

**ECONOMIC AND SOCIAL COMMISSION FOR WESTERN ASIA (ESCWA)**

**BEST PRACTICE AND SUCCESSFUL EXPERIENCES IN  
IMPLEMENTATION OF THE CONVENTION ON  
THE ELIMINATION OF ALL FORMS OF  
DISCRIMINATION AGAINST WOMEN  
IN ARAB COUNTRIES**

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United Nations  
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*Note:* This study is based on a background paper prepared by Ms. Rabéa Naciri, consultant at the ESCWA Centre for Women (ECW), specializing in Bahrain, Egypt and Morocco. Ms. Rania al-Jazairi, First Social Affairs Officer, edited the report and expanded its scope to cover all Arab countries.

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## **Executive Summary**

Since its adoption in 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has been considered the global standard for women's rights. It came in the wake of a series of international instruments that addressed women's rights within the context of human rights in general, notably the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, and the 1966 International Covenant on Economic, Social and Cultural Rights, as well as a number of other conventions, declarations and resolutions. The international community came to realize that because they were not women-specific, these instruments did not do women justice, either in letter or spirit. CEDAW was born of efforts to truly enshrine women's rights and gender equality. It entered into force on 3 September 1981, after ratification by twenty States, as a universal instrument specific to women that sets forth all the basic rights and freedoms that they should enjoy.

Accession to CEDAW has become an essential step towards advancing and empowering women, opening doors to women's participation in sustainable human development, and nurturing wholesome communities. The Convention has been ratified by all the Arab countries with the exception of Somalia and the Sudan, including by Palestine in its capacity as an observer at the United Nations. The approach has been equivocal, with some countries attaching to their instruments of accession reservations that undermine the Convention's goals and spirit. However, other countries have amended their national laws to harmonize them with the Convention, which is cause for optimism.

The goal of this study is to present and analyse successes and best practice in Arab countries in implementing the Convention, securing the withdrawal of reservations and giving effect to its provisions. It consists of three chapters. Chapter I deals with the obligations of the Arab countries under the Convention, particularly in the light of reservations to some of its articles, and concluding comments issued by the relevant sessions of the Committee on the Elimination of Discrimination against Women. Chapter II focuses on best practice in implementation of the Convention and on legislative reform, and surveys developments in women's political, social and economic rights. Chapter III offers conclusions and recommendations with regard to best practice and considers future prospects for implementation of the Convention in Arab countries.

The study sheds light on the diversity of experiences and best practice in implementation of the Convention, and on the role of civil society organizations, women's movements and international organizations in pushing Governments to adopt measures and legislation to eliminate discrimination against women. It also argues that increased influence of civil society, the establishment of multiparty systems, and expansion of the boundaries of liberty and the democratic process, however incremental, may be expected to become the norm in most Arab countries in the wake of the peaceful revolutions in Egypt, Libya and Tunisia.

The study concludes with a number of recommendations on the harmonization of national legislation with the spirit and letter of the Convention; reduction of the gap between *de jure* and *de facto* equality between women and men; the importance of partnership with civil society and women's organizations; and the role of organized independent advocacy by those organizations on behalf of women's issues.

## Introduction

There are a number of international human rights charters, conventions and covenants that prohibit discrimination against women and discrimination on the basis of gender. The most important are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights,<sup>1</sup> the International Covenant on Economic, Social and Cultural Rights,<sup>2</sup> CEDAW, and the Convention on the Rights of the Child. Notwithstanding the calls for women's advancement and respect for women's basic rights and freedoms contained in those instruments, equality between the sexes remained elusive in a large number of countries.

Dedicated efforts by the global women's movement for the adoption of an international instrument specifically enshrining equality between the sexes began with the First World Conference on Women in Mexico in 1975.<sup>3</sup> They culminated in the adoption of CEDAW by the United Nations General Assembly in 1979. The Convention entered into force in 1981, and twelve years later, the process came full circle when the United Nations World Conference on Human Rights (Vienna, 1993) affirmed that women's rights are human rights.

Despite the many differences between Arab countries on various issues, when it comes to CEDAW they have been united by a common, albeit contradictory, approach. On the one hand, the pace of ratification has picked up over the past two decades, with all Arab countries except Somalia and the Sudan becoming parties to the Convention. On the other hand, those States parties have had no compunction about using any strategy they could to weaken the force of the Convention, citing religious, cultural and even societal grounds. A number of countries played major roles in the formulation of such strategies, of which the most prominent were the following: expressing reservations to the Convention's most important articles that touch on its overall objectives; refusing to adopt the definition of discrimination against women appearing in article 1; and neglecting to review national legislation, policies and programmes in order to harmonize them with the Convention's provisions. The reservations have had the effect of nullifying implementation of the major provisions of the Convention, leaving big question marks about the readiness the Arab countries to implement it on the ground, to improve the conditions of women and to achieve gender equality.

Since the beginning of 2011, a wave of popular movements demanding reform, change, and individual and civic freedoms has been washing over the Arab world. It originated in Tunisia and Egypt, and then rolled on to the Syrian Arab Republic, Libya, Morocco and Yemen shattering the barrier of fear and bearing witness to peoples' distrust of their regimes. These social movements, in which young people and women played an unprecedented role, may well be harbingers of a transition to democratic systems in response to popular demands, and may lead to profound transformations in the relationship of peoples to both their ruling regimes and the outside world.

It is too early to tell whether or not these movements will lead to genuine reforms, or to an advance or a retreat in women's rights. Long experience has shown that demands for reform in the Arab region have not necessarily included the cause of gender equality. Calls for the withdrawal of reservations to CEDAW and changes to family and personal status codes have not yet been given the prominence they deserve according

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<sup>1</sup> Under article 2 of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

<sup>2</sup> Under article 2 of the International Covenant on Economic, Social and Cultural Rights, each State party undertakes to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

<sup>3</sup> The United Nations declared 1975-1985 the United Nations Decade for Women. The second World Conference on Women was held in Copenhagen in 1980; the third in Nairobi in 1985; and the fourth in Beijing in 1995.

to the Arab Human Development Report 2002: Creating Opportunities for Future Generations, which identified the three major gaps in Arab development as knowledge, democracy and empowerment of women.

Despite these contradictions, ratification of CEDAW by almost all Arab States can be considered a positive step that has established a framework for women's advancement and created national dynamics that allow women's and human rights organizations to hold Arab Governments accountable for implementing the Convention's provisions in good faith.

The aim of this study is to provide decision makers and national women's mechanisms in Arab countries with practical recommendations, based on analysis of successes and best practice, on implementing CEDAW and giving it full effect through the enactment of pro-woman legislation, amendment of national laws and policies and withdrawal of reservations. The study hopes to serve as a comprehensive source of information for women's affairs researchers, women's movements and civil society organizations.

The study consists of three chapters. Chapter I deals with the obligations of the Arab countries under the Convention, particularly when it comes to reservations and the concluding comments issued by the Committee on the Elimination of Discrimination against Women. Chapter II focuses on best practice in implementation of the Convention in Arab countries, particularly with regard to reforming family, nationality and criminal codes to bring them into line with the Convention's provisions. Chapter II also surveys the latest developments in women's political, social and economic rights in Arab countries. Chapter III offers general conclusions about best practice for promoting CEDAW in Arab countries and offers recommendations to improve implementation in the future.

This study is based on official reports and documents from Arab countries, and on secondary sources from within the United Nations system, including ESCWA. The major sources are the periodic reports on implementation submitted by Arab States parties to the Convention; the concluding comments and recommendations to those States parties by the Committee on the Elimination of Discrimination against Women; shadow reports on implementation of CEDAW from non-governmental women's organizations; Government reports on implementation of the Beijing Platform for Action on its fifteenth anniversary; and governmental and non-governmental reports submitted to the United Nations Human Rights Council under its universal periodic review.

# **I. THE ARAB COUNTRIES AND THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND THE OPTIONAL PROTOCOL THERETO**

Most Arab countries have acceded to CEDAW, although they have attached reservations on several articles to their ratifications. The process has been extremely slow, taking over three decades. Egypt, Iraq, Libya, Tunisia and Yemen acceded during the 1980s; Algeria, the Comoros, Djibouti, Jordan, Kuwait, Lebanon and Morocco acceded in the 1990s; and most of the remaining Arab countries acceded since that time.

TABLE 1. ARAB STATES PARTIES TO CEDAW AND THE OPTIONAL PROTOCOL THERETO  
(As of June 2011)

Country	Ratification of CEDAW <sup>a/</sup>	Entry into force of CEDAW	Amendment to article 20, paragraph 1 <sup>b/</sup>	Ratification of Optional Protocol
Algeria	22 May 1996	21 June 1996		
Bahrain	18 June 2002	18 July 2002		
The Comoros	31 October 1994	30 November 1994		
Djibouti	2 December 1998	1 January 1999		
Egypt	18 September 1981	18 October 1981	2 August 2001	
Iraq	13 August 1986	12 September 1986		
Jordan	1 July 1992	31 July 1992	11 January 2002	
Kuwait	2 September 1994	2 October 1994	23 May 2011	
Lebanon	16 April 1997	16 May 1997		
Libya	16 May 1989	15 June 1989		18 June 2004
Mauritania	10 May 2001	9 June 2001		
Morocco	21 June 1993	21 July 1993	31 March 2010	
Oman	7 February 2006	7 March 2006		
Qatar	29 April 2009	29 May 2009		
Saudi Arabia	7 September 2000	7 October 2000		
Syrian Arab Republic	28 March 2003	27 April 2003		
Tunisia	20 September 1985	20 October 1985		23 September 2008
United Arab Emirates	6 October 2004	6 November 2004		
Yemen	30 May 1984	29 June 1984		

Source: CEDAW website: <http://www.un.org/womenwatch/daw/cedaw/text/0360793A.pdf>.

<sup>a/</sup> Accession to or ratification of the Convention.

<sup>b/</sup> The amendment to the Convention, article 20, paragraph provides for extending the intervals between annual meetings of the Committee on the Elimination of Discrimination against Women. Dates indicated are dates of acceptance of the amendment.

As of this writing, only Libya and Tunisia have ratified the Optional Protocol; Egypt, Morocco and Yemen have declared their intent to ratify.

## **A. OBLIGATIONS OF ARAB STATES PARTIES UNDER THE CONVENTION**

### *1. National reports on implementation of CEDAW*

#### *(a) Submission of national reports to the Committee on the Elimination of Discrimination against Women*

Article 18 of the Convention provides that States parties undertake to submit an initial report on implementation one year after the date of ratification and periodic reports every four years thereafter. As indicated in table 2, Arab countries have been consistent about submitting initial reports to the Committee on the Elimination of Discrimination against Women. Countries that ratified the Convention in the 1980s, such



as Egypt, have submitted six reports to date. Countries that ratified in the 1990s, such as Morocco, have submitted three or four reports. Countries that ratified during the past decade, such as Bahrain, have submitted their initial report and first periodic report.

TABLE 2. REPORTS OF ARAB STATES PARTIES TO CEDAW SUBMITTED TO THE COMMITTEE  
ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN  
(As of June 2011)

Country	Initial report	Periodic reports
Algeria	1 September 1998	2 <sup>nd</sup> report: 5 February 2003 3 <sup>rd</sup> and 4 <sup>th</sup> reports (combined): 24 March 2010
Bahrain	12 November 2007 <sup>a/</sup> , <sup>b/</sup>	
The Comoros	Yet to submit report <sup>c/</sup>	
Djibouti	16 April 2010 <sup>d/</sup>	
Egypt	2 February 1983	2 <sup>nd</sup> report: 19 December 1986 3 <sup>rd</sup> report: 25 July 1996 4 <sup>th</sup> and 5 <sup>th</sup> reports (combined): 30 March 2000 6 <sup>th</sup> and 7 <sup>th</sup> reports (combined): 5 September 2008
Iraq	16 May 1990	2 <sup>nd</sup> and 3 <sup>rd</sup> reports (combined): 19 October 1998
Jordan	10 November 1997	2 <sup>nd</sup> report: 26 October 1999 3 <sup>rd</sup> and 4 <sup>th</sup> reports (combined): 22 February 2006 5 <sup>th</sup> Report: 16 September 2010
Kuwait	1 May 2003 <sup>b/</sup>	3 <sup>rd</sup> and 4 <sup>th</sup> reports (combined): 12 August 2010
Lebanon	2 September 2004	2 <sup>nd</sup> report: 11 February 2005 3 <sup>rd</sup> report: 14 July 2006
Libya	18 February 1991	2 <sup>nd</sup> report: 15 March 1999 3 <sup>rd</sup> , 4 <sup>th</sup> and 5 <sup>th</sup> reports (combined): 4 December 2008
Mauritania	2 August 2005	
Morocco	3 November 1994	2 <sup>nd</sup> report: 29 February 2000 3 <sup>rd</sup> and 4 <sup>th</sup> reports (combined): 18 September 2006 <sup>e</sup>
Oman	20 July 2010	
Qatar	Yet to submit report	
Saudi Arabia	29 March 2007 <sup>b/</sup>	
Syrian Arab Republic	15 September 2005	
Tunisia	12 April 1994 <sup>b/</sup>	3 <sup>rd</sup> and 4 <sup>th</sup> reports (combined): 2 August 2000 5 <sup>th</sup> and 6 <sup>th</sup> reports (combined): 20 May 2009
United Arab Emirates	17 September 2008	
Yemen	23 January 1989	2 <sup>nd</sup> report: 8 June 1989 3 <sup>rd</sup> report: 13 November 1992 4 <sup>th</sup> report: 15 March 2000 5 <sup>th</sup> report: 15 February 2002 6 <sup>th</sup> report: 13 March 2007

Source: CEDAW website: <http://www.un.org/womenwatch/daw/cedaw/text/0360793A.pdf>.

<sup>a/</sup> Submitted supplementary report updating some of the data in initial report on 6 June 2008.

<sup>b/</sup> Submitted 1<sup>st</sup> and 2<sup>nd</sup> reports as one combined document.

<sup>c/</sup> Committee will consider progress in implementation of the Convention in the Comoros in the absence of initial or first periodic report at its 51<sup>st</sup> session to be held from 13 February - 2 March 2012.

<sup>d/</sup> Submitted 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reports as one combined document.

<sup>e/</sup> Submitted combined reports at the Committee's request.

(b) *Implementation and follow-up of the concluding comments of the Committee on the Elimination of Discrimination against Women*

The Committee on the Elimination of Discrimination against Women considers periodic reports and then issues concluding comments and recommendations focusing on the most important achievements and challenges to implementation of CEDAW in the country in question.

Some countries have formulated plans to implement Committee recommendations and formed working groups for that purpose made up of members of national committees, ministries and the relevant institutions. Workshops have been organized to train working-group members in best practice based on international report-writing methodologies and standards.

Nevertheless, most Arab Governments are still not making adequate efforts to implement the Committee's recommendations. They have not established implementation action plans or funding mechanisms, and have not raised consciousness about the Convention in parliaments or the media. The tasks of report writing and recommendation follow-up remain largely in the hands of experts and national women's institutions.

*2. The role of non-governmental organizations (NGOs) in the preparation of shadow reports*

The Committee on the Elimination of Discrimination against Women stresses the importance of participation by NGOs in the preparation of both national reports and independent reports known as shadow reports. Taking part in the preparation of official reports does not preclude NGOs from presenting the perspective of civil society or functioning as a watchdog to monitor how seriously Government agencies and national mechanisms are taking implementation of the Convention.

Civil society organizations in a number of Arab countries have considerable experience in monitoring and following up implementation of CEDAW. Shadow reports are not written in isolation, but are part of a process of dialogue, participation, mobilization and advocacy. Some countries invite NGOs to participate as observers at the sessions at which their official reports are submitted to the Committee. This helps with monitoring official implementation of the Convention, keeping Governments accountable for their commitments, reinforcing democratic practices, creating common ground between various components of civil society and promoting awareness on women's issues by publicizing CEDAW and its provisions in the media. The work of civil society organizations has promoted networking and communication, increased opportunities for international and regional exchange of experiences and raised public awareness of sensitive issues being addressed by the Committee.

For example, 28 women's NGOs, collectively known as the CEDAW Coalition, submitted Egypt's first shadow report in 2000. In collaboration with other organizations, that coalition submitted a second shadow report in 2010 alongside Egypt's combined sixth and seventh national reports. The shadow reports raised crucial issues such as women in decision-making positions, discrimination against women in family law and laws that provided for mitigating circumstance in crimes of violence against women. When Bahrain's combined first and second reports were considered in 2008, NGOs submitted five shadow reports based on experiences with shadow reports in Egypt and Morocco.

**Box 1. Contributions of human rights organizations to the preparation of official reports on the implementation of CEDAW in Morocco**

The Committee on the Elimination of Discrimination against Women recommends involving NGOs in the preparation of official reports on the implementation of CEDAW. When considering reports, the Committee stresses Government accountability, and the process of consultation with civil society during the report preparation process enhances objectivity. In Morocco, starting with the second report, the Government invited women's organizations to contribute and express their opinions during the preparation. NGO participation in preparing reports has become standard practice.

## B. RESERVATIONS OF ARAB STATES TO CEDAW

### 1. *Reservations of Arab States: sharia and national law*

The Arab States parties to CEDAW are conspicuous for their reservations to a number of basic provisions of the agreement and for the reasoning behind those reservations (table 3). Implementation of the Convention and the withdrawal of reservations remain dependent on political will and pressure exerted by independent NGOs working proactively to promote human rights in general and women's rights in particular.

TABLE 3. RESERVATIONS OF ARAB STATES TO THE CONVENTION  
(As of June 2011)

Countries	Article 2	Article 9	Article 15	Article 16	Article 29	Declaration
Algeria	X		X	X	X	
Bahrain	X	X	X	X	X	
The Comoros						
Djibouti						
Egypt	X			X	X	
Iraq	X	X		X	X	
Jordan		X		X		
Kuwait		X		X	X	
Lebanon		X		X	X	
Libya	X			X		X
Mauritania						X
Morocco*	X		X		X	
Oman		X	X	X	X	X
Qatar	X	X	X	X	X	X
Saudi Arabia		X			X	X
Syrian Arab Republic	X	X	X	X	X	
Tunisia**		X	X	X	X	X
United Arab Emirates	X	X	X	X	X	
Yemen					X	

Source: CEDAW website: <http://www.un.org/womenwatch/daw/cedaw/text/0360793A.pdf>.

Article 2: Obligation of States to establish equality before the law in principle and practice;

Article 9: Nationality law;

Article 15: Equality in legal capacity and freedom of movement and residence;

Article 16: Equality in marriage and family relations, family law and personal status;

Article 29: Arbitration by the International Court of Justice of disputes over interpretation or application of the Convention.

\* In his 2008 address to the National Human Rights Council on the occasion of the sixtieth anniversary of the Universal Declaration of Human Rights, King Mohammed VI announced that Morocco had decided to withdraw its reservations to CEDAW. However, to date, the United Nations Secretary-General has not been officially notified.

\*\* Mr. Taieb Baccouche, spokesman for Tunisia's interim Government, announced that the Council of Ministers of the transitional Government, meeting on 16 August 2011, had approved withdrawal of all reservations to CEDAW provided there was no conflict with the provisions of the new Constitution. However, to date, the United Nations Secretary-General has not been officially notified.

It should be noted that some countries have issued general declarations on CEDAW or expressed reservations to particular articles without giving any reasons, while others have given detailed justifications for each reservation. Where Arab States parties have provided explanations, the reasons have tended to be similar.

The reservations and reasons given by Arab countries evince a lack of political will for implementation of the Convention. Both the general reservations and specific reservations, such as those to article 2 concerning the obligation of States to establish equality before the law in principle and practice and article 16 concerning family law and personal status, demonstrate a clear lack of genuine commitment to gender equality. Some States have justified their reservations on the grounds of the incompatibility of the Convention with national legislation. But that legislation could be amended if the political will was there. Some States have in fact informed the Committee that they are working to withdraw their reservations after amending national legislation, which is the best way to implement the Convention and achieve gender equality in practice.

## *2. Withdrawal of reservations to CEDAW: efforts made and resistance to change*

Under the 1969 Vienna Convention on the Law of Treaties, reservations made by States upon ratification of or accession to international treaties are temporary or provisional measures, which are accepted in the hope that they will eventually be withdrawn. The State party making the reservation has a margin of time to take measures to withdraw its reservations. After a good faith review it may decide to withdraw its reservation, replace its impermissible reservation with a permissible reservation, or renounce being a party to the treaty.

The Committee on the Elimination of Discrimination against Women asks States with reservations to provisions of CEDAW to submit progress reports on the withdrawal of those reservations written in accordance with the same guidelines used for initial and periodic reports. There are generally two types of reasons given to justify reservations. The first has to do with conflict between certain articles of the Convention and national legislation (notably personal status and nationality laws); the second has to do with conflict between the provisions of CEDAW (as a whole or in part) and Islamic law.

Whatever the reasons given, these reservations have had a negative impact on implementation, and consequently on efforts to improve the status of women in the countries concerned. This has prompted the Committee on the Elimination of Discrimination against Women and women's NGOs to urge States parties to take measures to withdraw their reservations. Morocco and Tunisia have responded by withdrawing their reservations completely, and must now officially inform the United Nations Secretary-General in order for the reservations to be formally withdrawn at the international level. Egypt and Jordan have withdrawn reservations to some provisions of the Convention. The process has been helped by recent reforms strengthening women's human rights in some Arab countries.

TABLE 4. SUCCESSFUL EXPERIENCES: WITHDRAWAL OF RESERVATIONS FROM CEDAW

State	Reservation withdrawn
Algeria	Reservations to article 9, paragraph 2, withdrawn in 2005 after amendment of nationality law to allow women to transmit nationality to children
Egypt	Reservation to article 9, paragraph 2, withdrawn in 2008 after amendment of nationality law to allow women to transmit nationality to children
Jordan	Reservation to article 15, paragraph 4, on freedom of movement and residence, withdrawn in 2009
Kuwait	Reservation to article 7, on women's political rights, withdrawn in 2005

TABLE 4 (*continued*)

State	Reservation withdrawn
Morocco <sup>*</sup>	<p>The Government has announced withdrawal of reservations and review of interpretative declarations as follows:</p> <ul style="list-style-type: none"> <li>- Reformulation of the second part of its interpretative declaration on article 2 concerning the principle and practice of equality before the law;</li> <li>- Withdrawal of its interpretative declaration on article 15, paragraph 4, concerning freedom of movement and residence;</li> <li>- Withdrawal of its reservation to article 16, paragraph 1 (h) concerning equal rights in ownership and disposition of property;</li> <li>- Replacement of its reservation on article 16, paragraph 1 (a), (b), (c), (d), (e), (f) and (g) concerning women's rights in family relations with an interpretative declaration;</li> <li>- Withdrawal of its reservation to article 16, paragraph 2 concerning specification of a minimum age of marriage and making registration of marriages compulsory;</li> <li>- Withdrawal of its reservation to article 9, paragraph 2 concerning the right of women to transmit nationality to their children.</li> </ul>
Tunisia <sup>**</sup>	All reservations withdrawn

<sup>\*</sup> In March 2006, the Moroccan Government announced its intent to reconsider previously expressed reservations and to accede to the Optional Protocol. That expression of intent was in the form of an official commitment in an accompanying document to Morocco's nomination to the United Nations Human Rights Council, of which it has been a member since 9 April 2006. The Government must now notify the United Nations Secretary-General officially in order to complete the withdrawal process on the international level.

<sup>\*\*</sup> Mr. Taieb Baccouche, spokesman for Tunisia's interim Government, announced that the Council of Ministers of the transitional Government, meeting on 16 August 2011, had approved withdrawal of all reservations to CEDAW provided there was no conflict with the provisions of the new Constitution. The next step is to inform the United Nations Secretary General in order to complete the withdrawal process.

For example, in Morocco, King Mohammed VI announced in his 2008 address to the National Human Rights Council on the occasion of the sixtieth anniversary of the Universal Declaration of Human Rights that the country had decided to withdraw its reservations to CEDAW, although the United Nations Secretary-General has yet to be officially notified. In the current round of constitutional and legislative reforms, the withdrawal of reservations is expected to be given practical effect immediately with concrete measures and legislation. The new Moroccan draft constitution currently under consideration affirms the precedence of international agreements ratified by Morocco over national legislation, as well as the need to harmonize national legislation with the provisions of international treaties ratified by Morocco.

In Egypt, the reservation to article 9, paragraph 2, was withdrawn in 2008 after the nationality law was amended to allow women to transmit nationality to their children. Pressure from women's and human rights groups contributed to that development and other improvements in women's rights. However, other major reservations continue to undermine the Convention's impact. When it submitted its 2010 periodic report, the delegation of Egypt told the Committee that procedural obstacles to the withdrawal of the reservation to article 2 remained, concerning the obligation of States to establish equality before the law in principle and in practice. It also indicated that withdrawal of the reservation to article 16, concerning equality in family and personal status law, was a major problem because Egyptian women actually enjoyed more rights than those provided for in that article.<sup>4</sup>

<sup>4</sup> Committee on the Elimination of Discrimination against Women, 45<sup>th</sup> session, 18 January-5 February 2010, Geneva.

Algeria, Jordan and Kuwait are among the countries that have formally withdrawn reservations to some articles of the Convention. Kuwait withdrew its reservation to article 7, concerning women's political rights, after amending its electoral law in 2005 to give Kuwaiti women the right to participate in parliamentary elections. Algeria withdrew its reservations to article 9, paragraph 2, when Algerian women were permitted to transmit nationality to their children in 2005. Jordan withdrew its reservations to article 15, paragraph 4, concerning freedom of movement and residence, in 2009 after amending national legislation, in particular its passport laws.

### *3. The role of NGOs in the withdrawal of reservations to CEDAW and ratification of the Optional Protocol*

Women's and human rights NGOs have acted as pressure groups to lobby Governments to ratify the Convention, withdraw reservations, and ratify the Optional Protocol. They have focused on the following:

(a) Calling on Governments to review and amend legislation to eliminate discrimination against women and to enact new laws for the benefit of women, especially with regard to family, personal status and nationality;

(b) Proposing legislation to benefit women, eliminate gender discrimination and close gaps in implementation;

(c) Contributing where possible to the preparation and submission of national reports to the Committee on the Elimination of Discrimination against Women and preparing shadow reports on implementation of CEDAW;

(d) Creating regional networks and coalitions, such the "Equality without Reservation" coalition, made up of women's and human rights organizations from a majority of Arab countries (box 2).

#### **Box 2. The Equality without Reservation regional campaign**

The Equality without Reservation coalition was founded in June 2006 at a regional Conference held in Rabat at the initiative of the Democratic Association of Moroccan Women and Arab women's and human rights organizations, and with the support of the International Federation for Human Rights Leagues. It includes women's and human rights organizations from a majority of Arab countries. It issued the Rabat Call for Support: Equality without Reservation, which called on Arab Governments that have not yet ratified CEDAW, such as the Sudan and Somalia, to do so, and on other Arab Governments to accede to the Optional Protocol, withdraw all reservations and harmonize their national legislation with the provisions of the Convention.

### **C. SUMMARY**

Despite obstacles to full and effective implementation of CEDAW in Arab countries, ratification has already begun to produce positive effects. It has created a legal framework for addressing fundamental challenges to the advancement of women and gender equality and put those issues on the political agenda in Arab countries. It has also fostered NGO mobilization and networking to monitor implementation and hold Governments accountable. The Convention provides a frame of reference and a common strategy for achieving gender equality.

In the several decades since the ratification of CEDAW, Arab States parties have embarked on a number of reforms. Nevertheless, they have been slow to withdraw reservations and harmonize national legislation and policy with the Convention. Some have been reluctant to commit to combating discrimination against women in all the areas listed in the Convention, notably article 16 regarding marriage and family. That raises questions about the practical force of ratification, since these kinds of reservations have the effect of undermining implementation. Some of these countries have also decided not to incorporate CEDAW

provisions, notably articles 2 and 16, into their national legislation. In so doing, they are treating the Convention differently from other international conventions. These same States have not expressed reservations about comparable provisions in other international treaties, notably the International Covenant on Civil and Political Rights, article 23, paragraph 4, concerning the equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.

The constitutions of most Arab countries state that Islam is the State religion, which brings into play the role of religion in the political arena and limits the possibility of CEDAW being implemented. The Convention is portrayed in those countries as a western innovation that threatens the Arab and Islamic identity of society and undermines the family, an image that is used to the detriment of public awareness of the Convention and its provisions. These are some of the obstacles facing mobilization by human rights organizations for implementation of the Convention.

## II. BEST PRACTICE AND SUCCESSFUL EXPERIENCES IN IMPLEMENTATION OF THE CONVENTION

This chapter looks at successful experiences and best practice in promoting CEDAW in the Arab region in the light of differences in political and legal systems, legal reforms and policies on harmonizing national legislation with the principles and provisions of the Convention. It also addresses the roles of women's and human rights organizations.

Successful experiences and best practice are intimately connected and difficult to disentangle. Analysis of best practice allows for the identification of successful experiences and vice versa.<sup>5</sup> The following is a survey of the most important experiences and practices in implementation of the provisions of CEDAW in Arab countries.

### A. BEST PRACTICE IN THE HARMONIZATION OF NATIONAL LEGISLATION WITH THE PROVISIONS OF CEDAW

Under international law, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This provision has always been a central issue for human rights treaty-monitoring bodies, including the Committee on the Elimination of Discrimination against Women. In recent decades, most Arab countries have embarked on reforms to combat gender discrimination and tried to harmonize their legal frameworks with international human rights standards. These reforms have embraced constitutions and civil and criminal codes. Alongside these national efforts for improvements in women's education, professional qualifications, employment and political participation, there have been legal reforms to safeguard the rights of women and empower them to play a role in development. However, the rise of conservative and politicized religious movements in recent decades has had a negative impact on reform efforts in many countries, which have had to make do with limited changes. One exception has been Morocco, which saw a legislative leap forward with the proclamation of the 2004 Family Code, or Moudawanah, which was the result of collaboration with religious leaders to formulate enlightened and woman-friendly interpretations of Islamic law and paved the way for the withdrawal of Morocco's reservations to CEDAW in 2008. After its peaceful revolution at the beginning of 2011, Tunisia followed in Morocco's footsteps. It withdrew its reservations to CEDAW, and the High Council for the Realization of the Goals of the Revolution, Political Reforms and Democratic Transition, composed of representatives from across the post-revolutionary political spectrum, approved the principle of gender parity on electoral lists for the future Constituent Assembly, a first in the history of the women's movement not only in Tunisia but in the Arab world as a whole. Gender parity on electoral lists requires complete numerical equivalency between women and men.<sup>6</sup>

#### 1. *National Constitution*

##### *Article 2 (a) of the Convention*<sup>7</sup>

Article 1 of CEDAW defines gender-based discrimination as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition,

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<sup>5</sup> United Nations Department of Economic and Social Affairs, *Innovations in Governance and Public Administration*, 2006. Best practice is characterized by three distinguishing features: It must have concrete impact on the lives of individuals, involve genuine partnership between Government and civil society, and be socially, economically, politically and environmentally sustainable. Successful experiences are activities or measures that produce clear and positive results that can be replicated in other conditions.

<sup>6</sup> <http://www.latunisievote.org>.

<sup>7</sup> "To embody the principle of the equality of men and women in their national constitutions . . ." For the full text see: <http://www.un.org/womenwatch/daw/cedaw/text/0360793A.pdf>.



enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Article 2 provides for the embodiment of the principle of the equality of men and women in national constitutions.

The constitutions of most Arab States prohibit discrimination, including discrimination on the basis of sex, and provide for the equality of citizens before the law. However, most Arab constitutions do not contain a clear definition of the principles of equality and non-discrimination along the lines article 1 of the Convention. Nor, with a few exceptions, does national legislation define and prohibit gender discrimination. In some countries, international treaties and conventions take precedence over national law, while in others they are regarded as being on the same level as the constitution.

For example, the Egyptian Constitution, article 151, provides that the President of the Republic shall conclude treaties and submit them to Parliament with suitable clarifications, and that treaties shall have the force of law after signature, ratification and publication in accordance with procedures in force. This provision is a double-edged sword. It gives treaties legislative force<sup>8</sup> but not constitutional status. On the other hand, some laws state explicitly that their enforcement shall be without prejudice to international obligations. The United Nations Human Rights Committee<sup>9</sup> and the Committee on the Elimination of Discrimination against Women, in its concluding comments on Egypt's national reports, have taken note of this ambiguity. The Committee expressed concern over the implications of the unclear status of the International Covenant on Civil and Political Rights under domestic law. The State party should ensure that its legislation provides for implementation and full recognition of the rights enshrined in that Covenant and provide means for their effective exercise.<sup>10</sup>

**Box 3. Statement of the Egyptian Coalition for Civic Education and Women's Participation on amending the Egyptian Constitution**

The Coalition believes that recent constitutional amendments have not lived up to the aspirations of the Egyptian people and the demands of the Revolution, and merely perpetuate the previous system. In particular:

*Article 75*, states that anyone elected President of the Republic must be an Egyptian born to Egyptian parents, have full disposal of his civil and political rights, not carry the nationality of another State through his parents, and not be married to a non-Egyptian. The use of the feminine form of the word for "non-Egyptian" indicates that the spouse is a woman and that the President would therefore necessarily be a man, since women do not marry women. The claim that in the Arabic language, use of the masculine grammatical gender embraces both men and women is not accurate. When the Quran, which is the source of the Arabic language, speaks of rights and duties, it generally explicitly mentions women alongside men, as, for example, in the phrases "Muslim men and women" and "men and women believers". It does not use the masculine gender to cover both sexes.

*Article 189*, concerning the formation of the Constitutional Committee for the promulgation of the new Constitution through a vote of the People's Assembly and Shura Council, makes that Committee hostage to the parliamentary balance of power, because it does not specify that it should contain male and female experts from outside Parliament. This lack of specificity means that all the members of the Committee could be members of Parliament, which would make the drafting of the Constitution subject to the dominant forces in the Parliament. The Committee must include male and female experts outside of Parliament, and with a gender balance that ensures that female experts are properly represented.

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<sup>8</sup> Constitutional force guarantees a right under the constitution, whereas legislative force provides for the enactment of laws to guarantee that right.

<sup>9</sup> The Human Rights Committee is charged with monitoring implementation of the International Covenant on Civil and Political Rights.

<sup>10</sup> <http://www.acihl.org>.

The issue of the legal status of international instruments was raised again following the January 2011 revolution during the 19 March constitutional referendum. There seems to have been nothing new in the proposed amendments relating to either this constitutional issue or women's rights. There were in fact no women on the committee that drafted the amendments, and a coalition of 127 civic associations<sup>11</sup> issued a statement criticizing them (box 3).

The new draft Moroccan Constitution affirms the precedence of international agreements ratified by Morocco over national legislation, as well as the need to harmonize national legislation with the provisions of those agreements. This is a positive development. The previous Constitution did not explicitly provide for the precedence of international agreements over national legislation in cases where the two conflict or where national law is silent. Since 1992, the preamble to the Moroccan Constitution has acknowledged that the country acts within the framework of the international organizations of which it is an active and energetic member and is committed to the principles, rights and obligations provided for in the charters of those organizations. However, this was not made fully explicit by the previous Constitution. The only mention of gender equality was in article 8, concerning equal political rights for women, that is to say, women's right to vote. In its concluding comments following consideration of Morocco's combined third and fourth national reports in January 2008, the Committee on the Elimination of Discrimination against Women expressed concern about this lack of clarity on the status of international instruments, including CEDAW, under domestic law.<sup>12</sup> The Committee recommended that the State party clearly establish the status of international conventions within its domestic legal framework, ensuring the precedence of international instruments, including the Convention, over national legislation, and ensure conformity of this legislation with these instruments.<sup>13</sup>

**Box 4. Best practice: the formation of the Women's Spring Coalition for Democracy and Equality**

On Wednesday, 16 March 2011 in Rabat, following a 9 March speech in which the King announced the inauguration of comprehensive constitutional reform, the Moroccan women's movement met for consultations on ways to become involved in the constitutional and political reform process and decided to establish a broad coalition of civil society organizations under the name Women's Spring Coalition for Democracy and Equality. The Coalition will draft a memorandum outlining its vision of the new Constitution that Moroccan women would like to see for the twenty-first century.

The constitutions of most Arab states provide that Islam is the State religion, and some provide that sharia is the principal source or one of the sources of legislation. For example, the 2002 Constitution of Bahrain, article 2, states that Islam is the State religion and Islamic sharia is the main source of legislation. Article 1 guarantees to all citizens, men and women, the right to participate in public affairs and to enjoy political rights, including the right to vote and the right to run for political office. Article 18 affirms the equality of citizens before the law in public rights and duties, and prohibits discrimination on the basis of sex, origin, language, religion or creed. Under article 6, the State guarantees balance between a woman's duties to her family and her work in society, and equality with men in the political, social, cultural and economic spheres without prejudice to the provisions of Islamic sharia. The Constitution of Bahrain does not make any reference to the issue of the status of ratified international human rights agreements within the domestic legal system. The Lebanese Constitution, article 9, provides for absolute freedom of conscience, and states that out of deference to the Most High God, the State shall guarantee freedom of religious worship provided that public order is not disturbed. It also guarantees respect for the personal status laws and religious interests of all denominations.

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<sup>11</sup> The Egyptian Coalition for Civic Education and Women's Participation included over 127 women's rights associations.

<sup>12</sup> Committee on the Elimination of Discrimination against Women, 40<sup>th</sup> session, 14 January-1 February 2008, Concluding Comments on Morocco's report (CEDAW/C/MAR/CO/4).

<sup>13</sup> Ibid., paragraph 12.

TABLE 5. SHARIA AS A SOURCE OF LEGISLATION IN ARAB CONSTITUTIONS

Country	The Sharia and the source of legislation under the Constitution
Algeria	Islam the State religion; Sharia not mentioned as source of legislation
Bahrain	Islam the State religion; Sharia a principal source of legislation
The Comoros	No reference to either the religious or secular character of the State
Djibouti	No reference to either the religious or secular character of the State
Egypt	Islam the State religion; principles of Sharia the main source of legislation
Iraq	Islam the State religion; Sharia not mentioned as source of legislation (interim constitution)
Jordan	Islam the State religion; Sharia not mentioned as source of legislation
Kuwait	Islam the State religion; Sharia a principal source of legislation
Lebanon	No reference to either the religious or secular character of the State, but article 9 links the personal status laws to freedom of conscience for the various denominations
Libya	Islam the State religion; Sharia not mentioned as source of legislation
Mauritania	Islam the religion of the people and State; Sharia not mentioned as source of legislation
Morocco	Islam the State religion; Sharia not mentioned as source of legislation
Oman	Islam the State religion; Islamic law the basis of legislation
Palestine	Islam the official religion; other revealed religions respected; principles of Sharia a main source of legislation
Qatar	Islam the official religion; Sharia a principal source of legislation
Saudi Arabia	The religion is Islam and its Constitution is the Book of Allah and the Sunna of His Messenger
Somalia	Islam the State religion; Sharia not mentioned as source of legislation
The Sudan	Islamic law and consensus the two sources of legislation at the national and State levels
Syrian Arab Republic	President of the Republic must be Muslim; Islamic jurisprudence a major source of legislation
Tunisia	Religion of State is Islam, language is Arabic, and republicanism is the regime
United Arab Emirates	Islam the official religion; Sharia a principal source of legislation
Yemen	Islam the State religion; Islamic law the source of all legislation

Sources: <http://www.arablegalportal.org> (12 August 2011); Interim Constitution of the Republic of the Sudan (2005); the Lebanese Constitution.

## 2. Nationality laws: article 9 of the Convention

A number of Arab countries<sup>14</sup> have expressed reservations to CEDAW, article 9, paragraph 2, which gives women equal rights with men with respect to the nationality of their children. Algeria, Egypt, Morocco, the Sudan, Tunisia and Yemen have amended their nationality laws to allow women, like men, to transmit nationality to children from a non-national or foreign spouse. In some countries where nationality laws have not yet been amended, such as Bahrain and Qatar,<sup>15</sup> steps have been taken to alleviate women's disadvantages in this regard.

In Qatar, for example, the law grants priority in public sector recruitment to citizens, then to children of Qatari women married to foreigners, and then to foreign spouses of Qatari women. In Bahrain, Law No. 35 of 2009 provides that children of Bahraini women married to non-Bahrainis should be treated the same as Bahraini citizens with regard to exemptions from fees for Government services, health care, education and permanent residence. Pending the amendment of the Nationality Act, the Supreme Council for Women instituted the following interim measures:

- (a) Reviewing applications from children of Bahraini mothers and foreign fathers;

<sup>14</sup> Bahrain, Iraq, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, the Syrian Arab Republic, Tunisia and the United Arab Emirates.

<sup>15</sup> ESCWA: Report of the Committee on Women on its fourth session, 21-21 October 2009, Consolidated Arab report on the implementation of the Beijing platform for action: +15, 2009.

(b) Granting visas free of charge to minor children of Bahraini women to allow them to visit or take up permanent residence in Bahrain, and to adult sons, with the mother acting as sponsor, to allow them to pursue their studies at any stage of education, with the same applying to unmarried daughters;

(c) Facilitating the granting of non-conditional residence permits to non-resident children, which may be extended upon request in accordance with established procedures.

Tunisia was the first Arab country to amend its nationality law in 1987. Egypt followed suit in 2004 with Act No. 154 amending its nationality law to give Egyptian mothers the right to transmit nationality to children by foreign fathers. Following that amendment, in 2008, the Government notified the United Nations Secretary-General of its decision to withdraw its reservation to CEDAW, article 9, paragraph 2. After the 2011 revolution, the Ministries of the Interior and Foreign Affairs issued Decision No. 1231 of 2 May 2011 granting Egyptian nationality to the children of Egyptian women from Palestinian fathers. Previously, such children had been denied nationality and in some cases were subject to legal sanctions.<sup>16</sup>

Nationality laws were amended in the aforementioned countries as a result of pressure from civil society and of Arab-wide initiatives by women's rights NGOs, such as the "My Nationality is a Right for Me and my Family" campaign, which advocates on behalf of women, children and the thousands of families living in tragic circumstances as a result of mothers being deprived of the right to transmit nationality to their children.

#### **Box 5. The "Nationality for children of Bahraini Women" campaign**

In November 2004, Bahrain joined the regional "My Nationality is a Right for Me and My Family" campaign run by women's organizations in Algeria, Egypt, Jordan, Lebanon, Morocco and the Syrian Arab Republic. When Bahrain's national report was submitted, it mentioned the Bahraini nationality law and included statistics on the number of Bahraini women married to foreigners. A basic conception was developed for a campaign and a draft proposal was put forward by the Bahrain Women Association.

The overall objective of the Bahraini campaign was to amend article 4 of the 1963 Nationality Act (as amended by Act No. 12 of 1989) by the addition of a single word so that it would read as follows: "Any person, whether born in Bahrain or abroad, is considered Bahraini, whose father or mother was a Bahraini at the time of birth", thereby giving Bahraini women their fair and equal right to transmit nationality to their children. The campaign is being coordinated by its organizing committee in cooperation with the Arab Regional Gender and Citizenship Initiative on the basis of partnership between civil society institutions and stakeholders.

*Source:* Bahrain Women Association.

### *3. Freedom of movement and legal capacity: article 15 of the Convention*

Jordan withdrew its reservations to CEDAW, article 15, paragraph 4, concerning the movement of persons and the freedom to choose their residence and domicile, following a Cabinet decision in May 2009. The withdrawal came into force when it was announced in the Official Gazette as follows: "The reservation to the Convention on the Elimination of All Forms of Discrimination against Women, article 15, paragraph 4, concerning the granting by States parties to men and women of the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile, is withdrawn".<sup>17</sup>

Qatar amended its passport law in 2009 to allow Qatari women for the first time to be issued a passport without the prior consent of a guardian. In general, provisions requiring a woman to obtain her husband's consent to obtain a passport and travel have been abolished in most Arab countries, with the exception of Saudi Arabia, which still requires a guardian's consent for a woman to travel or be issued a passport.

<sup>16</sup> Press release from the "My Nationality is a Right for Me and my Family" campaign, 5 May 2011.

<sup>17</sup> Jordan, National report on implementation of the Beijing Platform for Action: +15, 2009.

Lebanon took a positive step towards equality in legal matters and the implementation of CEDAW, article 15, when in 2010, for the first time, Lebanese women were allowed to open bank accounts for their minor children. This measure, which required coordination between the National Commission for Lebanese Women, the Association of Banks in Lebanon and the Governor of the Bank of Lebanon, was a successful experience in networking between government institutions and civil society. A circular was issued to all Lebanese banks mandating non-discrimination against women in opening bank accounts for their minor children and the measure became universally implemented without the need to resort to official channels such as the Lebanese Cabinet or Parliament.<sup>18</sup>

**Box 6. The law on guardianship of the assets of minor children in Qatar (No. 40 of 2004)**

In 2004, a decree was issued granting women the same rights as men with respect to custody of minors. The law allows the guardian to be male or female as long as he or she has full capacity, is trustworthy and of the same religion as the minor.

*4. Family law*

*Article 16 of the Convention and General Recommendation No. 21 of the Committee*

Family law occupies a special place in legal systems in the Arab world, because it forms the framework for other legislation and rights, such as nationality law, labour law, criminal and civil codes, commercial law and laws protecting women against violence. Provisions of family law that discriminate against women are therefore among the major mechanisms of exclusion and obstacles to political and legal reform.

The experience of Morocco in reforming family law is instructive. In 2004, the personal status law was reformed to allow women to enjoy a number of rights in marriage, divorce and child custody. This positive change came about as a result of pressure from civil society, in particular from women's organizations, which launched wide-ranging women's rights awareness campaigns to generate sympathy among the general public by stressing the impact of discrimination not only on women but also on men, children, families and society as a whole.

**Box 7. The Moudawanah in Morocco**

- A new philosophy: not "maintenance in exchange for obedience" but "shared responsibility for both spouses";
- A new language: purging the text of expressions that denigrate women's capacities;
- Abolition of guardianship in marriage;
- Abolition of the principle of obedience; putting both spouses on an equal footing within the family;
- Equal rights and mutual duties for both spouses;
- Equality between the sexes in the age of marriage (18 years);
- Amendment of divorce laws in the interests of both spouses (the law on separation and divorce);
- Equality between grandsons and granddaughters in inheritance (without prejudice to Islamic principles);
- Make polygamy virtually impossible (without prejudice to Islamic principles).

The new code also covers child custody, the establishment of family courts and the protection of children's rights on the basis of the child's best interest.

<sup>18</sup> Interview with Jumana Mufarej, Executive Director, National Commission for Lebanese Women, Beirut, 19 August 2011.

The experience of the Moroccan women's movement shows that two major elements were decisive in the success of the new Moudawana. The first was to make use of Islamic jurisprudence to reassure people that the proposals being put forward by the women's movement were not in conflict with the principles of sharia. The second was to make use of the real experiences of women (and children) to ensure that the typical family covered by the code was not some idealized family with no relationship to the problems of everyday life. The underlying principle was that the code was not there to protect people who had no problems to begin with, but on the contrary, to protect men and women who find themselves in delicate situations because of age or gender. Awareness campaigns employed statistics that demonstrated the extent of discrimination and resonated with various segments of society and the media.

**Box 8. Best practice: the role of the Moroccan women's movement and the Spring Coalition for Democracy and Equality**

Nine associations (eventually 30) striving towards a common goal:

- Objective: Enactment of a code enshrining the principle of equality;
- Negotiate an agreement on an approach and an overall conception of gender equality, based on analysis and discussion;
- Create consensus on common demands;
- Make use of religious arguments throughout the campaign, to persuade not experts or conservatives, but rather people with no preconceived notions who might be subject to the influence of conservatives;
- Target the wider public and other organizations that might support the campaign, to generate sympathy among the general public by stressing the impact of discrimination not only on women but also on men, children, families and society as a whole;
- Anticipate the reactions of various groups and adapt arguments accordingly (this last strategy contributed decisively to the campaign's success).

Alongside the Moroccan experience, the promulgation of a personal status code for the Sunni community of Bahrain was another success in implementation of CEDAW, article 16, on women's rights within the family. The Bahraini women's movement had been trying since the 1980s to have the country adopt a code regulating personal status. The lack of explicit legal texts defining the rights and duties of spouses and their obligations to each other and to their children led to the spread of practices of which women and children were the primary victims. The absence of clear legal provisions, combined with a multiplicity of schools of legal thought and religious authorities, led to conflicting rules and made it difficult to regulate the actions of sharia court judges.

In 2004, the Bahrain Women's Union called for the creation of a coalition of civil society organizations to demand the adoption of a uniform code of family regulations. It called for the formation of a committee composed of men of religion from both the Sunni and Shi'ite communities to consider various draft codes. The Sunni religious authorities responded, and spent a year and a half revising and amending a code of family law. The result was a draft code that was presented to the Royal Diwan on 8 October 2008. By contrast the Women's Union's calls elicited no response from the Shi'ite religious authorities despite direct appeals to the Council of Ulama and a number of Shi'ite sheikhs.

In 2008, when its official report to the Committee on the Elimination of Discrimination against Women was being considered, the Government of Bahrain undertook to create a social consensus for the adoption of a new personal status law. In early 2009, the Government submitted a draft family code to the parliament.<sup>19</sup> The adoption of Law No. 19 of 2009 was a step forward for Bahraini women. The new code

<sup>19</sup> The new code did not take into account proposals from either the Women's Union or the committee of Sunni sheikhs.

regulated family relations, marriage, divorce, alimony and child custody. The code of sharia court procedure was amended with a view to expediting sharia cases, and the rules for evidence in civil and commercial cases were amended to make it easier to prove a woman's financial contribution to a marriage.

**Box 9. Successful experience: the personal status code in Bahrain**

After years of demands by women's organizations and other political and social activists for codification of personal status laws in Bahrain, the adoption of the code may be considered a step forward even though it is only applicable to Sunni Muslims. Positive results include the following:

- A scientific approach based on DNA testing of both spouses is used to prove paternity and remove ambiguity where there is any question about a child's parentage, or in cases of newborns being mixed up in hospital;
- Foreign divorcees have the right to reside in Bahrain during their children's minority;
- Judges consult psychologists and social workers about the best interests of children in custody cases;
- A wife has the right to stipulate in the marriage contract that her husband may not take a second wife.

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*Source:* Bahrain Supreme Council for Women, 2009.

In Lebanon, the office of the Dar Al-Fatwa, the highest Sunni religious authority in Lebanon, recently decided to raise the age of custody for boys and girls to 12, as opposed to the previous ages of 7 for boys and 9 for girls. This beneficial change for women will enter into force as soon as the parliamentary Administration and Justice Committee adds a new paragraph to article 2424 of the law regulating the religious court system.<sup>20</sup>

In addition to equality in family law, CEDAW, article 16, paragraph 2, provides that the betrothal and marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Most Arab countries, including Algeria, Egypt, Libya, Morocco, Oman, Somalia and the United Arab Emirates, have a minimum marriage age of 18. Others, including Bahrain, Djibouti, Iraq, Jordan, Kuwait, Lebanon, Mauritania, Qatar, the Sudan, the Syrian Arab Republic and Tunisia, allow marriage at younger ages ranging from 15 to 17 for females. The Comoros, Saudi Arabia and Yemen do not have any legislation on marriage age.

In the meantime, early marriage is becoming more widespread in the Arab region as a result of poverty and cultural patterns. Yemen is one of 20 countries worldwide where early marriage has proliferated. One seventh of girls are married by 14.5 years of age, and a majority are married by 17.<sup>21</sup> In its concluding observations on the national report of Jordan, the Committee on the Elimination of Discrimination against Women expressed its concern that a very high percentage (approximately 15 per cent) of all marriages continue to be of girls under the age of 18.<sup>22</sup>

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<sup>20</sup> *Al-Safir* newspaper (Lebanon), No. 95, "High Sharia Council raises age of custody to 12: Women's Union and Druze not satisfied with age under 15" <http://www.assafir.com/Article.aspx?EditionID=1863&ChannelID=43878&ArticleID=641>.

<sup>21</sup> Derek Lee, "Yemeni Communities Unite against Child Marriage", March 2011 [http://www.usaid.gov/press/frontlines/fl\\_feb11/FL\\_feb11\\_WYemen.html](http://www.usaid.gov/press/frontlines/fl_feb11/FL_feb11_WYemen.html).

<sup>22</sup> United Nations Committee on the Elimination of Discrimination against Women. Consideration of reports submitted by States Parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined third and fourth reports of Jordan, 2005.

TABLE 6. MINIMUM AGE OF MARRIAGE IN ARAB COUNTRIES

Country	Minimum age of marriage	Additional Information
Algeria	21 for males 18 for females	Age can be lower with judicial approval if necessity or interest is demonstrated
Bahrain	18 for males 15 for females	
The Comoros	Age not defined	
Djibouti	18	Marriage of minors contingent on approval of guardians
Egypt	18 for males and females	
Iraq	18 for males 15 for females	With judicial approval if they have physical capacity and guardian's consent (or in the case of a partial objection on the part of guardian)
Jordan	16 for males 15 for females	According to the lunar calendar; permission from the Court required for women under 18 years of age if the prospective husband is 20 years older or more
Kuwait	18 for males 15 females	
Lebanon	By religious affiliation	For Sunnis: marriage age is 18 for men and 17 for women, but a Sharia judge may approve an exception based on the agreement of the guardian if puberty has been reached, with a minimum age of 17 for men and 9 for women. For Jaafaris: marriage can occur at puberty, or the ages of 15 for men and 9 for women; For other groups the ages of marriage are as follows: Druze: 18 for men and 17 for women, Eastern Catholics: 16 for men and 14 for women, Evangelicals: 18 for men and 16 for women, Orthodox: 18 for men and 14 women, Roman Orthodox: 15 for men and 17 for women, Armenian Orthodox: 18 for men and 15 for women, Assyrian Orthodox: 18 for men and 15 for women
Libya	20	Age may be less with judicial approval, based on interest or need and with consent of guardian
Mauritania	18	Marriage of children is still widespread in Mauritania, where girls are married as young as 6 years of age, often in exchange for compensation to the family from an older man
Morocco	18	
Oman	18 for males and females	
Palestine	18 under the law	Under the law a person must be 18 or older to sign legally binding documents such as the marriage contract. However, this law is ignored on a regular basis when it comes to marriage, and two different versions of the Islamic Sharia are followed. In the West Bank, the Jordanian model is followed, with the minimum age of marriage being 15 for girls and 16 for boys. In Gaza, Egyptian law is followed, with the age marriage being 16 for girls and 17 for boys
Qatar	16 for females	Parental consent required
Saudi Arabia	Age not specified	Legislation is being considered to set a minimum legal age of marriage of 18
Somalia	18	The minimum legal age of marriage is 18 for men and women; females may marry at the age of 16 with parental consent
The Sudan		Age of puberty, consent of both parties required
Syrian Arab Republic	18 for males 17 for females	
Tunisia	20 for males 17 for females	Marriage may occur at a younger age with special judicial approval for extenuating circumstance, or if it is in the clear interest of both spouses
United Arab Emirates	18	
Yemen	Under consideration	Yemeni law allows girls to marry at any age, but prohibits engaging in sex with them until they are ready



Even where there are laws setting a marriage age of 18, in most cases Governments have not established mechanisms to ensure that those laws are adhered to. There is still an urgent need for awareness campaigns in various sectors to raise consciousness among both men and women of the negative effects of early marriage and the importance of gender equality.

A multisectoral approach is also needed to increase participation by principal stakeholders in prevention programmes. This can be done by raising the awareness of health and social workers of the dangers of early marriage, and making them advocates and agents of change within local communities and institutions. Police and judges should also be trained to enforce laws against early marriage, and information and monitoring systems need to be improved so that member countries can develop better evidence-based policies on early marriage.

## *5. Summary*

Thanks to mobilization by women's organizations, several Arab countries have seen significant successes and good practice in the area of legal reforms to harmonize national laws with CEDAW provisions. Those organizations must confront many political, social and ideological difficulties and challenges as they pursue their cause in extremely patriarchal societies that tend to resist any efforts towards gender equality and women's empowerment. In the face of such obstacles, civil society organizations have been outstanding in their advocacy on behalf of women and the creation of dynamic mechanisms for advancement rooted in traditional foundations that enhance their social and political legitimacy.

Despite progress, the legal frameworks in most Arab countries still have a long way to go towards harmonization with CEDAW, in particular with article 2 obligating States to enshrine the principle of equality under the law and in practice, and article 16 on equality in family law. Arab States have not engaged positively with the demands of women and the women's movement, or with the recommendations of the Committee on the Elimination of Discrimination against Women when it comes to disseminating the principle of gender equality, incorporating into constitutions and national legislations a definition of gender discrimination along the lines of article 1 of the Convention, and defining the status of international conventions within national legal frameworks.

Obstacles to further progress in eliminating discrimination against women continue to loom large. They include political, social and cultural resistance; lack of an integrated vision of change; shortages of human and financial resources; and absence of mechanisms for holding States and Governments accountable for implementation of CEDAW. As long as these challenges are left unaddressed, such reforms as have been achieved will remain weak, devoid of content and stripped of any positive impact on the lives of women, girls and other groups in Arab societies.

Arab countries have plans for legislative reforms in various areas. Nevertheless, family law continues to discriminate against women in most Arab countries in inheritance rights, marriage, divorce and guardianship of children, which hinders implementation of CEDAW, achievement of universal equality and other components of sustainable development in Arab countries.

## *6. Criminal laws and penalties*

### *Articles 2 and 6 of the Convention and General Recommendations Nos. 12 and 19 of the Committee*

The penal codes of Algeria, Bahrain, Djibouti, Jordan, Tunisia and the Syrian Arab Republic contain provisions criminalizing some forms of violence against women. The amended penal code of Algeria criminalizes acts related to trafficking in women and girls. Algeria, Morocco and Tunisia have also enacted

laws criminalizing sexual harassment and exploitation of women for the purposes of prostitution and sex tourism.<sup>23</sup>

**Box 10. The blood money law in Qatar**

In Qatar, Law No. 19 of 2008 provides that reparations, or “blood money”, for a woman should be equal to that for a man in cases of involuntary manslaughter. Previously, blood money for a woman had been half that of man, and the family of a woman victim of involuntary manslaughter would receive half of what they would have gotten if the victim had been male.

Lebanon, Oman, Qatar and the Syrian Arab Republic have acceded to the Convention against Transnational Organized Crime (2000), its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956). Laws against human trafficking were enacted in the United Arab Emirates in 2006, Bahrain and Oman in 2008, and Jordan in 2009.<sup>24</sup> Bahrain’s Law No. 1 of 2008 on human trafficking is particularly progressive, in that it incorporates all the provisions of the United Nations Convention against Transnational Organized Crime and the two Protocols thereto. That agreement stressed three key areas: (1) addressing the causes of human trafficking; (2) penalizing the crime of human trafficking; and (3) protection, assistance and physical and psychological rehabilitation for victims.

There have been a number of legislative reforms. In 2009, a legislative decree in the Syrian Arab Republic abolished article 548 of the penal code and increased the minimum penalty for honour killing. Egypt repealed article 291 of its amended penal code (No. 58 of 1937), which provided for amnesty for the crime of abduction or rape if the perpetrator married the victim. On 4 August 2011, the Lebanese Parliament approved the repeal of article 562 of the penal code, which provided for reduced sentence for so-called honour crimes.<sup>25</sup>

**B. ELIMINATING VIOLENCE AGAINST WOMEN AND GENDER-BASED VIOLENCE: GENERAL RECOMMENDATIONS NOS. 12 AND 19 OF THE COMMITTEE**

**1. Arab initiatives to combat violence against women**

Women’s movements in the Arab countries have played a leading role in raising public awareness of all forms of violence against women, which had been considered taboo in Arab societies. These women’s movements have been deeply involved in media campaigns; exposing political and social discrimination; disseminating qualitative and quantitative information; and developing indicators to measure violence against women, including domestic violence, sexual harassment and other forms of gender-based violence.

Measures to combat gender-based violence have been funded by donor parties and the United Nations system. Several Arab countries have established national strategies and action plans to reduce violence against women, with accompanying implementation mechanisms and follow-up indicators. There are also various kinds of preventive services for victims, including women’s shelters, complaint bureaus and hotlines; legal counselling centres to provide women victims of violence access to information, the courts and legal representation; and the establishment of focal points and special units to combat domestic violence. Databases have been created to monitor, assess and provide statistics on violence against women, such as the survey of violence against women conducted by the Palestinian Central Bureau of Statistics in 2006.

<sup>23</sup> Consolidated Arab report on the implementation of the Beijing platform for action: +15, 2009.

<sup>24</sup> Ibid.

<sup>25</sup> Human Rights Watch: “Legal Reforms Target Honour Crimes” <http://www.hrw.org/ar/news/2011/08/11>.

In several countries, the ministries of justice, social affairs or the interior provide employee training courses in legal and security issues relating to violence against women. NGOs have called for increases in the number of woman police officers assigned to investigate domestic violence.

In addition, NGOs have been active in promoting awareness of violence against women at the grassroots level and establishing counselling centres for women victims of violence. Such organizations are an active force in monitoring implementation of the law in general and family law in particular. All these measures have helped to raise the awareness of society and Government officials about violence and discrimination against women.

TABLE 7. CIVIL SOCIETY INITIATIVES TO COMBAT VIOLENCE AGAINST WOMEN IN ARAB COUNTRIES

Qatar*	<p>“End the Silence” campaign to put an end to sexual harassment, of which the key elements are the following:</p> <ul style="list-style-type: none"> <li>• Target both men and women;</li> <li>• Encourage Qatari women to begin demonstrating publicly to raise awareness about violence against women;</li> <li>• Organize a footrace in which 4,000 women of all ages participated;</li> <li>• Raise awareness about violence against women in mosques by having imams choose a different women’s issue as a Friday sermon discussion topic for a month;</li> <li>• Use Q-tell technology and voice messages to contact citizens with messages urging repudiation of violence against women.</li> </ul>
Egypt	<p>The “Safe Streets for All” campaign</p> <p>The “Safe Streets for All” campaign was a response to the increase in sexual harassment in the streets of Cairo. The Egyptian Center for Women’s Rights and the National Council for Women spearheaded the campaign to enact a law against sexual harassment and raise social and cultural awareness. Among the campaign’s main objectives are better legal mechanisms for protecting women and better enforcement.</p>
Morocco	<ol style="list-style-type: none"> <li>1. The Ministry of Social Development, Family and Solidarity has conducted several awareness campaigns, beginning in 2004. Its 2007 campaign targeted young men and women with the theme: “Violence against women is against our ethics ... Our hope is in our youth”. Awareness marches were held in a number of cities in cooperation with various partners.</li> <li>2. The Ministry of Awqaf and Islamic Affairs mandated that in observance of the International Day for the Elimination of Violence against Women, time be set aside in Friday sermons to remind worshippers of Islamic values that promote the dignity of women and enshrine the principles of gender equality and justice.</li> </ol>
Yemen	<ol style="list-style-type: none"> <li>1. In 2003, a network to combat violence against women was established, made up of 17 civil society organizations and the National Women’s Committee. It has conducted a field study on early marriage which resulted in a draft law on a minimum age of marriage that is currently being considered.</li> <li>2. There are two hotlines for women to register complaints with civil society organizations.</li> <li>3. Periodic meetings on combating violence against women have been held with decision makers, including with the Interior Ministry and the Prison Authority on taking care of women prisoners and their children.</li> <li>4. A pamphlet has been prepared on Islam’s opposition to violence against women, as well as a training manual for mosque preachers on the health consequences of violence against women.</li> <li>5. Three shelters for women victims of violence have been established.</li> <li>6. In response to the spread of “tourist marriages”, a circular has been issued requiring embassy authorization for the marriage of a Yemeni woman to a foreigner.</li> </ol>

\* ESCWA Expert Group Meeting on media strategies and campaigns for the advancement of women in the ESCWA region, Beirut, 21 to 22 June 2011.

## 2. Obstacles to combating violence against women

Despite these efforts and initiatives, gender-based violence remains widespread in the absence of laws penalizing it. Most Arab countries do not have comprehensive laws on eliminating this form of violence. International law provides that national legislation should define gender-based violence and enact comprehensive laws that include the following: (1) criminalization, that is to say, penalization of perpetrators; (2) protection, that is to say, mental and physical rehabilitation of victims; and (3) prevention, that is to say, awareness campaigns and capacity-building for personnel at the relevant women's institutions and in ministries of interior, health, justice and social affairs.

Jordan was the first country in the Arab region to enact a law protecting women against violence and requiring incidents to be reported. In 2008, Jordan enacted Law No. 6 on protection against domestic violence with a view to preventing all forms of family violence, especially against women. In Lebanon, the Council of Ministers has approved a draft law protecting women against domestic violence, which is still awaiting parliamentary approval.

Egyptian NGOs, such as the El Nadeem Center for Rehabilitation of Victims of Violence, along with coalition of 89 NGOs across Egypt, have proposed a draft law combating violence against women. It has been disseminated to solicit public responses before submission to the Cabinet.

Female genital mutilation represents another form of violence against women. There are no national laws prohibiting that practice in the Sudan and Yemen, where it is widespread, although in November 2008, the province of South Kordofan in the Sudan enacted a law prohibiting female circumcision, and in January 2001 in Yemen, a ministerial decree entered into force prohibiting this practice in public and private health institutions. In July 1996, the Egyptian Ministry of Health banned female genital mutilation. The Supreme Administrative Court in Cairo overturned that ban, but on appeal the national Supreme Court ruled in favour of a complete ban on female circumcision. However, the mechanisms necessary for enforcing the ban are still lacking.

According to the World Health Organization, the estimated prevalence of female genital mutilation in girls and women 15-49 years of age was 95.8 per cent in Egypt in 2005, 90 per cent in northern Sudan in 2000, and 22 per cent in Yemen in 1997.<sup>26</sup> The United Nations Children's Fund reported that as of 2005, as many as 97 per cent of unmarried Egyptian women between the ages of 15 and 49 had undergone circumcision. One Government study suggests that 50.3 per cent of girls aged between 10 and 18 years in Egypt have undergone genital mutilation.<sup>27</sup>

A comprehensive approach to eliminating this practice should revolve around four basic axes: legislation; law enforcement; capacity-building for all stakeholders, including hospital workers, education and interior ministries; and awareness campaigns targeting the general public. Enforcement of legislation in turn requires the creation of effective mechanisms, the drafting of action plans and the allocation of sufficient resources.

### **Box 11. Combating female circumcision in Egypt**

The Egyptian Government, as part of its commitment to eliminating practices harmful to women and girls, and in particular female genital mutilation, has taken the following measures:

- Female genital mutilation is criminalized under article 4 of Law No. 126 of 2008 amending some provisions of the Child Act (No. 12 of 1996);

<sup>26</sup> World Health Organization. *Eliminating Female Genital Mutilation: An Interagency Statement*, 2008.

<sup>27</sup> Ibid.

**Box 11** (*continued*)

- Two decisions, one from the Minister of Health and one from Head of the Egyptian Medical Syndicate, have criminalized female genital mutilation and hold perpetrators legally accountable. Practical steps have already been taken to implement these decisions;
- 120 Egyptian villages have implemented programmes to eliminate these kinds of harmful practices as part of an initiative of the National Council for Childhood and Motherhood with the participation of religious authorities;
- There have been several campaigns against female genital mutilation aimed at turning public opinion against the phenomenon, under the slogan “The Beginning of the End”, as part of an initiative of the National Council for Women in partnership with relevant parties. The goal is to make the slogan a reality and eliminate the phenomenon at its roots.

*3. Summary*

Women’s movements have been instrumental in prompting a number of Arab Governments to enact legislative reforms and take practical measures to eradicate violence against women, domestic violence and gender-based violence. Despite some positive steps and some successes in increasing social awareness, traditions in many countries continue to draw a veil over violence suffered by women at the hands of family members and others. It continues to be acceptable for spouses and family members to be exempt from punishment on grounds of obedience or guardianship.

**C. WOMEN’S ACCESS TO CERTAIN ECONOMIC, POLITICAL AND SOCIAL RIGHTS UNDER CEDAW**

Social and economic transformations taking place in Arab societies are contributing to a change in the mindsets of traditional patriarchal societies. Girls’ education, women working outside the home, globalization, the market economy, urbanization, migration and increased access to the outside world through media have all recast power relations and social roles within the family. Women’s movements have struggled for women to be allowed to exercise their rights, foster gender fairness and equality and induce Governments to take action to reduce the gender gap.

*1. Economic and social rights: women’s work and educational attainment*

Articles 10-14 of CEDAW provide for the economic and social rights of women, especially rural women. It should be noted that legislation in Arab countries does not discriminate directly against women in education or health.

Most Arab countries have national strategies to provide free public education through the university level for all citizens without discrimination. The Tunisian education law affirms the principles of non-discrimination and equal opportunity, and makes education compulsory for all children ages 6 to 16. In Kuwait, the age of compulsory education has been raised to 17. In the Syrian Arab Republic, the age of compulsory education has been raised to 16, mobile schools have been dispatched to desert areas and girls are encouraged to go into the fields of science, technology and information technology. In Djibouti, the age of compulsory education has been raised to 16 and Arabic literacy programmes have been developed for women. In Oman, equality of opportunity between the sexes is observed, and a number of full scholarships have been earmarked for school-leaving girls who are unable to get government grants.<sup>28</sup> There can be no doubt that this kind of legislation has had a positive impact on the status of women and led to greater participation in public life, in the economy and, gradually, in jobs and positions that were once the preserve of men. Women, especially those with advanced degrees, have been playing a greater role in the labour market, resulting in a gradual transformation of the traditional division of labour between women and men within the family. Education and work have been important factors in legal reforms aimed at eliminating discrimination against women and implementing CEDAW.

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<sup>28</sup> Consolidated Arab report on the implementation of the Beijing platform for action: +15, 2009.

In spite of efforts to provide better education, illiteracy rates remain high among women in many Arab countries, including Algeria, Egypt, Iraq, Mauritania, Morocco, the Sudan and Yemen. Illiteracy cuts women off from many job opportunities and services. Education in many Arab countries continues to fall short of desired levels and fails to keep up with the needs of the labour market. Unemployment rates among females are particularly high, because even some educated girls are reluctant to work,<sup>29</sup> and economic participation among Arab women is extremely low, less than 22 per cent in 2010.<sup>30</sup> While labour laws do not discriminate directly against women, several factors conspire to bring about women's low participation in economic life, including traditions and cultural patterns that limit women's participation in public life and structural features of the labour market that do not accord with women's dual role as workers and homemakers.

There have been some amendments to legislation to ensure gender equality in the workforce and enable women to reconcile their domestic and economic roles, notably in civil service laws. There have also been amendments to insurance, pension and income tax law in Bahrain, Djibouti, Egypt, Jordan, Oman, Qatar, Tunisia, the United Arab Emirates and Yemen.

In addition to low economic participation, poverty among women remains a significant impediment to gender equality and women's empowerment, especially in less developed countries. As box 12 shows, a number of Arab countries have laid out strategies to empower poor women, and carried out successful experiments to support them and reinforce their rights and the rights of their families.

TABLE 8. BEST PRACTICE IN ARAB STATES IN EMPOWERING POOR WOMEN

Jordan	A food bank has been established and programmes have been launched to augment family incomes, including sustenance resources, productive families and subsidized loans projects
Jordan and Tunisia	Credit has been expanded for women wishing to start small productive enterprises
Bahrain	A Family Bank has been established to provide small loans to poor families, and the Microstart project to improve the living standards of poor families has helped 37 per cent of women from poor families improve their standard of living
The Sudan, Syrian Arab Republic and Tunisia	National plans have been adopted to make microfinance and funding for small enterprises available to the largest number of women possible
Djibouti	A savings and loans fund for women has been established by the National Women's Union
The Sudan	A family bank and a bank for the poor have been established and there is an integrated strategy to address unemployment for both sexes that has been reflected in short-term programmes
Oman	Budget resources for the agricultural and fishing sectors have been allocated to programmes to respond to the needs of rural women
Egypt	Egypt provided small loans and microcredit to women through the Social Fund for Development and civic associations and established the food bank for poor
Mauritania	"Women's Bank" funds have been established to improve living standards by supporting income-generating activities
Yemen	Poor families are covered by the social security system, preferential loans are provided to women of limited income for small enterprises and the Bank of Hope has been established to assist the poor

Source: Consolidated Arab report on the implementation of the Beijing platform for action: +15, 2009.

<sup>29</sup> Ibid.

<sup>30</sup> ESCWA, *Charting the progress of the Millennium Development Goals in the Arab region: a statistical portrait*, 2010.

Among the obstacles to solving the problem of women's poverty is the lack of social safety nets for both men or women and the difficulties women face in obtaining credit. The lack of accurate, up-to-date and gender-disaggregated data on the economic situation of women in some countries is an impediment to the sound planning of programmes and projects to improve the situation of poor women and woman-headed households.

#### **Box 12. Poor women's access to identity cards in Egypt**

Since 1987, the Association for the Development and Enhancement of Women has worked to identify problems encountered by poor women who do not possess identity cards or official documentation and as a result are deprived of desperately needed rights and benefits, including inheritance rights and social security benefits. The Association has established programmes to help such women obtain official documentation and offers them legal advice with a view to increasing their awareness of their rights. In April 2001, the Association held a conference on the difficulties poor women encounter in obtaining identity cards, which stimulated discussion among policymakers, the media and the public. The Conference succeeded in changing policies and getting the Civil Registration Office to facilitate the identity card process for poor persons. That allowed women to obtain some 1,480 identity cards, 230 birth certificates, 100 death certificates, 79 marriage certificate, 115 divorce certificates and more than 600 documents relating to alimony and pensions. The Egyptian National Council for Women and other organizations have also implemented programmes to help low-income women obtain identity cards and gain access to legal assistance.

### *2. Political rights and participation in decision-making*

*Articles 4 and 7 of the Convention and General Recommendations Nos. 5 and 23 of the Committee*

#### *(a) Facts and figures*

The constitutions of most Arab countries affirm the equality of women and men before the law and the right of women to occupy legislative and executive decision-making positions. Even so, women's political participation falls short of desired levels. In 2011, women made up 10 per cent of Arab national parliaments,<sup>31</sup> up from 8.2 per cent in 2006<sup>32</sup> but still far short of the global average of 18.6 per cent.<sup>33</sup>

Participation by women in politics and public decision-making has developed slowly in Arab countries. Women's movements in Arab States have engaged in mobilization, appeals and advocacy and worked for the adoption of temporary measures to narrow the gap between legislation and enforcement in accordance with CEDAW, article 4, to which most Arab countries have expressed no reservation.

TABLE 9. WOMEN'S POLITICAL PARTICIPATION

State <sup>a/</sup>	Parliament/House of representatives				Quota system	Quota per cent <sup>b/</sup>
	Elections	Seats	Women	Per cent of women		
Algeria	5	2007	389	30	7.7	-
Bahrain	10	2010	40	1	205	No
The Comoros	12	2009	33	1	3.0	No
Djibouti	2	2008	65	9	13.8	-
Egypt <sup>*</sup>		2010	512	65	13.0	Yes
Iraq	3	2010	325	82	25.2	Yes
Jordan	11	2010	120	13	10.8	Yes
						12 seats total

<sup>31</sup> Inter-Parliamentary Union. [www.ipu.org](http://www.ipu.org).

<sup>32</sup> ESCWA, *The Status of Arab Women in the Context of International Instruments*, 2006.

<sup>33</sup> United Nations, *The Millennium Development Goals Global Report*, 2009.

TABLE 9 (continued)

State <sup>a/</sup>	Parliament/House of representatives				Quota system	Quota per cent <sup>b/</sup>
	Elections		Seats	Women	Per cent of women	
Kuwait	5	2009	65	5	7.7	No
Lebanon	6	2009	128	4	3.1	No
Libya	3	2009	468	36	7.7	No
Mauritania	11	2006	95	21	22.1	Yes
Morocco	9	2007	325	34	10.5	Yes
Oman	10	2007	84	0	-	No
Qatar	7	2010	35	0	-	No
Saudi Arabia	2	2009	150	0	-	No
Somalia	8	2004	546	37	6.8	Yes
The Sudan	4	2010	446	114	25.6	Yes
Syrian Arab Republic	4	2007	250	31	12.4	No
United Arab Emirates	12	2006	40	9	22.5	No
Yemen	4	2003	301	1	0.3	No

Source: a/ Inter-Parliamentary Union. [www.ipu.org](http://www.ipu.org).

b/ <http://www.quotaproject.org>.

\* Both houses of the Egyptian Parliament were dissolved on 13 February 2011 by the Supreme Council of the Armed Forces.

(b) *Temporary special measures to increase women's political representation: the quota system: CEDAW, article 4*

Article 4 of CEDAW concerns the need for temporary special measures aimed at accelerating de facto equality between men and women. Pursuant to this article, Egypt, Iraq, Mauritania, Morocco, Palestine, the Sudan and Tunisia have taken temporary measures to increase women's representation in their national parliaments. Many countries have seen an increase in the number of women in political parties, parliaments and local councils. The adoption of a quota system in national parliaments has had a positive impact on increasing women's political representation. In the Arab region as of 2011, Tunisia had the highest level of women's representation in Parliament at 27.6 per cent, before its Parliament was suspended in the wake of the Tunisian revolution. It was followed by the Sudan, at 25.6 per cent, Iraq at 25.2 per cent and the United Arab Emirates at 22.5 per cent. Saudi Arabia and Qatar had no women's representation in parliament whatsoever (table 9).

Under Jordan's new 2010 election law, the quota for women was raised to 12 seats, not including seats won through straight competition. In Egypt, before the revolution, Parliament approved an increase in the number of seats held by women to 64 starting from 2011 elections, not including straight competitive seats. The debate is expected to resume in Egypt as part of reforms to be considered by the newly elected Parliament.

Civil society organizations have launched broad mobilization campaigns to urge Governments to take action to increase the political representation of women as part of their obligations under CEDAW, article 4. Among the more notable of these initiatives is the "Horizon of Equity" campaign being conducted by about 1,000 Moroccan NGOs to set aside one third of seats in the Moroccan Parliament for women.

In response to this civic dynamic created by women's organizations, the quota principle has been adopted at the local and municipal level in an increasing number of Arab countries, such as Jordan and Palestine. It is important to encourage women to run for local and municipal councils in order for them to have a role in local administration and create a constituency in support of women's aspirations. The experience of Jordan and Lebanon has demonstrated the potential of quotas for increasing the number of women candidates in municipal elections.



### **Box 13. Best practice: women's quotas on municipal councils in Jordan**

The new Municipalities Law (No. 14 of 2007) provides that 20 per cent of seats on municipal councils should be set aside for women. If there are not enough female candidates, municipal council members are appointed by the Council of Ministers on the recommendation of the Minister. This provision is applicable to the Greater Amman Municipality. This means that a 20 per cent quota for women will be met in practice under all circumstances.

Of the 929 municipal council seats, 218 are earmarked for women, including 211 on local councils and 7 on the Greater Amman Municipal Council. There were 380 female candidates, or 18.4 per cent of the 2,070 candidates overall. That high percentage was a reflection of the positive impact of the quota, as women also won 23 competitive seats. The Government also appointed 7 women to the Greater Amman Municipal Council, for a total of 241 women on municipal councils, making the total representation of women 25 per cent. This is the largest win for women in elections in Jordan, especially compared to the municipal elections in 2003, which resulted in women's representation of only 10 per cent, or 104 women, through election and appointment, out of 1,050 members elected to municipal councils and appointed to the Greater Amman Municipal Council.

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*Source:* National Report of the Hashemite Kingdom of Jordan on Beijing +15, 2009.

### *3. Women in judicial and religious decision-making positions*

#### *(a) The judiciary*

Women have broken a historical barrier, and now occupy decision-making positions that were once the preserve of men. There are women Ministers, Deputy Ministers, Ambassadors, university presidents, trade union and political party officials, and business and private-sector executives. One of the most important positive developments has been women's presence in official judicial bodies and religious institutions.

In Egypt, for example, the first female Supreme Court Judge was appointed in 2003. In 2005, two women judges were appointed to the Supreme Court Commission. In 2007, 30 women judges were appointed to various posts, and subsequently 12 more were appointed. In Bahrain, the first woman judge was appointed in 2006 to the High Civil Court. In 2007, a woman was appointed chief prosecutor and another was appointed to the seven-member Constitutional Court.

#### *(b) Religion*

Recently in Egypt, the first woman ever authorized to perform marriages was appointed. There are several women preachers in mosques in Jordan and Lebanon, and on ulama councils in Morocco. In the Syrian Arab Republic, the Mufti prepared a study of the compatibility of provisions of CEDAW with Islam. In April 2004, the King of Morocco announced that for the first time, the 16-member Supreme Ulama Council would include a woman. Also for the first time, 36 women were among the 226 members of local ulama councils. The new law for those councils provides that members must be well versed in sharia culture and free of any political or sectarian bias, and that the institutions of religious learning should be the highest authority in the society. The King is the President of the Supreme Council of Ulama. The Council refers issues brought before it to a group of its members for a fatwa, with a view to identifying the Islamic position on issues of public interest.<sup>34</sup>

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<sup>34</sup> Moroccan Arab News Agency. <http://www.map.co.ma>.

#### 4. *Summary*

Women's representation in decision-making has not yet risen to desired levels. Over the years, women's organizations and civil society associations have called successive Governments and political parties to account for this situation, proposed alternatives and conducted awareness campaigns aimed at both public opinion and decision makers. Women's associations have become involved in activities usually conducted by political parties, such as organizing training sessions for women candidates and voters.

Several Arab countries have seen successful experiences and developed best practice in increasing the number of women in political, economic and social decision-making positions. Among the most effective have been temporary measures such as quotas for women's representation in decision-making positions, particularly in parliaments and local councils, and for the first time in the area of religion.

### III. CONCLUSIONS AND RECOMMENDATIONS

#### A. CONCLUSIONS

##### 1. *Successful national experiences and best practice in the advancement of women*

This study has drawn from the wealth of available experiences and best practice in implementing CEDAW, and highlighted the role of civil society organizations, women's movements and international organizations in pushing Governments to take measures and enact legislation to eliminate discrimination against women. It has also noted the growing influence of civil society, the increasing prominence of the women's movement, and the gradual emergence a multiparty system and expansion of the boundaries of freedom and democratic action that have become a reality in some Arab countries. Both individual and collective freedom of organization and expression may be expected to expand in the wake of the peaceful revolutions in Tunisia and Egypt, which are in turn impacting other Arab countries. Despite disparities in the relative vigour of civil society organizations and their degree of subordination to the authorities and to political parties, the emergence and proliferation of such associations has created a new reality. As these associations have become more numerous and their areas of activity more varied, some of them have been able to gain influence in society and exert pressure to bring certain issues to the fore and have an impact on prevailing mindsets, public opinion and awareness of rights.

As the influence of civil society has grown, women's associations in Egypt and Morocco have taken the lead in giving voice to the demands of women and defending their civil, political, economic and social rights. The revival of the women's movement in most Arab countries over the last two decades has been exemplified by the high profile of associations advocating on behalf of women's rights, and the attention they have drawn to legal, social and political discrimination against women.

Women researchers in various fields have helped to make women's rights the focus of academic studies and to bring data into the discussion of the situation on the ground for women from various segments of society. Many women's associations have made their voices heard at international conferences that have placed the demands of women on the international agenda. In recent years, networking between women's associations has also become common at the national and regional levels.

While this movement is still just emerging in some Arab countries in the Gulf, it has already become a powerful force in many countries in the Arab Mashreq and Maghreb, influencing public opinion, giving voice to demands and proposals in support of women's rights, acting as an intermediary on behalf of women's rights with Governments and building partnerships with international organizations to channel support for the benefit of women and their countries.

##### 2. *CEDAW: the international dimension of promotion of women's rights*

Despite significant reservations and inadequate implementation, the ratification of CEDAW by most Arab States is in and of itself a positive factor. The Convention provides a frame of reference and a common strategy for identifying the horizons of change and holding Governments accountable for tangible progress in promoting women's human rights.

At the moment, pressure for political, educational and legal reform is increasing both domestically and internationally, notably for the reform of personal status legislation to bring it into line with global human rights principles.

International women's conferences have played a major role in raising consciousness of the strategic dimension of the struggle for gender equality as it relates to development, democracy-building and human rights.

### 3. *Obstacles to implementation of the Convention*

Despite some progress, the mainstreaming of gender equality into Government, the public sector and national strategies is still in its infancy in Arab countries. The political, economic and social rights of women and girls are still not being exercised as they should be, despite the fact that Arab countries have no reservations about such rights and no one is claiming that they are in conflict with Islamic sharia. Where women are being granted or deprived of their rights, the reasons are clearly tied to politics, power relations between various social classes and the use of women's rights as a political bargaining chip.

The biggest obstacle to implementation of the Convention in the Arab region has been the rise of political forces opposing women's rights in countries with patriarchal and non-democratic cultures. These forces have pushed Governments, some exceptions aside, to implement CEDAW only superficially in order to appease political forces.

National mechanisms need to be held accountable for their performance, and in particular for their failure to engage in dialogue and partnership with civil society, especially women's organizations.

## B. RECOMMENDATIONS

Given the increasing demands of both men and women for change and reform in Arab countries, Governments must adopt policies that give due weight to promoting women's rights, altering mentalities, and implementing CEDAW in both letter and spirit. With that end in mind, such policies should include the following:

### 1. *Obligations under the Convention*

(a) Withdraw all reservations to CEDAW, especially article 16, paragraph 2, and to other relevant international agreements as part of a strategic vision that takes into account the aspirations of women for equality and dignity, the international commitments of States parties and the social and economic transformations currently taking place in Arab countries;

(b) Ratify the Optional Protocol to CEDAW and other relevant Protocols;

(c) Actively involve members of parliament, human rights organizations and women's organizations in the preparation of periodic reports on implementation of the Convention and of other national reports to United Nations treaty bodies and the universal periodic review of the Human Rights Council;

(d) Establish national observatories to prepare reports and monitor implementation;

(e) Publicize and disseminate CEDAW and the Optional Protocol thereto, as well as the recommendations issued to States parties by the Committee on the Elimination of Discrimination against Women, and provide relevant training to judges, attorneys and parliamentarians.

### 2. *Affirmation of rights provided for under CEDAW*

Legal reforms are an important catalyst for achieving gender equality. Enactment and enforcement of laws play an essential role in ensuring the access of individuals to resources and rights. Reforms should be implemented in the following areas:

#### (a) *Constitutional reforms*

Constitutions are an important vehicle for ending discrimination against women because of their centrality to national legal systems. Moreover, the current political discourse in Arab countries provides an

opening for constitutional reforms. With this in mind, the following steps should be taken in the following areas:

- (i) Put an end to ambiguity about the status of international conventions and treaties under national law by adopting explicit constitutional provisions on the precedence of the provisions of ratified international treaties over national law;
  - (ii) Define discrimination against women and gender discrimination (both direct and indirect) in constitutions along the lines of article 1 of the Convention, and adopt explicit legal provisions on the need to repeal all legal and regulatory provisions and practices that constitute discrimination or violence against women;
  - (iii) Adopt explicit constitutional provisions on the need for temporary special measures, along the lines of article 4 of the Convention, with a view to ensuring de facto gender equality in both public and private life, given that constitutional affirmation of the principle of equality among citizens does not by itself automatically translate into gender equality.
- (b) *Harmonization of national legislation with the spirit and letter of CEDAW*

All vestiges of gender discrimination and violence must be eliminated, in accordance with the provisions of the Convention and the recommendations of the Committee on the Elimination of Discrimination against Women. The following steps should be taken:

- (i) Harmonize national legislation with the spirit and letter of the Convention, especially family law, nationality laws and criminal codes, because such legislation has a major impact on the exercise by women and girls of their political, economic and social rights;
  - (ii) Criminalize gender-based violence, in particular spousal and family violence, which constitutes a serious violation of human rights and a threat to public order that the State should address through policies that ensure even-handed investigation of incidents, punishment of perpetrators and compensation of victims;
  - (iii) Set a minimum marriage age of 18 and develop awareness programmes, targeted at both men and women, on the negative effects of early marriage and the importance of gender equality; train health care and social workers on the dangers of early marriage, and enlist both men and women as advocates of equal rights and agents of change in their local communities and institutions;
  - (iv) Put an end to female genital mutilation through legal prohibitions accompanied by enforcement mechanisms; provide capacity-building for all stakeholders, including hospital workers and the staffs of social affairs, education and interior ministries, and conduct awareness campaigns targeting the general public.
- (c) *Closing the gap between de jure and de facto equality*
- (i) Adopt measures and mechanisms (including affirmative action), and allocate human and financial resources to combat direct and indirect discrimination and any denial of the civil, political, economic, social or cultural rights of women;
  - (ii) Lay out medium- and short-term strategic plans, in cooperation with civil society and academic research institutions, including follow-up and evaluation mechanisms to ensure fulfilment of international commitments made by Arab countries under CEDAW; the two International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights; the Beijing Platform for Action; and the Millennium Development Goals;

- (iii) Establish a genuine political commitment to mainstreaming gender into government policies and programmes at the central, provincial and sectoral levels, and allocate sufficient financial resources for that process;
  - (iv) Establish mechanisms for monitoring the impact of laws and government policies on both women and men;
  - (v) Improve mechanisms for housing, sheltering, counselling and providing assistance to women and girls victims of violence and other violations, on the understanding that such services should be considered the responsibility of the Government rather than civil society institutions;
  - (vi) Promote a culture of gender equality in education and the media by conducting broad discussions of gender issues and awareness-raising activities both for the general public and for political, legislative and economic decision makers.
- (d) *Reinforcing the legitimacy of women's institutional mechanisms*
- (i) Review existing mechanisms with a view to giving them greater independence, legitimacy, and capacities to create, implement and follow-up gender equality strategies and programmes;
  - (ii) Provide highly experienced human resources and allocate necessary funds from government budgets, with a view to reducing the almost complete dependency on foreign support, which detracts from the credibility of such mechanisms and signals that the State does not truly value their gender mainstreaming activities;
  - (iii) Enhance coordination between institutional mechanisms for the advancement of women in Arab countries for the implementation of CEDAW;
  - (iv) Establish genuine partnerships between those mechanisms and human rights organizations, women's organizations, universities and research centres, and support them on the basis of renewed respect for diversity of opinion and non-exclusion.
- (e) *Raising levels of expertise and capacity-building*
- (i) Promote the exchange of best practice and successful experiences between the Arab countries on the level of government institutions, civil society, and women's organizations;
  - (ii) Conduct qualitative studies to assess the impact of government legislation, policies and programmes, to set priorities, and to respond to the expectations and aspirations of both women and men;
  - (iii) Establish clear and accurate indicators to assess the status of women, and standardize statistical measures for Arab countries in order to facilitate comparative analysis and make use of successful experiences;
  - (iv) Publish data and studies on the implementation of CEDAW;
  - (v) Build the capacity of technical staff trained in gender issues in the sectoral ministries and NGOs.
- (f) *Partnership with civil society organizations and women's organizations*

Given the crucial role played by such organizations in the implementation of CEDAW, genuine partnerships should be established between Governments and civil society on clear contractual bases along the following lines:

- (i) Acknowledge the moral and legal status of civil society organizations, and recognize their right to freedom of organization, expression and peaceful demonstration, and to financial and technical support from the Government and international donors;
- (ii) Build reciprocal partnerships based on independence and specialized roles for such organizations, based on complementarity rather than competition or duplication of roles.

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