

LIBYAN ARAB JAMAHIRIYA

CEDAW

RESERVATIONS AND DECLARATIONS

(Unless otherwise indicated, the reservations and declarations were made upon ratification, accession or succession)

Reservation:

1. Article 2 of the Convention shall be implemented with due regard for the peremptory norms of the Islamic Shariah relating to determination of the inheritance portions of the estate of a deceased person, whether female or male.
2. The implementation of paragraph 16 (c) and (d) of the Convention shall be without prejudice to any of the rights guaranteed to women by the Islamic Shariah.

Note

On 5 July 1995, the Government of the Socialist People's Libyan Arab Republic notified the Secretary-General of the "new formulation of its reservation to the Convention, which replaces the formulation contained in the instrument of accession" which read as follows:

[Accession] is subject to the general reservation that such accession cannot conflict with the laws on personal status derived from the Islamic Shariah.

(Note 33, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)

OBJECTIONS MADE TO STATE PARTY'S RESERVATIONS AND DECLARATIONS

(Unless otherwise indicated, the objections were made upon ratification, accession or succession)

Denmark, 3 July 1990

With regard to the reservation made by the Libyan Arab Jamahiriya upon accession:

"The Government of Denmark has taken note of the reservation made by the Libyan Arab Jamahiriya when acceding [to the said Convention]. In the view of the Government of Denmark this reservation is subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its internal law as justification for failure to perform a treaty."

Finland, 8 June 1990

With regard to the reservation made by the Libyan Arab Jamahiriya upon accession (see also objection made on 16 October 1996, hereinafter, with regard to the reservation made by the Libyan Arab Jamahiriya upon accession, as modified on 5 July 1995):

"The Government of Finland has examined the contents of the reservation made by the Libyan Arab Jamahiriya and considers the said reservation as being incompatible with the object and purpose of the Convention. The Government of Finland therefore enters its formal objection to this reservation.

"This objection is not an obstacle to the entry into force of the said Convention between Finland and the Libyan Arab Jamahiriya."

Finland, 16 October 1996

With regard to the reservation made by the Libyan Arab Jamahiriya upon accession, as modified (see objection under 8 June 1990 and note 36 [*Ed. note: see above*]):

"A reservation which consists of a general reference to religious law without specifying its contents does not clearly define to the other Parties of the Convention the extent to which the reserving State commits itself to the Convention and therefore may cast doubts about the commitment of the reserving State to fulfil its obligations under the Convention. Such a reservation is also, in the view of the Government of Finland, subject to the general principle of the observance of treaties according to which a Party may not invoke the provisions of its internal law as justification for failure to perform a treaty."

Germany

The Federal Republic of Germany considers that the reservations made by Egypt regarding article 2, article 9, paragraph 2, and article 16, by Bangladesh regarding article 2, article 13 (a) and article 16, paragraph 1 (c), and (f), by Brazil regarding article 15, paragraph 4, and article 16, paragraph 1 (a), (c), (g) and (h), by Jamaica regarding article 9, paragraph 2, by the Republic of Korea regarding article 9 and article 16, paragraph 1 (c), (d), (f) and (g), and by Mauritius regarding article 11, paragraph 1 (b) and (d), and article 16, paragraph 1 (g), are incompatible with the object and purpose of the Convention (article 28, paragraph 2) and therefore objects to them. In relation to the Federal Republic of Germany, they may not be invoked in support of a legal practice which does not pay due regard to the legal status afforded to women and children in the Federal Republic of Germany in conformity with the above-mentioned articles of the Convention. This objection shall not preclude the entry into force of the Convention as between Egypt, Bangladesh, Brazil, Jamaica, the Republic of Korea, Mauritius and the Federal Republic of Germany.

Objections of the same nature were also formulated by the Government of the Federal Republic of Germany in regard to reservations made by various states, as follows:

...

v) 20 June 1990: In respect of the reservation made by the Libyan Arab Jamahiriya.

...

Mexico

11 January 1985

The Government of the United Mexican States has studied the content of the reservations made by Mauritius to article 11, paragraph 1 (b) and (d), and article 16, paragraph 1 (g), of the Convention and has concluded that they should be considered invalid in the light of article 28, paragraph 2, of the Convention, because they are incompatible with its object and purpose.

Indeed, these reservations, if implemented, would inevitably result in discrimination against women on the basis of sex, which is contrary to all the articles of the Convention. The principles of equal rights of men and women and non-discrimination on the basis of sex, which are embodied in the second preambular paragraph and Article 1, paragraph 3, of the Charter of the United Nations, to which Mauritius is a signatory, and in articles 2 and 16 of the Universal Declaration of Human Rights of 1948, were previously accepted by the Government of Mauritius when it acceded, on 12 December 1973, to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The above principles were stated in article 2, paragraph 1, and article 3 of the former Covenant and in article 2, paragraph 2, and article 3 of the latter. Consequently, it is inconsistent with these contractual obligations previously assumed by Mauritius for its Government now to claim that it has reservations, on the same subject, about the 1979 Convention.

The objection of the Government of the United Mexican States to the reservations in question should not be interpreted as an impediment to the entry into force of the 1979 Convention between the United Mexican States and Mauritius.

Objections, identical in essence, *mutatis mutandis*, were also formulated by the Government of Mexico in regard to reservations made by various States, as follows [for the States which were not Parties to the Covenants (marked below with an asterisk *), the participation in the Covenants was not invoked by Mexico in its objection with regard to reservations]:

...

x) 23 July 1990: In respect of the reservation made by the Libyan Arab Jamahiriya.

Netherlands

"The Government of the Kingdom of the Netherlands considers that the reservations made by Bangladesh regarding article 2, article 13 (a) and article 16, paragraph 1 (c) and (f), by Egypt regarding article 2, article 9 and article 16, by Brazil regarding article 15, paragraph 4, and article 16, paragraph 1 (a), (c), (g), and (h), by Iraq regarding article 2, sub-paragraphs (f) and (g), article 9 and article 16, by Mauritius regarding article 11, paragraph 1 (b) and (d), and article 16, paragraph 1 (g), by Jamaica regarding article 9, paragraph 2, by the Republic of Korea regarding article 9 and article 16, paragraph 1 (c), (d), (f) and (g), by Thailand regarding article 9, paragraph 2, article 15, paragraph 3, and article 16, by Tunisia regarding article 9, paragraph 2, article 15, paragraph 4, and article 16, paragraph 1 (c), (d), (f), (g) and (h), by Turkey regarding article 15, paragraphs 2 and 4, and article 16, paragraph 1 (c), (d), (f) and (g), by the Libyan Arab Jamahiriya upon accession, and the first paragraph of the reservations made by Malawi upon accession, are incompatible with the object and purpose of the Convention (article 28, paragraph 2).

These objections shall not preclude the entry into force of the Convention as between Bangladesh, Egypt, Brazil, Iraq, Mauritius, Jamaica, the Republic of Korea, Thailand, Tunisia, Turkey, Libyan Arab Jamahiriya, Malawi and the Kingdom of the Netherlands."

Norway, 16 July 1990

"The Government of Norway has examined the contents of the reservation made by the Libyan Arab Jamahiriya, by which the accession 'is subject to the general reservation that such accession cannot conflict with the laws on personal status derived from the Islamic Shariah'. The Norwegian Government has come to the conclusion that this reservation is incompatible with the object and purpose of the Convention (article 28, paragraph 2). The Government of Norway objects to the reservation.

The Norwegian Government will stress that by acceding to the Convention, a state commits itself to adopt the measures required for the elimination of discrimination, in all its forms and manifestations, against women. A reservation by which a State Party limits its responsibilities under the Convention by invoking religious law (Shariah), which is subject to interpretation, modification, and selective application in different states adhering to Islamic principles, may create doubts about the commitments of the reserving state to the object and purpose of the Convention. It may also undermine the basis of international treaty law. All states have common interest in securing that all parties respect treaties to which they have chosen to become parties."

Sweden

17 March 1986

"The Government of Sweden considers that [the following reservations] are incompatible with the object and purpose of the Convention (article 28, paragraph 2) and therefore objects to them:

...

"Indeed the reservations in question, if put into practice, would inevitably result in discrimination against women on the basis of sex, which is contrary to everything the Convention stands for. It should also be borne in mind that the principles of the equal rights of men and women and of non-discrimination on the basis of sex are set forth in the Charter of the United Nations as one of its purposes, in the Universal Declaration of Human Rights of 1948 and in various multilateral instruments, to which Thailand, Tunisia and Bangladesh are parties.

...

"In this context the Government of Sweden wishes to take this opportunity to make the observation that the reason why reservations incompatible with the object and purpose of a treaty are not acceptable is precisely that otherwise they would render a basic international obligation of a contractual nature meaningless. Incompatible reservations, made in respect of the Convention on the elimination of all forms of discrimination against women, do not only cast doubts on the commitments of the reserving states to the objects and purpose of this Convention, but moreover, contribute to undermine the basis of international contractual law. It is in the common interest of states that treaties to which they have chosen to become parties also are respected, as to object and purpose, by other parties."

Subsequently, the Secretary-General received, from the Government of Sweden, objections of the same nature as the one above with regard to reservations made by the following States on the dates indicated hereinafter:

...

- 25 May 1990 with regard to the reservation made by the Libyan Arab Jamahiriya;

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