Rhetorical Strategies and Official Policies on Women's Rights:

The Merits and Drawbacks of the New World Hypocrisy

*By Ann Elizabeth Mayer**

This essay suggests that, with regard to campaigns on behalf of equal rights for women, we now face similar frustration due to the new world hypocrisy on questions of women's rights. Spokespersons who are prepared to admit publicly that they consider women inferior or that they favor discrimination against women are becoming increasingly rare. Instead, rhetorical strategies that proclaim support for women's equality are pursuing policies that are inimical to women's rights. The result is might be called the new world hypocrisy. Appeals to domestic and/or religious laws to justify non-compliance with the norm of full equality for women are becoming a significant problem. Generally, a breach of an international obligation cannot be defended by saying that the state is observing the requirements of its own domestic law.[1] Muslim countries justify deviating from the principle of full equality for women by claiming that their domestic laws are not man-made but divinely ordained; they assert, therefore, that denying equality to women under their domestic laws lies outside the normal prohibition against the use of internal rules to evade international responsibility. In this essay the use of Islamic rationales for discrimination will be shown to be part of an international pattern of hypocrisy on women's rights issues, in which governmental spokespersons who use similar strategies to justify deviations from international human rights law nonetheless insist, against all evidence to the contrary, that they accept the principle of women's equality.

The rhetoric in reservations made by several Muslim countries when ratifying the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) will be dissected in what follows.[2] However, because there is a tendency to treat the problems of accommodating women's equality in Muslim milieus as if they were unique, examples involving the US and Vatican will be compared to demonstrate that resistance to the international norm of women's equality and double talk about women's rights are not limited to Islam. The US can invoke its Constitution and the Vatican can invoke natural law and Church tradition just as Muslim countries invoke Islamic law. In all three cases, however, the common strategy is to appeal to the laws of Nature, which have made women different from men. The rhetorical strategies attempt in all cases to establish that the speakers' opposition to the principle of women's equality as established in international law is based on higher laws that the speakers are powerless to alter.

Muslim Countries and CEDAW

Many countries that have ratified or acceded to the CEDAW treaty have entered reservations. Indeed, as has been pointed out in a recent article, more reservations 'with the potential to modify or exclude most, if not all, of the terms of the treaty' have been entered to CEDAW than to any other convention.[3] It is acceptable under international law to make reservations to a treaty, but a state is not supposed to make reservation that are incompatible with the purpose of the treaty. Rather than doing so, a state should simply decline to become a party to the treaty. In the case of Muslim countries, vague 'Islamic' reservations have been entered to CEDAW that appear to be incompatible with its propose.[4] However, the governments involved seek to convince the world that their reservations are not incompatible with the goal of achieving equality for women.

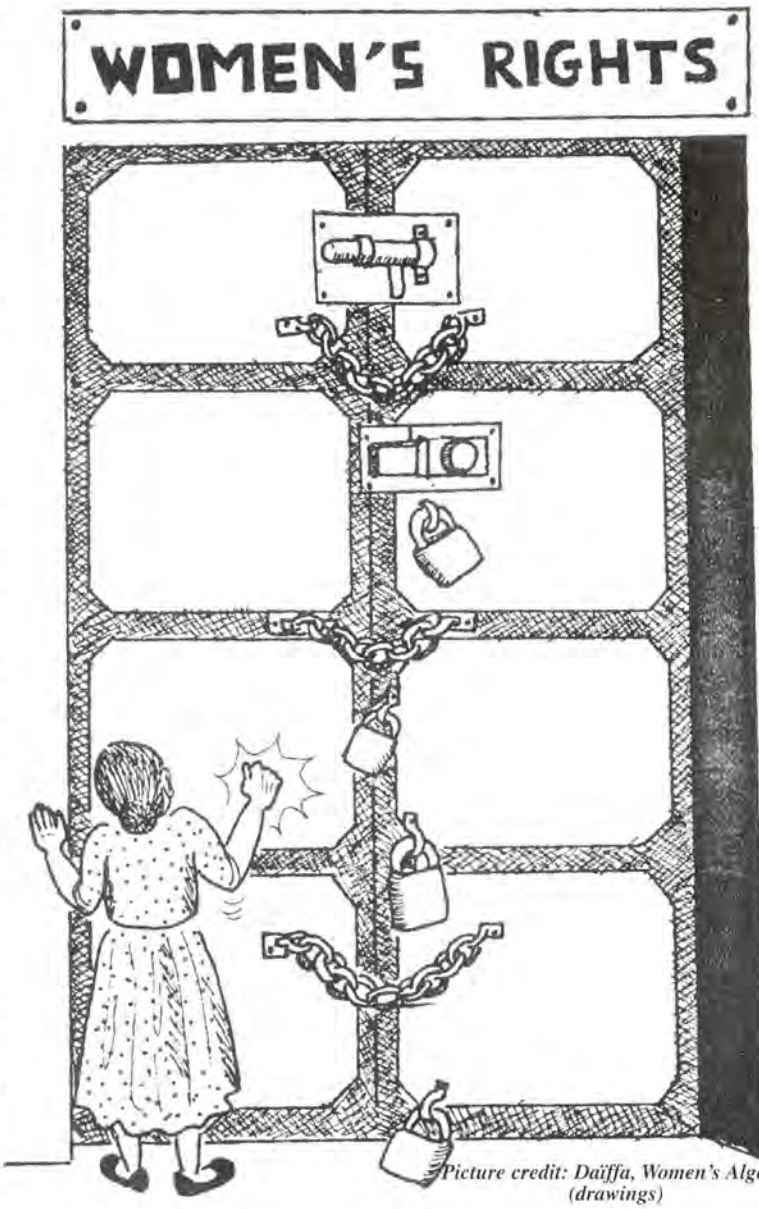
The objection made by Egypt in 1981 to Article 16 of CEDAW at time of its ratification merits examination. Article 16 provides for the equality of men and women in all matters relating to marriage and family relations during marriage and upon its dissolution. Egypt sought to justify its reservation to this article by a longer than usual explanation. (Letters have been added in brackets to Egypt's explanation to facilitate identifying passages that will be analyzed subsequently.) Egypt asserted that it had to adhere to provisions of the Islamic *shari'a*:

> *[a] whereby women are accorded rights equivalent to those of their spouses so as to ensure a just balance between them. [b] This 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 [c] one of the most important bases of these relations is an equivalency of rights and duties so as to ensure complementarity which guarantees true equality between the spouses. [d] This is because the provisions of the Islamic Shari'a lay down that the husband shall pay bridal money to the wife and maintain her fully out of his own funds and [e] shall also make a payment to her upon divorce, [f] whereas the wife retains full rights over her property and is not obliged to spend anything on her keeps. [g] 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.*[5]

A few aspects of the hypocrisy and twisted logic in this statement deserve special attention. Egypt equated its laws governing personal status with 'firm religious beliefs' that are sacrosanct and cannot be questioned. However, a distinction can readily be made between Divine Law itself and Egypt's own laws. The latter are obviously subject to alteration at the wish of the government, having changed considerably since the beginning of this century and having been altered in 1979, at the time the CEDAW text was being finalized, and twice in 1985.

Contrary to Egypt's assertion, the *shari'a* rules in Egypt's personal status laws are sharply at odds with the principles of male-female equality. Its *shari'a* based rules uphold the traditional patriarchal family unit, in which the husband is the master and the provider and the wife is a dependent subject to his control. Thus, as in other patriarchal systems, the 'balance' in the rights of the spouses is sharply tilted in the husband's favor. The section following [a] speaks as if it were self-evident that the difference in treatment of men and women in Egyptian personal status law is 'just.' In fact, the justice of the patriarchal scheme they embody has been vigorously contested. As is well known to the government, Egyptian feminists do not accept that these laws are just; they have challenged these laws and called for their reform, and debates over whether and how these laws should be reformed have raged in public for years.[6] Similarly, the claim that these laws guarantee 'true equality' in the section after [c] is debatable, since, certainly, nothing like actual equality is being afforded. To agree one has to assume that women are naturally suited for roles as dependents and homemakers, and men suited for the roles of masters and providers, so that the discriminatory treatment mandated by Egyptian law makes women as equal as they should be. This entails accepting ideas directly at odds with Articles 5 of CEDAW, which calls for elimination of practices and prejudices based on the idea of the inferiority or the superiority of either sex or stereotyped roles for men and women.

The section following [b] speaks of *shari'a* law on women as if it offers a single, settled, and definitive model of family law that was obviously binding on all Muslims and cannot be called into question. This is not true. Since the early centuries of Islam the Qur'anic verses and the *hadith* affecting women's rights in the family have been subject to a wide range of diverging interpretations by Islamic jurists, with the interpretations of Sunnis and Shi'is particularly at variance. As great as the variety of interpretations has been in the past, it is even greater today. Many contemporary Muslims find the juristic interpretations made in the pre-modern period inadequate and reject them as no longer binding. Over the last decades a growing feminist literature has added a fresh layer of interpretations and new insights that go well beyond the liberal reformist interpretations introduced in the late nineteenth century. At the same time, fundamentalist ideologues are reinterpreting the Islamic sources in ways that affirm their vision of the way Islamic precepts should apply to the problems of modern life. There is enormous interpretative diversity on the question of what the Islamic sources mandate in terms of status for women.



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This diversity is reflected to some extent in the diversity in personal status laws in contemporary Muslim countries. Some essentially embody medieval juristic interpretations; others have selectively modified and updated aspects of old *shari'a* rules. Turkey has gone so far as to discard Islamic law altogether. Egypt has personal status laws that embody an in-between position, comprising some modest reforms to the pre-modern *shari'a*. The Egyptian personal status law reforms have been criticized by Egyptian feminists and by conservatives, albeit from different perspectives. There is no national consensus that Egypt's personal status law, as reformed embodies the perfect restatement of *shari'a* principles. The fact that the government has made a number of changes to its personal laws, is itself an indication that it does not in reality consider *shari'a* law immutable. In addition, Egypt does not accept the binding force of *shari'a* law in other domains. If Egypt really followed the principle that it has to retain *shari'a* laws because they were religiously mandated, one would expect Egyptian law to follow *shari'a* across the board; but Egypt long ago discarded Islamic law in favor of French-inspired law except in personal status matters. This is in fact one of the grievances that Islamic fundamentalists invoke in their challenges to the religious legitimacy of the government. In these circumstances, it was strange for Egyptian spokespersons to talk as if Egypt were inextricably bound to follow Islamic norms. Sections [d] and [f] misrepresent the nature of the exchange involved in a *shari'a* marriage - the truth is that the husband's financial obligations vis-à-vis his wife correlate exactly with his superior rights and his legal prerogative to demand sexual submission and obedience from her. That is, the man's dower payment and support obligations are the basis of the inequality of the spouses and the wife's inferior position. Moreover, in section [f] there is no acknowledgment that, regardless of the theory that the wife is not obliged to support the family, under present economic conditions in Egypt, wives generally do find that they also have to work outside the home and to contribute their earnings to the family - though this has not been reflected in an adjustment in the husband's superior rights. Indeed, even where the wife is the sole breadwinner in the family, the husband retains his superior legal rights, which proves that no principle of balance and complementary in rights and obligations is actually in effect. That is, Egypt was deliberately obscuring the discriminatory character of its laws. What happens upon divorce is also inaccurately represented. Contrary to the claim following section [e], as Egyptian law now stands, the husband does not always have to pay the wife when they divorce; sometimes he owes no payment and sometimes the wife pays.

The statement in section [g] speaks as if it were self-evident that the husband, who theoretically bears the financial obligation of paying the bride price and maintaining his wife and his family, should have an unrestrained right to divorce, whereas the wife, theoretically his dependent, has to establish grounds before a judge in order to obtain a divorce. However, one could easily turn this proposition on its head and say that the wife, who is presumably generally the financially more vulnerable partner and who often will get a very paltry payment upon divorce, is the one who is most exposed to hardship and most likely to see her livelihood suffer upon divorce. That being the case, any restraints on ending the marriage should, in the interests of equity, apply at least as strongly to a divorce sought by the husband as they do to a divorce sought by the wife.

What Egypt asserted in this disingenuous explanation of its CEDAW reservation was in essence that, although *shari'a* rules did not accord men and women identical treatment, they essentially achieved the male-female equality mandated by CEDAW, albeit by a different route. Of course, this necessitated misrepresenting elements of Egypt's law and steering the discussion away from issues where Egyptian law too obviously violated the principle of male-female equality. Polygamy and inheritance law (according to which women are given one half the share of a male inheriting in the same capacity) were not mentioned. This deceit and evasiveness proves that Egypt had no real confidence in the sufficiency of its *shari'a* justifications for denying women equality. If Egypt had such confidence, it would not have needed to misrepresent the features of *shari'a* law that discriminated against women but would have simply stopped after saying that Egypt followed a divinely inspired law and therefore did not care whether or not its law were in conformity with CEDAW. Of course, doing this would have meant acknowledging that Egyptian laws conflicted with the international human rights norm of equality, which Egypt was not disposed to do. It seems that appeals to the *shari'a* were merely tools in Egypt's efforts to confuse observers and mute international criticism.

Morocco emulated Egypt in the reservations it entered upon acceding to CEDAW in June of 1993. Morocco is eager to advertise in the West its progressive policies and the advances that Moroccan women have made, and it wanted to enhance its image by ratifying CEDAW - but, naturally, only subject to major reservations. Morocco said that it would apply provisions of Article 2 to the extent that they did not conflict with the shari'a , without specifying what that would involve. Morocco expressed reservations with regard to Article 16 provisions, and especially the one on the equality of men and women in respect of rights and responsibilities on entry into and at dissolution of marriage.

Like Egypt , Morocco was not prepared to acknowledge that an intent to allow discrimination lay behind its reservation. Like Egypt, Morocco ignored the changed economic realities that required women to contribute their wealth and earnings to keep the family going and that resulted in households where women were the sole breadwinners - without any corresponding adjustment in their rights. It admitted that certain provisions of the Moroccan personal status code accorded women 'rights that differ from the rights conferred on men' but insisted that these rules could not be

'infringed upon or abrogated because they derive primarily from the Islamic *Shariah*, which strives, among its other objections [sic], to strike a balance between the spouses in order to preserve the coherence of family life.'[7] Like Egypt, Morocco did not deal with areas where the discriminatory character of *shari'a* rules was undeniable. For example, the Maliki version of the *shari'a* followed in Morocco permitted a woman's guardian to consent to marriage on her behalf, thereby allowing him to contract her to a husband whom she did not want to marry. Morocco avoided mentioning the rule that a woman's consent to her own marriage was not required because a rule like this all too clearly revealed women's subjugated status. According to Morocco's rhetorical strategy, the disparities in the treatment of men and women were to be explained solely in terms of a concern to effect a perfect equilibrium. Patriarchal controls over women that were entrenched in Moroccan custom and law were not to be acknowledged.

The Moroccan reservations indicated that the duty to abide by *shari'a* law stood in the way of adhering to international human rights law, as if it were beyond the capacity of the state to modify *shari'a* law. However, Morocco, only a few months after making these reservations, changed the *mudawwana*, its *shari'a*-based code of personal status law, to make reforms that, although modest, broke with *shari'a* tradition. For example, after the reforms, a guardian could no longer contract a marriage on a woman's behalf without her consent. Also, the husband could no longer unilaterally decide whether his household would be polygamous: the first wife was given the right to terminate her marriage if he married a second time. In addition, the husband forfeited his right to unilateral extrajudicial repudiation; he could only obtain a divorce before a judge after an arbitration proceeding before a conciliation commission.[8]

After the 1993 Moroccan personal status reforms, Najat Razi, the president of the Association Marocaine des Droits des Femmes, clearly expressed her dissatisfaction with the level of equality women had achieved, saying: 'Discrimination is maintained, and the *Mudawwana* is still in part contrary to the international conventions.'[9] Her formulation is revealing. Men supportive of the *Mudawwana* see - or pretend to see - a harmonious equilibrium in traditional *shari'a* precepts; the Moroccan feminist view is that, even as modified, the personal status law remains discriminatory and unacceptable under international standards.

Not only did the 1993 modifications in Morocco's personal status law show that *shari'a* rules in Morocco were not above change, but the direction of the changes in the rules on polygamy and divorce showed that the supposedly perfect balance in the rights and duties of the spouses in *shari'a* law was not longed judged acceptable, even by Morocco's conservative, male-dominated government. It was noteworthy that the *shari'a* rules on divorce requiring women but not men to obtain a judge's ruling to divorce, which Morocco in June of 1993 had presented as part of the perfect *shari'a* balance, were among the rules altered only a few months later. Moreover, these changes in the Moroccan divorce law showed that a Muslim country sharing Egypt's rationale for making its reservations to CEDAW could conceive of the husband's right to divorce in Islamic law as being subject to a kind of regulation that, according to the Egyptian view, was inappropriate in the light of the husband's financial obligations to his wife under the *shari'a*.

Morocco also followed Egypt in failing to acknowledge the cleavage between traditionalists and feminists on the question of women's rights. Anyone who knew the positions of Morocco's vigorous feminists was aware that the positions being articulated by Moroccan representatives at the UN did not represent their views. Moroccan feminists acted as though their right to claim the benefit of universal human rights norms supporting women's equality was a given. This feminist perspective is one that any sincere advocate of human rights would endorse, since modern human rights law assumes that denials of human rights under domestic law violate international law, which is the controlling standard, and that all states have the duty to bring their domestic legislation into conformity with international human rights law. For Moroccan's feminists, adopting CEDAW principles and adhering to international law seem to have been primarily conceived in secular terms, as a challenge to male vested interests in maintaining the patriarchal and discriminatory norms of Moroccan law. Some showed little interest in quibbling over whether rules of Islamic law would be violated by CEDAW, while others showed a

Picture credit: Daïffa, Women's Algeria (drawings)

disposition to deny that authentic Islamic teachings were incompatible with women's equality.[10]

The contingency of local interpretations of Islamic requirements is strikingly illustrated in the Tunisian case. The status of women in Tunisia is relatively good and Tunisian personal status law is the most advanced in all the Arab countries. Polygamy was ended in 1956, and divorce is available to men and women on an equal footing. Adoption, unequivocally barred in *shari'a* law, was legalized, and inheritance law has been reformed. That is, *shari'a* principles that Egypt and Morocco invoked as immutable were overridden by Tunisian legislation in the 1950s. Nonetheless, Tunisian personal status law remains by self-designation 'Islamic,' and Tunisia invoked Islam, albeit indirectly, in 1985 when entering its reservation to CEDAW Article 2.[11] Since Tunisia still retains some discriminatory features of *shari'a* law in its code of personal status, the implication seemed to be that the *shari'a* principles that had been retained in Tunisian law were immutable. But after entering its 'Islamic' reservation to CEDAW, Tunisia then proceeded in 1993 to enact new reforms to some of the remaining *shari'a* -based rules in its personal status laws, not eliminating all discriminatory features, but making some additional progressive reforms.

In what sense, then, can it be said that *shari'a* law is an impediment to the reform of domestic laws to make them conform to the principles in CEDAW? The various national formulas of *shari'a* law obviously only constitute an obstacle to legal reforms for as long as the men in power choose to retain them as the law of the land. Whenever governments decide that changes are in order, *shari'a* rules give way to government-sponsored initiatives, even if the latter conflict with Islamic precepts.

Kuwait made several reservations to CEDAW, only one of which related to Islam. It refused to give women the right to vote or to transmit their nationality to their children and said that it was not accepting the CEDAW dispute resolution mechanism. Kuwait also claimed that, Islam being its state religion, it could not accept CEDAW provisions on equal rights for men and women in matters of guardianship or adoption of children. That is, its version of what was objectionable from an Islamic standpoint had little in common with the Egyptian or Moroccan versions.

Kuwait added further confusion when it signed CEDAW in February of 1994 but entered reservations that were substantially different from those of other Arab Muslim countries. Kuwait objected to the provisions that gave women political rights (women in Kuwait are not allowed to vote), women's right to give their nationality to their children, and equal rights for both spouses in child custody decisions.[12] Only the last was related to provisions in *shari'a* law. That is, Kuwait's reservations did not follow a particularly Islamic pattern, even though Kuwaitis are overwhelmingly Muslim and Kuwait's personal status law is theoretically based on *shari'a* law. Seen in relation to the laws in other Muslim countries, the reservation on women's voting rights seems particularly odd, since even a self-proclaimed Islamic state like Iran allows women to vote. On the matter of passing on nationality, Kuwait and Tunisia differed, too, for in 1993 Tunisia had changed its law to allow Tunisian nationality (a Western concept unknown to the *shari'a*) to be passed on by the mother under certain conditions.[13]

Obviously, there is no consistent 'Islamic' pattern in these reservations. According to Dr. Badriya al-Awadi, a prominent Kuwaiti academic and supporter of women's rights, Kuwaiti women were being denied the equality guaranteed by both the Qur'an and the constitution.[14] In this feminist view, the discrimination behind the reservations violated principles set forth in the prime Islamic source. She characterized the Kuwaiti government's policy of signing CEDAW while denying women their political rights as hypocritical.[15] On 14 April 1994, a conference in Kuwait of women from Arab countries called for recognition of the political rights of Kuwaiti women and for the Kuwaiti government to review its reservations to CEDAW.[16] However, perspectives like this, which represent the views of Muslim feminists, are too rarely considered in international fora when cultural defenses to human rights are under discussion.

Sweden, one of the few countries where progress towards full equality for women is relatively well advanced, was one of several countries that reacted to reservations such as those Egypt entered with justifiable skepticism.[17] Sweden state in objecting:

> *the reason why reservations incompatible with the object and purpose of a treaty are not acceptable is precisely that otherwise they would render a basic international obligation of a contractual nature meaningless. Incompatible reservations, made in respect of the Convention on the elimination of all forms of discrimination against women, do not only cast doubts on the commitment of the reserving state to the object and purpose of this Convention, but moreover, contribute to undermine the basis of international contractual law.*[18]

However, few countries followed Sweden's lead in skeptically appraising the supposedly Islamic rationales offered for deviating from CEDAW principles. Most allowed reservations like Egypt's to be entered without scrutiny or objection. This general toleration of religious rationales for denying women rights guaranteed by CEDAW reinforces the impression that Egypt's position was not really out of line with the approaches of many other countries, whether they were Muslin or not. The international community as a whole takes the need to prevent racial discrimination much more seriously than the need to prevent sex discrimination, giving real teeth to the convention on the former and only lip service

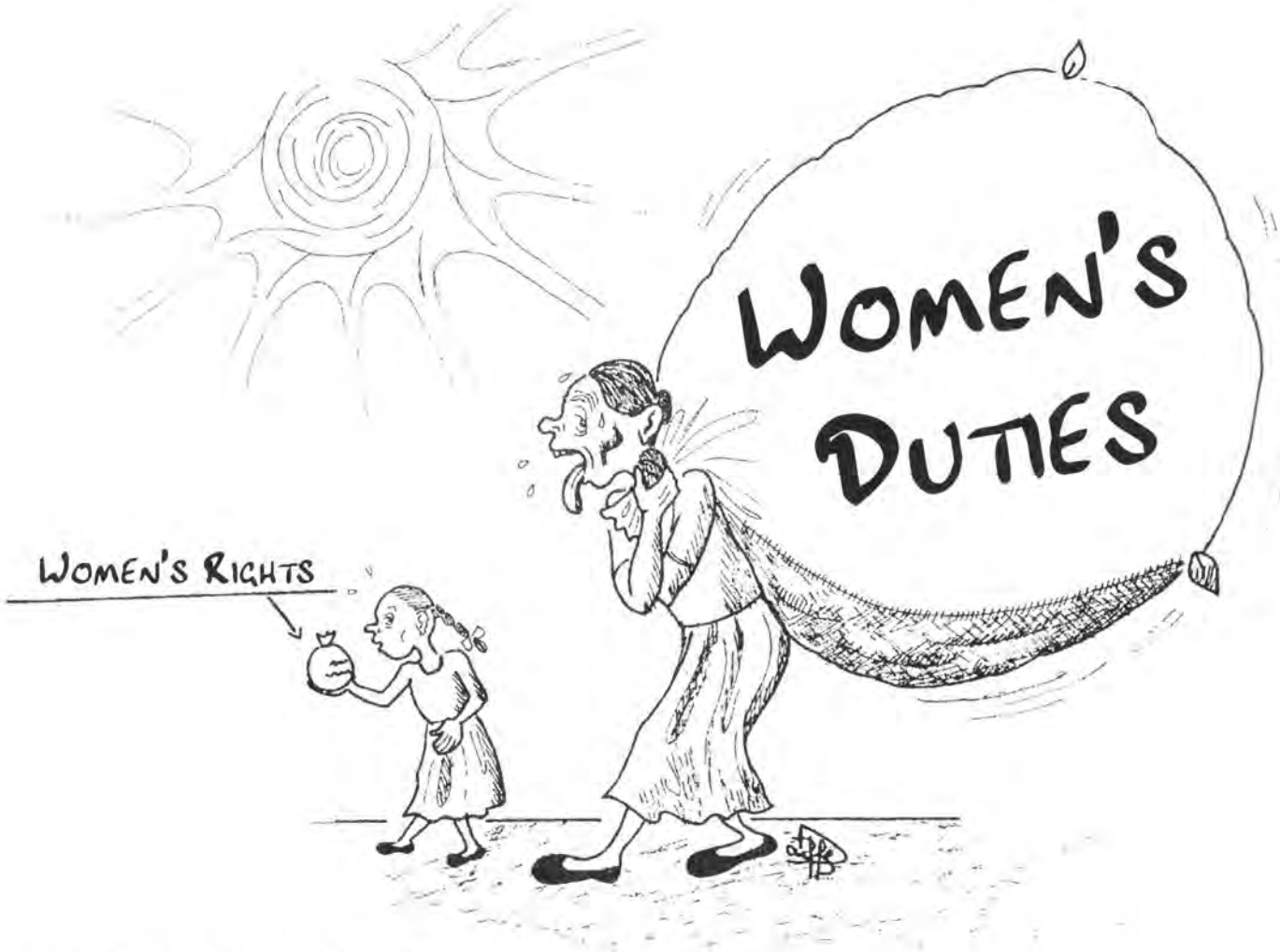
to the goals of CEDAW. Indeed, a feminist critique of how the present system of international law incorporates male biases makes the toleration of reservations to CEDAW seem the inevitable consequence of systemic sexism.[19]

The 'Islamic' reservations of countries like Egypt and Morocco and the condemnations of plans to study these reservations involved untenable positions, amounting to Muslim countries telling the world that;
1. Islamic law was immutable, when they changed their Islamic laws at will;
2. there was a single normative Islamic model, when personal status laws varied dramatically from one Muslim country to another and changed over time within one country;
3. their women could not have the equality mandated by CEDAW because of Islam, but that women in their societies were equal under Islamic law;
4. they were entitled to insist in international fora that their religious obligations to honor the *shari'a* justified their reservations to CEDAW, but the subject of how women were treated under the *shari'a* could not be examined in these same international fora.

The US and CEDAW

Consideration of the US case shows how these Middle Eastern and North African examples are simply part of a larger pattern of official spokespersons hypocritically assuring the world that, yes, they agree that women should be equal and, no, their laws are not discriminatory - but they cannot accept the CEDAW principles guaranteeing women full equality. Although the US signed CEDAW while President Carter was still in office, there was resistance to ratification for twelve years under Republican presidents, which was not surprising in light of the policies of the Reagan and Bush administrations toward women's rights.

The way American conservatives opposed to CEDAW conceive of the CEDAW model of male-female equality in relation to the rights afforded women under US law



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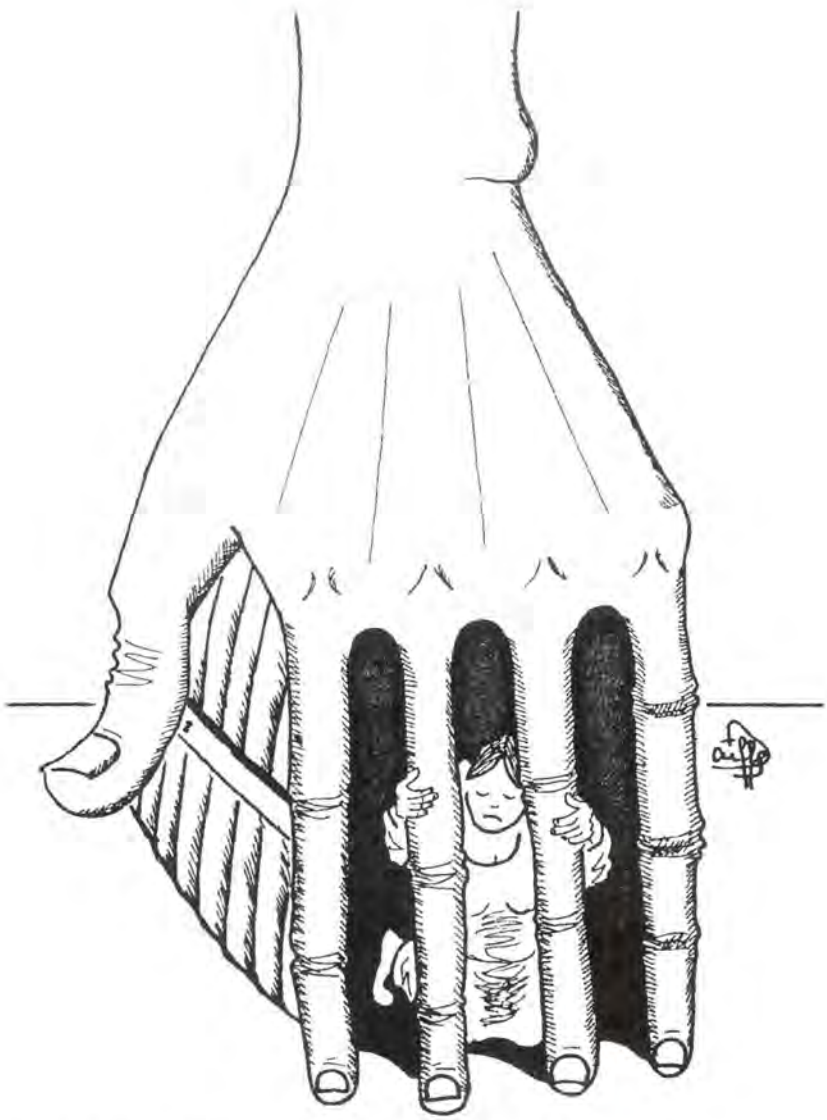

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is like the way Muslim governments see CEDAW in relation to their domestic laws. Conservatives opposed to the proposed Equal Rights Amendment (ERA) to the US Constitution, which was designed to eliminate discrimination against women, often referred to 'laws of Nature.' Thus, the ERA was attacked by opponents like Senator Sam Ervin, a conservative Southern Democrat who charged that it made men and women into identical legal beings with the same rights and subject to the same responsibilities.[20] That is, it made men and women more equal than Nature intended them to be.

Americans who believe that the laws of Nature mandate unequal rights for men and women may think that domestic US standards establish the definitive model of male-female equality and the optimum level of protection for women's rights. Therefore, they conclude that any equality provisions that go beyond these - like those in CEDAW - must be wrong-headed. For example, Bruce Fein, writing in the arch-conservative Washington Times, asserted that CEDAW was objectionable because it would prohibit 'non-invidious, gender distinctions.'[21] He apparently assumed that the notion of women having the same rights as men was misguided and that discriminatory features retained in US law were 'non-invidious, gender distinctions,' that is, benign distinctions that appropriately recognized the actual differences between males and females.[22] Fein's thinking seems to have been influenced by the prejudicial notions about the inferiority of women and stereotyped views of gender roles that pervade US culture.[23] These stereotypes can have the result of making familiar patterns of discrimination and inequality seem somehow just and natural, in much the same way as patriarchal biases in Muslim countries induce men to think it is natural for them to enjoy superior legal rights.

One of the things that led Bruce Fein and others to object to CEDAW is that ratifying CEDAW could, depending on one's point of view, require amending rights provisions in the US Constitution and/or would violate the complicated system of Federation established in the Constitution, which requires the national government to defer to state laws regarding the family.[24] The idea that the US Constitution could be judged by international standards is not accepted in US law, where the Constitution reigns as the supreme law - above all other laws, including international law and treaties ratified by the US. Thus, the reporter for a prestigious commission appointed by the US President to study the constitutionality of US ratification of human rights treaties affirmed that the US might constitutionally 'ratify or adhere to any human rights convention that does not contravene a specific constitutional prohibition...'[25]

Like the *shari'a* , the US Constitution is resistant to change. The world's oldest constitution still in use, it is a revered symbol of the nation, a relic from the eighteenth century that is carefully preserved in the National Archives. It has a status that is close to sacred. It is so untouchable that its original version is still untampered with, even though it is replete with archaic features, containing references to the slave trade, admonitions to the states not to confer titles of

nobility, prohibitions of laws working 'corruption of the blood,' etc. The rights provisions are few and lacking in most of the protections set forth in modern human rights law. Of course, since the proposed ERA was rejected, the US Constitution provides no guarantee of any rights for women, except in the Nineteenth Amendment, which prohibits the use of sex to deny the right to vote. Nonetheless, Americans, who are very tradition-bound, prefer to uphold their Constitution with all its archaisms intact rather than to write a new constitution that would meet the standards of modern constitutionalism and protect human rights according to international norms.[26] The result of this disinclination to update is that, as of 1994, Americans have a constitution that lags far behind its counterparts in places like Europe and Canada. Moreover, the rights afforded to Americans in the Bill of Rights are far inferior to the extensive rights enjoyed by Russians and South Africans under their new constitutions. It seems fair to speculate that there may be women cardinals in the halls of the Vatican and a woman Prime Minister in Riyadh before the US Constitution is modified in ways that accord American women the rights set forth in CEDAW and other international instruments.

The US resistance to ratification of CEDAW was not unique; it has been generally reluctant to ratify international human rights conventions, which has led to unseemly delays in the US becoming a party even to conventions like the International Convention on Civil and Political Rights, which contains the so-called 'first generation rights' that the US supports, but which was not ratified till 1992.

Despite the US failure to ratify CEDAW, one would be hard pressed to find an American official prepared to acknowledge in an international forum that US law was discriminatory or that US women did not have equal rights. On the contrary, in international venues the US tends to portray its rights record in a highly favorable light and to act as if problems of women's rights were confined to exotic places like Africa and Asia. Of course, the American officials offering these portrayals are most often men.

Under Reagan the US position effectively amounted to claiming that:
1. No, American women could not have constitutionally guaranteed equal rights - except for the right to vote and
2. No, American women could not have the rights protections afforded by CEDAW, and
3. Yes, American women were fully equal with men.

Just as shifts in politics have affected the positions of Muslim countries on CEDAW, shifts in American politics affect official US positions on whether CEDAW should be ratified and on whether the US Constitution presents an obstacle to ratifying CEDAW. Democrats have tended to favor ratifying international human rights treaties, and President Kennedy even asserted that US law was already in conformity with international human rights law, so that ratifying the conventions entailed no conflicts with the US Constitution.[27] With the election of a Democratic President in 1992, the executive branch did an about-face on the merits of ratifying CEDAW; under Clinton the US is now officially committed to achieving ratification. (The Democratic administration of Bill Clinton seems to have decided that CEDAW can be ratified even without an equal rights amendment being added to the US Constitution.) However, as of 1994 the US Senate had still not given its consent, leaving CEDAW unratified.

The Vatican Position on the 1994 Population Conference

As disappointing as the US record was, there were other players on the international scene with even more reactionary stances. One does not need to waste time wondering what reservations the Vatican entered when ratifying CEDAW, because, of course, the Vatican would never consider ratifying such a document, even with copious reservations. To learn the Vatican's reaction to the growing consensus supporting women's equality, one has to look at statements that it makes on other issues, such as its position on the 1994 Cairo population conference. Proof that it was not only Muslim governments that were hypocritical with regard to women's rights came in June of 1994, when the Vatican revealed its strong opposition to the feminist influence at the upcoming population conference. Because of this feminist influence, which in the opinion of the Church was harmful, there were measures on the conference agenda concerning safe abortions and women's right to control their fertility, which were supported by the Clinton administration. Such measures reflected what the Vatican chose to call 'cultural imperialism.' As is well known, the Church currently opposes all but 'natural' birth control and condemns abortion, whereas feminists tend to believe that a woman's control over her body and the procreative process is essential for her to enjoy full rights. The Vatican did not accept this.

Church tradition was invoked by the Vatican as if it were sacrosanct. However, despite Vatican efforts to associate Church teachings with natural law, authoritative moral norms ingrained in the conscience of humankind and ascertainable by the use of reason, it was obvious that Church teachings were tied to history and politics. Morality as set forth in natural law should be immutable, but the Church tradition on abortion has changed over time, its present position dating back only to the nineteenth century.

It had long been obvious that the exclusively male Church hierarchy was not in sympathy with feminism or with women's demands for equality. Nonetheless, the Church felt obliged to insist that, in opposing the Cairo conference agenda, it was not questioning women's equality with men, just as it had insisted in May of 1994 that its policy banning women from the priesthood could not be construed as

discrimination against women.

The Vatican, like the defenders of discriminatory *shari'a* laws in Middle Eastern countries, must have been feeling threatened by the growing international consensus that discriminating against women was wrong. Faced with this consensus, it realized that articulating candidly its views on women's rights threatened to delegitimize Vatican positions. The Church was therefore forced to resort to double-talk and to assert that its discriminatory rules were not discriminatory and that its opposition to equality for women was motivated by its belief that women deserved equality.

Where the Catholic Church is concerned, the same male biases and stereotyping of women have come into play as one sees in Muslim countries and among US opponents of women's rights – all connected to supposed inalterable differences between men and women that were decreed by Mother Nature. After the controversy about the Vatican stance opposing the population conference exploded, the Pope sought to defend the Vatican against charges that it disregarded women's rights by insisting on women's difference from men, maintaining that women achieved perfection, affirmation and 'relative autonomy' when they were 'equal to men but different' in the work and in the Catholic Church. He asserted that they would fail to achieve true freedom by trying to be like men, claiming: 'Perfection for women does not mean being like men, a masculinization to the point that they lose their own qualities as women.' Of course, this objection deliberately missed the point. Pope John Paul II was probably aware that women in demanding the same rights as men were not asking to be transformed into men and divested of their characteristics as women. Rather than seeking to masculinize themselves, women were asking for non-discriminatory treatment in laws that would nonetheless take into account in appropriate ways the realities that women got pregnant and bore children. The Pope revealed that he was actually taking issue with the women's movement by obliquely implying that militant feminists were intemperate and unreasonable, arguing: 'Diversity does not necessarily mean implacable opposition,' and saying that the movement should be based on the concept of equal dignity of the human person, both male and female.[28] In insisting on men and women's equality in 'dignity' - equality in 'rights' - he adopted a strategy that Muslim conservatives opposed to women's equality have utilized.[29] With these assertions, the Pope not only revealed that he relied on sex stereotyping but that he was determined to obfuscate the Vatican's position on women's rights. Like Muslim countries and like the US government, the Vatican wanted to go on record as being officially in favor of women's equality. However, the Pope inadvertently disclosed that his ideas about women coincided with the premise that lay behind the Egyptian statement regarding Egypt's reservation to CEDAW, that 'true equality' for women entailed rights and obligations that differed from those enjoyed by men.

Conclusion

Just as women from around the world forged new bonds of solidarity at the 1993 Vienna human rights conference, so the opponents of women's rights from different cultural and religious backgrounds are discovering how much their programs have in common - and are forming alliances to forestall further progress towards equal rights for women.

The Vatican had a great deal in common with the spokes-persons for Muslim countries that were resisting CEDAW principles of equality for women, but an alliance that cut across an otherwise vast religious gulf by itself necessitated additional double-talk, since neither side would admit that antipathy to women's equality was the shared motivating facto behind their alliance. One sample of the new hypocritical rhetoric can be found in the language in a letter to the New York Times in defense of the Vatican-Muslim alliance, proposing that it was grounded not 'on religious values, but on a respectful approach to the dignity of the human person'[30] In this defense of the Vatican's position, appeals to a specific religious tradition have been dropped and replaced by a generic appeal to respect for an abstract concept of human 'dignity.' The actual harm done to women by denying them contraceptive freedom and the negative impact of uncontrolled fertility were deliberately suppressed. In the long run, we should expect more of this, as the foes of women's rights move to internationalize their positions.

Conservatives are also mobilizing women's support to counter feminism. Opponents of women's rights have found it useful to have their campaigns fronted by women who are prepared to attack feminist projects. The participation of women dilutes the impression otherwise created that men are seeking to deny rights to women.[31] For example, a recent article has pointed out how what might be called 'the religious right' in Pakistan has organized women to fight feminist ideas in attempts to discredit Pakistan's feminist groups like the impressive Women's Action Forum (WAF).[32] That men opposed to women's equality employ women for their goals does not, of course, mean that women who oppose feminism always act under the aegis of men, or that they do not have their own reasons for opposing equal rights for women.[33]

The new world hypocrisy on women's rights has drawbacks; it requires feminists to change tactics. Spokesmen from countries like Iran and Saudi Arabia who are prepared to endorse blatant, de jure discrimination against women are becoming quaint anachronisms. Soon they will be replaced by more sophisticated spokespersons like the ones now familiar in the US, who will no longer openly acknowledge that they oppose equality for women. Instead, their rhetorical strategies will include insisting that equality, properly understood, precludes - or at least does not require - adopting principles like those in CEDAW. To rationalize their official policies in conflict with CEDAW, they may appeal to laws of a supposed higher authority - like *shari'a* law, the US Constitution,

Church tradition, or Nature. We have to clarify issues that the enemies of women's equality are seeking to muddy by claiming to support women's equality but then twisting and distorting the concept of 'equality' to serve agendas designed to deprive women of rights. We now have the time-consuming and difficult task of exposing the new world hypocrisy by dissecting what these programs really entail. We need to focus attention on the reality of continuing disparities in rights for women and men and the practical consequences that these have for women's lives. We need to educate women not only to understand their rights under CEDAW, but to distinguish these from the pseudo-rights being put forward by groups with anti-feminist agendas.

To look on the brighter side, one can at least say that all this signifies the degree to which the principle of equality for women has gained normative force around the globe - so that even the enemies of women's rights are forced to pay lip service to it. The days of arguing for the general propositions that discrimination against women is wrong will soon be behind us. That battle has essentially been won.

We need to exploit the growing international consensus and solidarity among women on these issues, at the same time preparing ourselves to combat the international solidarity that is being forged among groups that oppose equal rights for women. Despite the progress we have made, the way ahead is not going to be smooth or easy. In fact, I predict that, when we look back, it will often be with nostalgia for the good old bad old days, when the fight was for recognition of the simple proposition that discrimination against women was wrong. It is much easier to articulate and to communicate this truth, which with benefit of hindsight seems self-evident, than to fight the new world hypocrisy.

Endnotes

* This article was originally published in Mahnaz Afkhami (ed.) *Faith and Freedom: Women's Human Rights in the Muslim World*, New York, Syracuse University Press 1995. Abridged and reproduced in *Al-Raida* after approval was granted.

1. Malcolm N. Shaw, *International Law* 2nd edn (Cambridge: Grotius, 1986), p. 100.

2. It would be interesting, of course, to pursue the reasons for non-ratification of CEDAW as well, if these were ever presented in a set of statements of governmental positions comparable to the collection we have of official reasons for CEDAW reservations.

3. Belinda Clark, 'The Vienna Convention Reservations Regime and the Convention on Discrimination Against Women,' *American Journal of International Law* 85 (19910, p. 317.

4. I have indicated in another essay why I am not persuaded that the international community must accept these without further scrutiny. See my chapter, 'Cultural Patricularism as a Bar to Women's Rights. Reflections on the Middle Eastern Experience,' in Julie Peters and Andrea Wolper (eds) *Women's Rights, Human Rights. International Feminist Perspectives* (New York: Routledge, 1994)

5. Lars Adam Rehof, *Guide to the Travaux Preparatoires of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women* (Boston: Martinus Nijhoff , 1993), p. 257.

6. See Fawzi Najjar, 'Egypt's Laws of Personal status,' *Arab Studies Quarterly* 10 (1988), pp. 319-44.

7. From the 'Declaration and Reservations made by the Government of Morocco upon Accession,' 23 June 1993, in *Annex II*, 'Reservations made upon ratification from 1 August 1992 to 1 August 1993.'

8. 'Les femmes accueillent avec prudence la réforme de leur statut,' Le Monde, 22 October 1993 (author's translation).

9. Ibid.

10. The works of Fatima Mernissi are interesting in this regard. See her *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam* (Reading, Mass.: Addison-Wesley, 1991) and *Islam and Democracy. Fear of the Modern World* (Reading, Mass.: Addison-Wesley, 1992).

11. Tunisia referred to Article I in the Tunisian Constitution, making Islam the state religion, as the obstacle.

12. 'Legislation Must Be Enacted to End Sex Discrimination: Women Activists; First Article of the Election Law Criticized,' *Moneyyclips*, 19 April 1994, available in lEXIS, NEXIS Library, ALLWLD File.

13. The reformed Tunisian code of nationality in Article 12 provides: 'Devient Tunisien, sous réserve de réclamer cette qualité par déclaration dans le délai d'un an précédant sa majorité, l'enfant né à l'étranger d'une mère tunisienne et d'un père êtranger.'

14. 'Kuwait's Voteless Women Hail South African Poll,' *Reuters World Service*, 27 April 1994, available in LEXIS, NEXIS Library, ALLWLD File.

15. 'Legislation Must Be Enacted,' op.cit.

16. 'Women Demand "Natural Rights",' *Moneyclips*, 14 April 1994, available in LEXIS, NEXIS Library, ALLWLD File.

17. The relatively more advanced status of women in Sweden was not coincidental. A recent study has shown that reservations to CEDAW, as well as failures to ratify CEDAW, correlate with relatively low rates of literacy, school enrollment, economic participation, and involvement in the political process on the part of women in the countries involved. On the other hand, ratification correlates with relatively high rates in these categories. See 'International Standards of Equality and Religious Freedom: Implications for the Status of Women,' in Valentine Moghadam (ed.), *Identity Politics & Women. Cultural Reassertions and Feminism in International Perspective* (Boulder: Westview, 1994), pp. 434-7.

18. Rehof, op. cit., p.281.

19. See Hilary Charlesworth, Christine Chinkin, and Shelley Wright, 'Feminist Approaches to International Law,' American Journal of International Law 85 (1991), pp.613-45 .

20. Renee Feingerg. The Equal Rights Amendment. An Annotated Bibliography of the issues 1976-1985 (New York: Greenwood Press, 1986), p.3

21. See comments by Bruce Fein in Sarah Zearfoss, 'The Convention for the Elimination of All Forms of Discrimination Against Women: Radical, Reasonable, or Reactionary?' Michigan Journal of International Law, 12 (1991), p.905.

22. For example, although US women can serve in the military, they are excluded from a variety of positions, including many roles in combat.

23. For a discussion of these, see Fein and Zearfoss, op. cit., pp. 911-12.

24. For a general discussion see Malvina Halberstam and Elizabeth Defeis, Women's Legal Rights: International Covenants an Alternative to ERA? (Dobbs Ferry: Transnational Publishers, 1987), pp. 50-63.

25. Ibid., p.61.

26. In a meeting of mostly liberal intellectuals gathered in 1986 to compose 'a meaningful contemporary Constitution' the participants backed down from challenging the Constitution, despite all its archaic features. However, Betty Friedan did at least say that there should be an equal rights amendment. See 'Constitution Gets Liberal Thumbs Up,' *New York Times*, 5 October 1986.

27. Hallberstam and Defeis, op. cit., p.173.

28. 'Pope Says Women Should not Try to Be Like Men,' *Reuters*, 22 June 1994, available in LEXIS, NEXIS Library, ALLWLD File.

29. See Ann Elizabeth Mayer, 'Universal versus Islamic Human Rights: A Clash of Cultures or a Clash with a Construct?' Michigan Journal of International Law 15 (1995), pp.330-1.

30. See letter from Tona Varela in letters to the editor section, New York Times, 27 June 1994.

31. Susan Faludi's recent book, Backlash. *The Undeclared War Against American Women* (New York: Crown, 1991), presents an important assessment of how the opponents of women's rights in the US have managed to coopt women as they waged their campaign against feminism.

32. See Khawar Mumtaz, 'Fundamentalism and Women in Pakistnan,' in Moghadam, op. cit., pp.237-8.

33. For an introduction to the complex subject of women joining in the efforts to fight women's rights in the American context, and a valuable bibliobraphy of the relevant literature, see Roberta Klatch, 'Women of the New Right in the United States: Family, Feminism and Politics,' in Moghadam, op. cit. 367-90.