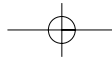
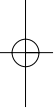


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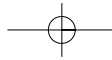
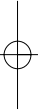
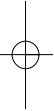
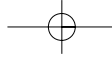
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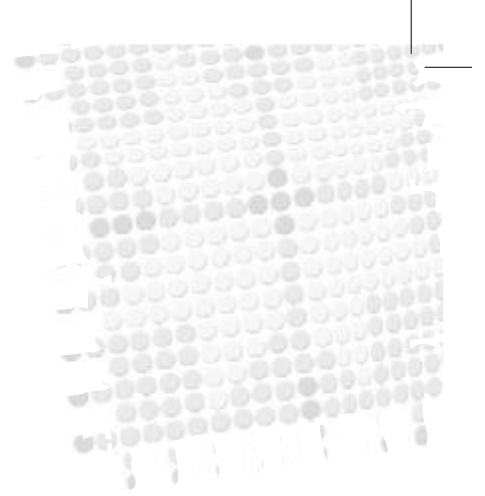
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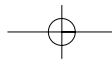
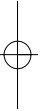
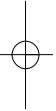
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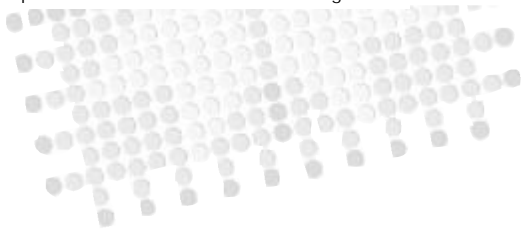






# Chapter Two: *Annex*





## Reservations to Women's Access to Inheritance: Article 2

Reservations to Article 2 are common to all countries above except Jordan, Kuwait, Lebanon, Saudi Arabia, Tunisia, and Yemen.

**Algeria:** Has reservations regarding Article 2 as it stands in conflict with Algerian Family Codes, although it does not state in exactly what way.

**Bahrain:** Regarding Article 2, its implementation has to be within the bounds of Islam.

**Egypt:** General reservation was made to Article 2 (reservation was made upon ratification). It stated that Egypt would comply with the provisions of this article on condition that it does not conflict with Islamic sharia

**Iraq:** Not bound by the provisions of Article 2 (paragraphs f and g).

**Libya:** Reservations to Article 2, which shall be implemented only with due regard to the Islamic sharia in relation to determining the inheritance portions of the estate of a deceased person, whether female or male.

**Morocco:** Declarations (not reservations) made regarding Article 2, by which Morocco will apply the provisions of this article provided:

- 1) It is without prejudice to the constitutional requirement that regulates the rules of succession to the throne of the Kingdom of Morocco.
- 2) It does not conflict with the provisions of Islamic sharia. A clarification is made that the rights granted women differ from the rights granted to men

in the Personal Status Code of Morocco, because the intention is for women and men to complement one another in marital relations by striking a balance that preserves the coherence of the family. As such, these rights are not formulated in isolation but are derived primarily from the Islamic sharia, which aims at such accomplishment and therefore may not be infringed upon or abrogated.

**Syria:** Reservations made to Article 2.

## **Inheritance Laws in Some Arab Countries**

**Jordan:** As sharia is applied in Jordan, female heirs receive half the amount of male heirs and the non-Muslim widows of Muslim spouses have no inheritance rights. A sole female heir receives half of her parents' estate; the balance goes to male relatives. A sole male heir inherits both of his parents' property. Male Muslim heirs have the duty to provide for all family members who need assistance (Country Reports on Human Rights Practices for 2001, released by the Bureau of Democracy, Human Rights, and Labor U.S. State Department of State, Jordan, March 2002, p. 14).

**Tunisia:** The technique of radd ('return'), instituted by the 1959 reform, introduces into the law of succession (Art. 143 bis of the Code of Personal Status): "the widow as the sole heir of her deceased husband." Thus, when a widow is the sole heir of the deceased spouse, the totality of inheritance falls to her, whereas before 1959, it accrued to the Treasury. The same rule applies to only daughters and granddaughters of only daughters and female descendants of the paternal line ad infinitum, who thus completely supplant in order of succession their paternal uncles and the descendants of their paternal uncles.

In addition, there is no provision in domestic law whereby difference of religion can be an obstacle to succession (International Convention on the Elimination of all Forms of Racial Discrimination. Consideration of Reports Submitted by States Parties Under Articles 9 of the Convention, Tunisia, 1993, p. 17).

The technique of representation is also a new technique which was unknown in classical Muslim law. Grandchildren (whether male or female) were not entitled to inherit from their grandfather if their father or mother was no longer alive and if they still had uncles alive at the time of their grandfather's death. Tunisian law, by instituting a 'mandatory inheritance' whose beneficiaries are the grandson

and the granddaughter born of a son or daughter who has died, has established greater equality between the generations and between men and women (International Convention on the Elimination of All Forms of Racial Discrimination. Consideration of Reports Submitted by States Parties Under Articles 9 of the Convention, Tunisia, 1993, p. 17).

**Morocco:** With respect to inheritance, the Code of Personal Status maintains the principle that the woman's share of inheritance should be half that of a man, a principle based on sharia signified in the Qur'anic verse "God charges you concerning your children to bequeath to the male the equivalent of the portion of two females." Most inheritance laws are based on the text of the Holy Qur'an, which precisely defines the portion to which heirs are entitled (CEDAW: Consideration of Reports Submitted by States Parties Under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women, Morocco, p. 55).

**Syria:** The Personal Status Law organizes the general rules of inheritance and distributes it according to grades of kinship. The Personal Status Laws grants inheritance to women at various rates in accordance to their relation to the deceased person. Upon a father's death, sons receive double that of their sisters. In addition to the Personal Status Law, inheritance is governed by the Real Estate Law, which is applied to public lands outside of constructed areas and rural areas. This Real Estate Law gives males and females equal inheritance. However, with regard to inheriting land, custom and tradition too often dominate this subject—particularly in rural areas. Women often assign their share of land to a male in return for compensation that is often insignificant or even for no compensation (The Gender Indicators Required for Monitoring and Following Post-Beijing Activities in the Syrian Arab Republic: UNIFEM Arab States Regional Office, p. 17).

## Reservations to Women's Right to Transfer Their Nationality to Their Children (Article 9)

Reservations to Article 9 are common to all countries above except Libya and Yemen.

**Algeria:** Has reservations regarding Article 9 as it stands in conflict with the Algerian Nationality and Algerian Family Codes. Article 9 grants women married to foreign men the unconditional right to pass their nationality to their children. Algeria's reservations to this article stem from conflict with Algerian Family Code, which clearly spells out the conditions under which such right is granted to women. It is not an unconditional rule for Algerian women to grant their children from a foreign father the Algerian nationality.

**Bahrain:** Reservations (but not stated) are made to Article 9.

**Egypt:** Reservations to Article 9 were made upon signature and confirmed upon ratification. The reservation is justified to be in the interest of the child since acquisition of two nationalities may be prejudicial to his/her future. It is also justified in that women are aware upon choosing to marry foreign men that the children will carry the nationality of the father.

**Iraq:** Not bound by the provisions of Article 9 (paragraphs 1 and 2).

**Jordan:** Declaration made upon signature and confirmed upon ratification. Jordan does not consider itself bound by the provisions of Article 9 (paragraph 2).

**Kuwait:** Reservations to Article 9 (paragraph 2) because it is in conflict with the Kuwaiti Nationality Act, which stipulates a child's nationality shall be determined by that of the father.

**Lebanon:** Reservations to Article 9 (2).

**Morocco:** Makes reservation to Article 9, paragraph 2 regarding automatic transfer of nationality from mother to child. This will only be granted when the child is born to a Moroccan woman in Morocco and the father is unknown or stateless. The nationality can be granted conditionally only.

**Saudi Arabia:** Reservations to Article 9 (paragraph 2) of the convention, whereby the Kingdom does not consider itself bound by the provisions of this article.

**Syria:** Reservations made to Article 9 (paragraph 2), concerning the grant of a woman's nationality to her children.

**Tunisia:** Reservations to Article 9 (paragraph 2), which must not conflict with chapter VI of the Tunisian Nationality Code [see below].

## Nationality Laws in Some Arab Countries

**Algeria:** According to the Code of Algerian Nationality of 1970, there is no distinction between men and women with respect to the general conditions for acquisition or loss of nationality. In accordance with Articles 6 and 7 of the order, the following persons are deemed to be Algerians:

- A child born of an Algerian father.
- A child born of an Algerian mother and unknown father.
- A child born of an Algerian mother and a stateless father.

Article 17 stipulates that "minor children of persons who acquire Algerian nationality become Algerians at the same time as their parents."

- Unmarried minor children of a person who has regained nationality, when they are living with that person, recover their Algerian nationality or acquire it by right (United Nations: Consideration of Reports Submitted by States Parties under Article 18 of the CEDAW: Algeria, 1998, p. 17, 18).

**Syria:** The Nationality Law, Article 3, paragraph A, 1969 includes the following: "The person born inside or outside the country from a Syrian Arab Father" is considered *ipso facto* a Syrian Arab." Thus, Syrian males give their nationality to their children regardless of where they are born, while Syrian women are deprived of giving Syrian nationality to their children if not married to a Syrian male. This law is inconsistent with Syrian civil law, which gives women full legal competence (UNIFEM Arab States Regional Office: The Gender Indicators Required for Monitoring and Following Post-Beijing Activities in the Syrian Arab Republic, 2001, p. 10).

**Morocco:** The Moroccan Nationality Code of 1958 governs Moroccan nation-

ality. Article 1, paragraph 1 of that Code provides that the requirements of international treaties and agreements to which the country is a party take precedence over the provisions of domestic law.

The Moroccan Nationality Code grants women equal rights with men to acquire, change, or retain their nationality. It also guarantees the equality of men and women with regard to recognition of an original nationality. However, it does not permit a Moroccan woman to confer her nationality on her husband if he is the holder of another nationality. Similarly, the Code does not give women the right to confer their nationality automatically on the children they have borne to a foreign father, except when the father is unknown or stateless. This applies wherever the delivery took place when the father is unknown, but applies only to children born in Morocco when the father is stateless (Article 6, paragraph 2 of the Moroccan Nationality Code). Morocco therefore makes a reservation to Article 9, paragraph 2 of the Convention, except as it applies to a child born in Morocco of a Moroccan mother and an alien father (United Nations: Consideration of Reports Submitted by States Parties Under Article 18 Of the CEDAW, Second Periodic Report of States Parties: Morocco, 2000, p. 25).

**Jordan:** According to Article 9 of the CEDAW convention: States Parties shall grant women equal rights with men with respect to the nationality of their children.

In regard to this article, the Jordanian Nationality Act stipulates that:

1. A Jordanian woman may retain her nationality in the event of her marriage to a non-Jordanian.
2. A Jordanian woman may retain her Jordanian nationality in the event of her marriage to a person who has acquired a nationality other than Jordanian.

With regard to Article 9, paragraph 2, children take the nationality of their father. The child of a Jordanian man is therefore Jordanian, even if the mother is a foreigner. The child of a Jordanian woman married to a foreigner, however, is not Jordanian unless he requests Jordanian nationality. Jordanian law permits dual nationality (United Nations: Consideration of Reports Submitted by States Parties under Article 18 of the CEDAW. Initial Reports of States Parties: Jordan, 1997, p. 8, 9).

Non-Jordanian husbands married to Jordanian women must apply for citizenship after fulfilling a requirement of 15 years of continuous residence. In many cases, citizenship ultimately still may be denied to the husband and children (Country Reports on Human Rights Practices for 2001 [March 2002]: Jordan: 14).

**Tunisia:** Tunisian nationality is acquired at birth by operation of law or by a decision of the authority taken under conditions laid down by law. As seen in the

information on Article 2, Tunisian nationality is extensively available to those who apply for it.

Article 13 of the Tunisian Nationality Code provides that a foreign woman marrying a Tunisian man acquires Tunisian nationality at the time of the celebration of the marriage when, by virtue of her national law, she loses her original nationality by marrying a foreigner (United Nations, International Convention on the Elimination of all Forms of Racial Discrimination: Consideration of Reports Submitted by States Parties under Article 9 of the Convention CEDAW: Tunisia, 1993, p. 16).

## **Reservations to Granting Women Equal Rights during Marriage and Its Dissolution (Article 16).**

Reservations are common to all the above countries.

**Algeria:** Reservations to Article 16 state the provisions concerning equal rights during marriage and its dissolution should not contradict the provisions of the Algerian Family Code, again without specifying how they might contradict.

**Bahrain:** Regarding Article 16, its provisions are regarded as incompatible with the Islamic sharia.

**Egypt:** Reservations to Article 16 are justified out of respect to the Islamic sharia's provisions, which govern marital relations and which may not be questioned. The sharia ensures complementarity, which guarantees true equality between the spouses. For example, "the husband is to pay bridal money to the wife and maintain her fully and shall also make a payment to her upon divorce, whereas the wife retains full rights over her property and is not obliged to spend anything on her keep. The sharia therefore restricts the wife's rights to divorce by making it contingent on a judge's ruling, whereas no such restriction is laid down in the case of the husband."

**Iraq:** Not bound by the provisions of Article 16. Reservation to this article concerns prejudice to the provisions of Islamic sharia.

**Jordan:** Declaration made upon signature and confirmed upon ratification.



Article 16 (paragraph 1c) relating to the rights arising upon the dissolution of marriage with regard to maintenance and compensation, Article 16 (paragraph 1 d and g).

**Kuwait:** Reservations to Article 16 (f), as it is in conflict with the Islamic sharia and Islam is the official religion of the State.

**Lebanon:** Reservations to Article 16 (1c, d, f, and g) regarding the right to chose a family name.

**Libya:** Reservations to Article 16 (c and d), which shall be implemented without prejudice to the rights guaranteed to women by the Islamic sharia.

**Morocco:** Reservations made to Article 16, in particular to the provisions relating to equality of men and women in rights and responsibilities upon entry into marriage and upon its dissolution. Such equality is considered incompatible with the Islamic sharia. The right of divorce for a woman is the decision of a sharia judge because of the different requirements of women and men. Men are to provide a nuptial gift upon marriage and are to support the family, while women are not required to do the same. Upon dissolution of marriage, the husband is obliged to pay while the wife has the right to manage her property as she pleases during the marriage and upon its dissolution without supervision by the husband, who possesses no jurisdiction over his wife's property.

**Syria:** Article 16 (paragraph 2), concerning the legal effect of the betrothal and the marriage of a child, in as much as this provision is incompatible with the provisions of the Islamic sharia.

**Tunisia:** Reservations to Article 16, (paragraphs c, d, f, g, and h). Tunisia does not consider itself bound by the first three paragraphs of the convention and declares that the last two paragraphs must not conflict with the Personal Status Code concerning the granting of family names to children and the acquisition of property through inheritance.