

**“Priorities in follow-up to the ten-year review and appraisal of implementation of
the Beijing Declaration and Platform for Action”**

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**Incorporating an Arab-Muslim perspective in the re-assessment of the
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Introduction

The Declaration of the Commission on the Status of Women (CSW) at its forty-ninth session (2005) noted the progress made thus far towards achieving gender equality, while stressing the obstacles that still face the implementation of both the Beijing Declaration (and its Platform for Action) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) .

The present paper is part of the renewed mandate provided by the above-mentioned CSW Declaration to accelerate efforts at national level in order to implement the existing policy framework. The paper will not only review existing evaluations of the progress (or lack thereof) in gender equality during the last decade in the Arab world, it will more importantly attempt to identify some of the major obstacles that continue to hamper the full implementation of UN sanctioned gender equality provisions in the Arab World. Indeed, I will argue that most recommendations for achieving gender equality put forth by existing reviews, as well as the very texts of the major UN declarations or conventions aiming at protecting and empowering women (especially CEDAW), will continue to face resistance and will remain largely ineffective because they fail to address the cultural specificity and the role of religion in one of the major targets of these declarations where women's rights are still underdeveloped , i.e. the Arab World.

Though the paper will briefly assess the situation of Arab women in general, it will concentrate on identifying a number of priority issues at the national level in follow-up to the ten-year review and appraisal of the implementation of the Beijing Declaration and its Platform for Action. These priority issues are: family status codes, violence against women, and the role of the media. While Lebanon, with its own cultural/political specificities, will be used as a case study when exploring said priority issues, these are, as I will argue, in no way exclusive to the Lebanese context. They are selected, in the framework of this case study, precisely because they are also symptomatic of the larger Arab-Muslim context, which has to be taken into account when formulating any future policy recommendations concerning overall women's rights.

Arab countries and ratification of CEDAW: an overview

The 2005 CSW Declaration recognized that the Beijing Declaration and its Platform for Action, as well as CEDAW, are *mutually reinforcing* in achieving gender equality and empowerment of women. Indeed, CEDAW, unlike other international human rights laws and standards, focuses specifically on eliminating discrimination against women. Article 1 of the Convention defines discrimination against women as: “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the 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 enjoins signatory parties to ensure the principle of equality of men and women through *practice*, i.e. by introducing legislation and all appropriate measures needed to prohibit discrimination against women. As such, CEDAW merits special attention when evaluating the progress made concerning women’s rights in the Arab world.

To date, all Arab countries except Oman and Qatar have ratified CEDAW. With the exception of the United Arab Emirates (UAE), which acceded to it in October 2004 without any reservations (knowing that its national policies are still not harmonized with CEDAW), all other Arab countries made reservations or declarations to exclude or diminish the domestic applicability of the treaty. A cursory look at all the reservations made by Arab countries shows that articles 2, 9, 16, and 29 are the most recurring articles subjected to country reservation (1). Paradoxically, article 2 is a core provision of the Convention, requiring states parties to “condemn discrimination against women in all its forms”. As such, any reservation regarding it amounts, de facto, to a rejection of the core values to be pursued by CEDAW. Indeed, Article 28 (2) of CEDAW, in anticipation of such moves by ratifying parties, warns that “a reservation incompatible with the object and purpose of the present Convention shall not be permitted”. While paragraph 3 of the same article makes provision for the eventual withdrawal of the reservations, the fact that not a single Arab country has made use of it thus far - nor will in the near future, in my opinion - is most probably indicative of the permanent nature of the reservations made by these countries. Indeed, as I will argue later, these reservations by Arab countries, especially in their specificities (i.e. Articles 9 and 16 related to nationality and family

status codes) reflect a major disagreement with if not rejection of the core values underlying the UN texts concerning the role and rights of women.

Finally, not only do most ratifying Arab states include reservations about Article 2 and the more specific Articles 9 and 16, but whenever they do so, another reservation concerning arbitration in case of dispute is added (Article 29, 1). This reservation makes it impossible, in case of a dispute between two state parties concerning the interpretation or application of CEDAW, for one of the disputing parties to refer the litigation to the International Court of Justice.

Recent developments in Arab women's rights: a brief overview

When assessing the ratification of CEDAW by Arab countries, several NGOs duly noted the lack of serious commitment by Arab countries who included reservations that strike at the heart of the Convention (Article 2, 9, and 16), practically nullifying its intent of empowering women and protecting them from all forms of discrimination. Amnesty International's report notes with dismay how reservations made by Arab countries are "incompatible with the object and purpose of the Convention" and therefore are not permitted and "should be reviewed and modified or withdrawn" (2). In a similar vein, reports by local and international NGOs and researchers involved in assessing the implementation of CEDAW have unanimously emphasized the need for Arab governments to remove all reservations to CEDAW and to take steps to implement the Convention locally by bringing national laws in conformity with it.

Despite the continuing existence of the reservations and the serious shortcomings in the area of harmonizing national laws and policies with CEDAW, several of those assessments duly note some improvements in the record of women's rights in Arab countries in recent years. To cite a few examples, the most dramatic measures were those taken by Morocco to improve the status of women, with its revised code of personal status (CSP) which is based on the Maliki school of Islamic law. This code affirms the principle of equality between men and women and, among other things, confers on them joint responsibility for the family. Moreover, the revision of the Moroccan criminal code in 2003 eliminated unequal sentencing for men and women in adultery cases, while a newly added provision to the penal code now provides for heavier sentences for marital

violence and rape (3). In Egypt recent achievements included the passing of the *Khul'* law which allows women to divorce without the husband's consent; the establishment of a family court; and the revision of the nationality law to allow the extension of nationality rights to the children of Egyptian mothers married to non-Egyptian fathers (4).

While the above-mentioned countries enacted, relatively speaking, some of the most dramatic legislative changes in favor of women in the Arab world, changes in the Gulf countries are still barely perceptible. Thus, Saudi Arabia continues to be the most repressive Arab regime as far as women are concerned, and has made only modest progress in women's education and employment, while customs involving gender-segregation have softened in some circles in recent years (5). In Kuwait, women only very recently were granted the right to vote and participate in elections. In January 2005, the first conference ever to bring together human rights activists from all the GCC countries (Governments of the Gulf cooperation Council) was held in Manama, with participants agreeing that GCC governments must review a myriad of existing laws in order to ensure equality and non-discrimination, that all countries ratify CEDAW and that those who have already done so review their reservations (6).

However disappointing recent legislative changes in favor of Arab women may be, especially when measured by CEDAW yardstick, it is undeniable that these changes are occurring, and that they have already started to have a positive impact on the life of many Arab women. The question remains, however, concerning steps to be taken in order to accelerate the quality, quantity, and pace of these changes to ensure that women obtain their full rights as human beings.

The Lebanese case: critical areas of concern

Several evaluation reports have appeared in recent years assessing the status of Lebanese women since 1995 in light of the Beijing Platform for Action. These reports covered most areas of critical concern as identified by the Beijing Declaration, pinpointing strengths and weaknesses in each of those areas as well as making recommendations to improve the status of women in areas such as eradication of poverty, rural development, literacy, health, media, environment, violence, political representation and decision-making. These results are indeed a mixed bag and are not uniform across the critical

areas of concern, with improvements noted chiefly in the area of education and to a lesser extent in labor laws (without this commensurately translating into more women joining the work force or breaking through the glass ceiling). Most reports, moreover, complained about the glaring paucity or inadequacy (i.e. non-comparable indicators) of most data which is still not gender-disaggregated, and about the lack of support by and active involvement of the Lebanese government in mainstreaming gender in all areas of policies and programs. As a result of these shortcomings, “assessment of the institutional mechanisms for the advancement of women (remains) quite precarious” (7).

In July 2005, a delegation by the National Commission for Lebanese Women (NCLW) presented Lebanon’s official report during the 33rd session of the Committee on the Elimination of Discrimination Against Women in New York (8). The report, which compared the status of the Lebanese women before and after Lebanon’s ratification of the Convention, led to the expression of several concerns by the Committee, the most important of which related to articles 9 and 16. Indeed, the two top areas of concern identified by the Committee and directly related to articles 9 and 16 were the Personal Status Code and Violence Against Women (9). The Committee consequently urged Lebanon to adopt a unified personal status code that would be in line with the Convention and would be applicable to all women in Lebanon (there are 15 religious courts with different personal status codes applying to the various Lebanese denominations, as allowed by article 9 of the constitution), and denounced the pervasiveness of violence against women, naming in particular domestic violence, rape, and ‘honor crimes’.

Article 7 of the Lebanese constitution asserts that “all Lebanese are equal under the law, they enjoy equality in civil and political rights and they assume duties and responsibilities without any difference between them”. It should be noted, however, that no article or clause explicitly prohibits gender discrimination. Indeed, many laws alarmingly discriminate against women, especially personal status codes, the nationality law, and the penal code.

The Lebanese Nationality Law prioritizes patrilineal descent, restricting consanguinity to the father, and preventing Lebanese women from passing on their nationality to their non-Lebanese husbands and children, even when these are born in Lebanon. In a similar vein, the Personal Status Laws (which are religious and not civil in the case of Lebanon),

discriminate against women and assert traditional gender roles as well as the subordinate status of women vis-à-vis their husbands: among other things, a married woman (Muslim or Christian) must obey her husband, and is compelled to the 'submission home' (Beit el Ta'a); the Muslim woman can be chastised by her husband and be divorced without a reason or her knowledge. A Christian woman divorced because of adultery is not entitled to remarry. Child custody laws favor the Muslim father and the patrilineal family in general, with divorced Shi'ite mothers having custody of their children for a shorter period than Sunni mothers. In the area of inheritance, Lebanese Muslim women, unlike their Christian counterparts who get an equal share, inherit half what their brothers inherit in case one or both parents are dead.

Not only is the above list of discriminatory practices in family status laws far from exhaustive, discrimination varies in intensity according to the confession of the woman. Consequently, not only are Lebanese women discriminated against vis-à-vis Lebanese men in general, they are not even equal among themselves according to Lebanese personal status laws. As the Lebanese NGO Forum Report on CEDAW duly concludes, "the multiplicity of personal status laws in addition to the fact of granting the competence to religious courts and legislations render this domain very hard and delicate to deal with" (10).

The Penal Code reinforces the discrimination against women by making it easier to convict them and assigning harsher punishments for them in case of adultery. For instance, according to Articles 478, 488, and 489 of the Penal Code, men are guilty *only* if they commit adultery in their conjugal home, if they do *so repeatedly and openly* (or publicly) with their mistress, and if there are enough incriminating letters or documents to establish guilt. By contrast, the wife is guilty regardless of where the adulterous act is committed, of whether she cheated on her husband just once and in private, and often solely based on some witness's oral testimony in court. Moreover, a woman charged with adultery has to prove her innocence, while the man can be declared innocent based on a lack of material evidence. The sentence for an adulterous woman, moreover, is at least double the sentence of the adulterous man.

Currently, the most discriminatory area of Lebanese legislation is, by far, that related to 'honor crimes'. Law No. 562 grants a light sentence or "the extenuating excuse" for a

man who injures or murders a female relative who is caught in “flagrante delicto” (i.e. the illegal act of adultery or sex outside of marriage). The “extenuating excuse” granted by law can reduce the sentence for a crime normally punishable by the death penalty to as low as one year imprisonment. Moreover, the same law does not extend the same rights to women, treating them as plain criminals when they attack or kill their adulterous husbands in order to protect their ‘honor’ (11). It should be noted that the above-mentioned, highly discriminatory Law 562, which practically licenses vigilante killing of women, is an improvement over its earlier version. Prior to its amendment in February 1999 - due to intense pressure from women and human rights activists, Law 562 allowed the full acquittal of the male murderer when defending his ‘honor’, allowing him to walk free even when the victim was not caught in the act but was simply suspected of an illicit sexual relationship.

Lebanon’s priority issues: ‘revising’ policy recommendations

As shown earlier, a comparative look at the Arab countries reservations concerning CEDAW (specifically Articles 9 and 16) reveals a general, consistent, and almost unified pattern of behavior or set of values concerning women’s rights as far as these countries are concerned. These sets of values revolve exclusively around women’s subordinate status to men (specifically their husbands), and around total control of female sexuality (of which ‘honor killings’ and patrilineal nationality laws are just an inevitable, predictable corollary). It is particularly in those critical areas of concern identified by the Beijing Platform for Action that progress has been the slowest (if not entirely absent in some countries) as far as women’s rights in the Arab world are concerned. Indeed, both articles 9 and 16 strike at the heart of traditional, religious Arab societies and their social fabric, challenging them precisely in that area deemed most sacrosanct: gender roles. Herein lies the major obstacle to implementing CEDAW and the Beijing Platform for Action. The subtext of these UN declarations and conventions for women’s rights is based on a European, enlightenment understanding of women’s rights which assumes a conceptual distinction between sex and gender: the first being a mere biological difference that should not entail differential social and legal treatment of males and females, and the second being a socially constructed category that is not natural,

immutable or beyond challenge. As a consequence of this culturally specific conceptual approach to males and females, the UN texts abound with references to the need to “recognize ...the influence of culture and tradition on restricting women’s enjoyment of their fundamental rights”, and on shaping “stereotypes, customs, and norms which give rise to the multitude of legal, political and economic constraints on the advancement of women” (CEDAW, Introduction). By contrast, Arab Muslim countries, for better or for worse, do not accept the ‘universality’ of this conceptual approach, accuse it of being imperialist and foreign-imposed, and readily counter it with a conceptual approach that is scriptural and ‘God-given’, i.e. beyond discussion and immutable. The countervailing idea in the Arab World, regardless of its origin, is that men and women were created with biological differences, and that consequently they have different capacities, duties and rights.

This divergence concerning the very foundation of international declarations concerning women makes it unrealistic to attempt to implement them by blaming the plight of women on the “influence of culture and tradition” alone, and foregoing the deep-rooted religious reality of the Muslim Arab world altogether. Unfortunately, this has been the case so far. A review of most recommendations in the evaluative reports studied in this paper shows to what extent these recommendations have uncritically reiterated the UN position on gender, and obliterated the crucial role (for better or for worse) of religion as a force for stagnation or change in the Arab Middle East. These reports, moreover, mostly limited their recommendations to enumerating those laws and social practices that Arab governments should change in order to harmonize them with CEDAW stipulations. Although they have additional recommendations concerning raising awareness and empowering civil society through funding and other legal mechanisms, they fail to raise important questions regarding the most culturally adapted solutions and strategies that can move the process forward, gain popular support and eventually get reluctant governments to harmonize their laws with CEDAW and similar conventions. For instance, questions as to why governments, especially those whose reservations are justified by Shari’a law, would want to follow these recommendations are not raised. Similarly, the recommendations do not seek to critically engage civil society, including its many religious elements, with the areas of concern identified by the

Platform for Action in order to better implement it. As such, the recommendations sound more like uniform, undifferentiated exhortations with universal applicability rather than an actual engagement with societies with their own cultural and historical specificities. For instance, unless a proper diagnosis and remedy, taking into account the religious specificity of the Arab-Muslim situation, is offered, it is hard to see how existing recommendations can succeed in grafting what is still, to many Muslim Arabs, a foreign 'cancerous', implant.

Mainstream Islam has greatly contributed to oppressing Arab women by justifying the 'different' or 'complimentary' status of women as being 'God-given'. From that perspective, it is very difficult to see how the (fixed) role and rights of Arab Muslim women can be discussed, let alone changed or improved upon, especially when calls for change are made by international bodies based on 'man-made', 'foreign', 'imperialist' documents like CEDAW (12). Conversely, Islam too - though often in its alternative, modernist interpretations - has also been a force for positive change and emancipation for many women in the Arab world. Both the Moroccan and Tunisian Personal Status Codes (of 2004 and 1956 respectively) are a case in point. The two most progressive, 'women-friendly' codes of personal status in the Arab-Muslim world are grounded in Islamic Shari'a and owe their existence and justification to an alternative (and often controversial) interpretation of Islamic Scripture. Interestingly enough, both revolutionary codes were the result of a top-down approach where authoritarian, 'enlightened' rulers saw it fit to enforce change.

Reintroducing religion into the discussion of women rights in the Arab world should not overshadow the fact that cultural traditions and practices have indeed worked to oppress Arab women. The most glaring example is that of legal 'honor killings'. Interestingly, not only are honor killings the most violent manifestation of rabidly patriarchal, tribal societies, they have no justification whatsoever in the Islamic religion, not even in its most orthodox, conservative interpretations. Indeed, the Qor'an is conclusive on this matter. It not only forbids the slandering of women and the imputing of unfounded accusations of adultery against them, it categorically forbids any punishment to be carried out against adulterous women unless four witnesses to the sexual act come forward. Practically, this condition amounts to making it almost

impossible to punish a woman for adultery. Furthermore, according to Islamic Scripture, punishment for adulterous men and women is similar. This is but one case where, indeed, some current civil or religious laws in Arabic countries override the equal treatment accorded men and women in the Islamic Holy Book!

The role of the media

I have so far dealt with two priority issues (personal status law and violence against women) which I believe merit special attention in any future recommendations concerning the implementation of the Beijing Platform for Action. I have argued that those two priority issues, which I identified based on the type of reservations made by Arab countries, are tightly intertwined and symptomatic of a major rift concerning the conceptual foundation of international texts promoting and protecting women's rights. There is, however, an equally important third priority issue which, by its very nature, not only affects the two priority issues discussed, but also has a great influence on the success of the progress that can be made when implementing the Beijing platform for Action: the media.

The media can play a crucial role in challenging traditional gender stereotypes and offering alternative models for youth, especially young women. As such, their importance and role is repeatedly recognized in the UN declarations and conventions on the rights of women. UN provisions not only call for the introduction of gender-sensitive policies to improve the representation of women both on the screen and behind it, it also seeks to empower women to be media literate and to have access to information technology. Emphasis is also placed on the positive role that can be played by public broadcasting as well as on the need for creating self-regulatory mechanisms in order to eliminate gender-biased programming. To date, with the exception of the increasing number of female employees in the media sector (especially in broadcasting, where the majority of these women are presenters or lower-level employees), no mainstreaming of gender policies in the media sector whatsoever has taken place. Not only that, the Arab World suffers from a total absence of public service broadcasting that can offset the commercialism and the objectification of women proliferating in the private media sector. There is also a lack of

independent, effective regulatory apparatuses, voluntary or otherwise, that can monitor discriminatory media practices and citizens' complaints (13).

Though most of the above mentioned problems related to the media have been touched upon by some of the evaluative reports reviewed for this paper, one major problem remained unidentified, and may constitute one of the biggest hurdles facing the implementation of the Beijing Platform for Action. None of the existing reports, for instance, dealt with the satellite media coverage and discussion of CEDAW. My own (unfinished) study of religious programming on the most watched news and public affairs Arab satellite (Al-Jazeera) has revealed to what extent that discussion of CEDAW is predominantly negative, often to the point of (intentionally?) misinforming about and distorting the actual content and purpose of the Convention. Moreover, CEDAW is repeatedly introduced as an imperialist, orientalist project in disguise, meant to undermine Arab-Muslim cultures and their specificities from within.

Any future media-related recommendation concerning the implementation of CEDAW should thus have a dual purpose: redress stereotypical representations (through increased employment of women in media organizations and improving on screen representation of women, among other things), and a concerted effort to faithfully and fairly introduce and discuss the values and objectives of international conventions and their benefits for women worldwide.

Critical areas of concern

1. Personal Status codes
2. Violence Against Women
3. Media

Additional recommendations

1. The religious specificity of the Arab-Muslim world has to be incorporated in any future recommendations to ensure a more successful, accelerated implementation. Religion cannot continue to be brushed away as an 'excuse' to oppress women,

the way traditions and cultural norms are. Such an approach to religion will alienate some of the best intentioned religious women activists and their supporters in the Arab world.

2. Women's rights activists whose agenda is exclusively Islamic yet whose objectives coincide with those of the Beijing Declaration should be empowered and their work financially supported by the UN and other international bodies. So far, support has been mostly limited to secular NGOs who lack the will and the ability to change religious laws based on religious arguments. In sum, all members of civil society, secular or religious, should be effectively mobilized to improve the lot of Arab women.
3. In addition to all previously made recommendations concerning the role of the media in combating traditional gender stereotypes, a new recommendation is needed to deal with the misrepresentation and misinformation campaign on Arab satellites. These campaigns seek to undermine support for an egalitarian project beneficial to both men and women (but threatening to patriarchal rule) by presenting it as just another anti-Islamic, imperialist Western project.

Endnotes

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http://www.choike.org/nuevo_eng/informes/3112.html, downloaded 26 October 2005.

2. "GCC Countries: Time to end discrimination against women", press release, Amnesty International,
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3. Country report: Morocco, by Rabea Naciri.
<http://www.freedomhouse.org/research/menasurvey/morocco.pdf>
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4. Country report: Egypt, by Amira El-Azhary Sonbol.
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6. 'Bahrain: GCC governments must wait no longer to tackle violence against women', Amnesty International Press Release, 10 January 2005, <http://web.amnesty.org/library/print/ENGMDE040022005>
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7. United Nations Development Fund for Women, "Evaluating the Status of Lebanese Women in Light of the Beijing Platform for Action", Arab States Regional Office, 2002, p. 76. See also "Millennium Development Goals: Lebanon Report", Lebanese Council for Development and Reconstruction, 2003. Another earlier report is the "Report on the Convention on the Elimination of all forms of Discrimination Against Women", prepared by the Lebanese NGO Forum, March 2000. A recent visit to the LNF website seems to indicate that it has been inactive since the year 2000. <http://www.lnf.org.lb/windex/report31.html>
Downloaded on 24 October 2005..

8. The NCLW was the first body that was officially established to be in charge of gender affairs in Lebanon. It was created by Ministerial Decree No. 13 in 3/1/ 1996 to further implement the Beijing Platform for Action. Its board of directors is appointed by the cabinet, while its president is directly appointed by the president of Lebanon. Since its inception, Zaatari notes, the position of NCLW president has been occupied by the country's first lady, Andree Lahoud, while that of vice president was held by Randa Berri, the wife of the speaker of Parliament. See Country Report: Lebanon, by Zeina Zaatari, <http://www.freedomhouse.org/research/menasurvey/lebanon.pdf> , downloaded October 20th , 2005.

9. 'NCLW presents official Lebanon reports during the 33rd CEDAW session', July 5-22, 2005.
http://www.nclw.org.lb/activity_detail.cfm?id=114&s=2
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10. "Report on the Convention on the Elimination of all forms of Discrimination Against Women", prepared by the Lebanese NGO Forum, March 2000. <http://www.lnf.org.lb/windex/report31.html>
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11. Moghaizel, Fadi (2000). 'Crimes of Honor: Crimes of Horror', in *Al-Raida*, Vol. 17, No. 89, Spring 2000.

12. Most of the negative views on CEDAW are taken from my own ongoing study of religious programming on Al-Jazeera satellite channel.

13. Dabbous-Sensenig (2005). 'Lost in Translation' dans le monde Arabe'. In Une Television Sans Service Public?, edited by Jerome Bourdon, a MediaMorphoses 'Hors Serie' publication by the National Audiovisual Institute (INA), France, pp. 135-143.