The American University in Cairo

School of Humanities and Social Sciences

ISLAMIC LAW AND WOMEN’S RIGHTS:
Questioning the Validity of the Reservations Invoking Islamic Law to the
Convention on the Elimination of All Forms of Discrimination against Women
(CEDAW)

A Thesis Submitted to the
Department of Law
In partial fulfilment of the requirements for the degree of
Master of Arts in International Human Rights Law

By

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ABSTRACT

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By
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Supervised By
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This thesis will attempt to demonstrate that the reservations invoking Islamic law to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) are invalid. Reservations to human rights treaties in general are problematic, because these ones not only govern the relationship between States, but they also govern the relationship between the State and its citizens. Thus, finding a balance between state sovereignty, the pillar of international law and the rights of the people remains a challenge in the international arena. Another dimension of the argument is analyzing the validity of claiming Islamic law as a basis for reservations to CEDAW. Islamic law will be presented as a flexible and evolving field, open to interpretation. Therefore, arising incompatibility between the law and international standards of women’s rights is entrenched in the interpretation of it, not in its absolute articulation. Finally, to offer a practical overview of the issue, the cases of Egypt, Tunisia and Saudi Arabia will be illustrated to prove how the formulation of Islamic law within domestic systems differs, and how these diverse applications depend on the social and cultural contexts. Thus, the reservations made to CEDAW are justified by the social system, which is infiltrated in the formulation of the law. In order to promote and protect women’s rights while overcoming the challenges of the international legal order, as well as the abuses of rights wrongly justified by religion, Muslim women need to voice their demands. To initiate this process, the role of civil society is essential in raising awareness about the issue, and in pushing for reform.
TABLE OF CONTENTS

Introduction ................................................................................................................. 1

Chapter I. Reservations under International Law ....................................................... 3
   A. The Vienna Convention on the Law of Treaties 1969 ....................................... 3
      1. Defining Reservations ................................................................................. 3
      2. Permissibility of Reservations ................................................................. 4
      3. The ICJ Advisory Opinion on “The Reservations to the Convention on
         the Prevention and Punishment of the Crime of Genocide” ...................... 6
   B. Reservations to Human Rights Treaties ......................................................... 8
      1. The European Court of Human Rights ...................................................... 8
      2. The Human Rights Committee ................................................................. 14

Chapter II. Reservations to CEDAW and their Implications .................................... 18
   A. CEDAW 1981 ................................................................................................. 18
   B. Reservations to CEDAW 1981 and their Permissibility .............................. 21
      1. Article 28 of CEDAW ............................................................................... 21
      2. Reservations Invoking Islamic Law ........................................................... 23
      3. Reactions to the Reservations .................................................................. 27

Chapter III. Islamic Law and Women’s Rights ........................................................... 30
   A. Shari’a and Fiqh: A Crucial Distinction ....................................................... 30
   B. Sources of Islamic Law (Usul al Fiqh) ............................................................ 31
      1. The Quran ................................................................................................ 31
      2. The Tradition or Sunna ............................................................................. 32
      3. Consensus or Ijma’ .................................................................................. 33
      4. Analogy or Qiyas ..................................................................................... 34
5. Other Sources ..............................................................................35

C. The Sunni Classical Schools of Thought ........................................35

1. The Hanafi School .......................................................................35
2. The Shafei School .......................................................................35
3. The Maliki School .......................................................................36
4. The Hanbali School .....................................................................36

D. Methods of Interpretation ..............................................................37

1. Ijtihad ........................................................................................37
2. Taqlid .......................................................................................38
3. The Utilitarian Approach ..........................................................38
4. The Liberal Approach ...............................................................40

E. Women’s Rights in Islam ..............................................................42

1. Marriage ..................................................................................42
2. Polygamy ..................................................................................44
3. Divorce ....................................................................................46
4. Inheritance ..............................................................................47

Chapter IV. Case Studies: Egypt, Tunisia and Saudi Arabia .................49

A. Egypt: Balancing between Modern and Traditional Values ............49

1. Shari’a and Women’s Rights in the Egyptian Legal System ..........49
2. Egypt’s Reservations to CEDAW ..............................................55

B. Tunisia: The Progressive Application of Islamic Law ....................58

1. Shari’a and Women’s Rights in the Tunisian Legal System ..........58
2. Tunisia’s Reservations to CEDAW ..........................................60

C. Saudi Arabia: The Traditional Application of Islamic Law ..........62

1. Shari’a and Women’s Rights in the Saudi Legal System ..............62
2. Saudi Arabia’s Reservations to CEDAW………………………..64

Conclusion……………………………………………………………………………66