Combined Initial and Second Periodic Report, CEDAW/C/NER/1-2 (2005).

The CEDAW Committee reviewed Niger in 2007. The state's *Responses to the list of issues and questions*[31] submitted in preparation for that review described adoption of a new law, Act No. 2004-50 of 22 July 2004, applying to

> cases involving the capacity of the parties to enter into contracts and institute legal proceedings, personal status, family, marriage, divorce, filiations, succession, donations and wills . . .
>
> The new article introduces a fundamental innovation in that, to be applicable, customs must not only be consistent with the laws and public order but also with the duly ratified conventions.
>
> No custom can interfere with article 130 of the Commercial Code, providing a legislative guarantee that a married woman does not need authorization to go into business.

The government indicated that this had the effect of "abrogating" the prior law that had required courts to apply customary law in cases involving "family rights."

The Committee pointedly noted its concern about Niger's extensive reservations and stated that the reservations to Articles 2 and 16 are "contrary to the object and purpose of the Convention."[32] The Committee noted with appreciation the state's "various legal reforms" but expressed concern about "continuing legal provisions and regulations that discriminate against women." It cited the continuing failure to draft a family code (in process since 1976), the continuing application of "discriminatory customary laws and practices against women" despite changes in the law, and the "adverse impact on women caused by the application of three different sources of law, namely statutory, customary and religious law."[33] The Committee firmly directed the state to address the "patriarchal ideology with firmly entrenched stereotypes regarding the roles and responsibilities of women and men" and the "deep-rooted adverse cultural norms, customs and traditions" that prevent women from enjoying their human rights.[34]

Without specifying either custom or religion as the primary source of discrimination, the Committee directed the state to "harmonize statutory, customary and religious law with the provisions of the Convention."[35]

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[31] *Responses to the list of issues and questions* submitted in preparation for consideration of the initial and second periodic reports of Niger, CEDAW/C/NER/Q/2/Add.1 (20 February 2007).
[32] CEDAW, *Concluding Comments: Niger*, CEDAW/C/NER/CO/2 (11 June 2007), para. 9.
[33] *Ibid*., para. 15.
[34] *Ibid*., paras. 16,17.
[35] *Ibid*., para. 16.

States that have reserved on the basis of Sharia

The largest number of reservations that have been entered and not withdrawn are those that refer to the requirements and the supremacy of *Sharia.* A considerable literature has developed, analyzing the relationship between *Sharia* and international human rights law, with particular attention to the impact of *Sharia* on women's human rights. This paper will not revisit the arguments, nor will it recap the history of Islamic law and jurisprudence that has been so well explicated by others.[36]

The fundamental issue with respect to the *Sharia*-based reservations to CEDAW is whether the State party is willing to re-examine the premises of the reservation and modify or withdraw it. Some reservations are stated in a manner that seems to preclude any flexibility in the interpretation and application of *Sharia*. Yet the global variety of Islamic practice, the variations between schools of Islamic law, and the conduct of some Islamic states (as described in this section) all suggest that Islamic law is far from an inflexible monolith. The principle of *ijtihad,* or independent legal reasoning, is also a very important technique for understanding the application of Islamic law, according to Professor Shaheen Sardar Ali, former Minister of Health in Peshawar, Pakistan, and internationally recognized scholar,[37] and Ayesha Imam, a Nigerian attorney whose successful defense of a young woman accused of adultery in northern Nigeria was based on Muslim scholarship.[38]

Eleven Islamic states have reserved all or part of CEDAW Article 2, the requirement to examine and change state laws, policies, and institutions to implement CEDAW. The CEDAW Committee is particularly concerned about reservations to this article as they undermine the totality of the Convention. Some State parties have noted that they entered an Article 2 reservation to indicate that they could not commit to the requirements to change laws and policies on substantive issues to which they were reserving, such as nationality (Article 9), domicile (Article 15(4)), and equality in marriage (Article 16). The CEDAW Committee uses the Article 2 reservation to press on the general issue of reservations and to note for the State party's benefit that the reservation to any part of Article 2 is very problematic, regardless of the motivation for it.

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[36] In addition to well-known experts such as Ali, Abdullahi Ahmed Al-Na'im, and Ann Elizabeth Mayer, the author suggests consulting Ekaterina Yahyaoui Krivenko, *Women, Islam and International Law within the Context of the Convention on the Elimination of All Forms of Discrimination Against [sic] Women* (Leiden: Martinus Nijhoff Publishers, 2009). Dr. Krivenko provides a detailed description of the history and framework of Islamic law and analyzes the *Sharia*-based reservations to CEDAW and the behavior of the reserving states with respect to CEDAW implementation and reporting. Referred to in the text as Krivenko. For another balanced overview of Sharia and its impact on women's human rights, see Ayesha Imam, ""Women, Muslim Laws and Human Rights in Nigeria," Woodrow Wilson International Center for Scholars Africa Program, Occasional Papers No. 2 (February 2004), http://www.wilsoncenter.org/topics/pubs/Occasional_Paper_2.pdf.

[37] "Shari'a, is may be argued, by its very definition has evolution built into its meaning and cannot be rigid. (The term Shari'a means a watering place, a flowing stream . . .). Shaheen Sardar Ali, "Law Reform and Children's Rights in Muslim Jurisdictions, Protecting the World's Children: Impact of the Convention on the Rights of the Child in Diverse Legal Systems (New York: Cambridge University Press and UNICEF, 2007), p. 146.

[38] Ayesha Imam, ""Women, Muslim Laws and Human Rights in Nigeria," Woodrow Wilson International Center for Scholars Africa Program, Occasional Papers No. 2 (February 2004), http://www.wilsoncenter.org/topics/pubs/Occasional_Paper_2.pdf.

Egypt

Egypt's reservations have been cited frequently as a textbook example of the issues raised by invoking *Sharia* as justification for failure to address inequality. Egypt's reservation to Article 2 is stated as a general reservation to the article and could be read as a general reservation to the entire treaty as well as a refusal to consider reinterpretation:

> General reservation on Article 2 . The Arab Republic of Egypt is willing to comply with the content of this article, provided that such compliance does not run counter to the Islamic *Sharia* .

The only specific reservations, entered at the time of signature and confirmed upon ratification, relate to Articles 9 (2), 16 and 29.

CEDAW Article 9 (2) states the equal right of women to transmit nationality to their children. Egyptian law provided that children took the nationality only of their fathers. This provision had a profound impact on women who married foreign nationals and on their children. If the family resided in Egypt, the children, as noncitizens, were excluded from a number of state benefits and were not allowed to serve in the Army, which is a classic route to career opportunities. If the father of the children disappeared or died, the mother could not rely on any state support to replace financial support the father had provided. If the family resided in the father's country and the father died or otherwise left the family, the mother would have to remain in that country (with whatever nationality issues that may have presented for her) or abandon her children to return to Egypt. Women's advocates also noted that the law was particularly hard on less-educated women, frequently from rural Egypt, who married foreigners and had no resources for tracking the father or pursuing nationality claims for their children if the father abandoned the family.

Egypt's reservation to CEDAW Article 9(2) does not cite *Sharia*, and the justification for limiting citizenship transmission to fathers is somewhat circular as well as patriarchal:

> concerning the granting to women of equal rights with men with respect to the nationality of their children, without prejudice to the acquisition by a child born of a marriage of the nationality of his father. This is in order to prevent a child's acquisition of two nationalities where his parents are of different nationalities, since this may be prejudicial to his future. ***It is clear that the child's acquisition of his father's nationality is the procedure most suitable for the child and that this does not infringe upon the principle of equality between men and women, since it is customary for a woman to agree, upon marrying an alien, that her children shall be of the father's nationality*** [emphasis added].

The citizenship law was changed in June, 2004, after a long campaign by Egyptian women's groups. The Association for Development and Enhancement of Women (ADEW) claims that it was the first to raise public awareness of the citizenship issue.[39] The NGOs that formed the CEDAW Coalition to monitor Egypt's implementation of the Convention were critically important actors in the campaign. The campaign included field research in the provinces to document the impact of the nationality restrictions on Egyptian women and children. The campaign ultimately included collaboration with government entities and the National Council for Women, chaired by Suzanne Mubarak. The Forum for Women in Development, a network of Egyptian NGOs dealing with women's issues that was launched in 1997 by 15 civil society organizations, is taking the lead in monitoring implementation of the nationality reform.[40]Egypt withdrew its reservation to Article 9 (2) in January 2008.

The reservation to Article 16 (equality in marriage and divorce) cites *Sharia* and invokes the principles of equivalence and complementarity,

> whereby women are accorded rights equivalent to those of their spouses so as to ensure a just balance between them. This is out of respect for the sacrosanct nature of the firm religious beliefs which govern marital relations in Egypt and which may not be called in question and in view of the fact that one of the most important bases of these relations is an equivalency of rights and duties so as to ensure complementary which guarantees true equality between the spouses. ***The provisions of the Sharia lay down that the husband shall pay bridal money to the wife and maintain her fully and shall also make a payment to her upon divorce, whereas the wife retains full rights over her property and is not obliged to spend anything on her keep. The Sharia therefore restricts the wife's rights to divorce by making it contingent on a judge's ruling, whereas no such restriction is laid down in the case of the husband*** [emphasis added].

The rationale offered for the Article 16 reservation is more clearly grounded in *Sharia* than the Article 9 (2) reservation. Notably, the reservation makes no reference to the family law of the Coptic Christian minority.

Despite the apparently unshakeable rationale for the Article 16 reservation, one aspect of Egyptian divorce law has changed since ratification. In 2000 a new law was adopted, nominally to facilitate women's initiation of divorce under the *kuhl* procedure. *Kuhl* is one of the very few avenues for women to initiate divorce (while men have an unlimited right to unilateral divorce). It allows women to seek a divorce from a court by agreeing to pay the husband a certain amount of money and to forego all other financial rights such as post-divorce maintenance. Women

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[39] ADEW, "Advocacy," http://www.adew.org/adew/?action=10000&sub=3.

[40] See Women's Learning Partnership for Rights, Development and Peace, Women's Right to Nationality Campaign (a six-country network which is organized under the umbrella of the Women's Learning Partnership), http://wrn.crtda.org.lb/en/Country+Analysis:+Egypt; Reem Leila, "Citizens at last," Al-Ahram Weekly On-Line, 1-7 July 2004, http://weekly.ahram.org.eg/2004/697/eg10.htm; "One Step Closer to Creating Equality in Egypt," www.learningpartnership.org/citizenship/2006/09/egyptonestepcloser/.

without individual means could never afford to initiate a *kuhl* divorce. The new law provides that women will not be required to pay more than the dower specified in the marriage contract and that mothers who get custody of their children are entitled to support payments from the husband. If he cannot or will not pay, the state will provide support payments through the Bank Nasser, a government-owned bank that transacts, among other things, social security matters. Such divorces are supposed to be granted within three months of a required reconciliation attempt.

The number of women who have been able to obtain a divorce under this law is unclear. "Apart from the stigmatization and blame faced by women requesting a divorce they also have to deal with the reluctance on the part of judges to apply this law, as well as failure to implement the most important aspect of this law, the provision of child alimony via Bank Nasser."[41]

Perhaps because of the minimal nature of this change, Egypt has not modified its reservation to Article 16 despite having informed the CEDAW Committee that the law was a "major step forward towards withdrawal."[42] And, as Egyptian women and law expert Fatma Khafagy notes, "family law remains untouched," despite the social and economic changes that have, according to Khafagy, made reinterpretation of *Sharia* law necessary. The responsibility of men to support their households, on which traditional interpretations and the Article 16 reservation rest, has been gradually replaced with shared financial contributions to the household as more and more women work outside the home.[43]

Malaysia

Malaysia's reservations present an unusual set of issues. The first is the scope of the reservations, as the State party's actions have been somewhat confusing. Upon accession in 1995 the State entered a general reservation referring to both *Sharia* law and the Federal Constitution:

> The Government of Malaysia declares that Malaysia's accession is subject to the understanding that the provisions of the Convention do not conflict with the provisions of the Islamic *Sharia*' law and the Federal Constitution of Malaysia. With regards thereto, further, the Government of Malaysia does not consider itself bound by the provisions of articles 2 (f), 5 (a), 7 (b), 9 and 16 of the aforesaid Convention.

Article 2(f) requires States parties to, "without delay, . . . take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women." This echoes the language of Article 5(a), requiring States parties

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[41] Krivenko, p. 143. The summary of the law's provisions are taken from Krivenko, p. 142.
[42] Responses to the list of issues and questions for consideration of the third and combined fourth and fifth periodic reports: Egypt, EDAW/PSWG/2001/1/CRP.2/Add.3 (23 October 2000), p.4.
[43] Fatma Khafagy, "Egyptian women at crossroads," Common ground News Service, 28 August 2008, http://www.commongroundnews.org/print_article.php?artId=23824&dir=left&lan=en.

> To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

The reservations to these two provisions clearly indicate refusal or inability to address the traditions, customs, and stereotyping that underlie discrimination against women. In 1998, however, the State withdrew its reservation to Article 2(f). As to Article 5(a), the State "modified" the reservation, indicating that Article 5(a) was "subject to the division of inherited property" under *Sharia*, thereby apparently agreeing to address custom, tradition, and stereotyping, but leaving in place discriminatory inheritance law.

CEDAW Article 7(b) provides for women, on a basis of equality, "to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government." In 1998 the State "modified" this reservation to provide that Article 7(b) "shall not affect appointment to certain public offices like the Mufti *Syariah* Court Judges, and the Imam which is in accordance with the provisions of the Islamic *Sharia*h law," apparently limiting the reservation to apply only to appointment to religious courts.

Upon accession Malaysia also reserved Article 9 (nationality). Reservations to the entire article are rare, as they not only deny equality with respect to women's transmission of nationality to children (9(2)), but they also result in failure to guarantee women's ability to retain their nationality upon marriage to a foreigner (9(1)). This right has been enshrined in international law since the Convention on the Nationality of Married Women was adopted in 1958,[44] and Malaysia acceded to it in 1959. In 1998 it withdrew the reservation to Article 9(1).

Malaysia also reexamined its reservation to Article 16 (equality in marriage and divorce). Reserving the entire article was a devastating dismissal of any concern for equality in the family, and the state quickly reevaluated. In 1998 the reservations to some parts of Article 16 were withdrawn: 16(b) relating to free choice of spouse and consent to marriage; 16(d) relating to equal rights and responsibilities with respect to children; 16(e) relating to family planning; 16(h) on equal rights to ownership, disposition, and management of property. Apparently the concept of equality with respect to property rights does not, in the eyes of the State party, extend to inheritance, as the remaining reservation to Article 5 quite clearly indicates that equal inheritance rights are not supported.

The procedural issues surrounding the Malaysian government's entry of reservations, attempted modification, and withdrawal of some, are the subject of some concern among legal scholars. As a practical matter, however, ". . . the consensus seems to have been reached to consider Malaysia's reservations are those remaining after the partial withdrawal."[45]

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[44] Opened for signature and ratification by General Assembly resolution 1040 (XI) of 29 January 1957, entered into force 11 August 1958.
[45] Krivenko, p. 118 fn. 383.

The second overarching reservation issue relates to Malaysia's religious and ethnic makeup and the way in which its multiple legal systems apply to the different groups. While Islam is the majority religion, and Malaysia is a member of the Organization of the Islamic Conference, that majority is not overwhelming (60% in 2002). The population includes significant numbers of Christians, Hindus, Buddhists, Confucians, and animists, whose freedom to follow their religion is constitutionally protected. Marriage and divorce of Muslims is governed by *Sharia*. For non-Muslims, the Law Reform (Marriage and Divorce) Act of 1976 applies to personal status. All other matters are determined by federal law applied uniformly to all population groups.

The State party report alludes to customary as well as Islamic and statutory law and states that "the concept of women's equality in Malaysia is based on the culture and traditional beliefs of its various ethnic groups with the influence of religious values."[46] However, neither the reservations, the State report, nor the constructive dialogue with the Committee addresses the status of customary and non-Muslim religious laws, or the status of women under any of them. The NGO Shadow Report submitted by the National Council for Women's Organisations[47] states that in East Malaysia (Borneo) native custom and the customary legal system apply where at least one of the parties is a native. This issue remains a mystery. Given the considerable impact of customary practices on women's lives, study and clarification of this situation is warranted.

An additional source of confusion and sex discrimination is the variation of Islamic law from state to state (13 states and the Federal Territories). Several states have enacted very conservative versions of Islamic personal status laws. The role of Malay custom in the various state-level understandings of *Sharia* also is unclear. Since the government's obligations under CEDAW include implementation at local levels, the impact of both conservative Islamic law and the interplay of custom and religious practice at the more local levels should be examined.

Morocco

Morocco made headlines when, in 2004, it made major changes in the Family Code that eliminated some of the most clearly discriminatory elements of traditionally applied *Sharia*. The reservations and declaration entered upon accession in 1993 were:

- With respect to Article 2, a declaration preserving the rules of succession to the throne and indicating that Article 2 provisions would apply to the extent that "they do not conflict with the provisions of the Islamic *Sharia*h . . . which strives, among its other objectives, to strike a balance between the spouse in order to preserve the coherence of family life";

- With respect to Article 15 (4), a declaration preserving the Moroccan Code of Persona Status provisions relating to women's right to choose residence and domicile;

[46] CEDAW, Consideration of State Party Reports, Combined initial and second periodic report of Malaysia, CEDAW/C/MYS/1-2 (2005), para. 380.
[47] http://www.iwraw-ap.org/resources/pdf/Malaysia_SR.pdf

- With respect to Article 9 (2), reserving in view of the Moroccan Nationality law;

- With respect to Article 16 in its entirety, citing incompatibility of the equality provisions "with Islamic *Sharia*h, which guarantees to each of the spouses rights and responsibilities within a framework of equilibrium and complementary [*sic*] in order to preserve the sacred bond of matrimony," followed by details of marital property arrangements;

- Reservation to Article 29.

The new Family Code adopted in January, 2004, provides for an equal minimum age of marriage (18); self-guardianship for women; limitations on polygamy, including requirement of judicial permission; equalizing the divorce process by allowing the wife to petition more readily and limiting *talaq;* providing for divorce by mutual consent; incorporating into the Family Code "provisions of the relevant international agreements" relating to custody of children (and eliminating male preference); providing for establishment of paternity in some out-of-wedlock cases; allowing inheritance by granddaughters as well as grandsons.[48]

The adoption of the new Family Code (*Moudawana*) was the culmination of years of work by many women's groups in Morocco. The Family Code adopted at independence in 1957/58 was highly patriarchal, with men designated as head of household and women designated as "adult minors" who must be under the guardianship of a male family member.[49] The *Moudawana* also is the only area of law that is codified according to Islamic law; all other legislation is secular.

Women's groups in Morocco organized for reform almost from the time the *Moudawana* was originally adopted. In 1992 the *Union de l'Action Feminine* started a grassroots campaign to obtain one million signatures on a petition for *Moudawana* reform. A very limited reform resulted in 1993. Through the 1990s, women's rights groups continued to organize, adopting the discourse of human rights in addition to their focus on religious interpretation to support change. To defuse backlash from religious leaders, they crafted arguments to the effect that Islam had always been a religion of justice and equality, and had embodied equality long before it became fashionable in the West.

At the same time, women in the Maghreb (Morocco, Algeria, Tunisia) were organizing a collective effort to promote equality in the legal systems of all three countries, taking the

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[48] "King of Morocco Calls for Fundamental Reform in Family Law (translation of the King's announcement of the law's provisions), MEMRI, November 7, 2003, www.hvk.org/rticles/1103/76.html; "Morocco Adopts Landmark Family Law Supporting Women's Equality," Women's Learning Partnership for Rights, Development, and Peace, February 24, 2004, www.learningpartnership.org/en/advocacy/alerts/morocco0204. An unofficial English translation of the law can be found at Women Living Under Muslim Laws, http://www.wluml.org/english/news/moudawana-english.pdf.

[49] For a comprehensive case study of the Family Code campaign, see Alexandra Pittman (with Rabea Naciri), *Cultural Adaptations: the Moroccan women's Campaign to Change the Moudawana*, United Kingdom: Institute of Development Studies, 2007, www.ids.ac.uk.ids/Part/proj/pnp.html. The abbreviated history in this paper can barely do justice to the effort.

progressive aspects of the Tunisian family code as inspiration and example. *The Collectif 95 Maghreb Egalité* was created in 1992 to share strategies, ideas, and advocacy tools across the sub-region. *L'Association Democratique des Femmes du Maroc (ADFM)* was the Morocco coordinator for this network. In 1995 the *Collectif* issued a document, *100 Measures and Steps for Egalitarian Legislation of Family Relations in Morocco*, to convey the need for egalitarian family law and demonstrate what it would look like.

The campaign began to see some success particularly after a change in political leadership and the ascent of King Mohamed VI to the throne in 1999. The government adopted a Plan of Action for the Integration of Women in Development, integrating measures from the Beijing Platform for Action. As opposition to reforms crystallized, the women's groups formed new networks, adapting their methods to new developments. They framed their arguments to meet the cultural context, targeted public awareness efforts to the general population in terms of everyday issues, and offered a familiar religious and cultural context for the concepts of change and the principle of *ijtihad* (living interpretation of Islamic law). The State acknowledged the impact of these efforts in its Combined Third and Fourth Periodic Reports to CEDAW, which was reviewed in 2008.[50]

While the Family Code change was indeed a great civil society accomplishment (although far from a complete reorganization of the Code to eliminate all discrimination against women), the political context was significant. King Mohamed VI presented himself as a modern monarch who supported equality for women. He also took the position that change could and should occur within a Muslim framework. He appointed a Royal Commission in 2001 to examine changes in the *Moudawana*. The Commission worked very slowly, holding open hearings for nine months and spending three years in total on analysis of the *Moudawana*. In 2003 the King appointed a new president of the Commission, and shortly thereafter it issued recommendations that became legislation, adopted in 2004.

The Government of Morocco has presented the Family Code change as a major accomplishment and announced in 2006 that it would withdraw the relevant reservations to CEDAW. The Moroccan delegation that presented the State party report to the CEDAW Committee in 2008 stated that the government intended to withdraw its reservations.[51] In a speech given on Human Rights Day, December 10, 2008, that received global coverage, the King announced that reservations had been withdrawn.[52] However, as of November 5, 2009, the United Nations Treaty Office has not received an instrument of withdrawal,[53] and the formal record still is not cleared.

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[50] CEDAW, *Consideration of State Party Reports: Combined Third and Fourth Periodic Report of Morocco*, CEDAW/C/MAR/4 (18 September 2006), para. 352, http://daccessdds.un.org/doc/UNDOC/GEN/N06/563/69/PDF/N0656369.pdf?OpenElement.

[51] CEDAW, *Consideration of State Party Reports: Combined Third and Fourth Periodic Report of Morocco*, CEDAW/C/MAR/4 (18 September 2006), para. 352, http://daccessdds.un.org/doc/UNDOC/GEN/N06/563/69/PDF/N0656369.pdf?OpenElement.

[52] Women Living Under Muslim Laws, "Morocco withdraws reservations to CEDAW," December 10, 2008, http://www.wluml.org/english/newsfulltxt.shtml?cmd[157]=x-157-563308.

[53] Correspondence (e-mail) from Arturo Requesens, UN Treaty Office, April 13, 2009.

Morocco changed its nationality law in 2007 to allow Moroccan women to transmit their nationality to their children. Women's groups had also been fighting for this change for years. A six-country Middle East-North Africa network, of which *ADFM* is the Moroccan partner, provides significant support for nationality advocacy as well as information and inspiration for partners outside the region.[54] The reservation pertaining to Article 9 also has not been withdrawn.

The King's careful presentation of the Family Code reforms in the context of Islam[55] can only help in promoting other State parties' reconsideration of *Sharia*-based limitations on equality in the family. And the civil society efforts can serve as a model for concerned NGOs throughout the globe.

Reservations on other bases

Turkey

Turkey presents a particularly interesting case because it is a determinedly secular state with a majority Muslim population that entered and later withdrew reservations to several key provisions of the CEDAW Convention.

Upon its accession to the Convention in 1985, Turkey entered reservations to Articles 15 (2), providing for equal legal capacity and equal rights to manage property and 15(4), relating to choice of residence and domicile. Article 16 (1)(c)(same rights during marriage and at dissolution), (d) (same rights and responsibilities as parents), (f) (same rights as guardians, trustees, adoptive parents), and (g) (rights to family name and to choice of profession) also were reserved. In addition, the State reserved Article 29. It also entered a declaration that is somewhat opaque but is in the nature of a reservation to Article 9 (1) (nationality of married women).[56]

While the Turkish Civil Code adopted in 1926 rejected Islamic law, it reflected an extremely patriarchal culture, in which men were designated head of family. The reservations to CEDAW were based on the limitations in the 1926 Civil Code.

Civil society action to address inequality dates to the 1980s, when the feminist movement organized to target domestic violence. [57] The campaign succeeded in promoting a change in the Penal Code relating to sentencing of rapists. During the 1990s, women's human rights groups became increasingly organized and sophisticated in pursuing the human rights agenda. The NGO Women for Women's Human Rights submitted a shadow report to the CEDAW Committee for

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[54] See "Claiming Equal Citizenship: The Campaign for Arab Women's Right to Nationality," http://www.learningpartnerhsip.org/citizenship/about.

[55] See MEMRI, *supra* fn. 11.

[56] The Declaration reads: "Article 9, paragraph 1 of the Convention is not in conflict with the provisions of article 5, paragraph 1, and article 15 and 17 of the Turkish Law on Nationality, relating to the acquisition of citizenship, since the intent of those provisions regulating acquisition of citizenship through marriage is to prevent statelessness."

[57] For a complete account of NGO advocacy and the political context of changes in the Turkish Codes, see Pinar Ilkkaracan, *Reforming the Penal Code in turkey: The Campaign for the Reform of the Turkish Penal Code from a Gender Perspective*, (Web version), United Kingdom, 2007, www.ids.ac.uk/ids/Pat/proj/pnp.html.

its 1997 review of Turkey and became a leader in coalition building for advocacy. In 1998 the Law on Protection of the Family was adopted to provide for orders for protection in domestic violence cases. Turkey withdrew its reservations to Articles 15 and 16 in 1999, as various efforts were under way to revise the Civil Code. However, major overhaul of the Civil Code was consistently stalled until 2000, when a parliamentary coalition seemed to have enough votes to adopt a new Code that included provisions for full equality. Then, with unexpected opposition gathering in parliament, women's groups formed a coalition of 120 organizations that mounted an effective public awareness and media campaign. The new Civil Code was adopted in 2001.

Turkey's drive to join the European Union was a significant factor in the context for change. The EU effort gathered energy starting in 1999 when Turkey was named as a candidate for EU accession. Advocates have firmly noted that "the struggle of the women's movement for the reform of the Turkish Civil Code, as well as other reforms for gender equality, started long before the EU accession"[58] talks. But the EU developments, together with a sizeable supportive parliamentary coalition, made for a political moment that was ripe for progress.

In 2001 the Civil Code was amended to provide for equality in marriage and divorce, including setting the age of marriage at 18 for both men and women, equal division of property upon divorce, assigning an economic value to women's nonfinancial contributions, and allowing single parents to adopt children. The constitution was amended in 2001 to redefine the family as "based on equality between the spouses." Essentially the patriarchal family regime that had held from the days of Kemal Ataturk was finally dissolved.

Following this success, the women's movement dealt with another challenge as the Penal Code was reviewed on the way to reform. Early versions of the revised Penal Code, drafted in view of EU requirements for accession, made no reference to reforming the elements of the law that had, since 1926, treated women as property rather than as individuals. The old Penal Code provided for dropping rape charges if the rapist married the victim, justified "honor" crimes, and treated sexual offenses as crimes against the state. Following a three-year campaign, major amendments to the Penal Code in 2004 changed the classification of sexual offenses to crimes against the person (instead of crimes against the state), eliminated concepts of chastity, honor, and public morality from the Code, eliminated impunity for rape if the rapist married the victim, criminalized sexual harassment and marital rape, and modernized definitions and penalties for other sexual crimes.[59]

While this author hesitates to attribute direct causation without further investigation, which is beyond the scope of this study, it is clear that the withdrawal of Turkey's reservations coincided with political developments as well as the growing strength of women's advocacy. The reservations to Articles 15 and 16 were withdrawn in 1999, and the remaining substantive reservation (stated as a declaration), to Article 9 (1), was withdrawn in 2008.

Republic of Korea

[58] Evre Kanak, Women for Women's Human Rights-New Ways, private correspondence, 18 March 2009.
[59] For a complete description of these laws, see Women for Women-New Ways, http://www.wwhr.org.

The Republic of Korea ratified the Convention in 1984, entering reservations (without explanation) to Article 9 and Article 16(1)(c), (d), (f), and (g). In 1991 it withdrew the reservation to Article 16(1) (c), (d), and (f), leaving in place the reservations to Article 9 and Article 16(1)(g), the right to choose a family name and a profession. In 1999, the reservation to Article 9 was withdrawn.

The official records offer no information on the context for the withdrawal of these reservations. The remaining reservation, pertaining to the choice of family name, has been a major issue for Korean women. According to the State Party's Sixth Periodic Report to CEDAW, a new law relating to this issue was due to take effect on January 1, 2008.[60] However, as the Committee noted in its Concluding Comments, the State offered no timetable for withdrawing its remaining reservation—and as of November 2009 the reservation remains. The CEDAW Committee's review of the Republic of Korea in 2007 noted "with concern the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family" that are reflected in women's career opportunities and choices, limited participation in public life, and continuing violence against them.[61]

The "family name" issue is problematic in other states, notably Japan, which has no reservations to the Convention.

Some additional observations: Objecting states

Several States parties to the CEDAW Convention have regularly entered objections to reservations. Because objections have limited impact on the ultimate determination of validity,[62] these objections are illuminating but have more political than legal impact. While the objecting States have not entered reservations, the CEDAW Committee has taken several of them rather severely to task for their failures in Convention implementation.

Austria, Denmark, Finland, Germany, Mexico, the Netherlands, Norway, Sweden, and the United Kingdom are the most regularly engaged States parties with respect to objections. Argentina, Belgium, Canada, Estonia, France, Greece, Italy, Latvia, Poland, Portugal, Romania and Spain have entered at least one but fewer than five objections.

The reasons for states' entry of objections are not clear from the record. The objecting states' respective records on Convention implementation do not indicate a consistent relationship between domestic policy and the tendency to enter objections to reservations. For example, Germany received a quite stern review after its most recent dialogue with the Committee, at its 43d Session in January 2009.[63]

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[60] CEDAW, *Consideration of State Party Reports, Sixth Periodic Report of the Republic of Korea*, CEDAW/C/KOR/6, para.16.2 (5March2007), http://daccessdds.un.org/doc/UNDOC/GEN/N07/262/87/PDF/N0726287.pdf?OpenElement

[61] CEDAW, *Consideration of State Party Reports: Republic of Korea,* CEDAW/C/KOR/6, para.25 (10August2007), http://daccessdds.un.org/doc/UNDOC/GEN/N07/459/83/PDF/N0745983.pdf?OpenElement.

[62] See discussion above, Section III.C(4).

[63] *Committee on the Elimination of Discrimination against Women, Concluding Comments: Germany*, CEDAW/C/DEU/CO/6 (10 Feb 2009).

While the legal effect of objections remains contested, the somewhat checkered pattern of States' objections may provide additional leverage for both the Committee and civil society advocates in their promotion of implementation.

3. Lessons, Observations, and Recommendations

This overview of issues and experiences relating to CEDAW Convention reservations indicates that the reservations issue can only be addressed effectively by dealing with the entire context, in which legal, political, and cultural issues are interrelated. This context provides opportunities for UNICEF to work with States parties, NGOs, and international actors to promote withdrawal of the reservations. States that have entered reservations offer a level of engagement with the CEDAW process that non-reserving States, many with equal or greater limitations on their commitment to equality, do not.

The following recommendations are offered with the understanding that they are subject to further discussion within UNICEF as to the agency's mandate and capacity.

Reservations are tied to law reform in many ways, but law reform is not the only avenue for dealing with reservations. Recommendations A, F, and G relate to and support law reform as well as other activities.

3.1. Support qualitative and quantitative research to provide credible information on both the quantitative and qualitative consequences of discrimination (substantive inequality) that is preserved under the reserved provisions.

Accurate, compelling information is important to making the case that laws should be changed or that circumstances have changed, so reservations may be withdrawn. UNICEF offices could

(1) choose locally grounded and well-qualified experts (scholars, activists);

(2) offer technical assistance or funding, or both, to government agencies to establish good information-gathering practices.

(3) develop strategies to use these data to promote withdrawal of reservations during the interim periods, when government and NGOs are not scrambling to produce reports.

3.2. Support national NGOs and coalitions for continuous, programmatic CEDAW monitoring, with a view to engaging government officials in discussion of reservations.

The strength of the Convention and the effectiveness of advocates lie in engagement with State officials during all those years between reviews.

3.3. Support NGOs and engage directly with States to promote submission of State party reports, with special attention to late reports.

The CEDAW Committee cannot be engaged on the subject of reservations unless it has a report before it for review. Some States parties are years behind in the submission of reports. Sometimes it truly is a matter of capacity. Offer technical assistance to States to keep the reporting process moving. Require NGO participation as part of the report preparation process.

3.4. Remind States parties that have changed their laws or announced withdrawal of reservations to withdraw them immediately.

The "good offices" of UNICEF would allow for gentle reminders (or queries) to encourage clearing the record and inspiring other States.

3.5. Support NGOs and coalitions to promote ratification and use of the Optional Protocol where possible, focusing on issues that are the subject of reservations.

Framing the complaint is an excellent platform for analyzing reservations with a view to challenging their necessity. This exercise would do a great service in clarifying the scope of reservations.

3.6. Support engagement at a high intellectual level with the religious and customary objections to CEDAW that result in reservations.

Reservations citing religious law may be withdrawn if the State party is convinced either that the rights do not contravene it or that the state's laws may be changed on the basis of interpretation of religious texts. Many advocates have found that demonstrating their respect for custom or religious law is an important factor in making their case. The Moroccan experience is a prime example. This effort would include

(a) scholarly analysis and interpretation and

(b) engagement with religious and customary authorities and support of NGOs to engage.

3.7. Support intra-regional and international coalitions and resource centers that focus on sex discrimination issues that are the subject of reservations.

The MENA Nationality Campaign is a very visible example of the power of well-organized (and well-financed) coalitions. The *Collectif 95 Maghreb* was an extremely important resource for advocacy in Morocco. It and other regional and international groups also serve as crucial resources for information and technical assistance to support local activity and advocacy at regional and international levels. This may require rethinking the organization of funding.

Table 1: Country Reservation by CEDAW Article

	General Reservations	Article 1	Article 2	Article 3	Article 4	Article 5	Article 6	Article 7	Article 8	Article 9	Article 10
Algeria			Reservation: apply on condition that is does not "conflict with the provisions of the Algerian Family Code"							Reservation: 9(2) withdrawn 2009	
Argentina											
Australia								Women in combat withdrawn 2000			
Austria											
Bahamas			Reservation on 2(a)							Reservation to 9(2)	
Bahrain			Reservation "to ensure its implementation within the bounds of Sharia"							Reservation to 9(2)	
Bangladesh			Reservation: conflict with sharia law								
Belarus											
Belgium								Women in combat withdrawn			
Brazil											
Brunei Darussalam	Reservation to what contradicts the Constitution and the beliefs and principles of Islam									Reservation to 9(2)	
Bulgaria											
Canada											
China											
Cook Islands (listed under New Zealand)	Reserve right not to apply provisions where they contradict policy for recruitment and service in armed force and law enforcement		Reservation to 2(f) with respect to inheritance of customary chief titles			Reservation to 5(a) with respect to inheritance of chief titles					
Cuba											
Cyprus										Reservation Withdrawn	
Czechoslovakia											
Democratic People's Republic of Korea			Reservation: 2(f)							Reservation: 9(2)	
Egypt			Reservation: comply as long as it does not run counter to Islamic sharia							Reservation 9(2) withdrawn 2008	
El Salvador											
Ethiopia											
Fiji						Reservation Withdrawn					
France						Reservation Withdrawn		Reservation Withdrawn			
Germany	Declaration only							Reservation Withdrawn			
Hungary											

	Article 11	Article 12	Article 13	Article 14	Article 15	Article 16	Article 29	Reservations Objected to by:
Algeria					Reservation: 15(4) not to be interpreted in contradition to Fam. Code	Reservation: should not contradict code	Reservation	Denmark, Germany, Netherlands, Norway, Portugal, Sweden
Argentina							Reservation	
Australia	Reservation: maternity leave with pay							
Austria	Reservation							
Bahamas	Withdrawn					Reservation: 16(1)(h)	Reservation	
Bahrain					Reservation: 15(4)	Reservation: incompatible with Sharia	Reservation	Austria, Denmark, Finland, France, Germany, Greece, Netherlands, Sweden, United Kingdom of Great Britain and Northern Ireland
Bangladesh			Reservation Withdrawn			Reservation: 16(1)(c); 16(1)(f) withdrawn		Germany, Mexico, Netherlands, Sweden
Belarus							Reservation Withdrawn	
Belgium					Res 15(3) withdrawn			
Brazil					Reservation Withdrawn	Reservation Withdrawn	Reservation	
Brunei Darussalam							Reservation	
Bulgaria							Reservation Withdrawn	
Canada	Reservation Withdrawn							
China							Reservation	
Cook Islands (listed under New Zealand)								
Cuba							Reservation	
Cyprus								
Czechoslovakia	Reservation withdrawn							
Democratic People's Republic of Korea							Reservation	Austria, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland
Egypt						Reservation: sharia	Reservation	Germany, Mexico, Netherlands, Sweden
El Salvador							Reservation	
Ethiopia							Reservation	
Fiji								
France				Declaration	Reservation Withdrawn	Reservation: 16(1)(g); Others withdrawn	Reservation	
Germany								
Hungary							Reservation Withdrawn	

Table 1: Country Reservation by CEDAW Article

	General Reservations	Article 1	Article 2	Article 3	Article 4	Article 5	Article 6	Article 7	Article 8	Article 9	Article 10
India						Reservation, Declaration: will abide so long as they do not interfere with the personal affairs of any community without its initiative and consent					
Indonesia											
Iraq			Reservation: 2(f) and (g)							Reservation: 9(1) and (2)	
Ireland										Reservation Withdrawn	
Israel								Reservation 7(b): appointing women to serve as judges in religious courts			
Jamaica										Reservation Withdrawn	
Jordan										Reservation: 9(2)	
Kuwait								Reservation Withdrawal: On 9 December 2005 to article 7(a) made upon accession to the Convention		Reservation: 9(2)	
Lebanon										Reservation: 9(2)	
Lesotho	Reservation Withdrawal: On 25 August 2004, modified its reservation, resulting in the withdrawal of aspects pertaining in general to the Convention		Reservation: succession to the throne and chieftainship								
Libyan Arab Jamahiriya	General reservation modified 1995		Reservation: Sharia preempts w/respect to inheritance								
Liechtenstein		Reservation: reserves right to apply article 3 of Constitution								Reservation Withdrawn	
Luxembourg								Reservation withdrawn 2008: hereditary transmission of the crown			
Malawi						Reservation Withdrawn					
Malaysia	General: subject to the understanding that the provisions of the Conv. do not conflict w/the provisions of Sharia and Fed. Const'n		Reservation to Art 2(f) withdrawn			Reservation: 5(a)		Reservation 7(b)		Reservation 9(2); reservation 9(1) withdrawn	
Maldives								Reservation 7(a) withdrawn 2010			
Malta											
Mauritania	"approves" Conv. To extent "not contrary to" Sharia or Const.										

	Article 11	Article 12	Article 13	Article 14	Article 15	Article 16	Article 29	Reservations Objected to by:
India						Reservation, Declaration: will abide so long as they do not interfere with the personal affairs of any community without its initiative and consent, also that compulsory registration of marriages is not practical	Reservation	Netherlands
Indonesia							Reservation	
Iraq						Reservation	Reservation	Germany, Israel, Mexico, Netherlands, Sweden
Ireland	Reservation to 11(1): withdrawn		Reserved; withdrew 13(a) 1986; withdrew 13 (b)(c)2004		Withdrawn: 15(3),(4)	Reservation: 16 (1)(d) and (f): the objectives of the Conv." do not necessitate the extension to men of rights identical to those accorded to women with regard to guardianship, adoption, and custody of OW children"		
Israel						Reservation: citing religious community personal law	Declaration	
Jamaica							Reservation	
Jordan					Reservation: 15(4) withdrawn	Reservation: 16(1)(c) (d) (g)		Sweden
Kuwait						Reservation: 16(1)(f) "conflicts with Sharia"	Reservation	Austria, Belgium, Denmark, Finland, Netherlands, Norway, Portugal, Swede
Lebanon						Reservation: 16(1)(c)(d) (f) (g)	Reservation	Austria, Denmark, Netherlands, Sweden
Lesotho								Denmark, Finland, Germany, Mexico, Netherlands, Norway
Libyan Arab Jamahiriya						Reservation: 16(c),(d) "implementation . . . Shall be without prejudice to any of the rts guaranteed to women by Sharia"		Denmark, Finland, Germany, Mexico, Netherlands, Norway, Sweden
Liechtenstein								
Luxembourg						Reservation: right to choose family name of children withdrawn		
Malawi							Reservation Withdrawn	
Malaysia	Reservation: "interpretation" limited to discrim. Between men and women only					Res. withdrawn 16(1)(b)(d)(e)(h); retains res. 16(1)(a)©(f)(g), 16(2)		Denmark, Finland, France, Germany, Netherlands, Norway
Maldives						Reservation: right to "apply" Article "without prejudice to" Sharia		Austria, Canada, Denmark, Finland, Germany, Netherlands, Norway, Portugal, Sweden
Malta	Reservation: 11(1)		Reservation		Reservation	Reservation; 16(1)(c) AND rejects "any interpretation" to require legal abortion		
Mauritania						(no full reservation, but general compliance with sharia)		Austria, Denmark, Finland, Germany, Netherlands, Norway, Portugal, Sweden, United Kingdom of Great Britain and Northern Ireland

Table 1: Country Reservation by CEDAW Article

	General Reservations	Article 1	Article 2	Article 3	Article 4	Article 5	Article 6	Article 7	Article 8	Article 9	Article 10
Mauritius											
Micronesia (Federated States of)			Reservation 2(f)			Reservation					
Monaco			(general succession reservation)					Reservation: 7(b)		Reservation	
Mongolia											
Morocco			Reservation							Reservation	
Myanmar											
Netherlands	Declaration only										
New Zealand	General reservation concerning armed forces and law enforcement withdrawn		Reservation:2(f) inheritance of Cook Islands titles			Reservation: inheritance of titles					
Cook Islands and Niue		Reservation withdrawn									
Cook Islands			Reservation withdrawn (titles)			Reservation withdrawn (titles)					
Niger			Reservation 2(d) and (f)			Reservation: 5(a)					
Oman	General reservation: Islam and lesiglation									Reservation: 9(2)	
Pakistan	General Reservation: Constitution is superior										
Poland											
Qatar (ratif. 2009)			Res 2(a) "hereditary transmission of authority" under Constitution			Declaration: "irrespective of marital status" not to encourage other than marriage; "patterns" Art 5 not to encourage women to abandon their role as mothers				Reservation 9(2)	
Republic of Korea										Reservation Withdrawn	
Romania											
Russian Federation											
Saudi Arabia	General, "norms of Islamic law"										
Singapore	Must respect the freedom of minorities		Reservationciting mulit-racial, multi-religious society, reserves to preserve personal law								
Spain	Declaration: male succession to the throne										
Switzerland								Reservation Withdrawn			

	Article 11	Article 12	Article 13	Article 14	Article 15	Article 16	Article 29	Reservations Objected to by:
Mauritius	Reservation Withdrawn					Reservation Withdrawn	Reservation	
Micronesia (Federated States of)	Reservation: 11(1)(d), 11(2)(b)					Reservation	Reservation	Finland, Portugal, Sweden, United Kingdom of Great Britain and Northern Ireland
Monaco						Reservation 16(1)(g)(e); male head of household for social security	Reservation	
Mongolia							Reservation Withdrawn	
Morocco					Reservation: 15(4)	Reservation	Reservation	Netherlands
Myanmar							Reservation	
Netherlands								
New Zealand								
Cook Islands and Niue	Reservation Withdrawn							
Cook Islands								Mexico, Sweden
Niger					Reservation: 15(4)	Reservation: 16(1)(c) (g)	Reservation	Denmark, Finland, Norway, Sweden
Oman					Reservation: 15(4)	Reservation:"and in particular, 16(1)*e) and (f)"	Reservation	
Pakistan							Reservation	Austria, Mexico, Finland, Germany, Netherlands, Norway, Portugal
Poland							Reservation Withdrawn	
Qatar (ratif. 2009)					Reservation: 15(1) Islamic law; 15(4) family law and "established practice"	Reservation: 16(1)(a) and(c) Islamic law; 16(1)(f) Islamic law and family law; declaration: all legislation "conducive to the promotion of social solidarity."		
Republic of Korea						Reservation: 16(1)(g)		
Romania							Reservation Withdrawn	
Russian Federation							Reservation Withdrawn	
Saudi Arabia							Reservation	Austria, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland
Singapore	Reservation: in view of article 4(2),may prohibit employment of women for protective reasons					Reservation: same as to Art 2	Reservation	Denmark, Finland, Netherlands, Norway, Sweden
Spain								
Switzerland					Reservation: 15(2)	Reservation: 16(g),(h)		Switzerland

Table 1: Country Reservation by CEDAW Article

	General Reservations	Article 1	Article 2	Article 3	Article 4	Article 5	Article 6	Article 7	Article 8	Article 9	Article 10
Syrian Arab Republic			Reservation							Reservation	
Thailand								Reservation Withdrawn		Reservation Withdrawn	Reservation Withdrawn
Trinidad and Tobago											
Tunisia	shall not conflict with Constitution									Reservation 9(2)	
Turkey										Declaration: conflict with Turkish Law on Nationality; withdrawn as to 9(1) Jan 2008	
Ukraine											
United Arab Emirates			Reservation2(f)							Reservation	
United Kingdom of Great Britain and Northern Ireland		: *inter alia*, excluding royal titles	Reservation Withdrawn							Reservation withdrawn	Reservation Withdrawn
British Virgin Islands, the Falkland Islands (Malvinas), the Isle of Man, South Georgia and the Sandwich Islands, and the Turks and Caicos Islands	NOTE: China entered declarations upon reversion of HK 1997	Reservation	Reservation							Reservation	
Venezuela (Bolvarian Republic of)											
Viet Nam											
Yemen											

	Article 11	Article 12	Article 13	Article 14	Article 15	Article 16	Article 29	Reservations Objected to by:
Syrian Arab Republic					Reservation: movement, residence, and domicile	Reservation 16(1)(c)(d)(f)(g)	Reservation	Austria, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Netherlands, Norway, Romania, Spain, Sweden, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland
Thailand	Reservation Withdrawn				Reservation Withdrawn	Reservation	Reservation	Germany, Mexico, Netherlands, Sweden
Trinidad and Tobago							Reservation	
Tunisia					Declaration:15(4) shall not conflict with Personal Status Code	Reservation: 16(c) (d)(f)(g)(h)	Reservation	Germany, Netherlands, Sweden
Turkey					Reservation Withdrawn	Reservation Withdrawn	Reservation	
Ukraine							Reservation Withdrawn	
United Arab Emirates					Reservation: 15(2)	Reservation:"in conflict with the principles of the Shariah"	Reservation	Austria, Denmark, Finland, France, Germany, Greece, Latvia, Netherlands, Norway, Poland, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland
United Kingdom of Great Britain and Northern Ireland	Reservation withdrawn		Reservation Withdrawn		Understanding:discrim. provisions severable	Reservation 16(1)(f)		Argentina (to declarations)
British Virgin Islands, the Falkland Islands (Malvinas), the Isle of Man, South Georgia and the Sandwich Islands, and the Turks and Caicos Islands	Reservation		Reservation		Reservation	Reservation		
Venezuela (Bolvarian Republic of)							Reservation	
Viet Nam							Reservation	
Yemen							Reservation	