

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN*

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RATIFICATION:

Egypt was the first Arab country to ratify the International Convention on the Elimination of All Forms of Discrimination Against Women. The Convention entered into force after its publication in the Official Gazette on December 17th, 1981.

THE LEGAL STATUS OF THE CEDAW:

The CEDAW provisions enjoy the same force a constitutional provision has in the face of an incompatible legislation. All authorities are committed to the enforcement of the Convention. According to Egypt's last report to the CEDAW committee, the principle of equality has become a constitutional rule to which all Egyptian legislation should adhere, being lower in rank than the constitution. Any violation by the legislation of the principle of equality is considered a constitutional violation to be annulled by the Supreme Constitutional Court.

RESERVATIONS:

Since the ratification of CEDAW, Egypt has had and still

has reservations to some articles of the convention. These are articles 2, 9.2, 16 and 29. The last report attempted to justify Egypt's reservations asserting that the Egyptian government is committed to the implementation of all other items of the Convention.

Article 2: The Arab Republic of Egypt is willing to comply with the content of this article provided that such compliance does not run counter to the Islamic *Shari'a*.

Article 9: Reservation to the text of article 9, paragraph 2, concerning the granting of equal rights to women with respect to the nationality of their children, without prejudice to the acquisition by a child of the nationality of the father. This reservation is based on the assumption that:

- a child's acquisition of two nationalities, may be prejudicial to his future

- the child's acquisition of his father's nationality is the most suitable procedure and does not infringe upon the principle of equality between men and women since it is customary for a woman to agree, upon marrying an alien, that her children be of the father's nationality.

Article 16 : Reservation to the text of article 16 concerning the equality of men and women in all matters relating to marriage and family relations during the marriage and upon its dissolution, because of conflict with the Islamic *Shari'a*. According to the *Shari'a* provisions, women are accorded rights equivalent to those of their spouses, the husband pays bridal money to the wife and maintains her fully and makes also a payment to her upon divorce, whereas the wife retains full rights over her property and is not obliged to spend anything on her keep. The *Shari'a* therefore restricts the wife's rights to divorce by making it contingent on a judge's ruling, whereas no such restriction is laid down in the case of the husband.

Article 29: Reservation to article 29, paragraph 2, concerning the right of a state signatory of the Convention. Egypt does not consider itself bound by paragraph 1 of that article concerning the submission to an arbitral body of any dispute which may arise between states concerning their interpretation or application of the convention.



RESERVATIONS OR CONTRADICTIONS:

In fact, the Egyptian reservations contradict the essence of the CEDAW particularly Article 28-2 which states that "a reservation incompatible with the object and purpose of the present Convention shall not be permitted." Egypt's reservations, regardless of their justification, in fact endorse discrimination against women not only in law but, more importantly, in the prevalent social and cultural patterns.

RESERVATIONS IN THE NAME OF SHARI'A:

The Egyptian law states that the Islamic *Shari'a* is the main source of legislation. This means that there are other sources of legislation. Several provisions of the penal code and civil law include items that are not in line with the Islamic *Shari'a* and yet the State incorporates them into the legal system. For example, the penalty for adultery in the Egyptian penal code does not conform with that maintained by the general trend of the various Islamic schools of thought. Also, the Egyptian legal system endorses the banking system based on interest rates, while some jurisprudential schools reject this system as based on "usury", thus violating the Islamic *Shari'a*.

The Islamic *Shari'a* is not one homogenous entity. It is well known that there are several Sunni and Shiite jurisprudential schools and that they have diverse positions on many issues such as polygamy, divorce, family planning, abortion and women's *Imara* [ruling, in the senses of government and adjudication]. For example, women's *Imara* is categorically rejected by some, while several Arab and Islamic countries accept it (Women have reached the posts of judge in Morocco and Prime Minister in Pakistan and Bangladesh).

Thus the justifications used by the Egyptian government for its reservations can easily be refuted on the basis of the experiences of other Islamic countries. This shows the necessity of studying these experiences, examining the Islamic jurisprudential schools that support women's rights and drawing upon them to improve women's conditions and drop the larger part of Egypt's reservations.

REPORTING:

The first report was submitted to the CEDAW Committee in 1984, three years after the ratification of the Convention by Egypt, the second in 1989, the third in 1995 and is currently open to discussion.

The third report consists of three chapters, in addition to a number of annexes. The first chapter presents some general indicators on the status of women. It then

reviews the Egyptian government's policies on the issue of discrimination against women, highlighting how the eighties have witnessed intensive Egyptian efforts to join the international march in the field of human rights in general and women's rights in particular. The report then underscores the efforts of the Egyptian government to create mechanisms which enable women to exercise their rights such as the National Women's Committee, the National Council for Motherhood and Childhood, the Ministry of Population and the different departments for women's affairs

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GOVERNMENTAL MECHANISMS FOR REPORTING ON CEDAW

Generally speaking the Ministry of Foreign Affairs (MOFA) is the governmental body responsible for reporting on Egypt's commitment to international conventions and treaties.

Traditionally, MOFA is responsible for preparing and discussing reports on CEDAW, as part of its task with regards to all treaties to which Egypt is a signatory. Previously, reporting on Egypt's commitments at the international level was the responsibility of the International Organizations Department of the MOFA. The task is now carried out by the Human Rights Department (HRD).

HRD collects relevant data on progress in implementation of CEDAW from different governmental bodies. It then provides the collected data to the Ministry Of Justice (MOJ), whose staff prepare the draft report and submit it to MOFA for final review. The final is then submitted to the Minister of Foreign Affairs for approval. Traditionally also, the MOFA staff attend the discussions of the reports at the UN meetings for CEDAW. This was the official process which was adopted in preparing Egypt's three reports to the CEDAW committee.

The next CEDAW report is to be prepared by the National Women's Committee which includes eight Ministers among its members and has to be approved by the Minister of Foreign Affairs.

COMMENTS OF THE CEDAW COMMITTEE ON EGYPT'S SECOND REPORT:

Members of the Committee raised concerns with respect to increased female illiteracy and drop out rates among girls in secondary schools. The economic situation was

seen as the reason behind these rates, though, in this case, it should affect both boys and girls. Opposition was raised to linking equality between men and women to economic development.

The Committee also pointed out the contradiction between limiting maternity leaves to only three times and incrimination for abortion, and asked whether there are any intended measures for combating clandestine abortion.

More statistics were requested by the Committee on unemployment rates and social insurance for house maids and female workers in family projects. The Committee also inquired about the effect of global conservative trends on women's status in Egypt, pointing to wrong interpretations of the Shari'a which prevent women from enjoying rights granted to them in the Quran.

In response to inquiries raised by the Committee, Egypt's representative stated that there are actually faulty interpretations of the Shari'a which should be corrected. He also emphasized the need to address legal equality within the wider political and economic context, explaining that Egyptian women are not able to practice their full rights because of the social and economic problems faced by the country. In this regard, Egypt recommended a second women's decade to pursue the achievements of the first women's decade.

With respect to Egypt's reservations on CEDAW, the representative stated that there is an ongoing discussion among officials and intellectuals to review Egypt's reservations, especially reservations related to Article 9.

NGOs ACTIVITIES

In fact, many of the Egyptian NGOs are currently active on different issues relevant to CEDAW. These activities have been specifically intensified since the preparations for the International Conference on Population and Development and the Fourth World Women's Conference. High on the priority list, are the Nationality issue, Family Status Law, Legal Equality and Legal Literacy, and harmful practices against women namely Female Genital Mutilation, etc. Among these groups are:

The Egyptian Task Force Against Female Genital Mutilation

The task force has been conducting studies, training workshops for NGOs, and lobbying with decision making bodies.

THE NEW WOMAN RESEARCH CENTER

The center carried out a variety of research projects on reproductive health and women's rights in this field, law & development, and violence against women. The center

also conducted different seminars, workshops and conferences to disseminate results of the above mentioned studies.

CENTER OF EGYPTIAN WOMEN'S QUESTIONS

The center is active in promoting legal literacy and legal aid for women in popular areas. The center also conducted a field study on the nationality law covering 150 case studies.

CAIRO INSTITUTE FOR HUMAN RIGHTS STUDIES

The center has been conducting studies on the attitude of the medical profession towards FGM and on the experience of an Egyptian village that stopped the practice in 1992. The center also organized a regional workshop on Family Status Laws and issued a special file of its bulletin *Sawassiah* on CEDAW.

These are just examples of the NGOs activities relevant to CEDAW. A comprehensive overview is beyond the scope of this report. Many NGOs including the above mentioned met with the CEDAW committee members who visited Egypt in December 1997.

* The original title of the paper is "Study on Teaching of Human Rights in the Faculties of Law in Egypt. It was presented at the Regional Workshop on the Incorporation of CRC and CEDAW into the Curriculum of Law Schools October 1997. Abridged by IWSAW

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