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**Outcomes of the Convention on the Elimination of All Forms of Discrimination  
Against Women (CEDAW) in the Arab World**

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"Submitted in Partial Fulfillment of the Requirements for the Degree of Master of  
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### **Abstract**

The UN General Assembly adopted the Convention to End All Discrimination against Women (CEDAW) in 1979 and it is currently the 2<sup>nd</sup> most ratified human rights convention after the Convention on the Rights of the Child. However critics argue that many of the states that ratified CEDAW continue to discriminate against women and girls. The region of the world where critics seem to focus much of their attention on is the Middle East and North Africa (MENA). Islam and the implementation of sharia law are often cited as the sources of discrimination against Arab women. However is this a fair assessment of the Arab people and their culture?

This research project will examine the question, how has the Convention to Eliminate All forms of Discrimination Against Women impacted the rights of Muslim women? The research project identifies four case studies - Sudan, Morocco, Jordan, and Saudi Arabia – will assess how CEDAW has impacted the change in women’s political and social rights in each state.

## **Chapter 1: Introduction**

The UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979. CEDAW is currently the 2<sup>nd</sup> most ratified human rights convention after the Convention on the Rights of the Child. However human rights activists often argue that many of the states that ratified CEDAW continue to violate the human rights of women and girls. The region of the world where critics seem to focus much of their attention is the Middle East and North Africa (MENA). The religion of Islam and its use of *shari'a* law are often cited as the sources of discrimination against Muslim women in the MENA region. However is this a fair assessment of the Islamic people and their countries? To assess this judgment of CEDAW and of the Arab world, my master's thesis will ask the research question, *how has CEDAW impacted the rights of Arab women since its ratification?*

This research project examines the ongoing debate in international relations about the development and effectiveness of international norms. Realism argues that states in the international system operate using rational decision making based on their individual interests. Liberalism believes states operate using normative values and institutions to guide their actions. Scholars Martha Finnemore and Kathryn Sikkink posit that norms are single standards of behavior and institutions are the social structures that uphold normative values.<sup>1</sup> To that end, treaties such as CEDAW are institutions that codify and uphold international norms. Thirty five years have passed since the ratification of CEDAW and most of the research on its effectiveness has been very broad, such as Wade M. Cole's 2013 article that analyzed 177 countries that have ratified CEDAW. In Cole's

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<sup>1</sup> Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (October 1, 1998): 891, doi:10.2307/2601361.

research he cited Arab states as countries with high ratification rates but low progress on women's rights.<sup>2</sup> Yet his paper contained no deeper analysis of the cause of this delay in reform other than a general statement that the religion of Islam may contain inherently anti-women values. My thesis research will begin to fill that unexplored space and seek to understand the effectiveness of implementing international norms using international law.

Identifying the reasons why women's rights in the Middle East have not progressed at a rate of other CEDAW signatories is critical to fulfilling the intention of the convention. By examining and challenging the existing academic research on this issue, including the assumption that Islam is an inherently anti-women faith, this research project seeks to identify ways to improve Muslim women's economic, political, and social rights.

### **Hypothesis**

My first hypothesis is a result of two ideas. First, that international norms codified into human rights treaties can change state behavior. And second, that it is easier to change political norms than social and cultural norms using international law. Based on these two ideas I would like to test the following hypothesis;

*H1: Arab States that have ratified CEDAW and do not have a stated reservation to Article 2 have seen improvement in women's rights since ratification. And those countries who are not CEDAW participants or have reservations that*

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<sup>2</sup> Wade M. Cole, "Government Respect for Gendered Rights: The Effect of the Convention on the Elimination of Discrimination against Women on Women's Rights Outcomes, 1981-2004.," *International Studies Quarterly* 57, no. 2 (June 2013): 246.

*essentially nullify the treaty, conversely have not seen improvements in women's rights.*

Article 2 of CEDAW commits states to working to enforce the rights outlined in the convention. Any state that has a stated reservation to Article 2 has effectively nullified their ratification of the convention. To test my hypothesis I will use qualitative case studies of states that both have and do not have stated objections to article 2.

My second hypothesis is based on political reforms to many Islamic countries' constitutions over the past several years that have allowed for women to become more active in government as a result of movements like the Arab Spring. States such as Morocco, Tunisia, and Egypt have all seen an increase in female voting and participation in public office. I argue that this is because nongovernmental organizations (NGOs) both in and outside of Muslim countries have used CEDAW as an advocacy tool to push for political reform. My second hypothesis states:

*H2: More progress has been made in political rights rather than social rights in states that have ratified CEDAW.*

To test this second hypothesis in my case studies I will examine the change in both political and social rights after a state has ratified CEDAW. States that have ratified the convention had to do so through domestic institutions, such as their parliaments. This connection between state institutions and CEDAW allows NGOs a clearer path for whom and how to lobby for women's rights. However, since many Islamic states govern their family code outside of their civil institutions, I argue that CEDAW makes it easier for NGOs to push for political rights rather than social rights, such as the right to divorce or inherit property.

## **Making the argument**

Before examining the methodology of this research program we must look at the ideas that motivate my two hypotheses. The first idea assumes international norms can change state behavior when they are institutionalized into human rights treaties. The literature review will explore the history and several examples of this assumption. Applying this assumption to women's rights leads us to the challenge of CEDAW. While CEDAW remains one of the most ratified human rights treaties in UN history, its failure to influence change in Islamic states is frequently counted as proof that human rights cannot be forced upon an unwilling state. However this research program unearths inherent flaws within the ratification process of CEDAW that I argue are a large reason why Islamic states have not fully adopted the treaty. Since Islamic states were allowed to ratify CEDAW while also putting forth reservations that undermine the heart of the treaty, they essentially did not agree to the norm that women should have equality in political and social rights. This research program will show that Islamic states which did not put forth such reservations or which repealed their initial reservations did make progress on women's political and social rights, thus taking steps towards fulfilling the normative values of CEDAW.

The idea underlying the second hypothesis is that political rights are easier to achieve than social rights. This separation of rights is based on how rights are affirmed by institutions. For example, in many countries to claim ownership of property an individual must register their claim with the government. A title or deed is then given as proof of ownership, creating a contract between the individual and their country that proves their right to the land. Conversely, the right to education is harder to prove or enforce. A state

may make a law that education is a right for all citizens, but unless the state also provides free public education and punishes truancy, it is difficult to guarantee educational access. Institutions are key to the protection of rights but social rights often fall outside of their purview. Thus, my second hypothesis argues that CEDAW is most effective in helping push forward the political rights of women.

**Methodology**

My qualitative analysis involves selecting five Islamic states as case studies and comparing the change in women’s social and political rights both before and after the ratification of CEDAW in each state. The independent variable is whether or not a state has ratified CEDAW. The dependent variable is the quality of women’s rights in each state. From CEDAW’s main text I have identified eight political and social rights that are core to the intention of CEDAW. The eight rights are listed in Table 1.

Table 1

<b>Article</b>	<b>Definition of right</b>	<b>Type of right</b>
7	Women have the right to vote	political
7	Women can hold public office	political
9	Women have citizenship	political
10	Women can access education	social
10	Women can access contraception	social
11	Women are allowed to be employed outside of the home	social
15	Women are allowed to own property	political
16	Women are free from coerced marriage	social

This list is not exhaustive of all the rights CEDAW guarantees for women. And several rights not specified by CEDAW have also been omitted from this list, such as the right to abortion care. These eight rights were selected because they are clearly identified

in the text of the convention and there is publicly available data to assess them effectively.

To examine the eight social and political rights in each case study country I will gather information from various sources including the U.S. State Department's annual *Human Rights Reports*, *CEDAW Country Reports*, the annual *Freedom in the World* report by Freedom House, and Amnesty International's *Country Profiles*. These sources are a mix of NGO and government reporting, including self-reporting to the CEDAW committee by the nations in the case study.

In the third chapter of this research project I will outline the qualities and standards I am judging each state on in relation to the eight rights. These standards will be based on the values outlined in CEDAW and feedback from the CEDAW Committee on how states are implementing the convention. Depending on the availability of data, I will seek to examine all eight rights in each of the case studies.

### **Case Studies and Analysis**

The case selection process will involve three criteria. Selected states must be a UN member, part of the Arab League, and capable of ratifying CEDAW on or before 2003. The first qualification is necessary because only UN members can ratify CEDAW. The second qualification is based on trying to find a successful definition of what constitutes the Muslim world. The MENA label is useful as a regional classification but also includes several non-Islamic states. The 22 Arab League states unify around a common language, Arabic, and shared faith, Islam. Additionally, not all Arab League members have signed CEDAW, which offers control data for the independent variable.

Thus the Arab League is a better selection criteria for this research than the MENA region. Finally, the ability to sign CEDAW on or before 2003 guarantees states have had at least 10 years to implement reforms since ratification. Of the 22 Arab League states, 19 meet all three criteria.

When designing this research program I explored creating a quantitative analysis of the 19 states that meet the case selection criteria. However there is not enough publicly available data on the political and social rights of women in all 19 states. CEDAW specifies that member states are required to self-report the status of women’s rights in their country every 5 years to the CEDAW Committee if they have signed the convention. However an overwhelming majority of signatories have failed to fulfill this requirement, contributing to the lack of publicly available information. Sources outside of the UN, including the U.S. State Department’s annual Human Rights Report and data from NGOs such as Freedom House are the most in depth information available on the status of women’s rights in the 19 states, but often are more descriptive than data driven. These reports also are not always published for each state in regular intervals, with much data only becoming available in the late 1990s and early 2000s. Thus, a qualitative case study approach is the best solution for examining H1 and H2.

To choose the five case studies I examined how the 22 members of the Arab League fulfill the case selection criteria in Table 2.

Table 2

#	Country	Joined UN	Ratified CEDAW	Ratification Year
1	Algeria	1962	1	1996
2	Bahrain	1971	1	2002
3	Comoros	1975	1	1994
4	Djibouti	1977	1	1988

5	Egypt	1945	1	1981
6	Iraq	1945	1	1986
7	Jordan	1955	1	1992
8	Kuwait	1963	1	1994
9	Lebanon	1945	1	1997
10	Libya	1955	1	1989
11	Morocco	1956	1	1993
12	Mauritania	1961	1	2001
13	Oman	1971	1	2006
14	Palestine	not a UN member	N/A	N/A
15	Qatar	1971	1	2009
16	Saudi Arabia	1945	1	2000
17	Somalia	1960	0	N/A
18	Sudan	1956	0	N/A
19	Syria	1945	1	2003
20	Tunisia	1956	1	1985
21	United Arab Emirates	1971	1	2004
22	Yemen	1947	1	1984

Based on preliminary research done for the creation of this thesis proposal I have selected **Sudan, Morocco, Jordan, and Saudi Arabia** for the four case studies that will examine the success of CEDAW in Muslim countries and remaining challenges. These selected cases include states that did and did not have stated objections to Article 2, allowing for an analysis of H1. For example, Saudi Arabia agreed to Article 2 as long as it did not interfere with *shari'a* law, while Jordan did not have a stated objections to Article 2.

The first case study will be **Sudan**. It is included as a case study because it did not ratify CEDAW and will act as a control for this research project. Sudan is one of the largest countries in Africa and has undergoing two violent civil wars in recent history. It also contains extremely varied levels of political and social freedom for women. Sudan is

frequently being ranked at the bottom of human rights indexes by groups like Freedom House but also has a higher rate of women in its national parliament than many Western states. Female genital mutilation and low female labor participation are also major problems within the state.

**Morocco** has been selected as the second case study because it has seen improvement in women's political participation in parliament and changes to marriage, divorce, and inheritance laws since ratifying CEDAW. This reform occurred in the early 2000s and mainly took place through changes to the national constitution and family laws, or *moudawana*.<sup>3</sup> Moroccan women's groups worked with transnational advocacy organizations to push for the reform, some of which was rooted in Morocco's ratification of CEDAW. This legislative approach to reform is a potential model for change in other Muslim states.

**Jordan** is included in the case study analysis because it contains interesting contradictions in access to social and political rights for women. As a parliamentary monarchy Jordan allows women to vote and hold political office. Since the early 2000s women have had an increased presence in parliament, in part because of a newly adopted gender quota system.<sup>4</sup> Conversely, several social rights of women in Jordan have grown worse in the 21<sup>st</sup> century, with women lacking the right to maintain citizenship outside of marriage and increased reports of domestic violence.

The final case study will be **Saudi Arabia**. Saudi Arabia is the frequent focus of international attention as an example of a state with extremely limited access to human

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<sup>3</sup> Leila Hanafi, "Moudawana and Women's Rights in Morocco: Balancing National and International Law," *ILSA Journal of International & Comparative Law* 18 (2012): 517.

<sup>4</sup> Rana Hussein, *Jordan*, NGO, Women's Rights in the Middle East and North Africa: Progress and Resistance (New York, NY: Freedom House, 2010), [http://www.freedomhouse.org/sites/default/files/inline\\_images/Jordan.pdf](http://www.freedomhouse.org/sites/default/files/inline_images/Jordan.pdf).

rights. *Shari'a* law is woven into the social and political laws of the country, requiring women to cover their hair and skin in public and the division of genders in public spaces, including schools. And while many states in the international community have rejected capital punishment or physical punishment, Saudi Arabia employs both, often publicly.<sup>5</sup> Of the five selected cases, Saudi Arabia has some of the least access to political and social rights, allowing for interesting comparison with the other four cases.

### **Conclusion**

The concluding chapter will focus on reviewing the major results of the analysis sections and testing the verifiability of my thesis. It will also be a space to review possible flaws in the study design and ways to correct them with further research. Finally, the conclusion will propose further questions for the study of CEDAW's impact on Muslim women, including how to involve Islamic states more fully in the CEDAW Committee and examining the reporting procedure and Optional Protocol of CEDAW.

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<sup>5</sup> Isobel Coleman, "The Payoff From Women's Rights," *Foreign Affairs*, June 2004, <http://www.foreignaffairs.com/articles/59896/isobel-coleman/the-payoff-from-womens-rights>.

## **Chapter 2: Literature Review**

This research project examines the success of international norms by studying how CEDAW has impacted women's rights in Islamic countries. To understand this research question fully it is necessary to review the existing scholarship on the theory of international norm development, the role of international treaties in human rights, the implementation of CEDAW, and the effectiveness of CEDAW.

### **International norm development**

International relations scholars have written at length about international norms, with the two major schools of thought taking separate sides. Realism argues that states in the international system operate using rational decision-making based solely on a state's interests. Liberalism believes states operate using normative values and institutions to guide their actions and achieve collective goods. Finnemore and Sikkink define norms as single standards of behavior and institutions as the social structures that uphold normative values.<sup>6</sup> Therefore, human rights treaties such as CEDAW are institutions that codify and uphold international norms about women's rights.

Finnemore and Sikkink have written extensively on how norms develop in the international system. They theorize that norms have a "life-cycle" made up of three stages; norm emergence, norm cascade, and internalization.<sup>7</sup> The first stage occurs when norm entrepreneurs, such as NGOs and transnational advocacy networks, push for a critical number of states to adopt a norm. This critical number of states can vary, but

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<sup>6</sup> Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (October 1, 1998): 891

<sup>7</sup> *Ibid.*, 895.

Finnemore and Sikkink suggest a tipping point is reached when at least 1/3 of states in the international system have adopted a norm.<sup>8</sup>

The second stage, norm cascade, is carried out by the states participating in the norm. They use their influence to persuade other states to adopt the norm. Finnemore and Sikkink point to the 1997 international landmine treaty as proof of norm cascade. The third and final step in the life cycle of a norm is internalization, when a norm has become so integrated into states' behaviors that the norm is no longer an issue of debate. One example of this is the rejection of slavery. While it still exists across the world through sex trafficking and forced labor, all nations agree slavery itself is a basic violation of human rights.<sup>9</sup>

Research on norm development became increasingly popular in the 1980s and 1990s in the field of international relations, no doubt heightened by the growing number of human rights treaties passed by the UN. Nadelmann published research on which factors impact the success of an international norm becoming a "global prohibition regime," meaning the norm is universally upheld. One of his key points is that a prohibited activity (i.e. a regime) only achieves international status when unilateral and bilateral attempts at preventing the regime have failed and the prohibited behavior crosses national borders. Examples include slavery and the illegal drug trade.<sup>10</sup>

Nadelmann also argues that if a regime does not require significant resources or expert skill to engage in and is frequently underreported, then the bad behavior will flourish. Nadelmann gives examples of successful global prohibition regimes such as the

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<sup>8</sup> Ibid., 901.

<sup>9</sup> Ibid., 896–897.

<sup>10</sup> Ethan Nadelmann, "Global Prohibition Regimes: The Evolution of Norms in International Society," *International Organization* 44, no. 4 (1990): 481–483.

anti-whaling movement. He also gives examples of failures such as the piracy of intellectual property in digital music and movies.<sup>11</sup> Using his logic, several of the regimes prohibited by CEDAW are easy to carry out undetected, such as domestic violence and sexual assault, making them less likely to become successful global prohibition regimes.

### **The role of human rights treaties**

The development and enforcement of international norms often involves codifying the norm through an institution. The UN has been one of the most robust institutions for this codification process. Either the General Assembly of the UN or an appointed subcommittee will draft a legal document that member nations can sign to show they will uphold an international norm. Once signed states must also ratify the agreement through their domestic institutions, often by referendum or a vote in parliament. For international agreements regarding trade or security treaties often lay out in exacting detail how binding the agreement is, outlining reporting processes and penalties for noncompliance. However international human rights treaties are often written with broad language to encompass large normative values, making states hesitant to sign them if there is a robust enforcement mechanism or if the treaty may conflict with domestic politics. Because of this concern, almost no UN human rights treaties contain penalties for noncompliance. So why do states sign on to human rights agreements if they are ineffective at change? Moreover, why do human rights activists continue to support the creation of more treaties?

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<sup>11</sup> Ibid., 525–526.

To answer this question Hathaway analyzed 160 countries that signed on to 3 core human rights agreements ; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT), the International Covenant on Civil and Political Rights (ICCPR), and CEDAW. Hathaway’s research argues that states with few domestic, democratic institutions do not fear having to actually implement the values of a human rights agreement. Thus they are often willing to sign on because the “collateral consequences” of their ratification may lead to a better international reputation while not forcing the state to actual improve its human rights issues.<sup>12</sup> Hafner-Burton and Tsutsui support this view, calling ratification of international human rights treaties a “paradox of empty promise.”<sup>13</sup>

While many scholars agree that states do not immediately change their human rights records once they have ratified a treaty, researchers do find some positive outcomes of the treaty process in establishing international norms. Hathaway’s research shows that states with a higher number of NGOs are more likely to see progress in human rights after ratification than those with fewer NGOs, even if the state lacks strong democratic institutions. Hathaway also points out the transnational impact of human rights conventions, such as the European Union’s requirement that any new member of the EU sign the European Convention on Human Rights.<sup>14</sup> Hafner-Burton and Tsutsui suggest that although human rights treaties themselves most likely have no effect on the implementation of international norms, the existence of NGOs does lead to change and

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<sup>12</sup> O. A. Hathaway, “Why Do Countries Commit to Human Rights Treaties?,” *Journal of Conflict Resolution* 51, no. 4 (August 1, 2007): 590, doi:10.1177/0022002707303046.

<sup>13</sup> Emilie M. Hafner-Burton and Kiyoteru Tsutsui, “Human Rights in a Globalizing World: The Paradox of Empty Promises1,” *American Journal of Sociology* 110, no. 5 (2005): 1378.

<sup>14</sup> Hathaway, “Why Do Countries Commit to Human Rights Treaties?,” 596.

the drafting and ratification process for human rights treaties strengthens the presence of NGOs on the state and international level.<sup>15</sup>

### **Scholarship on the creation of CEDAW**

Using this framework of how international norms are codified into human rights agreements we can now review the scholarship surrounding the creation of CEDAW. Chapter 3 will give an in-depth explanation of the drafting, signing, and ratification process for CEDAW. In this section we will examine how international relations scholars have viewed the implementation of CEDAW over the past 35 years. Then we will review the scholarship on CEDAW's application in the Muslim world.

The most highly criticized pieces of CEDAW are the large number of reservations by states that have ratified the convention and the weak reporting procedure for when states violate the agreement. Research by Neumayer on “the role of reservations, understandings, and declarations (RUDs) in international treaties” makes the case that liberal democracies are the states that often have the most RUDs in place for human rights agreements because they intend to adhere to the agreement. However he explains that in the case of CEDAW Islamic states often employ “general clauses” that object to enforcing any measures in CEDAW that violate *shari'a* law. This kind of general reservation has only ever appeared in treaties regarding the rights of women and children and he attributes it to the cultural differences in Western and Islamic states.<sup>16</sup> In response to this argument authors like Zwingel have pointed out that during the drafting process of CEDAW Islamic states such as Morocco objected that the convention was heavily

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<sup>15</sup> Hafner-Burton and Tsutsui, “Human Rights in a Globalizing World,” 1389.

<sup>16</sup> Eric Neumayer, “Qualified Ratification: Explaining Reservations to International Human Rights Treaties,” *The Journal of Legal Studies* 36, no. 2 (June 2007): 407–408, doi:10.1086/511894.

influenced by Western ideas of women's rights and use reservations as a way to protect themselves and their domestic politics from CEDAW's influence.<sup>17</sup>

Afsharipour explains the criticism surrounding the reporting mechanism of CEDAW. Under Article 29 of the convention a state can lodge a complaint against another state for violating the agreement. The two states have 6 months to solve the dispute between themselves, and then the CEDAW Committee can refer the matter to the International Court of Justice (ICJ) for resolution. However many CEDAW signatories have stated reservations against Article 29 of CEDAW and no state has ever used this reporting procedure.<sup>18</sup>

While some human rights treaties allow for individuals to petition the UN or the treaty bodies over violations by their home states, CEDAW had no such mechanism when it was created. In response to criticism, in 2000 the CEDAW Committee added the Optional Protocol, which allows individuals from states that have ratified CEDAW and the new Optional Protocol to submit complaints. Yet very few state parties of CEDAW have ratified the Optional Protocol amendment.<sup>19</sup>

The other reporting mechanism in CEDAW is a process of self-reporting by state parties to the CEDAW Committee. Within one year of ratifying the convention a state must submit a report on the status of women's rights in its borders to the Committee. States must then submit subsequent follow up reports every four years. However, over 2/3 of signatories have been late in submitting reports and many only submitted an initial report and then one or two follow ups. Additionally, unlike other human rights bodies at

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<sup>17</sup> Susanne Zwingel, "From Intergovernmental Negotiations to (sub)national Change.," *International Feminist Journal of Politics* 7, no. 3 (September 2005): 404–405.

<sup>18</sup> Afra Afsharipour, "Empowering Ourselves: The Role of Women's NGOs in the Enforcement of the Women's Convention," *Columbia Law Review* 99, no. 1 (January 1, 1999): 138–139, doi:10.2307/1123598.

<sup>19</sup> Zwingel, "From Intergovernmental Negotiations to (sub)national Change.," 406.

the UN that have standing offices in Geneva, the CEDAW Committee has bi-annual meetings in New York and often runs out of time to review reports and engage in meaningful reviews with country representatives.<sup>20</sup>

### **General Impact of CEDAW**

In the face of this heavy criticism of CEDAW some scholars have still found positive outcomes from the implementation of the convention. In their 1998 book *Activists Beyond Borders* Keck and Sikkink explain how transnational advocacy networks can utilize a boomerang effect if they cannot establish a norm on the domestic level. NGOs and advocacy groups in states will push their issues into the international dialogue, forcing their national leaders to embrace a norm from the top down rather than from the bottom up.<sup>21</sup>

Afsharipour argues this boomerang effect is playing out with CEDAW in some states that have ratified the convention. Afsharipour uses Bangladesh as a case study of a nation with weak domestic institutions, stated reservations to the convention, and a poor history on women's rights. After ratifying CEDAW in 1984 Bangladesh submitted its first report in 1992 to the Committee. With no official government agency to pull together the report, the first report ended up being a short, poorly researched document and only touched on 1 of the 16 rights CEDAW covers. Women's groups in Bangladesh used the criticism the report received from the Committee and international momentum from the 1995 Beijing Conference to convince their national government to let them help draft the next report. The government agreed and also setup a Department of Women's

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<sup>20</sup> Ibid., 208.

<sup>21</sup> Margaret Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (New York: Cornell University Press, 1998), 12–13.

Affairs to assist them. The late 1990s and early 2000s saw improvement in Bangladesh on women's labor rights and political participation, change that Afsharipour attributes to the Bangladeshi women's rights groups.<sup>22</sup>

A 2013 article by Cole analyzed 177 countries that ratified CEDAW. Cole assessed CEDAW's impact on political, economic, and cultural rights in those 177 states. He found that states that had ratified CEDAW saw a steady growth in women's participation in parliament in the subsequent years after ratification. However the same states did not see an increase in the requirement of quotas for female participation in government offices. Cole theorizes that this means state practices were changing even if formal policy did not.<sup>23</sup> This is a modification on the boomerang effect, for although state policy did not change, behavior within the state did because of top-down pressure. Another finding from Cole's research was that Arab countries saw little to no impact on women's rights by ratifying CEDAW. Cole argues that this failure is mainly due to the religious values of Islam, a claim that he does not explore deeply in his paper.

### **Impact of CEDAW on Muslim Women**

Cole is not alone in his critique of Islam's influence on the effectiveness of CEDAW. One of the reasons for the focus on Arab states is the size and high needs of the Muslim population. Over 300 million people live in the MENA region and about 23% of them live on less than \$2 a day.<sup>24</sup>

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<sup>22</sup> Afsharipour, "Empowering Ourselves: The Role of Women's NGOs in the Enforcement of the Women's Convention," 152–154.

<sup>23</sup> Wade M. Cole, "Government Respect for Gendered Rights: The Effect of the Convention on the Elimination of Discrimination against Women on Women's Rights Outcomes, 1981-2004.," *International Studies Quarterly* 57, no. 2 (June 2013): 246.

<sup>24</sup> "The World Bank: Middle East & North Africa," *The World Bank*, accessed December 2, 2013, <http://go.worldbank.org/7UEP77ZCB0>.

Cheriff examines the progress of women's rights in Islamic countries in a 2010 article. Cheriff outlines the three most common cultural explanations for why women in Islamic countries have not gained gender equality under CEDAW. The first explanation argues that that "in Muslim countries a state's policies are dictated by Islamic law."<sup>25</sup> This perspective assumes that Islamic states operate almost entirely as theocracies, where the religious values are at the root of all rights and laws. The second explanation states that Islamic nations used religion as a way to consolidate power during the establishment of their governments. Because of this, state institutions internalized the patriarchal values of Islam and subsequently women were subject to those values under the law. The cultural third explanation is that while a government itself may not be Islamic, state leaders and elites require the support of religious leaders. So politicians uphold Islamic values that keep women from equal rights to guarantee support from religious constituents.<sup>26</sup>

Scholars such as Arzt and Nadelmann support similar cultural explanations for why Muslim women have not benefited greatly from the ratification of CEDAW. Arzt explores the jurisprudence of *shari'a* law, explaining that it is based in the *Quran*, the *Sunna*, and the consensus of Islamic scholars, called *ijma*.<sup>27</sup> At least 17 states in the MENA region identify as Islamic and others refer to *shari'a* law in their constitutions. But Arzt explains that many former Ottoman nations reformed their laws to be mainly based in civil code in an attempt to modernize as they increased their trade and interaction with the West after World War II. Where he sees the main conflict between

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<sup>25</sup> Feryal M. Cherif, "Culture, Rights, and Norms: Women's Rights Reform in Muslim Countries," *Journal of Politics* 72, no. 4 (October 2010): 1145.

<sup>26</sup> *Ibid.*, 1148–1149.

<sup>27</sup> Donna E. Arzt, "The Application of International Human Rights Law in Islamic States," *Human Rights Quarterly* 12, no. 2 (May 1990): 204, doi:10.2307/762377.

*shari'a* and Western ideas of law is the concept of individual rights. He explains that Enlightenment thinkers like Locke and Rousseau believed individual freedom was the root of state power, and their ideas heavily influence Western jurisprudence. Islamic law does the opposite, believing that individuals are meant to be part of the community and that the only inalienable rights belong to God. So there is a philosophical disconnect between Western values of human rights and Islamic beliefs about community and God as the root of state power.<sup>28</sup>

However recent research has pushed back on these cultural assumptions and instead sought economic and political reasons for why CEDAW has not improved women's rights in Islamic states.

Cheriff's research focuses on examining Muslim women's citizenship and inheritance rights as a means of assessing normative change. From her analysis of 37 countries Cheriff finds that women's limited access to education and employment opportunities have a bigger impact on their rights than living in a Muslim state. She uses quantitative analysis and a case study between India and Pakistan to demonstrate her findings. As she explains "India has a .68 probability of nondiscrimination, and Pakistan a mere 0.13" around nationality rights but if Pakistan's number of women in the workforce mirrored India's numbers its probability would rise to .19. And if women in Pakistan constituted half the labor force its probability of no discrimination would rise to .40.<sup>29</sup> She argues that education and labor participation are the "core rights" which allow for other areas of women's rights to progress and must be studied as such. She gives

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<sup>28</sup> Ibid., 206.

<sup>29</sup> Cherif, "Culture, Rights, and Norms: Women's Rights Reform in Muslim Countries," 1157.

examples such as the average age of marriage rising and lower fertility rates in states with higher female education and more women working in the labor force.<sup>30</sup>

A second rebuttal to cultural explanations comes from Ross. He argues that in fact it is Arab states' dependence on oil wealth which keeps women out of the work force, which in turn prevents them from gaining political power and achieving social and cultural rights. He suggests that women have been able to increase their labor opportunities in history through "the development of low-wage export-oriented industries, especially in textiles, garments, and processed agricultural goods."<sup>31</sup> He gives the case study of South Korea, which industrialized in the 1970s, with women taking the factory jobs for exported goods. By the 1970s, women in the factories had begun organizing around labor rights and for more political power in the legislature and courts. By the 1990s, women in South Korea had pushed forward several laws in their favor, including a quota that political parties must set aside at least 30% of their national seats for women.<sup>32</sup>

States that demonstrate Ross' theory include "Saudi Arabia, Qatar, the United Arab Emirates, and Oman." These states are oil rich but have seen the least progress on women's suffrage and have the lowest number of women in political office. Conversely states with little to no oil wealth like "Morocco, Tunisia, Lebanon, Syria, and Djibouti" each adopted women's suffrage earlier than other Arab states and have the

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<sup>30</sup> Ibid., 1148.

<sup>31</sup> Michael L. Ross, "Oil, Islam, and Women," *American Political Science Review* 102, no. 01 (February 2008), doi:10.1017/S0003055408080040.

<sup>32</sup> Ibid., 109.

most women holding political office.<sup>33</sup> As Ross puts it “petroleum perpetuates patriarchy.”<sup>34</sup>

### **How this New Research Adds to the Field**

The scholarship above lays out a case for the adoption of norms through human rights treaties but does not offer clear explanations for why Islamic states are outliers in this process. Authors like Cole, Cheriff, and Ross offer suggestions rooted in religious differences and economic and educational disparities. This research project seeks to robustly test these theories. If Cole’s assumption about Islam is right then women in Islamic states should not have seen their rights change since the adoption of CEDAW by their home states. But if Cheriff and Ross’ suggestions about the role of education and economic opportunities hold true then CEDAW may have led to some progress for Muslim women.

The second area where this research project will explore new ground is the difference between social and political rights being achieved through international human rights treaties. As Nadelmann explained, banning a regime rests on several factors, including the likelihood of the regime to cross state boundaries and the likelihood for it to be underreported. Political rights often are a domestic matter, but international systems like the United Nations allow other nations to see and examine the political practices of all members states. And while institutions such as elections often codify political rights, social rights are less formerly regulated, for example how marriage is governed by a church or domestic disputes handled within a family. By identifying and analyzing the

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<sup>33</sup> Ibid., 116.

<sup>34</sup> Ibid., 120.

social and political rights of CEDAW this research program tests the effectiveness of human rights treaties in disseminating different *kinds* of rights.

Now that we have examined the existing scholarship on international norms, CEDAW, and women's rights in Muslim states we can move on to a comprehensive review of CEDAW's creation.

### **Chapter 3: Overview of CEDAW**

The Universal Declaration of Human Rights is the founding document that defines the inalienable, individual rights of all people. Since its adoption by the United Nations in 1948, protecting human rights has become a core value of international law. Dozens of declarations and conventions on human rights have been enacted, but only one has been passed which directly addresses gender. The Convention to End All Discrimination against Women (CEDAW) is the only human rights treaty that specifically outlines the rights of women. Article 1 of CEDAW clearly defines discrimination against women as the following:

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 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.<sup>35</sup>

Articles 6 through 17 list specific forms of this discrimination, creating a framework which states can be held accountable to. The UN General Assembly (GA) adopted CEDAW in 1979. Ratification followed swiftly and CEDAW is currently the 2<sup>nd</sup> most ratified human rights convention after the Convention on the Rights of the Child.<sup>36</sup>

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<sup>35</sup> UN Women, "Short History of CEDAW Convention," *UN Women*, accessed December 1, 2013, <http://www.un.org/womenwatch/daw/cedaw/history.htm>.

<sup>36</sup> Elizabeth Evatt, "Finding a Voice for Women's Rights: The Early Days of CEDAW," *George Washington International Law Review* 34 (2002): 512.

## Creation of CEDAW

In 1946 the GA established the Commission on the Status of Women (CSW) as a sub commission of the Commission on Human Rights. From 1949 to 1959, the CSW created several important conventions that addresses specific rights and issues. These included the Convention on the Political Rights of Women (1952), the Convention on the Nationality of Married Women (1957), the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962), and the Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1965).<sup>37</sup> While these documents offered specific protections, there was still no overarching standard that defined what constitutes discrimination against women. Without a framework, injustices could not be brought to light under international law. Thus, in 1963 the GA adopted resolution 1921, which asked the CSW to prepare a draft declaration outlining the human rights of women. After several years of drafting and revisions by the CSW, on November 7, 1967 the GA adopted the Declaration on the Elimination of Discrimination against Women.<sup>38</sup>

While the Declaration on the Elimination of Discrimination against Women was a success in that it outlined what constituted discrimination and listed specific rights to be protected, the document was non-binding. At the 1975 1<sup>st</sup> World Conference of the International Women's Year in Mexico City several UN member states and non-governmental organizations (NGOs) called for the creation of a binding treaty that addressed women's rights. In 1976 the GA asked a working group within the CSW to

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<sup>37</sup> UN Women, "Short History of CEDAW Convention."

<sup>38</sup> Ibid.

create the text of a new binding treaty - the Convention on the Elimination of All Forms of Discrimination against Women.<sup>39</sup>

### **Drafting Process**

The working group drafted and revised CEDAW's language from 1977—1979. The convention consists of several articles. Article 1 defines discrimination against women. Articles 2-4 lay out administrative and legal ground for the treaty. Article 5 asks state parties to the treaty to reject historic or traditional discrimination against women in their societies. Articles 6-17 address individual rights and areas of discrimination such as prostitution, sexual assault, work discrimination, property rights, citizenship, voting, and reproductive health.<sup>40</sup> The revision process was informed by members of the CSW and received comments from NGOs from across the world.

There were some issues left out of the text of CEDAW. Violence against women is not listed or defined as a form of discrimination in any of the articles. CEDAW also makes no mention of abortion care, instead allowing states to determine their own policies on the issue. Several requests for a formal complaint and enforcement procedure were made during the drafting process but neither piece was added in. The most significant enforcement mechanism is Article 29 which says that when states disagree over the “the interpretation or application” of CEDAW, they have 6 months to settle by negotiation, and then the issue will be referred to the International Court of Justice (ICJ).

<sup>41</sup> By 1979, a final draft was agreed upon and the GA adopted CEDAW under

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<sup>39</sup> Ibid.

<sup>40</sup> Evatt, “Finding a Voice for Women’s Rights,” 517.

<sup>41</sup> United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 1979, 9, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>.

Resolution 34/180 by a vote of 130 to none, with 10 abstentions. The final version of CEDAW was presented publicly for the first time at the 1980 Copenhagen World Conference on the United Nations Decade for Women: Equality, Development and Peace.

### **Ratification**

After being approved by the GA, the next step for CEDAW was ratification by UN member states. CEDAW was designed to take effect once 20 states had ratified the convention. This happened quickly and the convention came into force in 1981. Within 10 years of its passage, 110 states ratified CEDAW. As of 2015, 189 states have ratified CEDAW out of 193 UN member states.<sup>42</sup>

### **The Committee**

Article 17 of CEDAW establishes the Committee on the Elimination of Discrimination Against Women (Committee). The Committee is made up of 23 independent experts who monitor the implementation of CEDAW. Each state that is party to CEDAW is allowed to nominate one expert to the Committee, and then the list of nominees is voted upon by all CEDAW member states. If elected, experts serve 4-year terms. The Committee is led by one Chairperson, three Vice Chairpersons, and a rapporteur, all who are elected by Committee members.

One year after ratifying CEDAW, a state must submit a report on the status of its compliance with the convention to the Committee. After that initial report, states must submit a report updating the Committee on their compliance every four years. The Committee reviews the reports and makes recommendations to the states on how to

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<sup>42</sup> UN Women, "Short History of CEDAW Convention."

improve the treatment of women and comply with the convention. These recommendations are non-binding because there are no penalties for non-compliance written into the convention. The Committee also reports once a year to the UN through the Economic and Social Council.<sup>43</sup> The first session of the Committee met in 1982. The Committee was initially under the UN Division for the Advancement of Women. But in 2008, it was moved to the jurisdiction of the UN Office of the High Commissioner for Human Rights. Since 1986 the Committee has made over 25 general recommendations.<sup>44</sup>

### **Reservations**

UN member states were allowed to ratify CEDAW while also submitting formal reservations to pieces of the convention. These reservations allow the states to remove themselves from certain parts of the agreement. According to the Vienna Convention on the Law of Treaties, reservations that go against the object or purpose of a treaty should not be accepted.<sup>45</sup>

However, over 70 of the 189 states that ratified CEDAW have entered reservations against at least one Article of the convention.<sup>46</sup> And several of these reservations violate the Vienna Convention. For example, Article 2 requires states to “take all appropriate measures” to implement CEDAW but Malaysia submitted a

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<sup>43</sup> Evatt, “Finding a Voice for Women’s Rights,” 518.

<sup>44</sup> Luisa Blanchfield, *UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Issues in the US Ratification Debate* (Congressional Research Service, June 28, 2011), 3.

<sup>45</sup> Lee Waldrof, *Bringing Equality Home: Implementing the Convention on the Elimination of All Forms of Discrimination Against Women* (New York: The United Nations Development Fund for Women, 2008), 39.

<sup>46</sup> Committee on the Elimination of Discrimination against Women, *Declarations, Reservations, Objections and Notifications of Withdrawal of Reservations Relating to the Convention on the Elimination of All Forms of Discrimination against Women* (New York: United Nations, June 23, 2006), 48–57.

reservation against Article 2. Malaysia ratified CEDAW but its reservation allows it to not fulfill the standards set by the convention.<sup>47</sup>

In other cases, states felt CEDAW interfered with customary or religious law. For example, Bahrain, the United Arab Emirates, Oman and Saudi Arabia all entered reservations against women's protection from forced marriage, right to citizenship, right to inheritance, and right to divorce. In the language of their reservations the states explained that these rights conflict with their government's interpretation of Islamic *shari'a* law.<sup>48</sup>

Finally, 40 states submitted reservations because of concerns that CEDAW would interfere with state sovereignty. Article 29 of CEDAW refers disputes between states over the interpretation of CEDAW to the International Court of Justice (ICJ).<sup>49</sup> But many UN member states do not want to fall under the jurisdiction of the ICJ and entered reservations against Article 29, effectively undermining the only enforcement mechanism in the original convention. And out of a similar concern for sovereignty, the United States is the only state that has signed but not ratified CEDAW. President Jimmy Carter signed it in 1980 but Congress has not ratified it.<sup>50</sup>

### **Optional Protocol**

In the 1990s, a movement to add complaint and enforcement mechanisms resurfaced, in part because of the large number of reservations submitted by states that

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<sup>47</sup> Waldrof, *Bringing Equality Home: Implementing the Convention on the Elimination of All Forms of Discrimination Against Women*, 39.

<sup>48</sup> Committee on the Elimination of Discrimination against Women, *Declarations, Reservations, Objections and Notifications of Withdrawal of Reservations Relating to the Convention on the Elimination of All Forms of Discrimination against Women*, 30–31.

<sup>49</sup> *Ibid.*, 57–58.

<sup>50</sup> Blanchfield, *UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, 4.

had ratified the convention. In 1994, a group of independent experts, CEDAW members, NGOs, and advocates met at the Maastricht Centre for Human Rights to create a process for enforcing CEDAW. The CSW established another working group to take on the draft that emerged from the Maastricht Centre meeting. By 1999, the draft was finalized into the Optional Protocol, a stand-alone treaty that can only be signed by states that have ratified CEDAW. The Optional Protocol took effect in December of 2000 and 106 states have signed on as of 2015.<sup>51</sup>

The Optional Protocol allows groups and individuals to approach the Committee with complaints about states violating CEDAW. This occurs through the *communications procedure*. When the Committee decides to investigate the claim this is called the *inquiry procedure*. Investigations end with a report by the Committee on the validity of the complaint and recommendations for how to end the CEDAW violation. To date, the Committee has gone through 11 communication procedures and one inquiry procedure.<sup>52</sup> However there is no formal penalty or consequence of states who are investigated and they are not bound to comply with the Committee's recommendations.

### **Successful Outcomes of CEDAW**

In the 35 years since it came into force, there have been several significant steps forward in ending discrimination against women that can be directly linked to CEDAW and the Committee. One such area is violence against women. As mentioned previously, CEDAW does not define violence against women as a form of discrimination. However several years after CEDAW was ratified the Committee made a general recommendation

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<sup>51</sup> UN Women, "History of the Optional Protocol," *UN Women*, accessed December 2, 2013, <http://www.un.org/womenwatch/daw/cedaw/protocol/history.htm>.

<sup>52</sup> *Ibid.*

in 1989 that set a precedent of commenting on rates of violence against women in all the member states who sent in reports.<sup>53</sup> This opened the door to the submission of communications procedures involving violence against women.

In 2002, two NGOs, Equality Now and Casa Amiga, submitted a complaint to CEDAW about the abduction, rape, and murder of women in the city Ciudad Juárez in the state of Chihuahua, Mexico. Chihuahua shares a border with the U.S. and has a population of 1.5 million. It has a large manufacturing sector where women often migrate to the city to work in the *maquilas*, or factories.<sup>54</sup> The CEDAW Committee's 2004 inquiry revealed that the *maquilas* and illicit drug trade placed women, especially younger women, in dangerous conditions at the hands of factory management and local drug runners. Law enforcement in the city did little to investigate reports of sexual assault and disappearance, even going as far as failing to investigate the murders of several dozen women in the late 1990s. The Committee's inquiry report on violence against women in Ciudad Juárez led to the 2007 passage of the Mexican General Law on Women's Access to a Life Free from Violence, leading to country-wide reform in the handling of rape, abductions, and murder cases of Mexican women.<sup>55</sup>

CEDAW has also been invoked in the domestic courts of states party to the convention, such as a 2001 rape case in Tanzania where a woman was raped as a method of being forced to marry her rapist. The Tanzanian court reinforced Article 16 of CEDAW, which prohibits forced marriage, and upheld the rape conviction.<sup>56</sup>

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<sup>53</sup> Evatt, "Finding a Voice for Women's Rights," 545–546.

<sup>54</sup> Committee on the Elimination of Discrimination against Women, *Report on Mexico Produced by the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention, and Reply from the Government of Mexico* (United Nations, January 2005), 4.

<sup>55</sup> *Ibid.*, 8–9.

<sup>56</sup> Anne Warner, *Recognizing Rights Promoting Progress: The Global Impact of the Convention to End All Discrimination against Women* (Washington, D.C.: International Center for Research on Women, 2010), 6.

In the 1984 case *Longwe v. Intercontinental Hotels*, the High Court of Zambia upheld that the Intercontinental Hotel was guilty of workplace discrimination because it refused to let women enter the main lobby without a male escort. The High Court cited CEDAW Articles 1,2, and 3 as justification for its ruling.<sup>57</sup>

Women in Kyrgyzstan and Tajikistan were left out of recent land reform programs and advocacy groups in both countries invoked CEDAW's Article 16 to get the government to create legal support systems for women so they would know their rights and be able to take advantage of buying and owning newly available land.<sup>58</sup>

Egypt, which signed CEDAW but with reservations against Article 9, removed its reservations in 2009 and amended its constitution to allow nationality of women and girls to be inherent rather than tied to their male relatives or husbands.<sup>59</sup>

### **Remaining Challenges for CEDAW**

While some CEDAW signatories such as the Netherlands and Nepal have used CEDAW to create stronger domestic laws against sex trafficking, other states have continued to ignore the growing problems of prostitution and sex trafficking. In its 2012 *Trafficking of Persons Report* the U.S. State Department identified that women and girls are 98% of sex trafficking victims. The report also cited research from UN, which identified East Asia as the largest source of trafficking victims.<sup>60</sup> Almost all the states in

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<sup>57</sup> Ibid., 9.

<sup>58</sup> Ibid., 10.

<sup>59</sup> Ibid., 14.

<sup>60</sup> Under Secretary for Civilian Security, Democracy, and Human Rights, *Trafficking in Persons Report* (Washington, D.C.: U.S. Department of State, June 2012), 39, <http://www.state.gov/documents/organization/192587.pdf>.

that region have ratified CEDAW, with several even passing anti-trafficking laws. The space between the law and enforcement remains too wide and must be bridged.

Accessing reproductive health services, including birth control and abortion, also remains a challenge for women. In Article 12 of CEDAW women are guaranteed access to healthcare, including family planning and prenatal care. However several states entered reservations against Article 12 on the basis that it conflicted with religious values. Additionally, abortion is not mentioned in CEDAW so efforts by states to reduce abortion access domestically are not formally breaking any international standard of reproductive care.

### **Conclusion**

Examining the creation, drafting, ratification, and implementation of CEDAW has revealed several conclusions about the outcomes of the convention in the last 35 years. It remains the most comprehensive human rights treaty on the rights of women and has been ratified by almost all UN member states. The Committee has established a reporting process that allows for critique of ongoing discrimination. However the extensive number of reservations and the lack of an enforcement mechanism aim to prevent CEDAW from creating on the ground change in many states. Rather, CEDAW can be used as a tool by activists and advocacy networks to hold states accountable to their citizens.

### **Chapter 4: Methodology and Evaluation of Rights**

This chapter will lay out the process for testing H1 and H2 in each of the five case studies. First we will identify the sources of information for the case studies and then

break down the evaluation process for the eight identified political and social rights of women within CEDAW. By defining standards for evaluation we will be able to show the change in rights within individual states and compare progress between different case studies.

### **Information and Data Sources**

Human rights reporting has changed significantly over the past several decades, especially as the number of nongovernmental organizations (NGOs) has increased. As Keck and Sikkink posit in *Activists Beyond Borders*, one of the key roles of transnational advocacy networks is to disseminate information on state behavior.<sup>61</sup> To gather information on the change in women's rights since the passage of CEDAW we will use both government and NGO sources, with the goal of gathering unbiased information as well as understanding states' ability to accurately represent the status of women within their borders.

The first information source we shall use when evaluating a case study will be any reports the nation has submitted to the CEDAW Committee. Under Article 18 of the convention, within one year of ratifying CEDAW a state must submit a report to the Committee on "the legislative, judicial, administrative or other measures which they have adopted" to enforce the rights outlined in the convention. States must then continue submitting progress reports to the Committee every four years.<sup>62</sup> The limitation on this source of information is that almost all states that have ratified CEDAW have fallen

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<sup>61</sup> Margaret Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (New York: Cornell University Press, 1998).

<sup>62</sup> United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 1979, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>.

behind on the regular reporting process. And Sudan, one of our case studies, is not party to the treaty and thus does not have any reports to evaluate. However, even with these limitations the CEDAW reports will provide useful information on how countries evaluate their progress in implementing the convention.

The second information source this research program will use is the annual U.S. State Department *Human Rights Reports*. In 1971 the U.S. Congress created the Coordinator of Human Rights in the State Department, formalizing the evaluation of human rights as part of America's foreign policy. Beginning in 1977, the State Department began submitting to Congress annual reports on the status of human rights in countries that received U.S. foreign aid. In 1994 the State Department expanded and redefined its human rights branch and in 1999 it began releasing annual reports on the status of human rights across the world.<sup>63</sup> The annual Human Rights Report is a valuable source of information because it is one of the most comprehensive government reporting processes in the world and it contains both regional and state specific updates.

The third source of information will come from the NGO Freedom House. Founded in 1941, Freedom House is one of the oldest, most well respected NGOs working to promote transparency in government and freedom of speech. It began releasing reports on the status of political rights and civil liberties in the 1970s, formalizing this process into its annual *Freedom in the World* report in 1998. The most recent report, published in 2015, evaluated 195 countries. Nations are assigned a score from 1 to 7 for their political rights and civil liberties with "1 representing the greatest degree of freedom and 7 the smallest degree of freedom." Based on the average of their

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<sup>63</sup> "1999 Country Reports on Human Rights Practices," *U.S. Department of State*, February 2, 2000, <http://www.state.gov/j/drl/rls/hrrpt/1999/64.htm>.

political and civil scores, countries are then ranked as “Free, Partly Free, or Not Free.”<sup>64</sup>

The rights examined by Freedom House correspond to the core values outlined in the Universal Declaration of Human Rights.

Freedom House’s annual reports will be supplemented by the NGO’s 2005 and 2010 reports entitled *Women's Rights in the Middle East and North Africa*. These two reports dig deeper into the specific rights outlined in CEDAW. And because of the lack of timely reporting by state parties to the CEDAW Committee, these two reports by Freedom House will supplement information on changes in the past 10 years to women’s rights in Islamic states that is not possible to ascertain from states’ self reporting.

### **Standards for evaluating rights**

Evaluation of each case study will begin with a review of when the country ratified CEDAW and any stated reservations the nation made against the convention. In particular, to test H1 we will note if the state had a reservation to Article 2.

Next, we will evaluate the change in the four political rights since the ratification of CEDAW by the country. Each of the four rights will be evaluated and ranked as being fully, partially, or not achieved. The following table outlines how we will define each political right along these three categories:

Table 3

	<b>Fully Achieved</b>	<b>Partially Achieved</b>	<b>Not Achieved</b>
The right to vote	Women can legally vote and are able to do so without fear of	Legally women are allowed to vote but threats to their safety	Women are not allowed to legally vote.

<sup>64</sup> *Freedom in the World 2015: Methodology*, Freedom in the World (Washington, D.C.: Freedom House, 2015), [https://freedomhouse.org/sites/default/files/Methodology\\_FIW\\_2015.pdf](https://freedomhouse.org/sites/default/files/Methodology_FIW_2015.pdf).

	violence.	prevent full enfranchisement.	
The right to hold office.	Women can legally hold any public, elected office and female candidates have been able to run without violence or intimidation.	Women can legally hold public office but are limited to certain roles or risk violence if they actually run for a position.	Women cannot legally be elected to public office.
The right to citizenship	Women have full rights to citizenship regardless of marital status and can pass their citizenship on to their children	Women have some right to citizenship but can lose those rights based on marriage, divorce, or custody of children issues.	Women do not have a right to citizenship as individuals.
The right to own property	Women can inherent, purchase, own, and sell private property.	Women can own property but are limited in how they inherit, purchase, or sell it.	Women cannot independently own property.

These rankings are based on the evaluation process used by both Freedom House and by the U.S. State Department in their annual review of political and civil rights. If a state does not clearly fall into fully, partially, or not achieving a specific political right we will take time within the case study to explore the status of the right in more detail and evaluate why it falls outside of these three classifications.

Once we have evaluated the political rights of a country we will move on to evaluating the four social rights for that case study. Each of the four social rights will be evaluated and ranked as being fully, partially, or not achieved. The following table outlines how we will define each social right along these three categories:

Table 4

	<b>Fully Achieved</b>	<b>Partially Achieved</b>	<b>Not Achieved</b>
The right to education	Women can access free, public education	Women have some access to free education.	Women are not allowed to attend

	through secondary school.	There may be limits on what they can learn, or they may not be allowed to pursue higher education.	school or are highly restricted to what they can learn.
The right to contraception	Women are legally allowed to use contraception for family planning.	Women are allowed to use contraception for family planning but with restrictions depending on their marital status.	It is illegal for women to use contraception.
The right to employment	Women are legally allowed to work outside of the home without restrictions.	Women can legally work outside of the home but with restrictions on what type of job or are not paid equally for their work.	Women cannot work legally outside of the home.
The right to marry	Women can legally marry and divorce at will, and without fear of violence.	Women can legally marry with limits, such as not being allowed to divorce or losing custody of children after a divorce.	Women cannot choose to marry or divorce of their own will.

Once again, these rankings are also based on the evaluation process used by both Freedom House and by the U.S. State Department in their assessment of political and civil rights. If a state does not clearly fall into fully, partially, or not achieving a specific social right we will take time within the case study to explore the status of the right in more detail and evaluate why it falls outside of these common classifications. Given the more common influence of *shari'a* law in social rights rather than political rights in Islamic states, this section of case studies may need more in-depth analysis than the sections on political rights.

### **Chapter 5: Sudan**

A former British protectorate, Sudan gained its independence in 1956 but has been trapped in a cycle of civil wars for most of its independence. Much of the fighting has been between a Christian and Sub-Saharan African south against an Islamic and Muslim north, but the conflict has evolved to also include issues around pro-democracy groups, tribal histories, and the influence of oil wealth in the country. The southern part of the country has acted with significant autonomy since 1972 but the second half of the 20<sup>th</sup> century saw ongoing attempts by the government in Khartoum to unify the country by oppressing those living in Sudan's southern region.<sup>65</sup>

The most recent military coup took place in 1989 by the National Salvation Revolution Command Council (RCC). The RCC and its leader, Lieutenant General Omar Hassan Al-Bashir, suspended the constitution, disbanded all political parties and suppressed freedom of expression. By 1993, the RCC was dissolved as well and Bashir was appointed as President. He won a highly corrupt national election in 1996, and put in place a new constitution in 1998. At the same time, the country's parliament, the National Assembly, selected Dr. Hassan al-Turabi as its Speaker. Turabi became the leader of the National Congress party and began to speak out against President Bashir. Turabi aligned himself with Islamic fundamentalist groups to consolidate power. In 2000, Bashir declared a state of emergency, dismissing parliament and jailing Turabi under suspicion that he was plotting to overthrow the president.<sup>66</sup>

The early 2000s saw a steady increase in conflict between Bashir's government and rebel groups in the South. While al-Turabi remained imprisoned until 2003 and

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<sup>65</sup> Freedom House, *Freedom in the World 1999*, 1999, <https://freedomhouse.org/report/freedom-world/1999/saudi-arabia#.VT16sRfWoxU>.

<sup>66</sup> Bureau of Public Affairs Department Of State. The Office of Website Management, *1999 Country Reports on Human Rights Practices: Sudan*, Human Rights Report (U.S. Department of State, February 23, 2000), <http://www.state.gov/j/drl/rls/hrrpt/1999/273.htm>.

President Bashir worked to improve Sudan's international image, rebel groups in the South began to form to resist Bashir's government. As Freedom House explained in a 2006 report "the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM), representing black farmers and villagers in Darfur, attacked Sudanese military garrisons in the region" in the early 2000s.<sup>67</sup> In response, President Bashir sent government backed militias, known as *janjaweed*, to suppress the Southern uprising. Villages were burned, crops destroyed, and the United Nations estimates that anywhere between 70,000 and 400,000 people were killed and 2 million were displaced. The conflict bled into neighboring states like Chad as refugees fled Sudan, and the United States labeled the conflict genocide.<sup>68</sup>

By 2005, the international community had intervened to stop the violence and find a peaceful solution to the conflict. Both African Union and UN troops were placed in the region and a peace deal was brokered between the southern groups and President Bashir's government. While violence by the government itself slowed after the peace negotiations, the conflict in southern Sudan continued. In 2011, a referendum was held in South Sudan, according to the Comprehensive Peace agreement signed in 2005, allowing South Sudan to separate and become an independent nation. The referendum passed and in 2011 it became a sovereign nation. At least a dozen groups are attempting to either rule the new country or are in war with the young government of South Sudan. President

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<sup>67</sup> Freedom House, *Freedom in the World 2006: Sudan* (Freedom House, 2006), <https://freedomhouse.org/report/freedom-world/2006/sudan#.VT94rRfWoxU>.

<sup>68</sup> Ibid.

Bashir remains in power in Sudan and has made limited attempts at political reform, though his 2015 reelection was widely criticized for its lack of transparency.<sup>69</sup>

This case study analyzes the change in women's rights in Sudan and does not explore the changes in South Sudan. Because of South Sudan's rather recent independence there is not enough data available to assess the change in women's rights in South Sudan. However there is enough publicly available data to analyze the changes in women's rights in the northern state of Sudan.

### **Ratification & Reservations**

Sudan is not a party to CEDAW, one of only a handful of UN members who have not signed or ratified the treaty.<sup>70</sup> President Bashir refused to sign the convention in 2001, stating that it "contradicted Sudanese values and traditions."<sup>71</sup> This language is similar to the general reservations against Article 2 that other Islamic states have used.

Analyzing the progress of women's rights in Sudan will give us a control group for our research project, allowing us to see how Islamic states have furthered women's rights without the aid of international treaties like CEDAW. Sources for this analysis will remain the same as with previous case studies, with the exception of CEDAW reports because Sudan has not submitted any since it is not party to the agreement.

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<sup>69</sup> Freedom House, *Freedom in the World 2015: Sudan* (Freedom House, 2015), <https://freedomhouse.org/report/freedom-world/2015/sudan#.VUC3cBfWoxU>.

<sup>70</sup> United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 1979, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>.

<sup>71</sup> Freedom House, *Freedom in the World 2002: Sudan* (Freedom House, 2002).

## **Political Rights**

Women are allowed to vote in Sudan, but the frequent suspension of parliament has led to very few elections. The most recent elections were in 2010 and 2015. International monitors, criticized both elections and said corruption levels were too high for the vote to be considered legitimate.<sup>72</sup>

Progress has been made on a woman's right to hold public office in Sudan. For many years the National Assembly had very few female candidates. However, a 2008 reform created a quota, guaranteeing that women will hold 25% of seats parliament.<sup>73</sup> As a result of this quota, women's participation in government began to improve. As the U.S. State Department explains, in 2009 there were "70 women in the 450-seat National Assembly, three national female state ministers, and one female minister in the GNU."<sup>74</sup> By 2013, women held 87 seats in parliament, 30 women served as state ministers and 6 of the 56 cabinet positions went to women.<sup>75</sup>

A woman's right to citizenship in Sudan is one of the more limited political rights. Women are considered citizens but it is unclear how much control their male relatives have over their ability to use their citizenship rights. Women cannot travel abroad without permission of their husbands or male relatives, though this practice is more strictly enforced in the north rather than in the south.<sup>76</sup> Other issues, such as transferring

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<sup>72</sup> Freedom House, *Freedom in the World 2010: Sudan* (Freedom House, 2010), <https://freedomhouse.org/report/freedom-world/2010/sudan#.VT-C6RfWoxU>; Freedom House, *Freedom in the World 2015: Sudan*.

<sup>73</sup> Freedom House, *Freedom in the World 2010: Sudan*.

<sup>74</sup> Bureau of Public Affairs Department Of State. The Office of Website Management, *2008 Human Rights Report: Sudan*, Report (Department Of State. The Office of Website Management, Bureau of Public Affairs., February 25, 2009) <http://www.state.gov/j/drl/rls/hrrpt/2008/af/119026.htm>.

<sup>75</sup> Bureau of Democracy, Human Rights and Labor U.S. Department of State, "Country Reports on Human Rights Practices for 2013," Government, *U.S. Department of State*, (2013), <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>.

<sup>76</sup> Department Of State. The Office of Website Management, *2008 Human Rights Report: Sudan*.

citizenship to children or losing status after a divorce varies within regions inside of Sudan, often depending on the level of adherence to *shari'a* law by that region's local councils.

The word political right includes a woman's ability to own property. In Sudan, women can own property but a widow can only inherit 1/8 of her husband's property and a daughter can only inherit 1/3.<sup>77</sup> This means that transferring property between family members heavily favors men. And as we will see below, women's limited educational and economic opportunities make purchasing property extremely difficult.

### **Social Rights**

We will begin examining social rights by look at a woman's right to education. The state controls public universities, including setting curriculum which can lead to biased information in subjects from history to the natural sciences. Women are allowed to attend school but there is no requirement for free or public education on even the primary school level. Students are frequently harassed, most recently during the 2011 Arab Spring, when attempts at peacefully protesting for political reform were violently oppressed by local police forces.<sup>78</sup>

In particular, female students are harassed for not upholding modest standards of dress according to certain interpretations of *shari'a* law. These crimes of "indecent" have outrageous punishments from up to one year in prison or as many as 40 lashes.<sup>79</sup> In 1999, police flogged nine female students for "obscene acts" because they girls were

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<sup>77</sup> Ibid.

<sup>78</sup> Freedom House, *Freedom in the World 2014: Sudan* (Freedom House, 2014), <https://freedomhouse.org/report/freedom-world/2014/sudan#.VT-DjBfWoxU>.

<sup>79</sup> Department Of State. The Office of Website Management, *2008 Human Rights Report: Sudan*.

wearing pants.<sup>80</sup> One of the few positive notes around female education is that over ½ the professors at Khartoum University were women in 2008.<sup>81</sup> This follows a trend seen in our other case studies of women being able to work in education because it allows for separation of the genders.

Moving on to the next social right, contraception is legal for married women in Sudan. However access and use of birth control remains limited. According to the UN Population Division, only 12% of women and girls between the ages of 15-49 used contraception in 2012.<sup>82</sup> Reasons for this low use include lack of access to healthcare, especially in rural areas and ongoing civil wars that have led to higher incidents of sexual violence.

With limited access to education and family planning services, women in Sudan rarely work outside of the home. Moreover, many women and children have been abducted and forced into domestic servitude and prostitution through the civil wars. As the U.S. State department reported in 2003, “In the last approximately 15 years, an estimated 15,000 Dinka women and children have been abducted.”<sup>83</sup> This one statistic barely represents the thousands of women and girls who have been captured during the conflict. However verifiable data is very limited because of the ongoing violence in South Sudan. NGOs and the U.S. State Department also do not have information on how many women are active in the formal labor market, which indicates extremely limited participation.

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<sup>80</sup> Freedom House, *Freedom in the World 1999*.

<sup>81</sup> Department Of State. The Office of Website Management, *2008 Human Rights Report: Sudan*.

<sup>82</sup> U.S. Department of State, “Country Reports on Human Rights Practices for 2013.”

<sup>83</sup> Bureau of Public Affairs Department Of State. The Office of Website Management, *2003 Country Reports on Human Rights Practices: Sudan*, Human Rights Report, (February 25, 2004), <http://www.state.gov/j/drl/rls/hrrpt/2003/27753.htm>.

The most severely limited social right is a woman's right to marriage. In Sudan, *shari'a* law dictates marriage and divorce, meaning women have "very little autonomy or rights with regard to marital status."<sup>84</sup> For a marriage to be legal a woman must have a male relative's permission and there are no formal rights for a woman to apply for divorce. Domestic violence is not against the law and female genital mutilation is still a widespread practice. Throughout the 2000s, rape was used by the military and the *janjaweed* as a tool of war. In July of 2005, Doctors Without Borders testified that at least 500 rapes took place over a four and half month period in Darfur by police, military, and militia forces.<sup>85</sup> Add to this that in Sudan a woman needs 4 male witnesses to verify a rape and unmarried, pregnant women are subject to adultery and indecency charges that carry prison time and physical punishment.<sup>86</sup> All of these factors compounded together leave Sudanese women with almost no control over their marriage, divorce, or sexual rights.

## **Conclusion**

Sudan is a sharp contrast against the other four case studies when evaluating the progress in women's political and social rights. In addition to not being a CEDAW signatory, Sudan has also undergone dozens of years of civil conflict. Both these factors have led women to have limited political rights and almost no social rights. The separation of the Christian population in South Sudan may lead to even more enforcement of *shari'a* law in the north. However there are some indications that the increased political participation of women is making headway. In 2014 the country

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<sup>84</sup> U.S. Department of State, "Country Reports on Human Rights Practices for 2013."

<sup>85</sup> Freedom House, *Freedom in the World 2006: Sudan*.

<sup>86</sup> U.S. Department of State, "Country Reports on Human Rights Practices for 2013."

passed a national law against forced prostitution and hosted a regional conference on anti-trafficking efforts in Africa.<sup>87</sup> But based on the existing rights, for our analysis we will label Sudan as not achieving political or social rights for women.

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<sup>87</sup> Freedom House, *Freedom in the World 2015: Sudan*.

## **Chapter 6: Morocco**

As a constitutional monarchy, power in Morocco is divided between a king, a prime minister, a bi-cameral legislature, and separate judiciary. The monarchy is passed down through lineage and the King claims his power as the “Commander of the Faithful” because he is considered a direct descendent of the prophet Muhammad. The king also retains the title of commander in chief and appoints the prime minister, based on whichever political party has won the most seats in parliament. The current monarch, King Mohammad VI, took power after the death of his father King Hassan II in 1999.<sup>88</sup>

The current prime minister of Morocco is Abdelilah Benkirane. He was appointed prime minister in 2011 and is a member of the Justice and Development Party (PJD). The parliament of Morocco is divided into 2 houses, the 325 seat Assembly of Representatives and the 270 seat Assembly of Councilors. The parliament can approve bills, question ministers, control the budget and create commissions of inquiry to investigate government action.

### **Ratification and Reservations**

Morocco ratified CEDAW on June 21, 1993, and has been party to the treaty for over 20 years. Morocco is one of several Islamic states that had stated reservations when it ratified the agreement. The largest reservation was against Article 2. Morocco refused to implement any part of CEDAW that threatened *shari'a* law and Morocco’s Code of Personal Status, also known as the *moudouwana*, which is based on the Maliki school

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<sup>88</sup> Freedom House, “Freedom in the World 2015,” *Morocco*, 2015, <https://freedomhouse.org/report/freedom-world/2015/morocco#.VT0nzhfWoxU>.

of Islamic law.<sup>89</sup> Morocco then listed several specific articles in CEDAW that it objected to. It rejected the right to nationality under Article 9, stating that the nationality of children should come from their father, not their mother. It rejected the right of women to live and move freely without the permission of their spouse or male guardians under Article 15 and a woman's right to divorce under Article 16. And similar to many CEDAW signatories both in and outside of the MENA region, Morocco listed a reservation against Article 29, which is the dispute mechanism that refers problems between states over CEDAW to the International Court of Justice.<sup>90</sup>

Morocco has submitted three periodic reports to the Committee since ratifying CEDAW. It turned in the first report in 1994, within a year of ratifying the convention. It submitted the second report in July of 1999, two years past the 1998 deadline. And it submitted its third and fourth reports in 2006 as a combined document. Morocco has not submitted any periodic reports since, even though the next reports were due in 2010 and 2014 respectively.

The number of women's rights groups in Morocco has been increasingly steadily in the 20<sup>th</sup> century, with fewer than 5 registered groups in the country prior to 1970 but 23 new groups being founded between 1970 and 1984.<sup>91</sup> In 1992, before ratifying CEDAW, King Hassan II met women's rights activists in Morocco to hear their requests for amendments to the *moudouwana*. He included some of their recommendations in his 1993 reforms of the Code of Personal Status, one of his first steps towards compliance

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<sup>89</sup> Committee on the Elimination of Discrimination against Women, *Declarations, Reservations, Objections and Notifications of Withdrawal of Reservations Relating to the Convention on the Elimination of All Forms of Discrimination against Women* (New York: United Nations, June 23, 2006), 22.

<sup>90</sup> *Ibid.*, 22–23.

<sup>91</sup> *Second Periodic Report of States Parties: Morocco*, Committee on the Elimination of Discrimination Against Women (CEDAW) (United Nations, February 29, 2000), 21.

with CEDAW.<sup>92</sup> In November of 1993, he established the Ministry for Human Rights, the first institution in the government designed to focus on human rights issues.<sup>93</sup> A study done after the ratification of CEDAW in 1997 found that there were 76 NGOs in Morocco working to advance women's issues, such as the "Democratic Association of Moroccan Women, the Union for Women's Action, and the Moroccan Association for Women's Rights."<sup>94</sup> This reflects the continued growth of civil society in the country. Now that we have some background on Morocco's process of ratifying CEDAW we can review the change in Islamic women's political and social rights in the state.

### **Political Rights**

The first right to examine is the right to vote. Women have had the right to vote in Morocco since the country's independence from France in 1956. The right is protected in Article 8 of Morocco's constitution.<sup>95</sup> However voter participation in Morocco has changed significantly over the past several years. In 2007, only 37% of voters participated in the parliamentary election. The country was split between conservative Muslim political parties and progressive socialist parties, with conservatives dominating the voting booth through corrupt election behavior.<sup>96</sup> Public protests were initially suppressed but over the next few years tension grew, ultimately leading to the Arab Spring movement in 2011. Morocco saw large public demonstrations by students in Casablanca and Rabat, leading the King to enact constitutional reforms that transferred

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<sup>92</sup> *Initial Reports of the States Parties: Morocco*, Committee on the Elimination of Discrimination Against Women (CEDAW) (United Nations, November 3, 1994), 7.

<sup>93</sup> *Ibid.*, 5.

<sup>94</sup> *Ibid.*, 6.

<sup>95</sup> *Second Periodic Report of States Parties: Morocco*, 14.

<sup>96</sup> Freedom House, "Freedom in the World 2008," 2008, <https://freedomhouse.org/report/freedom-world/2008/morocco#.VT1K-BfWoxU>.

some of his power to parliament, such as the ability to elect a prime minister. These changes led to some restored faith in the constitutional monarchy system and an increased voter turnout in 2011 of 45%.<sup>97</sup>

Women have also had the right hold public office in Morocco since the founding of the country. Article 12 of the constitution highlights this right, which is the second political right we want to review.<sup>98</sup> In 1997, only 2 out of 325 seats in the national House of Representatives went to female candidates. However the number of women running for office has steadily increased from 8 in 1977, 15 in 1984, 36 in 1993, to 69 in 1997. On a local level, 1,657 women ran for elections, about 1.6% of the total candidates, and 83 women won seats, about .3% of the total elected in 1997.<sup>99</sup> In its CEDAW reports Morocco attributes this poor participation number to high illiteracy among women, prevailing stereotypes against women in Moroccan society, and not enough economic mobility for women. However, for the first time, women have been appointed to and held positions as secretaries of state on the national level.<sup>100</sup>

By the 2002 elections, 35 women won positions out of 325 seats in the House of Representatives, a significant improvement. Women were also appointed to the secretary general level in two national agencies for the first time in 2002.<sup>101</sup> Civil society groups within Morocco pushed for a 12% quota to be implemented for government elections in 2008, which continued to increase the number of women in public office, especially on

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<sup>97</sup> Bureau of Democracy, Human Rights and Labor U.S. Department of State, “Country Reports on Human Rights Practices for 2011,” Government, *U.S. Department of State*, (2011), <http://www.state.gov/j/drl/rls/hrrpt/2011/humanrightsreport/index.htm>.

<sup>98</sup> *Second Periodic Report of States Parties: Morocco*, 15.

<sup>99</sup> *Ibid.*

<sup>100</sup> *Ibid.*, 18.

<sup>101</sup> *Combined Third and Forth Periodic Report of States Parties: Morocco*, Committee on the Elimination of Discrimination Against Women (CEDAW) (United Nations, September 18, 2006), 25.

the local level. In 2003, women held 127 seats, less than 1% of vacant positions in local government. In 2009, women took over 3,400 local seats.<sup>102</sup>

The next political right to review is the right to citizenship. The Moroccan Nationality Code of 1958 “grants women equal rights with men to acquire, change or retain their nationality” but women cannot pass on their nationality to their husband or children.<sup>103</sup> This is why Morocco has a reservation to Article 9 of CEDAW. In 2006, King Mohammed VI reformed this issue by announcing that children will be able to have their mother’s nationality. That same year, Morocco announced it planned to drop all its reservations to CEDAW.<sup>104</sup> This was a historic step and was the result of intense political pressuring from women’s rights groups in the country.

The final political right to review is women’s ability to own property. In the 1990s during the initial ratification of CEDAW, in Morocco “women inherit only half as much as male heirs” under the *moudouwana* and male family members often pressured women to accept even less than that.<sup>105</sup> Initially very little progress was made on this front, though the state did launch a 1998 program called the National Fund for Agricultural Loans which funded up to 90% of any new agricultural projects for women, helping to circumvent problems women face from their inability to inherit property equally.<sup>106</sup> However the removal of Morocco’s stated reservations against CEDAW led

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<sup>102</sup> Fatima Sadiqi, *Women’s Rights in the Middle East and North Africa: Progress Amid Resistance* (Washington, D.C.: Freedom House, 2010), 18, [https://freedomhouse.org/sites/default/files/inline\\_images/Morocco.pdf](https://freedomhouse.org/sites/default/files/inline_images/Morocco.pdf).

<sup>103</sup> *Second Periodic Report of States Parties: Morocco*, 25.

<sup>104</sup> *Combined Third and Forth Periodic Report of States Parties: Morocco*, 7.

<sup>105</sup> Bureau of Public Affairs Department Of State. The Office of Website Management, “1999 Country Reports on Human Rights Practices: Morocco,” Human Rights Report, *U.S. Department of State*, (February 23, 2000), <http://www.state.gov/j/drl/rls/hrrpt/1999/422.htm>.

<sup>106</sup> *Second Periodic Report of States Parties: Morocco*, 21.

to constitutional reform on property rights, with women achieving almost full parity through a series of 2004 constitutional reforms by the King.

### **Social Rights**

Social rights in Morocco have seen less progress since the passage of CEDAW because they are rooted in the Code of Personal Status. The first right we will review is the right to education. Article 13 of Morocco's constitution says public education is free for all people regardless of sex.<sup>107</sup> But as the Moroccan government revealed in its first periodic report to the CEDAW committee "the illiteracy rate for women is 67%, and 89 % in rural areas, compared with 41 percent for men."<sup>108</sup> In its second report to CEDAW the Moroccan government set a goal of eradicating illiteracy, starting with getting up to 80% of girls to enroll in primary school by 2000.<sup>109</sup> They attributed the illiteracy rates to lack of schools in rural communities and expectations for females to carry out domestic work at home rather than attend schools.

The second right to examine is whether or not women can access contraception. In this area, Morocco is more progressive than many Islamic states. The use of birth control for family planning is legal in Morocco for married and unmarried women. According to the state "the rate of contraceptive use stands at 65.8% in urban areas and at no higher than 50.7% in rural areas." Discrepancies in use are attributed to health literacy and low access to services.<sup>110</sup>

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<sup>107</sup> Ibid., 25.

<sup>108</sup> Ibid.

<sup>109</sup> *Second Periodic Report of States Parties: Morocco*, 28.

<sup>110</sup> Ibid., 43.

Limited access to education has compounded the third right we are examining, which is women's right to be employed outside of the home. As of 1999, the country reported that "women constitute approximately 35% of the work force, with the majority in the industrial, service, and teaching sectors."<sup>111</sup> And while women were 34% of the primary and secondary school teaching staff in 1997 and 23% of the staff of higher education, no women have held the post of "academic director" and very few women have been deans or rectors of universities.<sup>112</sup> This glass ceiling prevents women from gaining positions of power where they can create reform for themselves. Morocco also struggles with the exploitation of young girls as prostitutes and domestic servants, known as "adoptive servitude." NGOs, in 1999, estimated that tens of thousands of teenage women are working as prostitutes in Morocco's cities.<sup>113</sup> Since the passage of CEDAW, the number of women in the workforce appears to be decreasing, with the 2011 U.S. State Department report showing women only make up about 28% of the formal workforce. One reason this number may have lowered is that some informal forms of employment that women traditionally hold are no longer considered part of the formal workforce. There is also steep inequality within pay, with women earning about 25% of what men do in the state.<sup>114</sup>

The final social right we are analyzing is if women are free from coerced marriage. This was one of the rights the King focused on in 1993 by ending the practice of forced marriage or "matrimonial constraint," meaning the woman must agree to it on her own

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<sup>111</sup> Department Of State. The Office of Website Management, "1999 Country Reports on Human Rights Practices: Morocco."

<sup>112</sup> *Second Periodic Report of States Parties: Morocco*, 16.

<sup>113</sup> Department Of State. The Office of Website Management, "1999 Country Reports on Human Rights Practices: Morocco."

<sup>114</sup> U.S. Department of State, "Country Reports on Human Rights Practices for 2011."

for the marriage to be legal.<sup>115</sup> Traditional *shari'a* law allowed a man to divorce his wife outside of court simply by rejecting her, but the 1993 reforms to the *moudouwana* require divorce to take place in court and for the woman to be present, though the woman did not have to consent to the divorce for it to go through. Conversely, a woman could only divorce a husband if he agrees, and in most cases this requires payment to the man, known as “a *khol'a* divorce.”<sup>116</sup> Women’s rights activists in Morocco found these initial reforms to be very ineffective.

Much work was done to push for greater reform during the *Equality without Reservation* regional MENA conference that was held in Rabat from June 8-10 in 2006. As a result of this organizing by NGOs, the King agreed to increase the minimum age for marriage from 15 to 18.<sup>117</sup> And limits to polygamy added in the 1990s seemed to be taking effect, as seen in Morocco’s 2006 CEDAW report. As the report states, “Polygamous marriages decreased in number from 904 in 2004 to 841 in 2005, for a 6.97% decline. This suggests that polygamy may ultimately disappear in practice.”<sup>118</sup>

## **Conclusion**

Several issues not touched upon by our analysis are still in need of reform in Morocco, including the state’s laws around sexual assault. For example, marital rape is not a crime and domestic violence is underreported. A 2010 report revealed that 63% of Moroccan women said they had been victims of violence in the past year. Sexual assaults are underreported because of the stigma around losing virginity “victim's families may

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<sup>115</sup> Ibid.

<sup>116</sup> Ibid.

<sup>117</sup> *Combined Third and Forth Periodic Report of States Parties: Morocco*, 54.

<sup>118</sup> Ibid., 59.

offer rapists the opportunity to marry their victims in order to preserve the honor of the family.”<sup>119</sup>

In March of 2012, 16 year old Amina Filali committed suicide after being forced to marry her rapist, who attacked her in 2011. The case pointed out several flaws in Morocco’s legal system, including article 475 of the penal code which allows for rape charges to be dropped if a woman marries her rapist and that even though Amina was under 18 the marriage was allowed as long as she and her parents agreed to it. In January of 2014, article 475 of the penal code was amended to correct the loophole, the result of women’s rights activists and public protests.<sup>120</sup>

Morocco’s ranking by Freedom House since it ratified CEDAW has been generally the same – its annual report ranks 1 as the most free and 7 as the least. In 2001, the first year with available data, Morocco ranked 4 on civil liberties and 5 on political rights, for an average score of 4.5 and a label of “partly free.”<sup>121</sup> It has stayed at almost that exact ranking for the last 15 years. Using our defined rankings of free, partially free, and not free, this case study’s analysis reveals that for Morocco political and social rights have been only partially achieved.

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<sup>119</sup> Ibid.

<sup>120</sup> Freedom House, “Freedom in the World 2015.”

<sup>121</sup> Freedom House, “Freedom in the World 2001,” *Morocco*, 2011, <https://freedomhouse.org/report/freedom-world/2001/morocco#.VT0meRfWoxV>.

## **Chapter 7: Jordan**

Jordan is a constitutional monarchy that was established in 1946 when the country gained independence from Britain.<sup>122</sup> The king appoints the 40 representatives in the Senate and the public elects the 80 seats in the Chamber of Deputies every four years. The crown has the majority of executive and legislative power, with the ability to appoint the prime minister and cabinet at will, and although the judiciary is independent it is highly responsive to political pressure and corruption. Jordan's jurisprudence is rooted in the Napoleonic code of the Ottomans, tribal heritage, and *shari'a* law. While religious courts deal with social issues like family law and divorce, ultimately their decisions can be reviewed by the secular Court of Appeals, an interesting hybrid unique to Jordan.<sup>123</sup>

Women's civil society groups have existed in Jordan since its independence, with the Jordanian Women's Union being founded in 1945.<sup>124</sup> Women's groups pushed for Jordan to ratify CEDAW and got it published in the national gazette in 2007 so it has the force of law, meaning violations of CEDAW can be challenged through lawsuits in the Jordanian courts.<sup>125</sup>

### **Ratification and Reservations**

Jordan signed CEDAW in 1980 and ratified the agreement in 1992, one of the first Islamic states to do so.<sup>126</sup> As part of the ratification process that same year the state

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<sup>122</sup> Rana Husseini, *Jordan*, NGO, Women's Rights in the Middle East and North Africa: Progress and Resistance (New York, NY: Freedom House, 2010), 1,

[http://twww.freedomhouse.org/sites/default/files/inline\\_images/Jordan.pdf](http://twww.freedomhouse.org/sites/default/files/inline_images/Jordan.pdf).

<sup>123</sup> *Ibid.*, 3.

<sup>124</sup> *Ibid.*, 1.

<sup>125</sup> *Ibid.*, 7.

<sup>126</sup> *Ibid.*

created the Jordanian National Commission for Women (JNCW) to oversee the rights of women in the state.<sup>127</sup>

When it ratified CEDAW, Jordan entered four stated reservations to the convention. The first is against Article 9, which addresses the right of women to pass their nationality on to their children. The next reservation was against Article 15 on women's right to adequate living conditions. Jordan's interpretation of *shari'a* law holds that "a woman's residence and domicile are with her husband."<sup>128</sup> The third and fourth reservations are against Article 16, which deals with marriage and family law. The first reservation is against women's rights to seek divorce and receive equal division of financial assets. The fourth and final reservation is against a woman's right to custody of her children and freedom to work outside the home.<sup>129</sup>

Jordan submitted its first periodic report to the CEDAW Committee in 1997, five years after it had ratified the convention. It submitted its second periodic report in 1999, perhaps in an attempt to correct this delay. Its third and fourth reports were submitted together in 2006, and it is overdue for its fifth report to the Committee.

### **Political Rights**

The evaluation of women's political rights in Jordan must be kept in the larger context of limited political freedom in the state. Jordanians have the right to vote but cannot change the executive branch. Thus, evaluating a woman's right to vote really

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<sup>127</sup> Ibid.

<sup>128</sup> Committee on the Elimination of Discrimination against Women, *Declarations, Reservations, Objections and Notifications of Withdrawal of Reservations Relating to the Convention on the Elimination of All Forms of Discrimination against Women* (New York: United Nations, June 23, 2006), 16.

<sup>129</sup> Committee on the Elimination of Discrimination against Women, *Declarations, Reservations, Objections and Notifications of Withdrawal of Reservations Relating to the Convention on the Elimination of All Forms of Discrimination against Women*.

reflects the overall limited capacity of any voting rights in the state. Educated women received the right to vote in 1945, prior to independence, and in 1974 suffrage was given to all women.<sup>130</sup> This push for universal suffrage was the result of organizing by civil society groups in the country.

Women in Jordan can hold public office, although the opportunities to do so are limited to election to the lower house of Parliament or appointment by the king to a ministry. In 1993, the first two women were elected and appointed to the two houses of Parliament.<sup>131</sup> As of 1999, three women had seats in the Senate and none had been elected to the lower house of Parliament in the most recent elections. The king had appointed one woman to be a minister in his cabinet.<sup>132</sup> Overall, this low participation in political office reveals that ingrained stereotypes against women continue to hinder their political participation even though they have the legal right.

Jordanian women's right to citizenship has evolved slowly since the ratification of CEDAW. Prior to ratification, women had to have their husband's permission to obtain a passport and could not pass their citizenship on to their children.<sup>133</sup> The first restriction was overturned in 2003 and now women can travel without permission. However their children's citizenship and movement is still dictated by the father.<sup>134</sup> In 2009, Jordan removed its reservation to Article 15 of CEDAW, allowing women to maintain homes outside of their male guardians' property.<sup>135</sup>

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<sup>130</sup> Hussein, *Jordan*, 1.

<sup>131</sup> *Ibid.*

<sup>132</sup> Bureau of Public Affairs Department Of State. The Office of Website Management, *1999 Country Reports on Human Rights Practices: Jordan*, Human Rights Report (U.S. Department of State, February 23, 2000), <http://www.state.gov/j/drl/rls/hrrpt/1999/418.htm>.

<sup>133</sup> *Ibid.*

<sup>134</sup> Hussein, *Jordan*, 8.

<sup>135</sup> *Ibid.*, 7.

The right to own property has seen less progress for Jordanian women. According to *shari'a* law, women can only inherit ½ of what male relatives inherit.<sup>136</sup> Jordan's Islamic courts also support the practice of *welaya*, or guardianship, meaning any single woman under the age of 40 is dependent on her closest male relative, regardless if the woman is widowed, divorced, or unmarried. If a woman rejects the guidance of her guardian she loses control of her financial independence.<sup>137</sup> Technically women can own property and have business contracts independent of male relatives outside of the *shari'a* courts. But as a 2008 government report demonstrates, *welaya* is still practiced, with “only 15.1 percent of women own land and 19.4 percent of women over the age of 15 own apartments.”<sup>138</sup>

### **Social Rights**

Jordan mirrors Saudi Arabia in some ways when it comes to the social right of access to education. Education is required and free for Jordanians up to age 16 but limits on women and their children's citizenship lead to reduced access to public schools.<sup>139</sup> Private education is an option for some but is often expensive. As of 1999, women made up about 50% of university students.<sup>140</sup> This number increased to 55% over the next ten years, but few women enter the labor market because they are not trained in the skills needed for existing jobs.

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<sup>136</sup> Department Of State. The Office of Website Management, *1999 Country Reports on Human Rights Practices: Jordan*.

<sup>137</sup> Hussein, *Jordan*, 9.

<sup>138</sup> *Ibid.*, 15.

<sup>139</sup> Rana Hussein, *Jordan*, NGO, *Women's Rights in the Middle East and North Africa: Progress and Resistance* (New York, NY: Freedom House, 2010), 4, [http://www.freedomhouse.org/sites/default/files/inline\\_images/Jordan.pdf](http://www.freedomhouse.org/sites/default/files/inline_images/Jordan.pdf); *ibid.*, 17.

<sup>140</sup> Department Of State. The Office of Website Management, *1999 Country Reports on Human Rights Practices: Jordan*.

Women's access to contraception is more open in Jordan than other Islamic states. In its first report to the CEDAW committee, Jordan reported that 35% of women had access to contraception.<sup>141</sup> By 1999, it is reported that 52.6% of married women have used contraception, a significant increase. However patriarchal values around child bearing still exist. As the state wrote in its second periodic report "still a preference for male children, not only because they are more useful in the fields and orchards but also because, socially, the larger the family and the more boys as opposed to girls, the prouder the father."<sup>142</sup> The third and fourth periodic reports revealed contraceptive use to be the same nationally as in previous years, with higher use among women in urban areas rather than women in rural communities. The average family size in Jordan had been lowered from six children to five and there was an increased preference for the intrauterine device (IUD) over the pill or other methods of birth control.<sup>143</sup>

With regard to the right to be employed outside of the home, Jordan has struggled to get women into the labor market. In 1990, women made up 2.6% of the labor market. Some of the reasons for this low turnout are the legal restrictions on the kind of work women can take on. Women cannot work from 8pm to 6am and are not allowed in certain industries, such as mining. Because of these limitations, women mainly work in social professions such as "education (41%), health and social work (15.1%), and personal, social, and service activities (5.7%)<sup>144</sup> By 1999, women made up 14% of the work force but often still received much lower wages and work longer hours than their male

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<sup>141</sup> *Initial Reports of States Parties: Jordan*, Committee on the Elimination of Discrimination Against Women (CEDAW) (United Nations, November 10, 1997), 18.

<sup>142</sup> *Second Periodic Reports of States Parties: Jordan*, Committee on the Elimination of Discrimination Against Women (CEDAW) (United Nations, October 26, 1999), 47.

<sup>143</sup> *Combined Third and Forth Reports of State Parties: Jordan*, Committee on the Elimination of Discrimination Against Women (CEDAW) (United Nations, March 10, 2006), 84–85.

<sup>144</sup> *Ibid.*, 17.

counterparts.<sup>145</sup> In a step towards reform, in 2009 the JCNW opened the Women's Complaint Office, where women can seek counsel on employment discrimination, citizenship rights, and violence. This development of domestic institutions is the result of rallying among women's rights groups in the country.<sup>146</sup>

A woman's right to be free of coerced marriage is limited in Jordan. Women's testimony in court only counts for ½ that of a man's in the *shari'a* courts, and while abuse is grounds for divorce there is widespread acceptance of violence against women. This includes the practice of 'honor killings,' when a woman is killed in order to protect a family's honor if she has engaged in adultery. Article 98 of the Penal Code suggests a sentence of three months to two years for such crimes, and the country reports at least 20 honor killings each year.<sup>147</sup> A particularly violent example of this took place in February 1999 when "Hussein Suleiman ran over his pregnant sister Malak Suleiman three times with his pickup truck" after accusing her of adultery. She survived the attack but then after being released from the hospital was taken home and executed by her uncle, father, and brother. Her brother received 1 month in prison for the crime.<sup>148</sup>

In 2001, an amendment to the Personal Status Law raised the minimum marriage age to 18 but allows judges to permit girls as young as 15 to marry with parental consent.<sup>149</sup> Some recent progress against domestic violence was the 2007 opening of the

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<sup>145</sup> Department Of State. The Office of Website Management, *1999 Country Reports on Human Rights Practices: Jordan*.

<sup>146</sup> Hussein, *Jordan*, 11.

<sup>147</sup> *Ibid.*, 5.

<sup>148</sup> Department Of State. The Office of Website Management, *1999 Country Reports on Human Rights Practices: Jordan*.

<sup>149</sup> *Ibid.*, 10.

first women's shelter and the passage in 2008 of the Family Protection Law to govern how health workers and the courts channel domestic violence cases.<sup>150</sup>

## **Conclusion**

Reviewing the change in women's rights in Jordan since the ratification of CEDAW reveals a divide between attempted reforms by civil society groups and continued patriarchal values carried out in day-to-day life. From an initial ranking of 4.5 and listed as partially free in 1999 by Freedom House, Jordan rose to a ranking of 5.5 in 2010 as King Abdullah dissolved parliament to suppress political uprising that was part of the Arab Spring movement.<sup>151</sup> This upheaval also played a role in limiting women's political rights, though moving forward this tide may recede and allow for more political freedom. Based on our evaluation criteria Jordan will be ranked as partially achieving political rights and partially achieving social rights.

## **Chapter 8: Saudi Arabia**

The Kingdom of Saudi Arabia is an absolute monarchy, established in 1932 by King Abd Al-Aziz Al Saud. It is currently ruled by King Salman bin Abdulaziz Al Saud and

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<sup>150</sup> Hussein, *Jordan*, 2.

<sup>151</sup> Freedom House, *Freedom in the World 2010* (Freedom House, 2010), <https://freedomhouse.org/report/freedom-world/2010/jordan#.VT6HjxemOAU>.

has a population of over 28.6 million people.<sup>152</sup> Saudi Arabia holds the Quran and Sunna to be the country's legal foundation, formalized into the "Basic Law of Governance" rather than a constitution.<sup>153</sup> The Basic Law does not allow for the formation of political parties or direct elections, meaning the royal family appoints and oversees all government offices. It also makes the development of a civil society very difficult, with most forms of activism being seen as political organizing and subject to arrest and punishment.

The judiciary is separate from the monarchy but heavily influenced by the opinions of the royal family and the *ulema*, the nation's community of religious scholars.<sup>154</sup> The military and police fall entirely under the jurisdiction of the monarchy. The Mutawaa'in, or religious police, are a subset of the police force that makes sure individuals adhere "to Islamic norms by monitoring public behavior" and are known for intimidation, abuse, and violence against citizens. With no written penal code, arrests and prosecution are left to the discretion of the police and judges. Adding to this is the state's restrictive interpretation of *shari'a* law that uses punishments that violate international standards of human rights such as "flogging, amputation, and execution by beheading, stoning, or firing squad."<sup>155</sup> The country's economy relies heavily on its oil production, with over 40% of gross domestic product and 75% of government income coming from oil.<sup>156</sup>

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<sup>152</sup> Eleanor Abdella Doumato, *Women's Rights in the Middle East and North Africa: Progress Amid Resistance* (New York, NY: Freedom House, 2010), 1, [https://freedomhouse.org/sites/default/files/inline\\_images/Saudi%20Arabia.pdf](https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf).

<sup>153</sup> *Combined Initial and Second Periodic Reports of States Parties: Saudi Arabia*, Committee on the Elimination of Discrimination Against Women (CEDAW) (United Nations, March 29, 2007), 3.

<sup>154</sup> Abdella Doumato, *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, 1.

<sup>155</sup> Bureau of Public Affairs Department Of State. The Office of Website Management, *2000 Country Reports on Human Rights Practices: Saudi Arabia*, Human Rights Report (U.S. Department of State, February 23, 2000), <http://www.state.gov/j/drl/rls/hrrpt/1999/426.htm>.

<sup>156</sup> *Ibid.*

## **Ratification & Reservations**

Saudi Arabia ratified CEDAW through a royal decree on August 28, 2000.<sup>157</sup> It was one of the last Islamic states to ratify the agreement. It entered three stated reservations to the convention but they reflect the state's unwillingness to submit to the norms outlined in the treaty. The first is a sweeping, general reservation against any "contradiction between any term of the Convention and norms of Islamic law."<sup>158</sup> This effectively allows Saudi Arabia to pick and choose the rights within CEDAW it will uphold. The second reservation is against Article 9, which addresses nationality. At the time of its ratification of CEDAW Saudi Arabia did not allow women to confer their nationality to their children, which is why it did not agree with Article 9.<sup>159</sup> The third and final reservation is against Article 29, the dispute mechanism. Like many CEDAW signatories, Saudi Arabia does not want to submit itself to the authority of the ICJ.<sup>160</sup>

Saudi Arabia submitted its first and second periodic reports to the CEDAW committee in 2007 as one document. It has not submitted a report since, even though the next periodic report was due in 2011. The combined report addresses some but not all of the rights outlined in CEDAW and fails to acknowledge many of the harsher truths about the status of women's rights in the state.

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<sup>157</sup> *Combined Initial and Second Periodic Reports of States Parties: Saudi Arabia*, 8.

<sup>158</sup> Committee on the Elimination of Discrimination against Women, *Declarations, Reservations, Objections and Notifications of Withdrawal of Reservations Relating to the Convention on the Elimination of All Forms of Discrimination against Women* (New York: United Nations, June 23, 2006), 26.

<sup>159</sup> United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 1979, 3, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>.

<sup>160</sup> *Ibid.*, 9.

## **Political Rights**

The first right to review is a woman's right to vote. Historically, Saudi Arabia has held very few elections because the monarchy appoints all government positions.

However in 2005 the state reinstated municipal council elections, which had not taken place since the 1960s. Women were prohibited from voting in the 2005 elections. But the restriction was grounded in not being able to make voting spaces separated by gender and thus legal under social codes. Women were not prohibited on the grounds that they did not have the right to vote. This distinction proves interesting when we look at the next political right, the ability to hold political office.

There are no elected offices in the national government. The King appoints the Council of Ministers, which oversees all government offices and the 150 members of the Consultative Council, who advise the King.<sup>161</sup> In 2006, women were appointed to be advisors to the Consultative Council. That year the king also placed women as deputies in the education and healthcare ministries; the highest positions women have received to date in the government.<sup>162</sup> Then, in January 2013, a royal decree announced that women would be given 20% of the seats in the Consultative Council, and 30 were appointed the following month. This came on the heels of a 2011 announcement that women would be allowed to vote and run for seats in 2015 municipal elections.<sup>163</sup>

The third political right in our analysis is the right to citizenship. Throughout the 20<sup>th</sup> century women in Saudi Arabia had citizenship almost entirely through their male relatives, such as a father or spouse, and could not transfer their nationality to their

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<sup>161</sup> Abdella Doumato, *Saudi Arabia*, 20.

<sup>162</sup> *Ibid.*, 21.

<sup>163</sup> Freedom House, *Freedom in the World 2014* (Freedom House, 2014), <https://freedomhouse.org/report/freedom-world/2014/saudi-arabia#.VT2xqBfWoxU>.

children. A 2007 royal decree said divorced or widowed women who were not originally Saudi would no longer lose their citizenship and could remain in the country.<sup>164</sup>

However women still cannot pass their citizenship on to their children, and in practice have very little mobility to travel in or outside of the country without the supervision of a male guardian.

The last political right under review is the right to own property. Women are allowed to own property in Saudi Arabia and in the past several years the monarchy has strengthened this right by adding in provisions about owning commercial licenses for business. One motivation for this is a desire to keep companies within the country owned by Saudi citizens rather than foreign nationals. In this instance, women's right to property is a mix of progress and a continued limitation, with women being able to control property in name but sometimes being used as proxies by male relatives who want to expand their business holdings.<sup>165</sup>

### **Social Rights**

The right to education further reveals contradictions in rights for women in Saudi Arabia. Public education is free for all Saudi citizens and in 2004 primary school became required for children age 6-15, with the Ministry of Education's long-term goal of making secondary school compulsory as well.<sup>166</sup> Women made up 58% of university students in 2005.<sup>167</sup> And more women than men are in graduate school, with 79% of PhDs going to women in 2004.<sup>168</sup> However, schools are separated by gender and women

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<sup>164</sup> Abdella Doumato, *Saudi Arabia*, 4.

<sup>165</sup> Freedom House, *Freedom in the World 2012* (Freedom House, 2012), <https://freedomhouse.org/report/freedom-world/2012/saudi-arabia#.VT18exfWoxU>.

<sup>166</sup> Abdella Doumato, *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, 17.

<sup>167</sup> Department Of State. The Office of Website Management, *2005 Country Reports on Human Rights Practices*.

<sup>168</sup> *Ibid.*, 16.

often struggle to travel safely to and from school, frequently being harassed by the police. An extreme case of this persecution occurred in 2002 when the Mutawaa'in refused to let schoolgirls flee a burning building because they were not wearing their outer cloaks, *abayas*, to cover themselves in public in accordance with *shari'a* law. As a result 15 girls died in the fire and the police were not punished.<sup>169</sup>

Access to contraception is also an extremely limited right for women in Saudi Arabia. Sex outside of marriage is illegal, so birth control is only available to women who are married. In its only report to the CEDAW Committee the Saudi government stated that all forms of contraception are available and a study from 1991-2002 revealed that 32% of married women in Saudi Arabia used a form of contraception. And a 1996 study said that 81% of married women knew how to use contraception and over 43% had used a method in the past.<sup>170</sup> These figures are difficult to trust given the high stigma around contraception use even in married women, and little to no data exists on the use of contraceptives among unmarried women in the U.S. State Department or Freedom House's human rights reports on Saudi Arabia.

The right of women to be employed outside of the home exists in theory but several other limitations on women make participation in the labor market extremely difficult. In Saudi Arabia women are not allowed to gather in public and cannot travel domestically or abroad without permission from their male relatives, making working outside the home difficult.<sup>171</sup> For those women who do work, most are employed in the

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<sup>169</sup> *Ibid.*, 6.

<sup>170</sup> *Combined Initial and Second Periodic Reports of States Parties: Saudi Arabia*, 41.

<sup>171</sup> Department Of State. The Office of Website Management, *2000 Country Reports on Human Rights Practices: Saudi Arabia*.

public sector, 84% working in education.<sup>172</sup> It is also illegal for women to socialize with men in public. When women violate this separation they can be accused of “*khulwa*,” the illegal mixing of unrelated men and women, and be punished by the police.<sup>173</sup> This forces workplaces to be segregated, or more often, simply bars women from working at restaurants, factories, stores, and other common private institutions. Women are also not allowed to drive in Saudi Arabia, which is another inhibiting factor for working outside the home. Most women who work do so in same-sex schools or in healthcare, jobs that take place in institutions segregated by gender.<sup>174</sup> In 2002, some reforms were made and women were allowed to apply for civil-status ID cards without the permission of their closest male relative, *mahram*, which would allow them to travel within the country. However women’s participation in the workforce remains some of the lowest in the world at about 14% according to statistics from 2009.<sup>175</sup>

A woman’s right to marry in Saudi Arabia is perhaps the most restrictive of the social rights that this research program examines. There is no minimum age for marriage, and a woman’s consent is not required for a marriage to be legal. Thus child-brides and girls being sold into marriage to pay family debts is a common practice.<sup>176</sup> If a woman wants to marry a non-Saudi she must have the permission of the government. Men can take up to four wives, making polygamy legal.<sup>177</sup> Men can divorce at will in Saudi Arabia, but women can only divorce their husbands if he “has deserted her, is impotent,

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<sup>172</sup> Abdella Doumato, *Women’s Rights in the Middle East and North Africa: Progress Amid Resistance*, 15.

<sup>173</sup> *Ibid.*, 5.

<sup>174</sup> *Ibid.*, 2.

<sup>175</sup> *Ibid.*, 15.

<sup>176</sup> Abdella Doumato, *Women’s Rights in the Middle East and North Africa: Progress Amid Resistance*, 9.

<sup>177</sup> Department Of State. The Office of Website Management, *2000 Country Reports on Human Rights Practices: Saudi Arabia*.

or has a loathsome disease” and must have another male represent her in the courts.<sup>178</sup> A 2004 National Dialogue Conference on Women, hosted by Prince Abdullah, suggested women be allowed to study law so they could represent other women in family court on issues like divorce and custody. A few universities then began to allow women to study law and in 2007, the Ministry of Justice announced it would allow these women to act as legal consultants though not as lawyers.<sup>179</sup> The King, rather than civil society groups, initiated this step towards reform, since Saudi Arabia limits political freedom to such an extreme degree.

### **Conclusion**

There are several other social rights that we did not examine in our analysis that also impact women’s freedom in Saudi Arabia. Similar to Morocco, domestic violence and sexual assault are underreported. There is no legal protection against domestic violence and for a woman to prove a rape she must prove it with her attackers confession or the testimony of four male witnesses.<sup>180</sup>

Saudi Arabia has consistently received a ranking of 7, the worst possible score, from Freedom House’s annual human rights report from 1999 to the present. However King Abdullah, who ruled from 2005 to 2015, seemed to have some interest in expanding human rights, especially the rights of women. Prior to taking the throne, he supported progressive reforms like allowing employed women over the age of 40 to drive, although

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<sup>178</sup> Ibid., 10.

<sup>179</sup> Ibid., 4.

<sup>180</sup> Ibid., 13.

the measure failed.<sup>181</sup> In 2004, he supported the creation of the National Society for Human Rights, an NGO focused on reviewing human rights violations. Ten of its 41 initial members were women.<sup>182</sup> However, the fact that all reform must come from the monarchy limits the hope of progress in Saudi Arabia. Thus for our evaluation, political rights and social rights are ranked as not being achieved.

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<sup>181</sup> Freedom House, *Freedom in the World 2003* (Freedom House, 2003), <https://freedomhouse.org/report/freedom-world/2003/saudi-arabia#.VT2zWxfWoxU>.

<sup>182</sup> Department Of State. The Office of Website Management, *2005 Country Reports on Human Rights Practices*.

## **Chapter 9: Conclusion**

By reviewing the change in women's political and social rights in Sudan, Morocco, Jordan, and Saudi Arabia we have been able to test the two hypothesized of this research study. The first addressed the role of reservations in CEDAW:

*H1: Arab States that have ratified CEDAW and do not have a stated reservation to Article 2 have seen improvement in women's rights since ratification. And those countries who are not CEDAW participants or have reservations that essentially nullify the treaty, conversely have not seen improvements in women's rights.*

We labeled our control, Sudan, not a participant in CEDAW, as not achieving political and social rights for women. This supports H1 because Sudan is a non-participant. Saudi Arabia has a reservation against Article 2, which essentially nullifies a state's participation in the treaty. Saudi Arabia also has a general reservation against any piece of CEDAW that violates the sovereignty of its monarchy or violates *shari'a* law also supports H1. As Neumayer explained in his scholarship on RUDs, general reservations like the one Saudi Arabia submitted also nullify a state's participation in a treaty.<sup>183</sup> And our case study of Saudi Arabia labeled it as a state that has not achieved political and social rights for women.

Morocco initially had a stated reservation to Article 2 but eventually repealed all of its reservations to the convention. An interesting point of this process is that the removal of reservations in 2006 was a result of women's civil society groups earning more of a voice in the state. Our analysis ranked Morocco as partially achieving political

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<sup>183</sup> Eric Neumayer, "Qualified Ratification: Explaining Reservations to International Human Rights Treaties," *The Journal of Legal Studies* 36, no. 2 (June 2007): 397–429, doi:10.1086/511894.

and social rights for women. Jordan did not have a stated reservation to Article 2 and also ranked as partially achieving political and social rights for women. The progress in Morocco and Jordan supports H1.

The second hypothesis of this research program argued that CEDAW would create more change in political rights than social rights:

*H2: More progress has been made in political rights rather than social rights in states that have ratified CEDAW.*

In our control case study of Sudan we saw some progress on women's political participation in the state and no movement on social rights. Since Sudan did not sign CEDAW this progress does not reveal much about H2 though it does challenge the idea that CEDAW ratification is necessary for political change. But since H2 does not make that strong of a claim it still holds up.

Our other three case studies all support H2 in that they saw more progress in political rights than social rights. Jordan and Saudi Arabia saw limited movement in social rights because of adherence to *shari'a* law's treatment of marriage and divorce. But political rights did progress in both countries within the confines of their political systems. For example, women began to be involved in the Council of Ministers and Consultative Council, which are appointed positions, but have yet to be allowed to vote in a national election.

The theory behind H2 is that civil society in a state can utilize CEDAW ratification to push for change in democratic institutions within the state. This is based in Keck and Sikkink's 'boomerang' theory of change.<sup>184</sup> Because religious courts and

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<sup>184</sup> Margaret Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (New York: Cornell University Press, 1998).

councils often control social rights in Islamic states, our case studies revealed that activists had more success challenging political rights through state institutions and national leaders. For example, in Morocco activists were able to influence the writing of the periodic CEDAW reports, a formal vehicle for influencing political rights. However changes to the Personal Code, which governs social rights in Morocco, were more difficult to achieve and had to come directly from the king.

### **Further Questions**

This research program was limited in the scope and depth of its analysis by several factors, including the decision to do a qualitative review and the selection of only four case studies. Because CEDAW clearly delineates over a dozen rights of women, further research projects could employ a quantitative analysis of progress on those rights. Gaps in information, especially the lack of periodic reports to the CEDAW committee by member states may make this kind of analysis difficult. However, as Cole demonstrated in his 2013 analysis, quantitative research on CEDAW's impact can be achieved.<sup>185</sup>

The role of human rights treaties in implementing international norms remains an area rich with research opportunities. The newly enacted Optional Protocol within CEDAW would be an interesting apparatus for studying enforcement and compliance with international human rights norms. More research could also be done on violations of CEDAW reported by individuals, especially civil society groups in member states. These are questions for future researchers to employ and hopefully will lead to a continued dialogue on how to improve women's access to political and social rights.

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<sup>185</sup> Wade M. Cole, "Government Respect for Gendered Rights: The Effect of the Convention on the Elimination of Discrimination against Women on Women's Rights Outcomes, 1981-2004.," *International Studies Quarterly* 57, no. 2 (June 2013): 233-49.

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