

## **International Human Rights Law as a Confrontational Setting: Religion v. Egalitarian Family Norms**

Ruth Halperin Kaddari  
Senior Lecturer  
Bar Ilan University, ISRAEL

International law has various means of forming international human rights norms. The broadest and most ambitious with respect to women's international human rights is the Convention on Elimination of all forms of Discrimination Against Women (CEDAW), entered into force in 1981, to which currently 185 States are members. To date, 96 States are also parties to the Optional Protocol of CEDAW, which handles communications from individuals against their states for violation of CEDAW.

Ever since Article 16 of the Convention was enacted, it served as the most detailed account of the equality principle in marriage and family relations, on the international level. In 1994, the CEDAW Committee had utilized its power and mandate to develop the norm set under Article 16, and issued a General Recommendation (number 21), which further elaborates and deepens those principles. Regardless of their being the most comprehensive source for the principle of equality in marriage and family life, and perhaps because of this, Article 16 is the thematic article to which the largest number of reservations were entered. It seems that what the States that entered reservation to Article 16 have in common is the significant position they accord to religious and/or customary law, particularly within the area of personal status and family life, in contradiction to the principles that are set out in Article 16.

This practice of entering reservations clearly puts into question the extent to which the Convention, as a legal tool, can be used to advance human rights values and principles, such as the principle of equality in marriage and family life, and to turn it into a universal norm. The difficulties for doing this are found both at the practical and at the theoretic level.

This is expressed on the routine work of the Committee, primarily during the constructive dialogues it conducts with the reporting States, as I will demonstrate in my talk. At the theoretic level, this seems to be a concretization of the well-known tension between multiculturalism and commitment to universal human-rights and feminism. My talk will build upon the familiar theoretic basis of this dilemma, in order to demonstrate how these issues translate into concrete attempts to further develop new norms in family law, through the formation of a new General Recommendation that deals with the economic consequences of divorce.