

IMPLEMENTATION OF CEDAW IN THE ARAB COUNTRIES:

ANALYSIS OF RESERVATIONS

*a case study of six project countries: Egypt, Jordan, Lebanon, Sudan, Morocco, Tunisia**

*By Lamis Nasser, National Project Consultant
UNICEF Amman*

The Arab world today consists of 22 countries all of which are members of the League of Arab States. These countries are Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates and Yemen. These countries share a common religion, language, history, and cultural heritage as a united distinct entity. The present state of Arab women is best understood and evaluated in light of the current demographic, political, economic, social, and religious situation of the region.

The Demographic Level: The total population of the Arab countries is estimated at 231 million, living in a 13.5 million square kilometer area. Of the total population there are approximately 115.5 million Arab females of which around 57.6 million are 15 years and above, while an estimated 57.9 million are under 15 years.¹ The Arab world is a rapidly urbanizing region. Urbanization reached 55 percent in 1992, in comparison to 34 percent in 1960 revealing that the Arab world is becoming urbanized faster than any other region in the world. This rapid influx from rural areas places enormous pressure on cities which are often not equipped to absorb the very large numbers of internal immigrants flooding into cities each year. In nine countries of the region, three out of four people live in cities. Also, rural and nomadic populations suffer from significant disparities in the provision of educational, health, sanitary and infrastructure services.²

The Political Level: The region has been undergoing rapid changes, both as a result of the Gulf Crisis and the subsequent Arab-Israeli peace negotiations. Libya and Iraq are currently under sanctions. Algeria, Iraq, Kuwait, Somalia, Sudan and Yemen are still suffering from the negative effects of conflict situations; and Israeli occupation continues in Palestine, the Golan Heights and South Lebanon. Continued political unrest has often compelled Arab states to set aside large proportions of their resources for national security. Arab countries allocated approximately 7.0 percent of their GDPs for military spending from 1990-1991, one of the highest percentages in the world. The region also has a high total military expenditure of 91 percent in relation to its combined expenditure on education and health.³

The Economic Level: Economically, Arab states have significant disparities in wealth. The per capita income ranges

from a low of US \$150 per year in Somalia to a high of US \$22,020 per year in the United Arab Emirates. Out of the 22 Arab countries, five have per capita GDPs below US \$ 1000 per year (Mauritania, Somalia, Yemen, Egypt, and Sudan).⁴ As a result of the structural adjustment programmes (SAP) which most Arab countries are implementing, significant cuts were made in the sectors of health, education, social welfare and employment. This in turn has had a dramatic impact on the lives of the poor and vulnerable sectors of society especially women and children.

The Religious Level: The majority of Arabs share the same religion, culture and language. Muslims form the largest religious group (almost 95 percent), followed by Christians and other religious minorities. A considerable number of diverse religious and ethnic minorities have always lived in the region, which was the birthplace of the three major world religions.⁵ (See Figure 1 which outlines the General Characteristics of Arab Countries)

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

The Convention on the Elimination of all Forms of Discrimination Against Women was adopted by the General Assembly of the United Nations on 18 December 1979 (UN resolution 34/180). It entered into force on 3 September 1981, in accordance with Article 27 (1). As of April 1997, the CEDAW Convention has been ratified by 154 states. The adoption of the Convention was the culmination of 30 years of work by the United Nations, and in particular by its Commission on the Status of Women (CSW), for the advancement of women. The convention essentially constitutes an international bill of rights for women. Its preamble recalls that the elimination of discrimination against women and the promotion of equality between men and women are central principles of the United Nations and constitute binding obligations under the UN Charter and other instruments. The preamble is followed by 30 operative articles that bind states which have ratified or acceded to its terms to certain specific obligations. The comprehensive Convention calls for equal rights for women, regardless of their marital status, in all fields: economic, political, social, cultural, and civil. It calls for national legislation to ban discrimination; it recommends temporary special measures to speed equality between women and men, and actions to modify social and cultural patterns that perpetuate discrimination.

STATUS OF RATIFICATION OF CEDAW IN THE SIX PROJECT COUNTRIES:

To date only eleven Arab countries out of twenty two have ratified CEDAW. These countries are: Algeria, Comoros,

Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Tunisia, and Yemen. As for the six project countries involved, the status of ratification and reservation is presented in the following table

RESERVATIONS OF THE 6 PROJECT COUNTRIES TO CEDAW ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON DECEMBER 1979, ENTRY INTO FORCE ON 3 SEPTEMBER 1981

State	Date of Signature	Date of Ratification and Accession	Reservations				
			Art. 2 Non -Discrimination Measures	Art. 9 Nationality	Art. 15 Law	Art. 16 Marriage and Family life	Art. 29 Arbitration
Egypt	16/7/80	18/9/81	X	X 9/2		X	X 29/2
Jordan	3/12/80	1/7/92		X 9/2	X 15/4	X 16/1 c,d,g	
Lebanon		21/3/93		X 9/2		X 16/1 c,d,f,g	X 29/2
Morocco		21/6/93	X	X 9/2	X 15/4	X	X
Tunisia	24/7/88	20/9/85		X 9/2	X 15/4	X 16/1 c,d,f,g,h	X

RESERVATIONS, DECLARATIONS AND OBJECTIONS OF PROJECT COUNTRIES RELATING TO CEDAW:

Article 28 of CEDAW permits states to express reservations to articles, or parts of articles which they do not accept as binding. The CEDAW Conventions has proven to be subject to more reservations than any other major international human rights treaty. CEDAW itself allows reservations at the time of accession or ratification. However, it specifies that reservations incompatible with the purpose and object of the Convention shall not be permitted. Subsequently, it does not indicate which reservations should be considered incompatible or who should decide such questions. On reviewing the reservations of the Arab countries, it was found that these articles were strictly limited to the following "seven" articles: Article 2, Article 7, Article 9, Article 15, Article 16, Article 29, (Only the Government of Kuwait expressed reservations to Article 7. Kuwaiti women have not yet won the right to vote or run for elections).

The above reservations expressed by Arab countries generally conform with the opinion of His Eminence Dr. Abdul Aziz Al-Khayyat, former Jordanian Minister of Awqaf and Islamic Affairs who declared during a seminar⁶ that articles 4,

6, 10, 11, 13, 14, and 15 of CEDAW are generally in compliance with the Islamic *Shari'a* laws. Concerning freedom to chose residence and domicile (Article 15/2), Dr. Al-Khayyat points out that a Muslim woman has the right initially to object to residing in a particular place she considers not suitable or harmful in any way to her well-being. A Muslim woman is entitled to specify this condition in her marriage contract, and it will become her lawful right. Therefore, it could be deduced that reservations to article 15/4 are not expressed on religious grounds. However, other Jordanian and Arab legislation stipulate that a wife is obliged to reside with her family or the family of her husband.

CONSTRAINTS TO FULL REALIZATION OF CEDAW

Based on reviewing relevant literature on CEDAW, obstacles hindering the implementation of CEDAW provisions in the Arab countries could be identified as follows:

- Hesitancy of some governments to make any binding legal commitments to improve women's status in society.
- Lack of effective mechanisms to abolish or even amend laws and legislation that are contrary to the text and spirit of the CEDAW Convention.

- Discrepancies between national laws and legislation of Arab countries, in addition to contradictory articles within national laws.
- Disparities among Arab countries in interpretation of Islamic *Shari'a* Jurisdiction regarding women's rights, marriage and family laws.

CONCLUSION

On closely examining the stipulations of CEDAW one may inevitably come to the following conclusions specifically in regard to the reservations expressed by Arab countries:

- CEDAW merely reiterates the rights and freedoms stipulated in the different international conventions such as the Universal Declaration of Human Rights, and the International Covenant on Economic, Social, and Cultural Rights, which many Islamic and Arab countries have ratified. CEDAW reiterates the provisions of the national laws of many countries, which entitle citizens to freedom of belief, thought, and practice of religious rites, on the basis that these are the established human rights of an individual.
- The interpretation of any provision in any convention should not be made in isolation from the other provisions of the same convention. The overall text ought to be interpreted in its context and in light of the general objective of the convention at hand.
- CEDAW have been drafted in general flexible terms with the view of enabling states parties to apply their provisions in a manner that suits their particular and specific circumstances.
- While Islam is the common reference point for the legal system in the Arab countries, its interpretation is subject to wide variation depending on local, historical and political circumstances.

RESERVATIONS TO CEDAW

The Arab countries reservations to CEDAW have been said to be based on the following pretexts and justifications namely incompatibility of the articles involved with the *Shari'a* laws and the article's non conformity with the national laws and legislation. Regarding reservations to CEDAW, the following remarks are noted:

- Three Arab countries have expressed reservations to article 2 namely Egypt, Iraq, and Morocco, two of which are project countries. This is considered by the Committee on the Elimination of Discrimination Against Women a most serious and grave issue, as it violates the purpose and core of the Convention.
- Only Kuwait (not a project country) expressed reservations to article 7 of the convention, as this article contravenes with the country's law.
- as for article 16 nine of the eleven Arab countries parties to the convention have expressed reservations to this article, five of which are project countries. The sixth project country i.e. Sudan has not signed or ratified CEDAW yet.
- Only three Arab countries have expressed reservations to article 15. All three countries are project countries namely:

Jordan, Morocco and Tunisia.

- As for article 9, nine countries expressed reservations to this article due to its infringement on their nationality laws, not the Islamic *Shari'a* laws. All project countries (but Yemen who is not a party) have made declarations regarding this article. It is noted that no single article of CEDAW has been subject to reservations by all Arab states parties to the convention. This fact inevitably implies that the pretext of non-conformity of Islamic *Shari'a* laws is not necessarily valid.

RECOMMENDATIONS REGARDING RESERVATIONS

In view of the above, and in light of reviewing the Arab countries' reservations to CEDAW one may conclude that their withdrawal appears quite justifiable and feasible.

On the National Level

- To call upon women organizations, coalitions and activists in promoting child's rights and women's rights, in the Arab countries to form national CEDAW watch groups, to monitor the implementation of the convention.
- To conduct in each Arab country a field study/survey to investigate forms and kinds of discrimination practiced against women and girls in the public and domestic spheres, at home, and in the work place.

On the Regional Level

- To establish a Regional Data Bank and Resource Center on CEDAW which will compile information on the following:
 - a. resource materials on CEDAW
 - b. resource persons on CEDAW
 - c. resource institutions on CEDAW
 - To convene a regional workshop CEDAW in cooperation with the League of Arab States, UNICEF, and the UN Interagency Task force on Gender. The objective of this workshop is threefold:
 - a. to examine carefully and compare the reservations of Arab countries
 - b. to attempt to coordinate and unify the Arab countries' reservations
 - c. to ponder the possibility of withdrawing unjustifiable reservations
 - d. to urge Arab countries that have not yet signed or ratified CEDAW to do so
 - To urge the Arab states to comply with Article 64/2 of Vienna Declarations and Programme of Action (adopted during the International Conference for Human Rights, June 1993). Article 64/2 has requested all states parties to CEDAW to withdraw their reservations.
 - To urge the Arab states that have not yet signed or ratified relevant "Human Rights Conventions" to do so immediately. It is imperative that all Human Rights are indivisible and interrelated.
- In an attempt to assess the impact of ratifying CEDAW on the status of Arab children and women we may conclude the following:
- the Arab states parties to CEDAW have not formulated effective mechanisms to ensure implementation.
 - these Arab states have not made any visible amendments to

their national laws and regulations that contravene with the provisions of CEDAW in purpose and in spirit.
 - No remarkable differences seem to exist in the legal status of children and women between the Arab states who have ratified CEDAW and those who have not.

* Paper presented at the Regional Workshop on the Incorporation of CRC and CEDAW into the Curriculum of Law Schools October 1997. Abridged by IWSAW

ENDNOTES:

- 1 Nadia Toubia, Editor, Arab Women: A Profile of Diversity and Change, 1994 p.17.
- 2 Human Development Report 1994, UNDP, p.211.
- 3 Ibid., p.112.
- 4 State of the World's Children 1995, UNICEF, p. 66 - 67.
- 5 Raeda Al-Zoubi, Ending Gender Disparities in the Arab World, UNICEF, 1995, p. 4.
- 6 Seminar on CEDAW, Business and Professional Women's Club, 1992.

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3. Nasser, Lamis, "Convention on the Elimination of all Forms of Discrimination Against Women: Historical Background and Regional Implementation," a paper presented to UNIFEM workshop, Arab NGO Conference, 22-24 September, 1996, Amman-Jordan. (Arabic)
4. Toubia, Nahid (editor); Baheyudin, amira; Hijab, Nadia; Abdel-Latif, Heba, Arab Women: A Profile of Diversity and Change. The Population Council, Cairo, 1994.
5. Women and Gender in Countries in Transition: A UNICEF Perspective, Regional Officer for Central and Eastern Europe, Commonwealth of Independent States and Baltic States, October 1994.
6. Zou'bi, Ra'ida, Ending Gender Disparities in the Arab World: A Profile on the Situation of Women and Girls in the Region, UNICEF, July, 1995.

GENERAL CHARACTERISTICS OF ARAB COUNTRIES MEMBERS OF LEAGUE OF ARAB STATES (22 STATES)

