



**University of
Sunderland**

Ebrahim, Arwa (2016) The Effectiveness of the Implementation of International Women's Conventions in Muslims: Bahrain as a Case Study. Doctoral thesis, University of Sunderland.

Downloaded from: <http://sure.sunderland.ac.uk/id/eprint/6555/>

Usage guidelines

Please refer to the usage guidelines at <http://sure.sunderland.ac.uk/policies.html> or alternatively contact sure@sunderland.ac.uk.

The Effectiveness of the Implementation of International Women's Conventions in Muslim Countries: Bahrain as a Case Study.

A THESIS SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS OF THE UNIVERSITY OF SUNDERLAND FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

Arwa Ebrahim

July 2016

“Out beyond the world of right doings and wrongdoings, there is a field... I will meet you there.”

-Rumi.

Abstract:

The debate regarding whether or not Islam is inherently discriminatory towards women is endless. Even though the Quranic verses emphasize equality between man and woman and the supremacy of human dignity, the interpretation of the Islamic texts related to women are often influenced by the values of patriarchal societies resulting in discriminatory practices against women in many Muslim countries worldwide.

The Convention of the Elimination of all Forms of Discrimination against Women (CEDAW) is often referred to as the 'women's bill of rights' as it is the first international legally-binding document that specifically deals with all areas related to women's lives. This convention is believed to aim at achieving equality between men and women in every field and supports women's access to equal opportunities in the political and social spheres trying to overcome the social and cultural obstacles that might exist so they can have full rights in areas of legal rights, education, employment, healthcare, politics and finance.

However, the implementation of this convention in Muslim societies remains as an ineffective remedy to the problems of women due to a number of reasons mainly related to lack of real government will and strict social and religious values. Like most Muslim countries, Bahrain has ratified the CEDAW while putting reservations on its main articles, leaving the convention without any real effect. Bahrain is a Muslim state that is small in population but serves as a good representation of the dilemma that Muslim societies experience in general, which is their eagerness to adapt to modern values whilst clinging at the same time to their religious roots. This thesis studies the Bahraini

society in terms of its application of the CEDAW and the legislations related to women in different fields by giving a special focus to the controversial issues in Islam that hinder a full implementation of the CEDAW.

This research has taken the challenge of investigating the situation of women rights in Bahrain and its compatibility with the international laws. Through using a research strategy based on questionnaires and interviews with different stakeholders, the thesis was able to present the views the society in Bahrain holds about the situation of women and the challenges facing women hindering them to further develop their situation.

The outcomes of the work undertaken will put recommendations to improve the situation for Muslim women as states or concerned stakeholders should not rely only on trying to fully apply the CEDAW, but should work towards renewing the religious mindsets, create social awareness, and have a genuine political will to achieve equality. In a nutshell, the main target for change is to work essentially towards making a change that comes from within.

Acknowledgments:

First and foremost, I would like to express my special thanks and appreciation to my supervisor, Dr. Kathleen Koch-Kerr. It has been an honour to be one of her students. I appreciate all her contribution of time, ideas and support to my PhD. I am also thankful for the excellent example she has provided as a successful woman who made the great balance between her family life and work life, an example that all women thrive to achieve.

I am also grateful to Dr. Ebrahim Yusuf Al-Abdullah, ambassador of the Kingdom of Bahrain to the Republic of Turkey and my boss at work. I thank him for his genuine encouragement and for helping me fulfil my obligations towards my work and studies.

A special thanks to my family. Words cannot express how grateful I am to my mother Bashira and Father Hassan, for encouraging and supporting me since I was a child in seeking knowledge and nurturing my eagerness for learning. I am also grateful to my brother Ali, whom I have been visiting in the UK throughout my years of study. He has been a great support for me and added fun and amusement to my stays in the UK. My cousin and life's best friend Reem, has been of a great support and help, to her I am always thankful. Asma, Yaseen, Yousif, Abdulla Benshams, Hussain, Aysha, Bayan, Manal, Mahmud and Rahaf, my relatives and my friends, thanks for your support in every way.

Finally, nothing of this would have been successfully accomplished without the love and support of my beloved husband Hamad. His patience, compassion and willingness to be there for me at any time I needed, gave me strength and power to continue till the end. To him and to every and each person who stood by my side throughout this journey, I will always remain grateful.

Table of Contents:

Abstract.....	ii-iii
Acknowledgments	iv
Table of Contents	v-vii
Introduction.....	1
Open Problem.....	3
Objectives of the Thesis.....	3
Contributions of the Thesis.....	4
Structure of the Thesis.....	5
Chapter One: An Overview of Literature Written on Women Rights, Women in Islam and Women Rights in Bahrain.....	9
1.1 The Status of Women in Islam.....	10
1.2 The Effectiveness of the Application of the CEDAW in Muslim Countries.....	18
1.3 Women Rights in the Kingdom of Bahrain: An Overview.....	35
1.3.1 An Overview of Bahrain.....	35
1.3.2 A Review of the Status of Women in Bahrain.....	42
Chapter Two: The Methodology.....	62
2.1 The Research Paradigm.....	63
2.1.1 In-Depth Discussion of Feminism Research.....	67
2.2 The Research Design.....	81
2.3 The Research Strategy.....	85
2.3.1 The Fieldwork Undertaken in the Research.....	89
2.4 Reliability, Replication and Validity.....	96
Chapter Three : Understanding the Modern Definition of Human Rights and the Emergence of the Concept of Women Rights.....	98

3.1 The Concept of Human Rights in Older Civilizations.....	98
3.2 The Concept of Human Rights at Early Modern Times.....	103
3.3 The Concept of Human Rights Emergence within the Context of the United Nations.....	108
3.4 The Formation of the Women Rights Concept and the Emergence of the United Nation’s First Women’s Convention.....	115
3.5 Formation of the Convention of Elimination of all forms of Discrimination against Women (CEDAW)An overview.....	131
Chapter Four: Women in Bahrain: Their Position in Reality and within the CEDAW.....	146
4.1The Position of Bahrain within the CEDAW.....	146
4.2 Bahrain’s CEDAW Report to the Human Rights Council in 2014.....	155
4.3 Analysis of the Questionnaire Entitled, ‘The Effectiveness of Implementing International Conventions for Improving the Situation of Women’s Rights in Muslim Countries: Bahrain as a Case Study.....	164
4.3.1 Analysis of Female and Male Responses to the Close-ended Questions 1-9	164
4.3.2 Female and Male Responses to the Open-Ended Questions 10-11 and 12.....	187
4.4 Analysis of Female and Male Responses to the Advantages and Disadvantages for Women in Bahrain by Breaking Them into Separate Categories.....	197
4.4.1 Bahraini Women in the Workforce.....	197
4.4.2 Bahraini Women and Education.....	206
4.4.3 Bahraini Women and Political Participation and Decision Making.....	208
4.4.4 Bahraini Women and the Ability to Drive a Car and Travel.....	213
4.4.5 Bahraini Women and Freedom of Speech/Expression.....	215
4.4.6 Bahraini Women and Access to Health Care System.....	217
4.4.7 Bahraini Women and the Right to Housing.....	219
4.4.8 Bahraini Women and Owning Property and Inheritance	221
4.4.9 Bahraini Women and Social Insurance and Early Retirement.....	222
4.4.10 The Establishment of the Supreme Council for Women and Empowering Women through Legislations.....	223

4.4.11 The Family Law and Sharia Related Rules.....	224
4.4.12 Bahraini Women and Citizenship.....	230
4.4.13 Other Comments Regarding the Advantages of Women in Bahrain.....	232
4.4.14 Other comments regarding the Disadvantages for Women in Bahrain.....	233
4.5 Analysis of the Question ‘ What does Full Women Rights’ Mean to You?.....	234
4.6 The Interviews with Women Rights Activists and Religious Clerics.....	235
4.6.1 Interview with Bahrain Women's Union.....	235
4.6.2 Interview with a Sunni Cleric.....	238
4.6.3 Interview with a Shia Cleric.....	240
4.7 A Sum up.....	243
Chapter Five : Controversial Issues of Sharia that Prevent Muslim States from Fully Adhering to International Law	245
5.1 Polygamy in Islam.	245
5.2 The Veil in Islam.....	257
5.3 Inheritance in Islam.....	265
5.4 Women and Leadership in Islam.....	269
5.5 Family Law in Islam.....	272
5.6 Marital Rape and Violence against Women in Islam.....	287
5.7 The Summary.....	289
Chapter Six: Conclusion and Future Work.....	297
6.1 The Summary.....	297
6.2 Future Work	305
Appendix 1: The Pie Charts of the Research Questionnaire.....	307
Appendix2: Positive Legislative and Administrative Decisions Passed for Women in Bahrain	326
List of References.....	329

Introduction:

the Prophet Mohammed's last words were about being good to one's family, particularly to one's wife: 'The most perfect of the believers is the most perfect in character, and the best of you are those among you who are best to their wives, [Al-Tirmidhi]' (Qasmi 2006, p. 219). Yet, Muslim women around the world are mistreated and discriminated against, all under the name of religion. It is vital to mention as a starting note, that investigating the Shariah law or Islam, which is an essential part of this research does not aim to demonize the latter. In fact, as Aslan explains "Religion, it must be understood, is not faith. It is an institutionalised system of symbols and metaphors (read rituals and myths) that provides a common language with which a community with faith can share with each other their numinous encounter with the Devine Presence" (Aslan 2011, xxiii). Thus, challenging some aspects related to women in Islam, is not a challenge to the faith or belief of certain groups but rather to the man's interpretation of that faith or religion.

Therefore, another important issue for consideration, is that the violation of women's rights is not limited to Muslim practices. The issue of women's status has been a subject of discussion for hundreds of years in almost all the world's societies; women continue to be oppressed in a world that was and still is patriarchal. In such a male-dominated world, religious scriptures are used as justification for the mistreatment of women. Texts that advocate the liberation of

women are used against them because the circulation, interpretation and teaching of such texts are controlled by men. After major social and political changes, the concept of human rights, which include those of women, became the prevailing standard for regulating behaviour, conduct and policies in the West. In adherence to secular rules, Western societies confine the influence of the Church within its walls and build societies that comply with universal moral codes. In such communities, different faiths, religions and races can co-exist.

The situation differs in the Muslim world. Islam is a constant presence in most Muslim societies and plays a major role in shaping relations amongst individuals and groups. Because of the strong influence of Islam, women in the Muslim world are subjugated in the name of religion, whose practice is controlled by a majority of men who continue to embrace a patriarchal perspective. The core problem lies in the manner by which first-century Muslim theologians, who emerged after the death of the Prophet Mohammed, exercised their jurisdiction; they interpreted much of his teachings and Quranic texts as final, as this thesis will represent in later chapters, because these theologians were themselves repressed in patriarchal societies. The Quran does not endorse the judgment of a theologian or scholar as final and beyond question. In more than one section, it emphasises that the Prophet was sent as an agent of mercy for humanity: 'And We have not sent you but as a mercy to the worlds' (Al-Hilali 21:107¹); he is also described as a preserver of human dignity: 'And surely We have honored the children of Adam,'

¹ All the verses quoted through this research will be taken from this translation of the Quran without the need to repeat the reference each time.

(17:70). How can all the practices of discrimination against women in the Muslim world be sanctioned by Islam when the absolute message of the religion is the protection of human dignity? The key answer to this dilemma is that throughout history, religious clerics, who are men, have interpreted Quranic texts with the mindset of a man who sees a woman merely as the mother of his children and an entertainer who caters to his pleasures. Jurisdiction over religious practices has therefore been exercised for the benefit of men and not women and this thesis analyses in depth how this behaviour is exercised in Bahrain as a case study.

- **Open problem**

This thesis investigates whether Muslim countries grant women their full rights in accordance with international standards whilst preserving the uniqueness of their identities. The challenge of this goal lies in striking a balance between keeping in step with modernity and maintaining the specific identity of a society. In illuminating these issues, this research selects Bahrain as a case study that is striving to be viewed as modern and compliant with human rights law whilst simultaneously being Muslim.

- **Objectives of the thesis**

This thesis primarily aims to formulate recommendations on how women in Muslim countries can enjoy the liberties upheld by women's rights conventions whilst simultaneously staying true to their religious identities. This research does not call for the abandonment of Islamic teachings in adopting the practices that are championed in international women's rights conventions. In fact, it aims to provide

solutions that originate from within Islam; the argument put forward in this work is that rereading and reinterpreting Islam do not contradict the teachings of the religion even as these correspond with the basic principles that underlie women's rights. Viewing Islam from a different perspective ensures that the manner by which women's rights are treated in the Muslim world conforms to international standards without making the followers of Islam feel as though they are abandoning their religion to satisfy the international institutions (such as the United Nations) which is perceived by the majority of Muslim societies, as post-colonial institution. The short-term objectives of the thesis are:

- to comprehensively analyse the representation of women in Islam and in international conventions, and
- to exhaustively study the situation of Bahraini women, their reality and the advantages and obstacles that they encounter.

The long-term objective of the thesis is to develop a general plan for improving the situation of Muslim women in Muslim societies. A progressive interpretation of Islam necessitates collaboration amongst policy makers, human rights activists, the media, educational mentors and enlightened religious clerics. Formulating and implementing such a plan are difficult tasks but possible if done gradually and collectively. The main features of the plan are described in the concluding chapter.

- **Contributions of the thesis**

This thesis is regarded as a critical resource for policy makers and religious institutions that are genuinely committed to helping women in the Muslim world in

general and in the Gulf States in particular. These contexts are characterised by similar policies and social realities. This research probes into the circumstances surrounding Muslim women in societies that are heavily influenced by religion and culture but at the political level are aiming to present themselves as examples of modernity and development. The recommendations discussed throughout the thesis, particularly in the concluding chapter, can pave the way for the emergence of a new era for Muslim women. The principal contributions of the thesis are as follows:

- It comprehensively studies the situation of women in Islamic societies and revisits the most controversial related issues.
- It provides a thorough analysis of women's representation in Islamic texts and in articles of international conventions.
- It proposes novel recommendations for Muslim states in terms of balancing the need to implement the regulations enacted by international conventions and the need to preserve their religious identities.
- It serves as a reference for researchers, women's rights activists and policy makers that are concerned with women's rights in Muslim countries in general and in Bahrain in particular.

- **Structure of the thesis**

The rest of the thesis is structured as follows:

Chapter 1 (Overview of Literature on Women's Rights, Women's Rights as Indicated in Islam and Women's Rights in Bahrain) presents an analysis of women's rights in three contexts: (a) women's rights as indicated in Islam, (b) women's rights within the context of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and (c) women's rights in the Bahraini society and legislations. The literature review discusses the main themes and ideas presented by different scholars, who are divided between viewing Islam as congruent with international law in terms of women's rights and regarding the religion as failing to uphold such rights.

Chapter 2 (Methodology) outlines the methodology used in the research, with explanations of the paradigm, design, strategy and reliability, replication and validity of the study. It also focuses on women's studies because the current work falls under this specific category. It is essential to note that the thesis, by utilizing fieldwork that included both surveys and interviews, was able to represent how different segments of Bahraini society look at the situation of women in Bahrain. The fieldwork conducted helped the researcher to identify and analyse each topic of controversy related to Bahraini women in order to draw conclusions regarding the possibility of change at the social and legislative levels.

Chapter 3 (Understanding the Modern Definition of Human Rights and the Emergence of the Women's Rights Concept) presents how human rights and women's rights have been formulated and implemented over time. It discusses the concept of human rights in older civilisations, in early modern times and in the context of the United Nations. The chapter also explains the emergence of the

women's rights concept and the establishment of the United Nation's first women's convention, with special focus on the founding of CEDAW.

Chapter 4 (Women in Bahrain: Their Position in Reality and within CEDAW) revolves around Bahrain, the case study. It highlights the position of Bahrain in CEDAW and its latest CEDAW report to the Human Rights Council. The chapter also presents a comprehensive analysis of the responses to the questionnaire ('The Effectiveness of Implementing International Conventions for Improving the Situation of Women's Rights in Muslim Countries: Bahrain as a Case Study) administered to the study participants. Specifically, it looks into the perspectives of the female and male respondents with regard to the advantages and disadvantages encountered by Bahraini women in Bahrain. The responses are grouped into separate categories. Finally, this chapter discusses the interviews with women's right activists and religious clerics regarding women's rights in Bahrain.

Chapter 5 (Controversial Issues of Sharia that Prevent Muslim States from Fully Adhering to International Law) enquires into the most controversial issues related to women's representation in Islam. These issues include polygamy, the veil, inheritance, leadership, family law and other related matters. It comprehensively explains the areas of conflict between international standards and Sharia rules.

Chapter 6 (Conclusion and Future Work) Building upon the questionnaire results and the analysis of the most controversial topics regarding women in Islam, the conclusion provides formulated recommendations for improving the situation of

Muslim women and suggestions for future work. The situation of Muslim women in relation to Sharia law and international standards, with a focus on Bahraini women, is analysed, after which the most applicable remedies to the dilemma Muslim women and societies face are elucidated.

Chapter One: An Overview of Literature Written on Women Rights, Women in Islam and Women Rights in Bahrain

It was a long journey before women around the globe could achieve an international consensus establishing the mechanisms and tools which would function to protect and promote women's rights worldwide. After a long history of struggle, women in modern times are able to enjoy and practise many rights that they lacked in earlier decades. However, despite the milestones women have achieved in certain parts of the world, particularly in Western countries, full women's rights are still lacking in many other societies.

The situation of women in the Muslim world has always had a special focus, and the debate regarding Muslim women's rights is unending. The status of women in Islam remains one of the most controversial issues of our time. A vast quantity of literature has explored this subject. Some scholars support Islam as a system which grants women their rights, while others oppose this notion – they see Islam as a system or a way of life that fails to grant women adequate rights in line with the needs of the modern day world. These discussions are constantly being shaped and reshaped by the external and internal factors Muslim societies are experiencing. Even though the complexities surrounding the Muslim woman's status are particular to country-specific contradictions, there are general broad lines shared by the majority of Muslim societies.

The first section of this chapter is going to look into the status of women in Islam, exploring the different positions taken by scholars whether they look to the relation between the teachings of Islam in regards to women in a positive or a negative manner. In the following section, the chapter will draw an overall image of the debate regarding the application of the CEDAW in Muslim countries and whether it is plausible for the majority of scholars or not. In the third and last section the chapter will focus on the case study of this research, Bahrain, highlighting the reality of women in this country within the legislations, international conventions' implementations and the social and religious realities. The chapter will then build an overall structure for the reality of women within the context of Islamic provisions, position of Muslim women within the frame of the international law and finally highlight the situation of women in Bahrain specifically between Islam and the application of the CEDAW convention.

1.1 The Status of Women in Islam

When reviewing the literature that has investigated this subject, we find that a number of experts and researchers believe that applying Islamic law to the status of women has caused discrimination against them. Various evidence for such a claim has been provided by different studies. The influence of patriarchal practices within the context of Islamic law is one of the main arguments presented to explain Islam's failure to achieve equality between men and women. Esposito argues that patriarchy and its legacy, which has been legitimized in the name of religion, is a factor that causes discrimination against women in some Muslim societies. Bearing in mind that Esposito mentions that the status of women in all the world's religions

has been affected by patriarchy, with regard to Muslim women he argues the following:

The status of women and the family in Islamic law was the product of the Arab culture, Quranic reforms and foreign ideas and values assimilated from conquered peoples. While the Quran introduced substantial reforms, providing new regulations and modifying local custom and practice, at the same time, much of the traditional pre-Islamic structure with its extended family, the paramount position of males, the roles and responsibilities of its members, and family values was incorporated (Esposito 2011, p.168).

Scholars who belong to such a school of thought argue that norms in the Islamic tradition that are discriminatory to women are a result of the fact that, historically, it was men who acted as commentators and interpreters of the religious texts and were also legislators, judges and people in power.

Coulson & Hinchcliffe argue that even though the Quran provides fundamental ethics which are in essence in favour of women, the rules of the Quran were separated from the formulation of Islamic law as the principle rule-set in Islam is that the status quo remains valid unless and until it was expressly superseded by the dictates of Islam; the authors write, 'the modicum of explicit Quranic legal rulings on the status of women were naturally observed, but outside this the tendency was to interpret the Quranic provisions in the light of the prevailing standards of the tribal law' (1978. p. 37). The authors present an example of the contradiction between what the Quran essentially presents and what was later practised according to the classical Islamic law in the matter of polygamy. This reflects how the Quranic norms were interpreted by patriarchal ideals:

While the Quran might insist upon the impartial treatment of co-wives in polygamous unions, classical Islamic law did not elevate this requirement into any kind of legal restriction upon a husband's entrenched right to have four wives. The result was that the Quranic provisions concerning women's status and position in family were dissipated and largely lost (Coulson and Hinchcliffe 1978, pp. 37-38).

This argument stresses that it was the patriarchal nature and patriarchal behaviour of previous Muslim societies towards women's issues, rather than the Quranic norms, which resulted in putting women in an inferior position.

Sikri also emphasizes the notion of the influence of the patrilineal and patriarchal features of Muslim societies upon the status of women but the author believes that Islam partially allowed for such prevalence of social values. Sikri argues that equilibrium exists between the social status and the legal status of women because Muslim family law is adapted to the structure of the patriarchal family. The researcher argues that classical Islam legitimizes the existence of social influence which causes discrimination against women: 'the basic cause of women's inferiority is thus social custom, in part legitimized by the Sharia: women's low legal status is chiefly attributable to the factors shaping the Arab extended family' (Sikri 1999, pp.272). Sikri argues that due to the allowances made by previous Islamic scholars for the social scheme to have an influence upon the status and laws related to women, the force of social law prevails when it has a conflict with the laws related to women, whether secular or Islamic, as the social law is stronger. 'Any attempt to assign to women artificially, from above, a legal status not consonant with their social status disturbs the equilibrium between the two spheres, creates tensions and usually does not stand the test of reality, for social

custom is stronger than law, even Sharia law' (Sikri 1999, p.273). On the other hand, Barlas in her work entitled, *Believing Women in Islam: Unreading Patriarchal Interpretation of the Quran*, challenges the oppressive readings of the Quran and offers a reading that confirms that Muslim women can struggle for equality from within the framework of the Quran. The author does not deny that the Quran can be read in a patriarchal mode as privileging males but argues that every religion is open to variant readings, for example as Christianity was when the Crusaders wiped out millions of people in the name of Christ: 'oppressive practices in many Muslim societies often stem from an uncritical adherence to what are assumed to be Islamic norms and strictures' (Barlas 2004, p.10). The author explains that the methods of reading the Quran which were influenced by patriarchal attitudes were the reason for a misogynistic reading and that in order to produce a liberating reading of the Quran, 'we need to use a different method to read it and ask different sorts of questions than we have been willing to ask thus far (Ibid)'.

Arkoun, a prominent secular Arab scholar, adds to such discourse by explaining that the reason for the inferior status of women is actually the lack of female interpreters of Islamic law during previous centuries: 'In its essence, the problem of women in Islam is an interpretative problem, because the absence of women interpreters in our age, as is the case in every age, constitutes a basic obstacle in the way of the Muslim woman's ability to liberate herself as other women in the world do' (Arkoun 1994, p.6).

Roald presents another dimension of the issue of mistreating and misunderstanding the position of women in Islam. Roald explains that it is not only

the androcentric interpretation of the texts related to women which contributes to such a problem, but that there is a trend among Muslim societies in the selection and emphasis of certain Quranic verses related to women. Roald argues that the level of education or the approach of a Muslim society leads to them giving emphasis to particular verses which show the power of a man over a woman while neglecting, deliberately or non-deliberately, the many other verses which praise women in Islam. The author states:

I have observed that the Quranic verse 4:34, which indicates a power relation between men and women, was generally referred to more often than other verses which deal with the marital relationship in terms of mutual love and tenderness (K.9:71, k.2:228; k.4:19, k.30:21) [...] The issue is not always so much which texts exist but which ones are selected, deliberately or non-deliberately (Roald 2001, p.119).

Roald outlines the educational and social class factors that contribute to discrimination against women rather than the Quranic texts themselves, as such factors emphasize only the texts that are in favor of men.

Nawal El-Saadawi, a prominent Egyptian feminist, supports the arguments which claim that interpretations and laws which are influenced by patriarchal societies are a main cause for the inferiority of women, but argues that such a conflict is not limited to Muslim societies and also applies to non-Muslim societies. El-Saadawi argues that there is an economic factor in the creation of societies that are oppressive to women: 'The original cause of [women's] triple oppression is not Islam but the patriarchal class system which manifests itself internationally as world capitalism and imperialism, and nationality in the feudal and capitalist classes of the Third World Countries' (El-Sadaawi 1997, p.91). El-Saadawi highlights the fact

that the oppression of women is not limited to a certain religion or ideology, but that it is a product of an economic-social situation that can occur in Muslim or non-Muslim societies.

Moreover, Sachedina, in a study entitled 'Globalization, Religion and Women', underlines, like El-Saadawi, that the discrimination against women is not limited to the Muslim parts of the world. As a matter of fact, Sachedina argues that globalization is a new trend of practice in discrimination against women – they are used as cheap labour and are vulnerable to exploitation. These aspects of globalization are becoming like the previously imposed religious restrictions. He explains that,

[t]hroughout history, women have been denied basic human rights, through religiously imposed restrictions or economically designed exploitation and manipulation of their position in family and in society. Globalization—as a new type of domination and a universal ideology—presents new challenges relating to women's human rights, their use as cheap labor, and their exploitation by multi-national corporations and their male surrogates in developing countries (Sachedina 2002, p.11).

Additionally, a group of scholars and experts emphasize that the misinterpretation of Islam is the reason for women lacking some of their rights in modern days. Wadud-Muhsin, on the importance of interpreting the intention of the Quranic text in order to understand the real meaning behind it, especially in verses related to women, states: 'No method of Quranic exegesis is fully objective. Each exegete makes some subjective choices. Some details of their interpretation reflect their subjective choices and not necessarily the intent of the text. Yet, often, no distinction is made between text and interpretation. (Wadud-Muhsin 1998, p.128).'

Barlas supports such an argument as she explains that the patriarchal mode of reading the Quran – due to the historical context at the time of interpretation – was the cause of discrimination against women and not the Quranic text itself: ‘inequality and discrimination derive not from the teachings of the Quran but from the secondary religious texts, the Tafsir (Quranic exegesis) and the Ahadith (narratives purportedly detailing the life and praxis of the Prophet Muhammad)’ (Barlas 2004, p.3). In her work, the author argues that Islam could actually be liberating for women if it was read differently, and that rereading the Quran differently is encouraged in Islam. The discourse regarding the possibilities of rereading and reinterpreting the Islamic texts related to women will be discussed in more detail in a later chapter in this research.

Dechant emphasizes the equal opportunities that Islam provides to women and explains that Islam gives Muslim men and women full equal rights and grants women the right to work, own property and be financially independent, highlighting that the discrimination against women in Muslim societies occurs due to the existence of a gap between Islamic teachings and their practices in Muslim societies:

Islam has always held that men and women are equal; both can and should be educated to perform according to their various talents and energies. Islamic teachings encourage women to assert their political rights and to hold government office if they desire. Any Muslim woman also has the right to work and earn money, to own property, to enter into legal contracts and to manage her business as she pleases. However, in the Gulf as in many parts of the Middle East, there is often a gap between what Muslims are supposed to do and what they actually do as relates to treatment of women (Dechant and Al-Lakmy 2005 p.123).

Al-Dakkan in a study that discusses the thoughts of Tunisian Scholar Mohamed Talbi – a prominent Islamic historian – regarding the issue of women in Islam, underlines how Talbi explains that the jurisdictions that were put forward for women in Islam could not be understood without studying the historical, social, psychological and human dimensions behind them in the reform project started by Muhammad to build the Muslim community which was unique at that time. Against the rise of radical Islamic voices that try to undermine the role of women in Islam, Talbi argues that Islam equalizes men and women as he stresses that God has, ‘aimed for fifteen centuries and until today to reduce the imbalance in the equation and aims in the end for a true equality that considers the advantages and virtues of the two genders.’ (Talbi, 1996, in Al-Dakkan 2012, p.11) In such a view, as presented by Dechant and Al-Dakkan, it is acknowledged that men and women are different, but nonetheless are equal, according to Islam. Such experts emphasize that the conflict against granting women their full rights lies in not understanding the holistic view of men and women in Islam, which is caused by the cultural traditions practiced by Muslim societies, rather than by Islam itself.

It is clear that scholars and experts are divided in their positions regarding the situation of women in Islam. As highlighted previously, some of the experts believe that Islam is influenced by patriarchal practices or misinterpreted in a way that reduces the empowerment of women and causes inequality with men, while other experts believe that Islam is able to grant women their full rights and that it is a matter of a social practice that should be addressed and revisited. However, it is evident that there is a clear confusion in applying the laws related to women among

Muslim countries and that the practices differ from one Muslim society to another. Hijab explains the struggle of defining the position of women in Islam – modernists try to use the most liberal interpretations possible that empower Muslim women, while the traditionalists use the same texts, with different interpretations, to restrict women's functions. Hijab states:

For more than a hundred years, Arab women have been engaged in the public debate on their role in a rapidly changing society. Both women and men have conducted the debate within an Islamic framework; they have turned to the Quran, the Sharia (the Islamic law), the sayings of the Prophet Muhammad, and the lives of his companions to define women's rights in the modern age. While modernists have argued for the most liberal interpretation of Islam possible, the conservatives have used the same sources to argue for restrictions on women's roles (Hijab 1998, p.3).

1.2 The Effectiveness of the Application of the CEDAW in Muslim Countries.

From the debate around whether Islam influences women's rights positively or negatively, another debate stems regarding the effectiveness, validity and suitability of international mechanisms which have been created, initially by Western States, for the improvement of the situation of women all over the globe, including Muslim women. Such a notion has created fear among Muslim societies; this is a fear of losing their values by adhering to Western ones belonging to countries they distrust, countries who colonized most of the Muslim societies at earlier points in history. Haddad argues that the Western example is not perceived positively among Arab societies, which results in those societies clinging harder to their traditions:

Given the perception of the collapse of Western society, it is clear that traditional family values in the Arab world will be propagated strongly for fear of loss of social cohesion. While the Western model may continue to be alluring to some, the inability of Arab observers to decipher where to draw the line in order not to fall in the same trap has given impetus to the traditional affirmation of values (Haddad 1998, p.22).

Barlow & Akbarzadeh, in their work that studies the ideas of Fatima Mernissi, a Moroccan feminist, underline the latter's argument regarding the reason for Muslim societies' refusal of Western norms for women's rights. Mernissi claims that the men in those societies fear losing their power over women. The authors state:

For Mernissi, Islamic tradition rests on patriarchy, institutionalized and reproduced over the centuries. Modern states that have emerged in the Middle East are firmly rooted in a patriarchal system. The failure of these states to uphold women's rights in accordance with international standards is generally presented in terms of the rejection of Western cultural hegemony on the one hand, and of the urgency of cultural and ideological self-reliance and protection of cultural authenticity on the other (Barlow and Akbarzadeh 2006a pp.1481-1494).

In contrast, Nihaluddin argues that Islam's support of women's rights stems from the religion's broader protection of human rights in general, and that Islam was able, 1,400 years ago, to grant women as well as men with rights that were totally lacking in Europe at that time; therefore such rights should not be supplemented now by Western values. The author states that,

[t]he world community should not expect Muslims to agree that the Islamic view of human rights, formulated fourteen hundred years ago, must now be supplanted in favour of a secular standard imposed by the West. At the time Islam announced that women would have certain rights, including a right to education, a right to dower, a right to choose whether to marry, and a right to manage their own property, the West was still mired in that unenlightened period now known as the Dark Ages (Nihaluddin 2012, p.42).

Nihaluddin argues that Islam dignified men's and women's rights long before international human rights norms were established, therefore the fact that other Western countries have established rules for human rights does not mean Islam's norms can be ignored or simply supplemented by secular values.

One major argument continues to be debated: how can (or even should) Muslim societies apply gender equality values which were initially presented by the Western world? The followers of the first argument, which fights against joining and implementing international conventions such as the Convention on the Elimination of Discrimination against Women (CEDAW), believe that these international conventions are nothing but Western values which others are trying to impose upon Muslim societies, and that Islam presents better solutions to Muslim women's issues as it has a more comprehensive, logical and even divine understanding of both women's and men's needs and duties. This argument is often repeated by those who believe that men and women have natural differences as well as societal ones as they claim that the natural differences relate to the biological and psychological matters whereas the social ones refer to sociological and socio-psychological aspects. Therefore, they argue that full equalization between men and women, according to what is emphasized in international mechanisms, is not the solution but that a set of different rights and duties for each gender in order to complement each other is more satisfactory and beneficial for women. The supporters of such arguments, such as the Iranian scholar Naqavi, argue that taking the biological and psychosocial differences between men and women into account when forming law is the most essential step to enact balanced laws

suitable for both: 'The most important basis of law-making is the accurate identification of the essence, habits and psychology of those for whom the law is being framed. Rights and laws are superstructure of the existence, psychology and sociology' (Naqavi 1987, p.313).

When exploring arguments about the equality of men and women in Islam, it is important to note that the Quran, on more than one occasion, emphasizes that men and women are equal as human beings: 'He created you from one being, then from that (being) He made its mate.' (39:6) The Quran also stresses the equality in rights and duties of men and women: 'And for women are rights over men similar to those of men over women.'(2:226) The Ahadith (Prophet Muhammad's sayings) also emphasizes the equality of humans on more than one occasion: 'An Arab has no superiority over a non-Arab except by having a higher degree of piety and righteousness [Ahmad and At-Tirmithi]' (Al-Hageel 2001, p.126).

However, some Muslim scholars believe that the equality that Islam stresses is an equality of humanity, but in terms of rights and duties, men and women have different positions due to their biological and psychological differences. Those scholars claim that Islam has taken into consideration all the social, physical and psychological differences between men and women and has created a system for both men and women that is more effective than the laws imposed by Western powers. Naqavi states:

The laws and rights in Islam (which are called Sharia) are the symbols representing the true role of man and woman, their working and natural characteristics. If the Islamic laws are implemented correctly without discrimination and through a uniform system, it can be claimed that these

differences in the rights of woman cannot cause any reason for concern (Naqavi 1987, p.314).

Muslim apologists believe that the laws of Islam are basically in accordance with the nature of humanity, thus the roles of men and women are, from their bases, distinct. Doi argues that, 'Allah has created man and woman to play distinct roles in human society and a woman's biology and physique best suit her, at base, for the maternal role so necessary in the creation of healthy and happy families' (Doi 1989:1). It is claimed that due to their creation on different bases, men and women have different roles to perform. Gerami quoting Iranian cleric Mottahari states: 'According to Sharia (Islamic canon law) jurists, Allah created men and women differently and assigned each distinct responsibilities to be performed in their proper domain' (Mottahari, 1974 in Gerami 1996, p.15). This point of view argues that the roles of men and women in life have been previously determined by God, therefore it is not a matter of wrong interpretations of traditions, or of misreading texts, but rather a matter of nature and the different physiques of men and women. Therefore, in Islam, the rights and responsibilities of a woman are equal to those of a man, but they are not necessarily identical to them. This argument stresses the thought that equality and sameness are two different issues, and that Islam offers women equality with men as human beings, but not sameness.

Followers of such a school of thought who come, in particular, from societies that are heavily influenced by the application of classical Islam, consider that there is no need to use the tool of 'ijtihad'²³ to adapt their laws to international conventions

² ijtihad: the endeavor of a Muslim scholar to derive a rule of divine law from the Quran and Hadith without relying on the views of other scholars. (Micheal & Pace 2011, p.136) By the end of the 10th

such as the CEDAW, or to even join the convention, as they see that Islam has provided all the answers and solutions needed. Those countries would not mould and shape the traditional Islamic teachings they follow to fit the needs of changing times. The opponents to the CEDAW believe that some of the articles of the convention are not lawful according to Islam and therefore can be unsuitable for Muslim societies. Egyptian scholar Abu Zayd in his book *Convention of Elimination of all forms of Discrimination from an Islamic Perspective*, argues that, 'Islam has granted women all their rights and those international conventions such as the CEDAW act against human nature by trying to fully equalize women and men.' (Abu Zayd 1982 p.25). Abu Zaid also argues that some of the articles of the convention, such as the elimination of all forms of discrimination between women and men and/or giving a woman the right to control the number of offspring she would like to have, are rights that are considered unlawful in Islam. Thus, this way of thinking calls for adopting the Islamic Sharia rather than international conventions, arguing that the Islamic laws related to women are suitable to be used even in current times.

Some Muslim non-governmental organizations (NGOs) work to reaffirm these ideas, regardless of the calls of international conventions. In 2011, Bahrain hosted the first International Convention for Muslim NGOs to combat the application of UN international conventions with regards to women. The participants at the

century theologians decided that debate on such matters would be closed and Muslim theology and law were frozen, some reform-minded Islamic scholars believe that reopening ijihad is a prerequisite for the survival of Islam.

convention spoke about the threat of Western values which were trying to impose themselves on Muslim societies, and called for an adaptation only for Sharia law in regards to women's affairs. Some NGOs from the liberal wing criticized the convention; however, the participants agreed at the conclusion of the event on an announcement that was reported by Al-Jazeera Channel: 'the need to establish an Islamic strategy to address the suspicious plans which target the Muslim women' (Ba'amer 2012). Such a declaration reflects the skeptical attitude in Muslim societies towards Western values as they believe they threaten Islamic values related to women and family.

A less traditionalist argument has been presented by some scholars who call for Muslim societies to join the international conventions and to simply explain their reservations about the articles which do not suit their religion and traditions. A study conducted by a Malaysian expert, Abdul Hak actually suggests that there is a need for Muslim states where Sharia is widely practiced to study the articles of the CEDAW thoroughly before signing and ratifying the convention, given that some of the articles are contrary to the Sharia law. The expert purports that,

[c]oncerning the articles provided under CEDAW there is a suggestion that in any country where Islam is being practiced, any international convention, treaties or instruments should only be signed and ratified after a thorough research has been made as to whether such declarations, conventions, treaties or instruments are not contrary to the principles of Sharia or have any adverse affect on Islamic law. In Malaysia, Islam is the religion of the Federation. Thus, all laws must be in conformity with the principles of Islamic law in so far it is allowed by and not in conflict with the provisions of the Federal Constitution (Abdul Hak 2012, p. 25).

Sachedina supports such a notion as he argues that Islam, with its universal message, can be compatible with modernity as it can actually separate the spiritual from the practical, giving the possibility of creating a civil state which would consequently have its influence upon the situation of women: 'In Islamic tradition human beings are guided and given power to create, regulate, and maintain all human institutions to further human relationships, but God's relationship with humanity is left strictly in the hands of God' (Sachedina 2003:11). This argument establishes a strong ground for the advocates of adopting international conventions related to women in Muslim countries, as it states it is possible to establish a Muslim institutionalized society based on civil law. Traditional Islamists would oppose this interpretation; however, as they believe that laws in a Muslim society should be in accordance with Islam and not modified to be in accordance with international laws.

Interestingly, Krevinko has studied the factors that have contributed to injustice towards Muslim women throughout history due to the input of human beings in the interpretation of the divine text. Even though the author explains that there lies a dichotomy between what is 'Islamic' and what is 'Muslim', as the manifestation of Islam differs from one country to another due to historical, cultural and sociological factors, she argues that it should be possible to develop Islamic law which will not contradict with the requirements of equality presented by the CEDAW, as Islam itself, in essence, calls for this equality. The author does not put the blame entirely on certain manifestations of Islamic texts, but also criticizes the CEDAW convention for being a product of a Western feminist movement which is not

necessarily suitable for every society: 'being formulated under the Western feminist movements, this convention is hardly suited to address specific experiments, needs and situations of women living in circumstances different from the standard Western life style' (Krivenko 2009, p.43). This argument underlines a notion of the inability of the CEDAW to fulfill its targets universally, contrary to its claims.

On the other hand, some experts believe that the CEDAW does not really come into contention with Muslim societies at all, as Muslims have the tool of *ijtihad* to modify the laws of Sharia to be suitable to current days' needs. As indicated previously, *Ijtihad* is a creative interpretation of the Quran based on independent and contextual reasoning in light of relevant societal, historical and cultural rationality. Begum a former member of the CEDAW committee has argued that: 'Many Islamic countries such as Morocco, Malaysia, Tunisia and Turkey have initiated reform measures in the family code in the line with the CEDAW principles to eliminate discrimination against women using the wisdom of *ijtihad*' (Begum 2011). However, it is important to underline that most of the classical Islamic scholars do not believe in the need to use the tool of *ijtihad*, even though this tool was last used in the ninth century.

The usage of *ijtihad* continues to be a matter of debate among the traditionalists and modernists in Islam. While traditionalists suggest that the commandments and regulations found in Islam must be followed exactly as they have been applied and systematized in different Islamic law schools, the modernist approach believes that some Islamic laws should be upgraded and renewed according to the current time's needs. Hjarpe, in an article entitled 'The attitude of Islamic Fundamentalism

Towards the Question of Women in Islam', explains that traditional Islamists prohibit the usage of the ijihad tool in Islam which results in applying the same regulations related to women about inheritance, marriage and divorce as they were first practiced in early Islam, which are not suitable to our modern times. Hjarpe adds that the modernists in Islam object to the traditional approach and try to find solutions to Muslim women's issues by using the ijihad tool to modify Islamic laws so as to be in accordance with common sense in the current time. Hjarpe underlines that when Islam began, it brought liberation to women and that nowadays the same approach should be continued rather than prohibited: 'For example, before Islam came, unwanted female babies were buried alive, a practice which was later forbidden in the Quran. Islam signified greater security, justice and economic liberty for women. To follow Islam's principles is, therefore, to continue in this path' (Hjarpe 1983, p.13). According to the author, if the modernist approach is applied in Islam, many issues, such as inheritance, could be solved based on Islamic status and also be suitable for today's needs:

The Quran's inheritance regulations which, among other things, imply that women should inherit half of what men inherit, represent a binding law according to the traditionalists. The modernists, on the other hand, say that this law represents a radical improvement on earlier practice according to which women inherited nothing. This means in our time that, whenever possible, men and women should have equal inheritance rights (Ibid).

On the other hand, Dabbous-Senseing in a study conducted by the Department of Economic and Social Affairs in the United Nations entitled 'Incorporating an Arab-Muslim perspective in the re-assessment of the implementation of the Beijing Platform for Action', contests the argument of those who believe that Muslim

countries are not in need of the CEDAW and argues that the Islamic Sharia is the main reason for women's lack of rights in the Arab World. It claims that Sharia, which is now used interchangeably with the phrase 'Islamic law', became rigid and less amenable to changing needs. The study outlines the fact that all Arab countries have put reservations on the core articles of the CEDAW, based on the countervailing idea in the Arab world that men and women were created with biological differences and that, consequently, they have different capacities, duties and rights. This very argument of biological difference, reinforced by Muslim clerics, is a main factor which contributes to the discriminatory behaviour and legislations against women in the Arab world. The report states: 'This divergence concerning the very foundation of international declarations concerning women makes it unrealistic to attempt to implement them by blaming the plight of women on the - influence of culture and tradition - alone, and foregoing the deep-rooted religious reality of the Muslim Arab world altogether' (Dabbous-Senseing 2005, p.10).

Shaheen in a study which focused on three countries which are heavily influenced by culture, such as Pakistan, Bangladesh and India, claims that in such societies, religion and culture interact, creating a blend of 'cultural Islam.' Manifestations of such a phenomena are evident in the diverse cultural patterns of various Muslim societies which result eventually in discriminatory behavior against women on the societal level and the legislation level and lead to the inability to apply international laws related to women. The writer asserts that, 'as reflected in the three case studies, it is the inner and most tenacious 'layer' of custom, culture and tradition

that discriminates against women as a group. Customary practices are the key factor in women's disempowerment and violence against women and killing in the name of honour are often justified or condoned under the umbrella of customary law' (Shaheen 2006, p.267).

However, it is clear that there is no definition of what can be called the 'Muslim World View,' of positions or conventions such as the CEDAW as Barlow and Akbarzadeh highlight that such a view is a 'mystical beast' because Muslims have always taken conflicting positions on key social and political questions. The authors argue that, '[w]hen faced with the challenge of modernity, Muslims have demonstrated that they span the full spectrum of opinions. While traditional Muslims have tried to insulate themselves from foreign influences in what can only be described as rear-guard actions, Muslim reformers have tried to identify points of connection between Islam and the modern world, represented as a colonial and postcolonial Europe (and latterly, the USA)' (Barlow and Akbarzadeh, 2006, p.1481).

Moreover, in an article exploring the application of CEDAW in Pakistan, Sardar, explains that an effective implementation of CEDAW is lacking in Pakistan due to the influence of groups that are militating against women rights: 'It is the power elite who decides what constitutes *valid* culture and custom and how these would be applied in the formal and informal realm' (Sardar 2012,p.47). The author adds that those elite groups that are anti-CEDAW are not necessarily those in government but can be powerful tribal or religious groups. The factor of ill

governance or the influence of certain groups in society can be considered as are other influences that disable Muslim women from fulfilling their rights.

In this context, Abu Shark argues that the signing by many states of UN treaties related to women is only symbolic. The author explains that most of the world states have ratified the law regarding non-discrimination against women in the labour market without this having a tangible effect on the ground:

However, while world society scholars have demonstrated international clout successfully for the ratification behavior, there is little evidence in this line of scholarship if the same external mechanisms impact legislation. Motivated by the international prestige, Saudi Arabia may have signed C111 despite Sharia law exerting moral supremacy among the populace. Due to domestic institutional constellations, it may never pass a non-discrimination clause (Abu Shark 2009, p.7).

The notion of the 'decoupling' between the signing of human rights treaties and their implementation on the ground is further discussed in Hafner-Burton and Tsutsui. The authors explain that the human rights regime that was principally constructed to identify which rights are global and legitimate, provide information about human rights and convince governments and violators that human rights should be respected, lacks at the same time an enforcement mechanism : 'treaties offer no material legal or political rewards in exchange for better practices, and they cannot directly punish violators by withholding valuable goods' (Hafner-Burton and Tsutsui 2005, pp. 1383-1384). The authors also warn of an occurrence of 'radical decoupling' where human rights treaties have an effect opposite to what are intended: 'This possibility of radical decoupling leads us to expect two observable implications: ratification of international human rights treaties will either have 1) no direct positive effect on domestic practices, 2) a negative effect, as repressive

governments ratify more agreements and spiral into a greater degree of violence that the treaty regime is powerless to stop' (Ibid).

However, in spite of the different positions taken by experts and researchers with regards to women's status differences between Islamic law and international law and whether Islam should be more flexible to the international standards or stick to its traditional values, there is evidence that Muslim women are unable, in many circumstances, to get their full rights mainly because of a) social norms b) when the classical interpretation of Sharia is strictly applied and c) ill or lack of sincere governance.

The constitutions of the Arab nations provide for non-discrimination based on race, sex, religion or origin as agreed upon in related United Nations documents and conventions; however, Muslim and Arab women are still subject to discriminations due to factors previously discussed. However, there is no doubt that when Islam came, it granted women major rights at that time, as it prohibited female infanticide, for instance, and gave women their full and independent legal personality before European women who gained such rights in the nineteenth century. But the fact that Islam gave women certain rights greater than those in operation in Europe 1400 years ago does not change the fact that in contemporary times Muslim women are subject to injustice in the name of religion. In some societies, Muslim women can enjoy their political rights but lack major rights when it comes to family life, such as in issues of child custody, marriage and divorce. Hijab stresses the notion that the family law, which is based on Islamic Sharia and is practiced in most Muslim countries, does not provide the needed equality for women, 'Family laws,

which regulate rights and responsibilities in marriage, divorce, child custody and inheritance do not provide for equality between the sexes because they have been developed within the Islamic framework in all Arab countries' (Hijab 1998, p.46). Armstrong on the other hand, does not blame the Islamic Sharia for the lack of women rights as she claims that, '[t]he ethos of the Sharia like the Quran, was egalitarian... There were special provisions to protect the weak...Sharia was an attempt to rebuild a counter-culture and a protest movement' (Armstrong 2000, pp. 61-62).

In conclusion, Muslim women suffer from injustice because of the implementation or misuse of Sharia law. Evidence shows that CEDAW is struggling to achieve tangible effects in Muslim countries. An issue worth noting is that religion and culture are influential in Muslim societies, thus giving rise to questions regarding the power of agency against structure in such societies. Agency broadly refers to the ability of an individual to freely act and make choices, and structure represents the factors that influence or limit a person's choice with respect to culture, religion, ethnicity and race, amongst other issues. The last decade has seen massive debate arising amongst theorists on the matter of agency versus structure.

Mulsof, who argues against determinism, explains that human beings are capable of making choices and changing policies:

Agency, then, refers to the fact that we make culture, history, and policy though not under conditions of our own choosing. Human behavior is embedded and emerges through social interactions (2003, p. 8).

The author believes that innumerable policies have been enacted as a result of collective action, which he views as undermining the notion of determinism. The author further contends that

[t]o say that humans are both shaped and shapers means that structure and agency construct each other. We are the stuff of culture and institutions, humans construct the culture and institutions that shape them (Mulsof 2003, p. 10).

We cannot deny the importance of agency, but a crucial issue is that the agency model in Western culture differs from that in the Muslim world given the dissimilar factors that shape the circumstances of the two societies. Gardiner explains the various models of agency, particularly the individualist model, which is prevalent in Western thinking and behaviour:

Individualist models, which attach agency to a 'self' vary not only in terms of the qualities that constitute the 'self,' such as the boundless and unity, but also in terms of the elements included in its agency- for instance, power and action in the Islamic model or volition, decision and action in the Western one. According to the Islamic model, God determines and reveals the path of actions; agents do not need to choose a path, but they do need power to go down the determined one. Islamic agency then is exercised as the personal power by which individuals go down the path to a greater or lesser extent. By contrast, according to the Western model, agents choose a path of action (1995, p. 25).

In Muslim societies, determinism is a more prevalent perspective than individualism primarily because of religious beliefs, as well as the political and social institutions that protect religious institutions. Western societies experienced difference phases in their history, with the French and American revolutions as some of the turning points in these regions (see Chapter three, development of human rights). As a result of these critical periods, the concept of agency is applicable and a constant in everyday Western life. Throughout this research, therefore, questions regarding

the extent of change possible under the strong influence of determinism are reflected upon. Chapter five discusses some uncompromising elements of Islamic traditions, which limit the ability of Muslims to exercise as much agency as possible, particularly in relation to women's rights. The concluding chapter presents a balanced position on how Muslim women can strengthen their agency over societal structures to enhance their situation.

The succeeding chapters comprehensively discuss CEDAW and its rules that contradict Islamic provisions. The scope of the positive influence of this convention in Muslim countries, with Bahrain as the case study, is also elucidated to develop solutions to the difficulties that women face in Muslim states in general and in Bahrain in particular.

1.3 Women's Rights in the Kingdom of Bahrain: An Overview.

1.3.1 An overview of Bahrain:

The Kingdom of Bahrain is an archipelago of 33 islands in the Arabian Gulf. The discovery of oil in the country in 1932 marked the first in the Arab region of the Gulf. The oil reserve of Bahrain, however, is relatively small. In 1968, an agreement ended the century-long British protectorate, a development that eventually earned Bahrain total independence in 1971.

Although Bahrain is a small island with a population that does not exceed 1 million, it is characterised by a complex mixture of ethnicities and religions. The vast majority of the population in Bahrain is Muslim, but no credible statistical data specify the proportions of Sunni and Shia that make up this population. Most Muslim people in the Muslim world are Sunni, except Iran, whose population is predominantly Shia. The Shia are also found in large numbers in Iraq, Lebanon and Bahrain. The Marshall Cavendish Corporation (2008, p. 40) describes the population of Bahrain as comprising '...a ruling Sunni Muslim elite and a Shia Muslim *majority*'. Many share this opinion of the predominance of Shia in Bahrain. Conversely, Al-Jazeera Channel (2011) broadcast a news release indicating that Bahrain's Central Informatics Organization described the Bahraini population as 50% Sunni and 49% Shia. Dispute remains about the number of Sunni and Shia in Bahrain, but the ruling family in the country is Sunni, similar to the majority of the ruling families in Gulf countries that are predominantly Sunni in population. The issue of Sunni–Shia proportion had never provoked tension, particularly on the

social level, except in the last decade given the changing political environment in Bahrain and the Gulf region, as well as the rise of religious extremism from both sects. Shia'ism emerged alongside the problem of who should succeed the Prophet Mohammed after his death. Gonzalez explains thus:

The Sunni-Shia split, on its core, originated with the appointment of Abu Baker, a close companion to the Prophet, to be leader of the emerging Muslim Empire in 632. Plainly speaking, Sunnis are the people who accepted Abu Baker as their political and religious leader (2009:4).

This division amongst Muslims—which is essentially political—clearly exerts influence over how Islam is practised by Shias; that is, they considerably differ from Sunnis in their application and interpretation of Islam. The common ground that they share is their belief in Allah (God) and Mohammed (the Messenger). Wynbrandt writes about the main difference in ideology between the Sunni and the Shia as follows:

The religious and ideological differences between the Shia and Sunni sects seem relatively minor to those not of the faith. They have different set of hadith, or traditions, and practice different form of sharia religious law. A key difference is the Shia veneration of the institution of the *imam*⁴. To Sunnis, the institution of the caliph was the spiritual and political leader of the *Ummah*, but his authority was temporal; to the Shia, the authority of the *imam* was divine, infallible, and without sin (2010, p. 62).

In analysing religious jurisdiction, this research focuses on Sunni schools not as a means of diminishing the importance of Shia dogma but because Sunni jurisdiction predominates in the Muslim world. Although the focal region is Bahrain, the research aims to derive results that are generalisable to most Muslim societies, particularly with respect to women and their rights.

⁴ The Shia *imam* is divinely chosen by hereditary leaders of the Islamic community (Wynbrandt 2010, p. 62).

In 2000, King Hamad bin Isa Al-Khalifa ascended to the throne of Bahrain, and in 2001, launched political, economic and social reform to improve the situation of the country in all these aspects. In 2002, the country was converted from a state to a kingdom. The main document which the reform was based on is the *National Action Charter* which was presented as the government's roadmap to enhance Bahrain in all spheres, politically, socially and economically. According to paragraph (1), chapter (2) of Bahrain's National Action Charter – the main document of the 2001 reform – Bahrain is considered a constitutional monarchy: 'The government system of Bahrain shall be a constitutional monarchy as may be prescribed by the constitution and the Amiri Decree on succession' (Legislation & Legal Opinion Commission 2013, p.16). Moreover, the charter explains the parliamentary system in Bahrain as being a bicameral, as the Shura council (the consultative council), whose members are appointed by the King, was created, in addition to the Nuwab Council (the deputies' council), whose members are elected by the public. The Charter explains in the 'Democratic Life' section that, 'Against this background, democracy has been reflected in practice through the constitution and the elected National Council and further enhanced by the addition of a Shura (consultative) council that has proved to be a forum of serious discussion, examination and advice over an entire matrix of public issues of concern to the country' (Legislation and Legal Opinion Commission 2013, p.23). According to the Bahraini government, the Shura council has proved to be capable of being sufficiently receptive to new developments and its cooperation with the government, in the public interest, has been successful. Bahrain also has a

constitution, and the Charter explains in its 'Explanatory Note', that it came as a support to achieving the principles of the Bahraini constitution:

Bahrain witnessed political and constitutional changes since it adopted a constitution on 6 December 1973. In view of the desire of H. H. the Amir to achieve its political system to realize a sound democratic way of life in keeping with the democratic ethos prevalent in the world today, its general principles were delineated recording the bases of this development from the political, social and economic angles. These principles were endorsed by the national action charter and placed before the people in a referendum on 14 February 2001 (Bahrain National Action Charter 2002).

The Bahraini constitution emphasises the basic human rights that are mentioned in the Universal Declaration of Human Rights and other international conventions, such as personal rights, right to fair trial, freedom of conscious and religion, freedom of opinion and scientific research, freedom to form associations and unions, freedom to peaceful assembly, etc. Bahrain's National Action Charter of 2002, which came as an action plan for major political, economic, social, and cultural reform in order to elevate the level of development of Bahrain also emphasised the same human rights mentioned in the constitution. In regards to women and family, paragraph (6) of chapter (1) of the charter states:

Based on the firm belief that family is the nucleus of the society and that good family is key to a cohesive society as well as key to upholding religious and ethical values and national sense of belonging, the state protects the legal form of family as well as maternity and childhood, provides care to children, protects them from exploitation and moral, physical and spiritual negligence. The state endeavors to support women's rights and the enactment of laws on protection of family and family members. (Legislation and Legal Opinion, 2013, p. 14)

The constitution and the national charter both emphasise the importance of governing the state in accordance with Islamic and Arabic values. The constitution mentions in Article 2 that 'the religion of the state is Islam and the Islamic Sharia is

a principle source for legislation' (Legislation and Legal Opinion Commission 2015, p.5) . In addition, the Charter underlines a similar notion stating,

[w]ith its solemn belief in Islam and Arab identity and true to its deep-rooted traditions, the Bahraini society has been attached to a set of core principles that are congruent with Arab-Islamic values. These core values and principles must be upheld and safeguarded as they are co-opted by the entire society(Legislation &Legal Opinion Commission 2013, p.11).

Just like the majority of Muslim countries, Bahrain applies semi-Islamic system in governance. The constitution of the Government of Bahrain reaffirms the equal rights of all citizens or residents of Bahrain, as it states in article number 18: 'people are equal in human dignity and citizens are equal before the law, in their rights and general duties and there is no segregation between them, in that, by the reason of gender, origin (race), language, religion, or faith (belief)' (Legislation and Legal Opinion Commission 2015, p.11). Moreover, clause B of article 5 reaffirms women's rights by stating that it is, 'the duty of a state, with respect to the provision of suitable conditions for the woman to compromise between her work on one hand and her family obligations on the other hand, and in a manner that secures her equality with man in the fields of politics, social, cultural and economic life' (Legislation & Legal Opinion Commission 2015, p.6). The article adds that, 'the State secures and guarantees according to its constitution to make a compromise with the woman's obligations towards her family and her work in the society and her equality with men in the fields of political, social, cultural, and economic life, without prejudicing the rules of Islamic Sharia' (Ibid). The conflict that exists, however, stems from the chasm between the principles expressed in the constitution that call for the empowerment of women, and social, economic, and

political equalities, and what is actually being practiced on a social level and in laws and regulations. It is not a secret how many constitutions lack valid implications in many of the world countries, particularly in the third world and more specifically when it comes to women's rights where traditions prevail, Metcalfe and Mimouni pinpoint the deficiencies of some Middle Eastern constitutions in protecting women by stating: 'Constitutional provisions for the protection of women's rights exist in the majority of states (for example, Kuwait constitution 1996, Bahrain National Charter 2001, and of course Turkey's secular constitution), but are often ignored, contradicted or not enforced,'(Metcalfe & Mimouni 2011, p.339). Moreover, the statement, '*without prejudicing the rules of Islamic Sharia*' which is mentioned in the Bahraini constitution and a number of other Arab constitutions such as the Jordanian one, is problematic as women as a matter of fact, face discrimination in the name of the Islamic Sharia which is widely misinterpreted as this research will show in following chapters. Metcalfe and Mimouni are also concerned about the gender discriminatory language used in the construction of constitutions and legislation of these countries; 'interpretation of these constitutions reaffirms a commitment to difference, thereby potentially codifying gender discrimination in the household and economy. Importantly, the constipations underline the family as the most important foundation of an Islamic state' (Metcalfe and Mimouni 2011, p.340) Therefore, the main dilemma in Bahrain, just like the majority of Muslim countries, revolves around the usage of Sharia and granting equality to women at the same time where constitutions either have a limited role in protecting women's rights or

deliberately specify gender roles for women affected by *Urf* (traditions) of the society.

And when Bahrain is in focus, despite the advances Bahraini women have achieved, especially when compared to their regional neighbours, studies and reports have shown that women still face discrimination mainly due to the lack, or the improper application, of existing laws, particularly in the Sharia courts. The following section pinpoints major areas of criticism about the situation of women in Bahrain by international bodies or researchers and some of the justifications or arguments presented by Bahraini law or government apologists.

1.3.2 A Review of the Status of Women in Bahrain:

The Supreme Council for Women was established on 22 August 2001 upon Amiri order No. 44. Later, it was amended by the Amiri Orders No. 55 in 2001, No. 2 in 2002, and the Royal Decree No. 36 in 2004. The Supreme Council for Women was established under the authority of the King of Bahrain. It has legal status, and is considered a reference for women's affairs for all official organisations. It aims to express views and decide on the issues related directly or indirectly to women's status, as all official bodies will have to consult the Supreme Council for Women before taking or making decisions in this regards. Princess Sabeeka Bint Ibrahim Al-Khalifa – wife of the King – chairs the council, which includes at least 16 members, representing public female figures experienced in women's affairs. In addition, she appoints a deputy secretary general to follow up on the executive affairs of the council. According to the Supreme Council for Women, the Vision of the Council emphasises 'equal partnership in building a competitive and sustainable society,' the mission according to the Council aims to,

...empower Bahraini women and integrate their needs in development to ensure the sustainability of her family stability and familial bond. In addition to enhancing the principle of equal opportunities to ensure competitiveness of Bahraini women, the continuity of lifelong learning and the various opportunities available to Bahraini women in order to elevate the standard of her quality of life through a framework of legislation and policies by integrating with allies and partners in institutional work to enhance the status of women. Furthermore, to establish a house of expertise specialized in women's affairs is characterized according to national qualifications and international standards (Supreme Council for Women 2014, p.2).

According to Bahrain's Central Informatics Organization, the total population of Bahrain in 2008 reached 1,106.5, the Bahrainis were a total of 537.7. Bahraini men

were 271.7 while women were a total of 266.0 (Central Informatics Organization 2010, p.8).

In a different publication produced by the Supreme Council for Women, entitled, 'Bahraini Women in Numbers' the average age of women in Bahrain has increased from 69.3 years to 77.3, and for men from 25.6 to 73.1 years during the period 1975–2010 (Supreme Council for Women 2013, p.6).

In reference to family structures, statistics show that the average age of marriage for women in Bahrain has declined from 22.7 years in 1991 to 22.1 years in 2011, while average marriage rate for men has decreased as well, from 26.4 years to 25.8 years in the same period. Bahrain is a clearly a patriarchal society, as statistics show that families which are headed by women comprise 2.9% only. The marriage rate in Bahrain has witnessed a 33.4% increase during 2008–2012, but the divorce rate as well has increased to 55.1%. The percentage of Bahraini families consisting of one to three members is 18%, whereas families of ten or more members is 21%, and seven to nine family members comprises 21%, while four to six family members has the highest percentage of 35% (Supreme Council for Women 2013, p.11).

In terms of education, Bahrain is considered pioneering in female education compared to its neighbours, as the first female primary school was opened in 1928, the first female high school was established in 1950, and women were allowed before that, in 1937, to get education opportunities abroad. Statistics show that in 2011, there was an equal participation of females and males in primary,

intermediate, and high schools as students. The percentage of females holding high school certificates is higher than that of males, as women consisted of 57.70% in 2010. Females also acquired a higher number of scholarships, as they got 69.39% of the scholarships during 2007 and 2008, while males acquired only 30.61% of the scholarships. Bahraini females achieved a higher percentage in enrolling in higher education, at 61%, whereas males comprised 39% (Supreme Council for Women 2013, p.15).

With regards to women's participation in the overall workforce in Bahrain, the participation witnessed a significant increase from 7.9% to 33.5% between the years 1971 and 2010. Women in the public sector had a higher participation than men had in educational and specialty jobs, with a 46.80% participation in the public sector, whereas men achieved higher participation in the executive, judiciary, and public administration sectors. In 2011, women held 46% of the office jobs and 46% and 40% in commercial jobs, 37% in technical and scientific fields and 34% in administrative and supervisory jobs. The average monthly salary for women increased from 637 Bahraini dinars to 757 Bahraini dinars in the public sector during the years 2007 through 2012, and it increased in the private sector from 358 dinars to 477 dinars in the same period (Supreme Council for Women 2013,p. 23).

The quasi-governmental Supreme Council for Women in Bahrain has played a good role in empowering women in Bahrain in different fields. Women's civil societies that enjoy working collectively under the umbrella of the Bahraini Women's Union have also worked to support cases of Bahraini women. The

Supreme Council along with the work of the women's entities were able to achieve a historical benchmark for Bahraini women by issuing, in 2009, Bahrain's first family law. International human rights agencies criticize this law, though, for being applicable only to Sunni Muslims. Further, the reasons behind the lack of a family law related to the Shia will be represented below in this research and in more detail in chapter four.

Despite the progress that Bahraini women have achieved, especially when compared with that of its neighbours in the Gulf, gender-based discrimination continues to exist in Bahrain's legal system. The main issues regarding discrimination against women in Bahrain are discussed by various human rights activists, regional and international reports.

Ahmed, in a report by the Freedom House organisation, summarizes the main issues of discrimination facing women in Bahrain as follows:

- There is a lack of a unified family law.
- Bahraini women are unable to pass their citizenships to their none-Bahraini spouses, even though article 7 of the Bahraini Citizenship Law of 1973 permits the male Bahraini Citizens to do so.
- The law stipulates that children may only receive Bahraini citizenship from their father, and the child of a Bahraini mother and a foreign father may not receive his mother's nationality.
- Discrimination in Sharia exists in courts, such that a woman's testimony in a Sharia Court is worth half that of a man's, and women's legal claims are treated unequally. In child custody matters, Shia and Sunni differ, as the Shia give mothers custody of boys until they are seven years old and girls until they are nine, whereas the Sunni give custody to mothers of boys until they are 15 and for girls until they are 17 or married. In divorce, men can divorce women instantly, whereas women must seek judiciary assistance.
- No laws or government policies specifically address the issue of gender-based violence, and enforcement mechanism are lacking for the existing legal provisions that may apply.

- The punishment of rape is life in prison, but spousal rape is not considered a crime.
- Article 353 of the penal code, a rapist may avoid the punishment if the agrees to marry the victim.
- Article 334 of the penal code permits a reduced penalty for one who surprises his or her spouse in the act of adultery and immediately assaults or kills the spouse.
- Extramarital sexual activities of men are far more culturally acceptable than those of women are.
- Reservations are put on important articles of the CEDAW convention because of religious, cultural, and societal obstacles. Those articles include Article 2, regarding prohibiting all forms of discrimination; article 9, paragraph 2, regarding granting citizenship; Article 15, regarding the freedom of movement; and Article 16, regarding equality with men in marriage and family.
- Although the government has enacted many of the laws necessary to combat trafficking, they continue to be inadequately enforced (particularly those cases where women are the victims of trafficking).
- Slavery is forbidden in Bahrain under the tenants of Islam, yet slavery-like conditions continue to exist for labourers, especially female foreign domestic workers.
- Inheritance law is governed by the Sharia. Women inherit less than men do in a number of situations. For example, a sister inherits half of her brother's share. This disparity is generally justified by the fact that men have greater financial responsibilities under the Quran.
- In education, only boys are permitted to study certain technical subjects in high schools, whereas textile classes are for girls only. This segregation affects future job opportunities and enforces social biases.
- Women and men receive equal salaries in the government sector, but there is a gender gap in private sector wages, as women's salaries tend to be less than men's are.
- Even though law does not forbid birth control, women tend to ask for their husbands consent before making this decision. Sterilization and C-section operations are allowed only with the permission of the husband.
- Polygamy is allowed but practiced by a minority of both sects. However, Mutah marriages (short-term marriages) are practiced by Shia men.
- Political, religious, and cultural barriers continue to restrict the free and effective work of both the government and NGOs in regards to gender-based violence and marital rights. (Ahmed D. 2010, pp. 2-25)

Moreover, in a report revealed by the Bahraini *Alwasat* newspaper, a member of the Bahraini Women's Union, Noora Al-Marzooqi, mentions that in 2013, 2800 cases of domestic violence were counted (Al-Wasat News 2013). Those

concerning numbers, she states, are a result of a lack of a specific legislation that criminalizes domestic violence. Some hard-line religious clerics oppose passing such a law, as they claim they fear it might lead to the man losing control of his household. According to many women's rights activists in Bahrain, religious clerics intervene in forming legislations particularly those related to women in order to maintain their power over the social life; the Shia clerics' rejection of the family law is another example of such intervention.

Additionally, in its report regarding Bahrain, Human Rights Watch shares the same concerns as those of the Bahraini women activists regarding the lack of significant laws related to women:

Bahrain's first written personal status law (Law 19/2009), adopted in 2009, applies only to Sunnis. Shia religious leaders demand a constitutional guarantee that, should a separate personal status law be passed for Shias, parliament will not be able to amend any provision of the law. Women's groups favor a unified law for all citizens in part because Sharia court judges—generally conservative religious scholars with limited formal legal training—decide marriage, divorce, custody, and inheritance cases according to their own individual readings of Islamic jurisprudence, which consistently favor men (Human Rights Watch 2011).

Even though the report blames the Bahraini government for not presenting the needed guarantees the Shia religious clerics called for, it was evident that Shia clerics have refused any kind of discussion with the government over the law and have encouraged the Bahraini Shia population to go out in demonstration against this law, which left the government unable to make any progress with regard to the Shia women in this matter. The main Shia cleric in Bahrain, Isa Kassim, demanded his followers to refuse the passing of the family law as he described the parliament

that would pass such a law as, 'a parliament that is an enemy to the religion of this nation' (BBC 21 October 2004). The Bahrain Human Rights Monitor explains that such an antagonistic position towards the law comes as a 'historic extreme sensitivity from Shia towards government intervention in religious affairs under any excuse' Human Rights Monitor (2010). Even though such an argument could be valid, there are other reasons for the clerics' stand against the law. Women's rights activists claim that Shia clerics refuse to pass such a law because it would make them lose the supreme authority they now enjoy in judging family-related cases, as now the cases are left solely to the clerics. Hence, a cleric would give divorce, custody, etc., according to what he believes is correct and for the benefit of the family, and a woman cannot seek the assistance of any law to persuade her case if she does not accept the judgement.

The U.S. Department of State report on Human Rights highlighted that religious courts in Bahrain play a role in discrimination against women due to the lack of an effective law:

Women faced discrimination under the law. A woman cannot transmit nationality to her spouse or children. Women have the right to initiate divorce; however, religious courts may refuse the request. In divorce cases, the courts routinely granted mothers custody of daughters younger than age nine and sons younger than age seven. Custody usually reverted to the father once the children reached those ages. Regardless of custody decisions, the father retained guardianship, or the right to make all legal decisions for the child, until the child reached the age of 21 (U.S. Department of State 2011).

The United Nation's Committee on the Elimination of Discrimination against Women has expressed a similar concern regarding the lack of a clear,

comprehensive law regarding women/family affairs which leaves women vulnerable to discrimination in Sunni and Shia Sharia courts:

The Committee encourages the State party to build on the progress achieved concerning the first part of the Law of Family Rulings...and expedite the adoption of the second part of the legislation, with a view to adopting a unified family law that provides for equality and effective access to justice in family issues. In this regard, it recommends that the State party: Take steps to ensure access to justice in family issues for the Shiite community... (CEDAW 2014, p.11).

Katzman in a report conducted by the Congressional Research Service entitled "Bahrain: reform, security and the US policy", states that Bahraini women have achieved some progress but they still face discrimination due to practices and customs:

Bahrain has tended to be relatively progressive as far as law and regulations. However, as is the case with its neighbors, Bahrain's practices and customs tend to limit women's rights. Women can drive, own and inherit property, and initiate divorce cases, although religious courts may refuse a woman's divorce request. Some prominent women are campaigning for a codified family law that would enhance and secure women's rights, running into opposition from Bahraini clerics who are against granting more rights for women (Katzman 2013, p. 19).

Bahrain applies civil law in all governing-related issues, except to family affairs where the Islamic Sharia law is strictly, or sometimes inconsistently, practised. Bahrain maintains a two-tiered system of Sunni (Maliki) and Shia (Ja'afari) Islamic Sharia courts responsible for personal and family matters. This contradiction in law implementation creates a dilemma in a society that gives a woman the right to

work, get an adequate education, vote and run for elections, but prevents her, at the same time, from having the right to get divorced without seeking the assistance of one of the judges of the Sharia courts and discriminates against her in cases of rape or domestic violence. Bahraini woman activist Al- Najjar in a report produced by the United Nations High Commission for Human Rights (UNCHR) underlined how women face discrimination in Sharia courts which are male dominated:

Women may also face numerous obstacles during Sharia court proceedings, which are male dominated and extremely complex. Lengthy court procedures, particularly in cases of divorce, are just one example of the hardships placed on women seeking justice. Men are free to divorce their wives at any time, but women are required to appeal to Sharia courts in order to be granted a divorce. (Al-Najjar 2005a)

However, Bahrain passed a family law in 2009 for the Sunni community. The Shia clerics strictly refused to pass such a law for their community, leaving the situation of women solely in religious clerics' hands. The Social Institution and Gender Index, in a study about Bahrain asserts that,

[t]his is still the case for women who are not Sunni Muslims, including the Shiite majority, with the result that cases are decided on the basis of judges' personal interpretations of Islamic texts instead of codified law, often meaning that women's rights are ignored or violated in the courts. The original draft law applied to Sunni and Shiite Muslims, but the sections relating to Shiites were withdrawn following threats of protest from hardline Shiite clerics (Social Institution and Gender Index, 2011:1).

However, despite the fact that Sunni women are protected by a family law, discrimination still exists – the articles of the family code which are based on the Islamic Sharia can still be discriminatory against women. This issue will be studied at a later stage in this research.

Alongside the shortcomings of the Sunni family law or the lack of a Shia family code, Bahrain's Government Penal Code is another reason for discrimination against women. For instance, the Bahraini penal code stipulates, in Article 344, that life imprisonment awaits any person who engages in sexual intercourse with a woman without her consent, while at the same time, Article 353 of the same Penal Code underlines that 'there is no punishment for a person who rapes an unmarried woman if he marries her after the rape (Nazir and Tomppert 2005, p.54). Human Rights Watch has highlighted this discriminatory act in its report stating that, '[t]he penal code does not adequately deal with violence against women as there are no comprehensive provisions on sexual harassment or domestic abuse. Rape can be punished with life in prison, but marital rape is not recognized as a crime' (Human Rights Watch 2011). Therefore, it cannot be said that the discrimination against women in Bahrain is limited only to family-related laws, as it also exists in the penal code.

A number of researchers, experts and women's rights activists have discussed the kinds of injustice women face in Bahrain and the factors behind such discrimination, whether it is due to Sharia, the forming of laws or social and cultural factors. Some of these researchers believe that, compared to their regional neighbours, Bahraini women enjoy a good position, while others believe that the gains Bahraini women enjoy today are just basic rights and that there is still a long way to go for them to have the full rights in line with other women in the Western world.

There is a group of activists and experts who do not see the situation of women in Bahrain as alarming and believe that the government is applying good practices when it comes to this matter. Al-Jishi, a Shura⁵ Council member, explains that the government of Bahrain has taken major progressive steps which have granted women their legislative and political rights, particularly after launching the National Action Charter in 2002 which aimed to give Bahraini people, including women, the right to participate in political life. Al-Jishi argues that one of the most important results of the reform process related to women in Bahrain is the establishment of the Supreme Council for Women as a semi-government mechanism which aims at empowering Bahraini women in all fields:

When His Majesty King Hamad ascended to the throne in 1999, he proclaimed his comprehensive reform project which formed the beginning of an overall roadmap for development across all levels of society and polity. This was initiated by the proclamation of the National Action Charter in 2001, which represents a contract between the King and his people, ushering the beginning of democratic reforms [...] The highlight of the most effective accomplishments for women was the establishment of the Supreme Council for Women (SCW) [...] The Council is as an official consultancy body on women's issues and reports directly to the King (Al-Jishi 2013, p. 57).

Al-Jishi claims that any legislation in Bahrain that violates women's rights or limits their empowerment would be considered unconstitutional according to the reform principles: 'any legislation enacted by the Legislative Council that violates or limits the substance of a right is considered unconstitutional' (Ibid). Al-Jishi assumes that

⁵ Shura Council: Bahrain has two houses of Parliament, the lower house "Alnwab" which is appointed and the upper house, "Shura", where members are appointed by the King. Legislation is passed when agreement occurs from both houses.

the barriers in Bahrain that prevent women from gaining their full rights are merely cultural and not political or legislative.

Indeed, some public pro-government female figures emphasize the notion that women in Bahrain are enjoying a wide scope of liberties and that the barriers stopping them from gaining more rights are minor. According to PR Newswire, in a speech before the Women's Centre's annual Leadership Conference in March 2012, Bahrain's Ambassador to the United States, Houda Nonoo, highlighted the progressive example Bahrain has set for women's rights in the Middle East. The Ambassador, who is a Bahraini mother from a Jewish ethnic background, explained that,

[i]n Bahrain, women serve in all levels of society and enjoy unprecedented opportunities among our peers in the Middle East [...] Bahrain established its first school for girls in 1928. Today, the literacy rate among all women in Bahrain is over 90 percent, and reaches 100 percent for women aged 18–25. Bahrain appointed its first female cabinet minister in 2004 and, in 2006, a Bahraini woman was selected to serve as the president of the UN General Assembly (PR Newswire 2012).

Moreover, *Bahrain Monitor* claims that experts from regional human rights centres have described the situation of Bahraini women as the 'best' compared to its neighbours. The *Bahrain Monitor*, which is an independent centre based in London, quotes the statement of one expert after visiting Bahrain:

Dr Nizam Assaf, the General Director of Amman Centre for Human Rights Studies, said 'the condition of Bahraini women's rights are the best in the Gulf as women are able to participate in the Parliament and Shura Council, and have participated successfully in political and social activities.' He added that Bahraini women also headed educational institutions, as well as undertaking important positions in many international organizations in the UN (Bahrain Human Rights Monitor 2009).

Even though some experts claim that the situation of women in Bahrain is considered positive, particularly when compared with its neighbours, this does not indicate that the situation is really as progressive as they claim, especially when the labelling of 'positive' can be relative. Despite the fact that Bahraini women can indeed participate in political life and have the freedom to work in different fields and be educated, their situation is still inconsistent with the international standards for women's rights, and major legislative and cultural challenges face Bahraini women in gaining these rights. The comparison with Gulf states which have extreme violations of women's rights cannot be used as a healthy indicator for the 'positive' status of women in Bahrain, and the government still needs to take major steps to adequately meet international standards.

Thus, there is another group of experts and researchers who believe that the situation of women in Bahrain needs improvement, despite the progress it has achieved, and that there are clear acts of discrimination occurring against women and reasons for them. A Bahraini researcher, Mahmoud, in a study entitled 'Women and Social Change in Bahrain', argues that the discovery of oil in Bahrain was a turning point for society as a whole and women in particular: 'the social and economic change that Bahrain went through with the discovery of oil helped women get some of their rights such as education and the right to work' (Mahmoud 1986, p.33). This study, which was completed in the late 1980s, compared the situation of women at that time to how it was before the discovery of oil, stressing that women had achieved some milestones in the period of post oil discovery. But

the research also outlined that such a development was not accompanied by a substantive change in social position for Bahraini women.

Al-Gharaibeh in a more recent study regarding the social and economic statuses of women in modern Bahrain and the main factors behind the discrimination against women, underlined that tribal/culture factors play the main role in the occurrence of such discrimination. Al-Gharaibeh states that,

[t]he barriers rest primarily in the traditional attitudes of both men and women towards the roles expected of women, defined and delimited by household responsibilities, raising children, their husbands. While these roles are honourable and fundamental in Islamic cultures, when law, religion, and traditions do not permit women to fully participate in Bahraini social, economic, and political life, new solutions must be found. The conflict lies between the traditional religious/tribal perspective that keeps women at home, and the modern perspective that wants to establish the framework that will allow women to take their place as equal partners in the new Bahrain (Al-Gharaibeh 2011, p. 109).

Al-Gharaibeh explains that even though Bahraini women, since the 2001 reforms, have achieved some progress by being able to participate in the political and economic life of their country in a more effective manner, they still lack their full rights in accordance with international conventions.

In another study concerning the status of women in Bahrain, Seikaly explored the rapidly changing identities and roles of Bahraini women from 1960 to 1980, and discussed the reasons behind the domination of Islamists over Gulf societies and its effects upon women. Seikaly argued that due to the lack of political and social rights in Gulf states, including Bahrain, in the 1980s, the Islamist discourse provided the opposition in Bahrain with refuge and a response to its outcry against

injustices. This society became adherent to Islamic clerics, which predictably affected the situation of women:

With the complete absence of all legal political channels for expressing grievances, revitalized Islam filled the vacuum [...] In view of transformations in Bahraini society already discussed, the social implications of revived Islam gradually became pervasive. An important dimension of this movement is the prominence given to the issue of women and their role in its discourse, one that reinforced traditional definitions (Seikaly 1998, p.178).

Seikaly believes that the Islamic traditions which filled the vacuum caused by the lack of political freedom in Bahraini society played a major role in negatively affecting the rights of women. This argument blames the force of religious clerics for discrimination against women, but underlines that such a force was created by unjust political acts.

Pandya, in research entitled 'Muslim Women's Changing Religious Practices in Bahrain: The Impact of Modern Education', stressed the influence of the movements of Islamic resurgence among the Sunni and Shia communities in Bahrain. Pandya argued that Bahraini society witnessed a revival in the Islamic movement which left tangible effects: 'Since the 1980s, Bahrain, as well as other countries in the Middle East, has witnessed a profound change in the religious behaviour, specifically the appearance of Islamic resurgence which is evident in both Sunni and Shia communities' (Pandya 2006, p. 10). The researcher claimed that the presence of this Islamic resurgence had a major effect upon women's lives in Bahrain, which can be seen in Bahraini women's everyday practices: 'the overwhelming majority of the Bahraini women are now wearing the black abaya in

public and covering their hair, whereas in the early 1970s, this was not the case' (Ibid).

Al-Najaar, underlines the difficulties that women in Bahrain have faced in recent years in a study entitled, 'Women's Rights in the Middle East and North Africa, Citizenship and Justice', stating that the Bahraini government has taken some steps post 2001 towards improving women's rights by allowing women to run for parliamentary elections in 2002 and establishing the Supreme Council for Women as a government mechanism to follow up and enhance the situation of women in Bahrain, but has failed, nevertheless, to establish viable policies which will affect the situation of women in Bahrain effectively. Al-Najaar argues that,

[d]espite the recent attention directed toward women's rights, the government has failed to adopt any viable policies that would positively affect women's status in Bahrain [...] The government of Bahrain ratified the UN Convention on Elimination of all forms of Discrimination against Women (CEDAW) in 2002, but with reservations to articles concerning family law, equality, freedom of movement and residence. Women still encounter numerous social and legal obstacles such as arbitrary divorce, gender-based violence and discrimination in the workplace (Al-Najaar 2005b:52).

The study presents a number of recommendations for improving the situation of women in Bahrain including calling for the amendment of some national laws so that they conform with non-discrimination principles, and working on reforming the judiciary system where women are subject to discrimination, particularly in the Sharia laws. The study also presents a very controversial recommendation, calling the Bahraini government to remove all its reservations to the CEDAW convention and reform all its national laws to fall in line with the convention.

Munira Fakhro, a Bahraini women's' activist and politician, has provided a number of recommendations to improve the situation of women of Bahrain. Fakhro does not suggest that removing the reservations on CEDAW and applying it fully without beforehand changing the educational and cultural realities in the country would be of any benefit. In an interview with Sada – a civil society association concerned with the Arab world – Fakhro stated that,

[f]irst, we must reform education, because men and women learn from the same state-provided curricula. Second, there must be reform on the level of ijihad (interpretation) of the holy Quran; there must be modernization and development to suit the age and time. Morocco achieved an important accomplishment in this regard, namely the new family law (Moudawana), through a modern interpretation of the Quran. (Fakhro 2008)

Activists such as Fakhro suggest non-compromising solutions to the issue of women's equality in Bahrain, which may take a longer time to be achieved but may also be more effective. The notions presented by Fakhro will be further discussed within this research as radical solutions that despite the difficulties in achieving them, remain the most efficient.

However, following the fundamental changes that have occurred over the last four years, often referred to as the Arab Spring, the topics of human rights, reform and democracy are experiencing a wider discussion within and without the Gulf states. Clearly there have been cries for democracy that are still facing a lot of challenges after years of oppression, but a study conducted by Sutherlin outlines that the minority groups which were discriminated against are not necessarily taking a priority place in the agenda of those calling for reformed states. In an article entitled 'Middle East Turmoil and Human Rights: How will the 'New' Regimes Expand Civil

Liberties', the author outlines a startling fact – most of the MENA countries where such turmoil is taking place are not paying significant attention to the issue of women's rights:

The Arab American Institute conducted a poll of almost four thousand adults from November 1–18, 2009 in Egypt, Jordan, Lebanon, Morocco, Saudi Arabia, and the United Arab Emirates. The results were startling. Not a single state placed women's rights in the top five of important issues facing their nation today. In fact, most put the issue as number nine or ten, typically behind advancing democracy, with health care reform and economic development often topping citizens' agendas (Sutherlin 2012, pp.78-79).

The researcher discusses the economic, social and ideological factors behind this attitude towards women's issues – why the Arab Spring, which cried out for major reforms, neglected issues related to women. The researcher argued that this neglect in the agendas of the new Arab states will result in unrest, stating that, 'a fundamental assumption of this article is that failure to include women's political and economic issues will result in only partial reform that is unstable for the long-term.' (Ibid). Such findings are alarming as they show that the situation of women in the Arab world did not really improve after the Spring, despite its promises to bring major reforms to the area. Therefore, research in the field of Muslim and Arab women rights shall continue because even though the issue has been ongoing for decades, there is still a gap in concrete practices of equality in the Muslim states.

After collecting, exploring and presenting the main issues presented by researchers and studies regarding a) the situation of women in Muslim countries; b) the position of Muslim societies with regard to applying the international conventions related to women, such as the CEDAW; c) the situation of women in

Bahrain and existing discriminatory acts, this research will further explore the effectiveness of international mechanisms in improving the situation of Muslim women, taking Bahrain as the example country.

Even though there is a group of stakeholders who do not believe that there is a need for improving or amending Sharia or legislative laws in Muslim countries to improve the situation of women, such an argument does not reflect an informed understanding of the matter. The majority of experts and studies agree on the fact that discrimination exists against women, even if they differ in their positions on the factors behind such inequality. Whether it is down to Islamic Sharia, the interpretation of Sharia, cultural factors or the governments' behaviour, discrimination does exist against women in Muslim societies, regardless of the reasons. This study will further explore the situation of women in Bahrain and the country's position in relation to the CEDAW convention as a tool that could be used in a more successful manner to protect its women. Building upon the recommendations that have been presented by different experts for improving the situation of women in Bahrain, as mentioned previously, the study will try to find solutions to the matter which provide a balance between Bahrain's commitments to the CEDAW convention and the social and religious realities of Bahrain. Some experts, as previously discussed, call for a full adaptation of the CEDAW, a call which is received with antagonism by conservative sectors of society, while other experts call for fundamental educational and social changes by adapting a secular regime, which would also aggravate the conservative majority and would need longer time and a stronger effort.

The study will present solutions that could come from within Muslim society itself, by calling for the use of the tool of *ijtihad* to amend the laws and legislations related to women and make them consistent with the international convention's standards. Creating a balance between the need to commit to the international mechanisms while at the same time following the religious values that a society believes in, seems to be the best solution to this issue. While traditionalists in society will still be antagonistic to *modernizing* some Islamic teachings related to women, this solution would attract a bigger sector of Muslim society, including Bahrain, which strives to find a balance between its modern aspirations and preserving its values. Bahrain can serve as an excellent example of a Muslim society which is developing and advocating human rights, while at the same time staying true to its roots.

Chapter Two: The Methodology:

Phillips and Pugh suggest that describing a PhD as an 'original contribution to knowledge' can be extremely vague, 'originality in a PhD is a complex concept which has not yet been adequately defined' (Phillips & Pugh 2005, p. 28). However, Phillip & Pugh underline that the concept of 'originality' can be defined in fifteen ways that include: '[make] a synthesis that hasn't been made before, [use] already known material but with a new interpretation, [bring] new evidence to bear on an old issue [...or add] to knowledge in a way that hasn't been done before' (Phillips & Pugh 2005, p. 62). In basic wording, it can be said that to do a PhD is to be able to come up with conclusions about a certain topic that your peers in the field would be interested in listening to and building upon. In order to embark upon such a task, having a clear methodology is important to address the main questions of the research, to reach the answers to each question and, finally, to find conclusions and suggest solutions related to the research subject.

This research aims to address the following questions:

1. Is it necessary for Muslim countries to adapt to international conventions to improve the situation for women in their borders?
2. Can international conventions, such as the CEDAW, be effective in improving women's rights in Muslim countries?
3. Is a convention, such as the CEDAW, able to overcome the social, religious and legislative obstacles that exist in Muslim societies?
4. Is the CEDAW the most suitable and only option available for Muslim countries to improve the situation of women, or can they put forward other solutions for female equality according to their own social needs and values?

In order to address these questions with the highest levels of accuracy and validity, understanding and explaining the methodological approach used in this research is essential.

2.1 The Research Paradigm:

Creswell, citing Lincoln and Guba (2000) and Mertens (1998), underlines that, 'stating a knowledge claim means that researchers start a project with certain assumptions about how will they learn and what will they learn during their inquiry. These claims might be called paradigms' (Creswell 2003, p. 6). The paradigms aim to provide a rationale for the research and commit the researcher to a particular form of data collection and interpretation, thus it is considered central to the research. The main research paradigms or theoretical perspectives can be roughly divided into four main schools: positivism, post-positivism, interpretivism and critical theory.

Positivism, usually used in the natural sciences, was the most dominant approach used from late nineteenth century until the first half of the twentieth century. Positivism revolves around the notion of 'reaching the law' by aiming to reach the main objective truths, facts and laws. This philosophy does not believe in metaphysics and aims at studying phenomena that it can observe and measure. Roth & Mehta define positivism by citing Angus (1986), Marshall (1994), Shankman (1984a) and Lin (1998):

The positivist approach is modelled on the methods of the natural sciences. It seeks knowledge based on systematic observation and experiment, with the goal of discovering social laws analogous to the natural laws uncovered

by the methods of natural science. Positivist analysis seeks to hypothesize and then evaluate causal inferences about social phenomena that will be generalizable beyond the specific data analysed (Roth and Mehta 2002, p.133).

When it comes to the arena of the social sciences, Denscombe explains that by using positivism, the researcher applies natural sciences' laws while investigating a social phenomenon as it seeks to apply the natural sciences model of research to investigation of the social world. It is based on the assumption that there are patterns and regularities, causes and consequences in the social world just as there are in the natural world. From the point of view of positivism, Denscombe explains that, 'the 'grounding' of theory means that it is not liable to be refuted by the later discovery of facts that do not fit the theory. If the theory emerges from the data and is meaningful to the participants, then it is a good theory that stands in its own right - not open to alternative interpretation' (Denscombe 2014, p.120).

Post-positivism emerged as a criticism of the positivist paradigm for applying a scientific method to research on human affairs. The opponents of positivism argue that it is invalid to study a classroom environment, for instance, where there exists interaction between a teacher and students, in the same way natural sciences are studied. The post-positivist spirit has primarily introduced an overpowering loss of totalising distinctions and a consequent sense of fragmentation. In response to this criticism, pro-positivism scientists tried to adjust the positivity approach, and it resulted in the creation of the post-positive paradigm. According to Ernest, '[t]he principle of falsification argues that scientific theories can never be proven true.' (Ernest 1994:22). Moreover, Karl Popper declares in his theory of demarcation that

there are no absolute truths and that scientific theories cannot be confirmed but only falsified. Edberg presents Popper's argument as follows:

For Popper, a theory is scientific only if it is refutable by a conceivable event. Every genuine test of a scientific theory, then, is logically an attempt to refute or to falsify it, and one genuine counter-instance falsifies the whole theory. In a critical sense, Popper's theory of demarcation is based upon his perception of the logical asymmetry which holds between verification and falsification: it is logically impossible to conclusively verify a universal proposition by reference to experience (Edberg 2010, p.41).

Unlike the post-positivist approach, which uses standardized techniques, the interpretivist approach allows room to deploy less structured techniques. It is a school of thought that concentrates on the meaning of social interactions as it believes that social reality is different from natural reality. Crotty explains: 'A major anti-positivist stance is interpretivism, which looks for culturally derived and historically situated interpretations of the social life-world' (Crotty 1998, p. 67). The approach can, in fact, be described as anti-positivist as it was established as a reaction to it. This paradigm is usually used in qualitative research and stresses the importance of understanding each individual's perception of reality. According to this paradigm, research must include how individuals experience the world, and each of these experiences are considered valid truths. In brief, it can be said that the positivist and interpretivist paradigms contrast with one another; the first is considered objective while the latter is subjective.

On the other hand, the critical theory paradigm aims to critically influence society by conducting research. Cohen and others for the definition of this paradigm explain that,

[t]he critical paradigm stems from critical theory and the belief that research is conducted for “the emancipation of individuals and groups in an egalitarian society”. The critical educational researcher aims not only to understand or give an account of behaviours in societies but to change these behaviours. The critical paradigm embodies different ideologies such as postmodernism, neo-Marxism and feminism (Cohen et al, 2007, p. 26).

This paradigm claims that it is not sufficient to study a case and present solutions without looking at the political and economic environment surrounding it. In this paradigm, the concepts regarding the social event are developed during the observation process and are studied in a way that they can be acted upon. Unlike the previous approaches, this school of thought refuses a belief based on general structures divorced from the context of the research and the researcher. Critical Theory, as Gray explains: ‘is a meta-process of investigation, which questions currently held values and assumptions and challenges conventional social structures,’ (Gray 2014, p. 27).

This research does not follow the assumption that there is one objective truth that should be found and explained, as humans differ in their reactions to, and understanding of, the world. Moreover, it does not only study the different reactions of humans to a situation but it also aims to provide solutions that will contribute to solving problems and changing policies to improve the situation of women in a certain society. Therefore, this research falls into the paradigm of critical theory as it does not only aim to analyze and explain the structure of the social order and the human relationships within a society, but it is also suggests remedies in order to change (improve) this reality. Unlike traditional paradigms that are just concerned with explaining the status quo, the critical theory digs beneath the surface of

phenomena in order to understand how is it possible to recreate it. The paradigm of critical theory originates in a critique of Marxism and re-working it in relation to other philosophies, social theories and psychoanalysis, and it has grown to encompass feminism. All of these critical orientations share the primary goal of removing obstacles to emancipation. Hesso-Biber summarizes the main goal of critical theory as follows, 'Critical theories seek to expose dominant power relationships and knowledge that oppress with the goal of *critical emancipation* creating an environment in which oppressed groups gain the power to control their own lives in solidarity with a justice-oriented community,' (Hesso-Biber 2012, p. 11). This research looks at women in a certain society as an 'oppressed group' and is aiming to understand the environment that created such oppression in order to enable this oppressed group to gain justice within its own community. However, as the research is focusing in women related issues, it is specifically a feminist research; the following section will further explain the feminist dimension of this research.

2. 1.1 In-depth Discussion of Feminist Research:

Feminist research is considered a paradigm under critical theory. An important requirement in the present study, therefore, is to underline the feminist perspective or epistemology given that it centres on the situation of women in a given society. Feminist scholarship deconstructs the social construction of gender and all the allied cultural paradigms that support it (Tandon 2008, p. 23). As previously stated, the positivist paradigm was the earliest and most traditional framework that argues for only one logic of science; that is, the truth is out there waiting to be discovered

by an objective and value-free scientist. Because the positivist approach dominated the sciences, including the social sciences, issues concerning numerous groups, such as women, were left out of discussions for many years. In explaining the emergence of the feminist perspective, Hesso-Biber (2012) states that early feminist scholars, who can be considered feminist empiricists, challenged the positivist paradigm and engaged in debate with scholars and researchers across disciplines. The author indicates that such feminist scholars called for researchers ‘...to be mindful of who is left out of research models’ generalized claims’ (Hesso-Biber 2012, p. 8). These scholars hold that positivism engenders ‘bad science’ through the exclusion of emotions and values from research. After feminist empiricists implemented efforts to include feminist thinking in research, more feminist epistemologies and methodologies emerged. Hesso-Biber explains this development as follows:

Feminist researchers began to interrogate, disrupt, modify and at times, radically challenge existing ways of knowing within and across their disciplines, creating a shift in the tectonic plates of mainstream knowledge building...Instead of working to improve the accuracy, objectivity, and universality of mainstream research by including women, feminists started to challenge the viability and utility of concepts like objectivity and universality altogether (2012, p. 9).

Feminist research began with the placement of women in focus after they have been disregarded for decades in the social sciences and other scientific domains.

According to Letherby, feminist researchers

are concerned to do research which reveals what is going on in a women’s lives (and men’s too because to fully understand women’s lives we need to also understand what men are thinking and experiencing) (2003, p. 6).

The emergence of feminist research was driven by the fact that women's needs and concerns were not accorded proper attention and that women were always treated as the 'other'. Given the oppression that women have suffered throughout history, feminists centre on marginalised groups, particularly women. McNabb explains that

[f]eminist research often studies the social conditions of women in a sexist and patriarchal society in order to enlighten citizens about sexist practices that have produced unequal and discriminating social environments (2010, p. 280).

Mohammed (2002) reveals that two waves of feminism and sexual revolution occurred in the beginning of the twentieth century. The first wave resulted in the rise of essentialist epistemology, whereas the second engendered constructivism as a dominant paradigm. The author describes essentialism as follows:

Essentialism takes as its starting point that human behaviour is 'natural' predetermined by genetic, biological and physiological mechanisms which are essentially the same in all humans and only need to be uncovered by science. Therefore, the main limitation of essentialism is due to its biological determinism that creates bias by putting men and women in specific distinct roles. But besides its biases the author explains that essentialism did open up the era of sexuality for scientific research (Mohammed 2002, p. 9).

Essentialism has been heavily attacked since the 1960s. Mohammed explains that constructivism, with all its diverse variants, emerged as the dominant perspective because

...it does not conceptualize sexuality as a medicobiological phenomenon but stresses that it is mediated by historical and cultural factors. Constructivist theorists reject trans-historical and trans-cultural definitions of sexuality, and instead stress that sexual behaviour is the fluid and changeable product of human action in its historically determined form' (2002, p. 10).

Constructivism rejects essentialist ideas that male domination and female subordination are natural; it underscores the roles of men and women, as well as their sexuality, as changeable products of historical processes. Despite the progressive viewpoints proposed by constructivism, Mohammed (2002) points to important concerns regarding whether constructivism can be completely independent, that is, without using basic essentialist premises as bases in advancing its aims:

A major question remains, where do we locate our bodies, our moods? How can we insert the body or the individual temperament into constructivist analysis without resorting to some elements of essentialism? (Mohammed 2002, p. 18)

The current research veers away from an essentialist standpoint because it rejects the conservative idea that women and men have different roles on account of their biological makeup. Nevertheless, it takes into account the considerable body of research that has been devoted to the biological and psychological dissimilarities between men and women. A researcher who regards constructivism as a sound theoretical paradigm believes that some fundamental essentialist premises about the differences between the two sexes should be examined. Such scrutiny, however, should be applied in a positive light. For instance, the differences between men and women in terms of moods or feelings is advantageous to the latter because such dissimilarities enable them to be sensitive to certain issues. Nonetheless, this sensitivity should not be a means through which they are subordinated or serve as justification for male supremacy.

Given that this research falls between essentialism and constructivism (with a clear tendency towards the latter), classifying it under standpoint theory is appropriate. Feminist standpoint theory emerged after the rise of empiricist feminism. Sprague explains the general premise underlying standpoint theory thus:

...all knowledge is constructed in a specific matrix of physical location, history, culture and interests, and that these matrices change in configuration from one location to another (2005, p. 40).

The author further discusses that

[i]n feminist standpoint theory, epistemic privilege is often accorded to the standpoint of women, who are themselves diverse in location in systems organizing race, class, nation and other major relations of social domination (Sprague 2005, p. 40).

Feminism maintains that women and men differ in their responses to the world and that because of the oppression of women throughout history by men, the former hold a deeper understanding of and feelings about the world. As indicated by Gray (2014, p. 27), 'feminist epistemologies take the view that what a person views is largely determined by their social position'. Hesso-Biber illuminates standpoint epistemology as rooted in the Marxist and Hegelian ideas that an individual's lived experience structures his/her understanding of the social environment. The author adds that

for feminist standpoint theorists, women's oppressed position within society is precisely what allows women to harbor rich insights into society as a whole. Because they are structurally oppressed in relation to the dominant group (men), women have access to a more enhanced and more nuanced understanding of social reality than men (Hesso-Biber 2014, p. 6).

However, the author also states that a core criticism of standpoint theory is that it tries to unite all women's experiences, which is practically impossible because women have different experiences throughout the world:

Standpoint epistemology unfairly collapses all women's experiences into a single experience; this collapse neglects the diversity in women's lives in terms of for example, race, class, sexual orientation (Hesso-Biber 2014, p. 6).

Other critics also argue that feminism cannot be considered an independent paradigm because it depends on the principles of other paradigms (mainly Marxism) when analysing matters on the basis of social class.

Despite its limitations, standpoint theory remains the most useful paradigm in the present research given that the subject matter investigated is the situation of women in a patriarchal society and the sexist practices of Muslim societies at governmental and social levels. The key goal of this research is to look into these problems from a woman's perspective because women are the societal segment subjected to oppression and because this study denounces the misinterpretation of Islam by men.

Another essential requirement in discussing the differences amongst feminist theories is to highlight the principal ways through which feminist perspectives have dealt with the issue of sexual difference between men and women. In her remarkable book, *What is Feminism: An Introduction to Feminist Theory*, Beasley identifies five main approaches to the treatment of sexual differences:

- a) Employing the notion of the sameness of man and woman and that women are able to do the same things men can do. This approach is usually described as humanistic.
- b) Emphasizing the difference between man and woman and celebrating it as the relationship between them is seen as different but complementary. This approach is described as gyno-centrism.
- c) The tendency to highlight men and women differences but in a less celebrating way than the gyno-centric because some of these differences remain problematic. This postmodern approach focuses on how these differences can be constructed and maintained.
- d) Using the framework of alliance or coalition as seeing man and woman are partners in their political struggle. Sexual difference is not the main concern as much as challenging the power. This approach described as critical feminism and popular among race, ethnicity and socialist feminists.
- e) Looking at women as better and morally superior to men. This radical approach looks at women as innately intrinsically pre-eminent (1999, pp. 15-18).

Even though this is a standpoint research, the current study espouses a few notions of the post-modernist approach given its express aim of striking a balance between adhering to international conventions (which are predominantly humanist and emphasise the sameness between man and woman) and conforming with Sharia laws (which are highly gyno-centric and underscore the differences between men and women, assigning them varied but complementary roles in life). The study

analysis the Bahraini women's struggle by adopting the standpoint position as Muslim women have specific historical and ideological elements that must be addressed carefully; but because this research pursues correspondence between satisfying the demands of international law and recognising a society's right to maintain its unique identity, it also considers some of the elements of postmodern feminism. The study is concerned with granting women their rights and undermining the authority of patriarchal ideology without ruling on whether men and women are similar or different.

This study certainly shares the main aims of feminist research, which are to identify the obstacles that confront women in a certain setting and to endeavour to improve their situation. Ackerly and True explain the uniting of all kinds of feminist research as follows:

The focus of research that binds together all branches of feminist research is their strong commitment to changing the status of women in modern societies, to studying women and to employing female feminist researchers: feminist research is on women, by women and for women (2010, p. 54).

The development of feminism as a theory paralleled its advancement as a movement in everyday life. As a movement, feminism progressed through the decades and assumed different shapes; thus, no single definition of feminism exists even though feminist perspectives share the basic principle of standing up for women's rights. The manner by which feminists perceive and advocate women's rights differ amongst liberal, radical, social, standpoint, postmodern, essentialist and constructivist (amongst others) thinkers. The matter of shared common ground is highlighted by Stanley and Wise thus:

The most central and common belief shared by all feminists, whatever their 'type' is the presupposition that women are oppressed. It is from this common acceptance that there is indeed a problem, that there is something amiss in the treatment of women in society, that feminism arises (2000, p. 61).

Chapter three discusses the historical emergence of feminism and the different waves that it experienced in more detail.

As previously highlighted, a key challenge that confronts feminist researchers and advocates, particularly Western ones, is whether their advocacies can be considered global in nature. hooks argues that this challenge stems from the fact that feminist leaders in the United States, who were predominantly white, took on the responsibility of liberating their unfortunate sisters around the world, particularly in the Third World. The author explains that the main problem in the American feminists' efforts towards liberation is their ignorance of colonial and neo-colonial realities:

When unenlightened individual feminist thinkers addressed global issues of gender exploitation and oppression they did and do so from a perspective of neocolonisation (hooks 2000, p. 46).

The fact that these Western movements view Middle Eastern or African societies as barbaric, uncivilised and oppressive to women whilst neglecting that sexism and oppression can equally happen to American women is a major obstacle to establishing a global sisterhood. hooks explains how such behaviour can be corrected:

For example: linking (girls') circumcision with life-threatening eating disorders (which are the direct consequence of a culture imposing thinness as a beauty idea) or any life-threatening cosmetic surgery would emphasize that the sexism, the misogyny, underlying these practices globally mirror the

sexism here in this country. When issues are addressed in this manner Western imperialism is not reinscribed and feminism cannot be appropriated by transitional capitalism as yet another luxury product from the West to women in other cultures must fight to have the right to consume (2000, pp. 46-47).

Mohanty shares the same ideas as hook's, arguing that global sisterhood cannot be established on the basis of gender because beyond the issue of sisterhood remain racism, colonialism and imperialism. The author believes that the original feminist movement, which was initiated in the West, accords priority to women's issues in accordance with the specific circumstances of Western countries. Such movement expects the rest of the women across the world to follow suit:

Global sisterhood posits a historical unity that conceals 'latent ethnocentrism' evident in the Western feminist priority of issues around the which apparently all women are expected to organize (Mohanty 2003, p. 18).

Thus, decolonised feminist attitude and thinking would be the best approach to global feminism that includes all women across the world. Although feminism as a theory and practice began in Western countries, feminists from different cultural backgrounds have attempted to accommodate feminist issues in accordance with their specific social, cultural and historical contexts in an effort to engender a more universal feminism. The feminist perspective has therefore evolved numerous times to include the concerns of women of different backgrounds (e.g. black women). Motta et al. argue that

...post-structuralist and black feminist theories offer corrective arguments that have attempted to theorize the integration of women into existing patriarchal discourses and structures without fundamentally transforming them (2011, p. 16).

The authors explain that considering these different genres of feminism compels us to reconsider Western epistemological and cultural frameworks. The main dilemma remains in transferring the theory into collective agency (ibid).

Similar to black feminism, which revolves around the specific needs of coloured women's rights in addition to the rights of all women, approaching feminism with intersectional thinking leads us to regard Islamic feminism as a genre that is becoming increasingly popular amongst Muslim feminists. In Muslim societies, the term 'feminism' may provoke tension given that the mainstream perception is that women belonging to such a movement are brainwashed Western agents who aim to encourage Muslim women to abandon their religion and principles. As a supplement of the Western feminist movement, Islamic feminism has rapidly grown in recent years as part of the progression of the Islamisation process as a whole:

Globalization has collapsed local colonial legacies, postcolonial failures, and neo-colonial threats into a certain condition of vulnerability that demands new responses. A much trumpeted response has been Islamization...Some people especially those who position themselves as Islamic feminists, are inventing ways to navigate between forced changes and integrity' (Cooke 2001, p. 5).

Islamic feminism has arisen as a perspective that aims to grant women their full rights by implementing the rules of equality between man and woman. This movement recognises that these rights are originally embedded in Islam but not explicitly addressed because of the cultural and patriarchal values that prevail in the Muslim world. Supporters of Islamic feminism, such as Dr. Margot Badran, a graduate of Al-Azhar and Oxford Universities, define the phenomenon as follows:

Islamic feminism has taken on the two-fold task to expose and eradicate patriarchal ideas and practices glossed as Islamic – ‘naturalized’ and perpetuated in that guise -- and to recuperate Islam's core idea of gender equality (indivisible from human equality) (Badran 2006a).

Even though the concept of Islamic feminism has been actively discussed only in the last two decades, this movement was initiated in the previous century, during which women such as Nazira Zinaldin in Lebanon in 1920 and Fatima Aliya Hanim in Turkey in 1800 or men such as Mohammed Abdu and Qassim Amin in Egypt in the mid-nineteenth century began calling for a rereading of Islamic texts in a way that would grant women their rights. Early feminists, whether conservative or secular, have fought against oppressive practices done in the name of religion rather than blaming religion itself. Moghissi explains that

‘[b]oth secularists and modernist Islamists stressed that women’s degraded conditions were the result of a gender biased misreading of the Quran, not the text itself. Muslim reforms claimed that Islamic rules were male biased and a culturally distorted interpretation of the Quran. They argued that the Quran never meant to make men superior to women or to force the *hejib* on women (1999, p. 128).

The author believes that Islamic feminists were compelled to develop alternatives to the Orthodox interpretation of Islam because engaging Islamic rules is impossible in conservative Muslim environments. Unlike Badran (2006a), Moghissi (1999) argues that Islamic feminism based on the framework of Islam cannot be successful because it neglects the distinction of Islam as a political and legal system and as a spiritual and moral one. The author believes that the Islamic Sharia distinguishes amongst the rules and duties of human beings in accordance with their sex—a practice that contradicts the main goal of feminism, which is absolute equality between men and women despite their sex.

How could a religion that is based on gender hierarchy be adopted as the framework of struggle for gender democracy and women's equality with men? And if Islam and feminism are compatible, which one has to operate within the framework of the other (Moghissi 1999, p. 125)?

Despite the debate on whether feminism is applicable to the Islamic context, however, this movement is prevalent amongst Muslim women activists in the West and established Muslim countries. Nevertheless, it is confronted with some major challenges. Badran (2006b) discusses such problems in more than one work. In Nieuwkerk's 'Women Embracing Islam: Gender and Conversion in the West', the author explains that Islamic feminism is challenged by political Islam, which is directed by conservative males who espouse strict patriarchal values: 'Islamic feminism is challenged by political Islam, which promotes a patriarchal gender system upholding the hegemony of men over women' (Badran 2006b, p. 192). In another paper published in Al-Ahram Newspaper, the author underlines the antagonism in some sectors towards Islamic feminism:

Islamic feminism has incurred enemies from within and without the Muslim community: 1) from within -- men who fear the loss of patriarchal privilege and women who fear the loss of patriarchal protection, and 2) from without -- those whose pleasure and politics are found in denigrating Islam as irredeemably anti-women (Badran 2006a).

The author also indicates that an additional obstacle to Islamic feminism is the cultural racism that claims Muslim women are oppressed because of Islam. According to the author, the aim of Islamic feminism is to prove that Muslim women can enjoy their rights similar to any other women in the world if religious texts are reread and reinterpreted (i.e. without patriarchal influence):

Islamic feminism's calls for the implementation of gender equality and social justice, is anathema to the projects of patriarchal political Islam and of

cultural racism/Islam phobia, wherever they may exist' (Badran 2006b, p. 193).

Because the current research investigates a Muslim country, a premium is placed on exercising cultural sensitivity, especially because it is a cross-cultural study dealing with women in Muslim countries. Chapter Five elucidates the points of view of Islamic advocates and explores the justifications presented by Muslim apologists in terms of the neglect of the women's rights provided for in Islam. This chapter also determines whether Islam can be compatible with the standards of equality that are advocated by feminists of different schools. The final chapter of this research draws conclusions as to whether Islamic feminism is sufficiently liberating for women and at par with the standards of international law.

2.2 The Research Design:

After deciding upon a clear paradigm or theoretical perspective for research, a design must be constructed. The design requires applying the theoretical perspective in practice. Walliman explains that there are different research designs and that the choice of design depends on the nature of the problems posed by the nature aim (Walliman 2011, p. 9). Therefore, the research design or methodology depends on the questions the research needs to address. Gray argues that,

[t]he choice of research methodology is determined by a combination of several factors – for example, whether the researcher believes there is an external “truth” out there that needs discovering or whether the task or research is to explore and unpick people’s multiple perspectives in a natural, field setting. It is influenced, then, by whether the research is inclined towards a positivist, interpretivist, or other perspective (Gray 2014, p. 29).

Therefore, the design is strongly connected to the paradigm or theoretical perspective of the research, and it is also connected to the purpose of the study, the techniques used and the context of the study.

Experts have often debated which designs are more suitable for the social sciences. The quantitative researchers believe that experimental designs are more accurate and scientific because bias might occur in flexible designs, while the qualitative experts see that experimental designs can be restrictive, particularly in social sciences where observation during the research might modify the design used. However, according to Terre Blanche et al., ‘depending on the purpose of the research and the orientation of the researcher, a design may vary along with a continuum from inflexible and technical blueprints on the one hand to flexible and pragmatic guides for action on the other hand’ (Terre Blanche et al. 2006, p. 36).

Generally speaking, research designs can be divided in two main groups, inflexible (blueprints) and flexible (pragmatic). Research designs can be historical, descriptive, action research based, comparative, correlational, experiential, ethnological, a survey, a case study, etc.

The purpose of a case study is to probe deeply and to analyze the characters of a certain unit, whether it is an individual or a community, 'with a view to establishing generalizations about the wider population to which that unit belongs' (Cohen et al 2011, p. 296). According to Yin, a case study is used when a researcher is seeking to address real life situations that are too complex to be studied through a survey or an experiment. The expert argues that the case study methodology is preferred in 'situations when 1) the main research questions are "how" or "why" questions; 2) a researcher has no or little control over behavioural events; and 3) the focus of the study is contemporary (as opposed entirely to historical phenomenon)' (Yin 2009, p. 2). The case study is actually more than conducting research over an individual or unit, as it has the advantage of dealing with a smaller sampler of a complex situation and applying the results to a wider sample later on.

This research takes the Kingdom of Bahrain as a case study, as it serves as an excellent example of a conservative Muslim society. The small population of Bahrain (one million) which is divided into Sunni and Shia communities (the two main Muslim sects) makes it a good case study where the results can be generalized to larger Muslim societies. Moreover, in terms of applying the Islamic

Sharia, Muslim states differ in their application of that law as Mir-Hossenini suggests,

Muslim countries have followed one of the following three paths: abandoning classical Islamic law in every sphere and replacing it by Western inspired codes; retaining Islamic law in respect to family, inheritance and religious endowments, while abandoning it in other areas of law, or preserving Islamic law as the fundamental law and attempting to apply it to the whole range of human relationships. A large majority of Muslim countries have chosen the middle path, where the Sharia still forms the basis of family law, though reformed, codified and applied by a modern legal apparatus' (Mir-Hossenini 2000, p. 8).

According to Welchman, the codification of personal or family laws in Muslim countries has gone through three phases. The first phase took place with the Ottoman Law of Family Rights in 1917, accompanied by reform in the Sharia courts as before this law the matters of family affairs were left to be decided by judges according to their understanding of the Islamic jurisdiction of each particular case. The second phase started in the 1950s with family law reform in Jordan, Syria, Tunisia, Morocco and Iraq, where most states based their family laws still on the Islamic Sharia with the exception of Tunisia which exchanged it with secular personal states law (Welchman 2007, p. 12-13). The recent and third phase of family law reform started in the Gulf region with the beginning of the 2000 when UAE passed its family law in 2005 and Qatar in 2006 (again based on the Islamic Sharia). There has been a pattern of exchange and borrowing in drafting Arab family laws particularly in the 1950s as most of them draw upon the Egyptian laws issued earlier or the Ottoman Law of Family. However, despite the similarities between the majority of Arab family laws, the author adds, '[n]o two codes are the same, however, and official explanations of the laws assert the location of their

particular formulation in the national context of the particular state' (Welchman 2007, p. 33). However, all of the family laws in the Muslim world take Sharia as a main source of jurisdiction with exception of Tunisia and Turkey which emphasize secularism in their constitutions.

Bahrain falls into this category as it follows a semi-secular law while the society has a conservative nature, which is the case in the majority of the Muslim world. Most of the Muslim countries do not fall specifically into one category and are rather in-between, just like Bahrain. Only Saudi Arabia and Iran chose to strictly apply Islamic law to all life's spheres. Therefore, by analyzing the research questions, the results of the research can be applied to other Muslim countries with larger population but with similar legal frameworks to that of Bahrain's.

The third chapter of this research uses a historical approach as it describes how the definition of human rights in general, and women's rights in particular, was formed in modern history. When using a historical approach, the most important question is always "when is the right starting point?" – women's rights issues cannot be defined before understanding the concept of human rights as part of the international law that we have today. This means that the historical study of this research starts in the era following the Second World War, where the world states agreed to have a sort of consensus on international and human rights related issues. The aim of the third chapter and the historical approach used is to give an overview and understanding of human rights and women's rights before going into more detail when studying Bahrain in particular. As a matter of fact, Skocpol stresses the importance of historical knowledge in sociological studies because

sociology has always had historical grounds where original efforts were to come to grips with the effect of unprecedented capitalist commercialized and industrialized Europe. The social inequalities, political conflicts, moral values and human lives were greatly affected by the economic change that erupted in Europe and expanded its effect to the rest of the world. Therefore, the historian argues that understanding the history in sociological studies provides a better understanding of the present and gives better solutions: 'Broadly conceived historical analyses promise possibilities for understanding how past patterns and alternative trajectories might be relevant, or irrelevant, for present choices' (Skocpol 1984, p. 5). Therefore, this research found it essential to have a historical understanding of certain definitions in order to analyze the present issue in a comprehensive manner.

2.3 The Research Strategy:

When it comes to the strategy used in conducting research, according to Tashakkori and Teddlie, researchers in the social and behavioural sciences can be roughly categorized into three groups based on their approaches:

- a) quantitatively oriented researchers (QUANS) working within the post-positive tradition and primarily interested in numerical analyses
- b) qualitatively oriented researchers (QUALs) working within the constructivist tradition and primarily interested in the analysis of narrative data and
- c) mixed methodologists working within other paradigms (Tashakkori and Teddlie 2003, p. 686).

Qualitative research emphasizes meanings (words) rather than frequencies and distributions (numbers) when collecting and analyzing data. Punch explains the difference between qualitative and quantitative generally and simply by stating: 'Quantitative research is empirical research where the data are in the form of numbers. Qualitative research is empirical research where the data are not in the form of numbers' (Punch 2005, p. 3). Some researchers argue that qualitative research is also concerned with issues of measurement, but with measures that are of a different order to numerical measures. A primarily qualitative research method is where the research is aiming to understand and interpret the situation from the perspective of the people involved in it and in the way they understand it. This kind of research includes interviews, observations, case studies, audio and documentary analyses, action research, questionnaires, discourse analysis and ethnographic research. Merriam emphasizes the *humanistic* dominion of such a method: 'qualitative inquiry which focuses on meaning in context, requires a data collection instrument that is sensitive to underlying meaning when gathering and interpreting data. Humans are best suited for this task especially because interviewing, observing and analyzing are activities central to qualitative research' (Merriam 2009:2).

On the other hand, the quantitative method is defined by Aliaga and Gunderson as, 'explaining phenomena by collecting numerical data that are analysed using mathematically based methods (in particular statistics)' Aliaga and Gunderson (2000) in (Mujis 2011, p.1). The quantitative method depends on collecting numerical data, unlike the qualitative method where data is not necessarily

numerical and therefore cannot be analyzed by using mathematics. In quantitative research, the researcher knows in advance what he/she is looking for and designs the methods accordingly. The objective of quantitative research is to develop and employ mathematical models, theories and/or hypotheses pertaining to phenomena. This kind of research includes surveys with close-ended questions, secondary data and experiments. The main characteristics of quantitative research include the following steps: 'Developing models, theories, and hypotheses of what the researcher expects to find; developing instruments and methods for measuring the data; experimental control and manipulation of variables; collecting the data; modeling and analyzing the data; and evaluating the results' (Shirish 2013, p. 38).

While quantitative and qualitative research approaches each have their strengths and weaknesses, they can be extremely effective in combination with one another. The strengths of quantitative methods include precision, control, the ability to produce causality statements and that they are replicable, while the weaknesses, especially when used in the social sciences, include the difficulty of controlling all the variables or to get similar responses in the light of the complexity of the human experience. Quantitative methods are also criticized for presenting trivial and banal outcomes that are not sufficient for addressing an issue. The strengths of qualitative methods, on the other hand, include getting a deeper, wider and more comprehensive description of an issue and presenting cause and effect and a dynamic process. The weaknesses of such an approach include doubts about objectivity due to the involvement of the researcher in the study, which might result

in inadequate reliability and validity, also that the situations, events or conditions studied cannot be easily generalized or repeated due to their difference in nature.

Bryman has argued for a 'best of both worlds' (1988, p.155) approach and suggested that qualitative and quantitative might be combined. This can be referred to as the mixed methods approach, a concept that has been forming over the last 50 years. This study is going to use a mixed method design as it uses both data collected from surveys and input from interviews. Creswell explains that mixed methods research design is a procedure for collecting, analyzing, and 'mixing' both quantitative and qualitative research and methods in a single study to understand a research problem, ' a mixed method design is useful to capture the best of both quantitative and qualitative approaches' (Creswell 2003, p. 22). The mixed method involves collecting both quantitative and qualitative data, whether numerical or textual. This kind of method decreases the weaknesses of both quantitative and qualitative data. Creswell argues that using mixed method research can serve as an ideal solution, particularly in fields related to social sciences where relationships, interactions, feelings and views can be analyzed along with measuring statistics: 'Mixed methods research provides more comprehensive evidence for studying a research problem than either quantitative or qualitative research alone' (Creswell 2007, p.9).

Finding a balance in using both methods is essential when conducting mixed research, so that each method is used to address the research questions properly and to fill the gaps left by the other method. Clarke argues that the logic and goals behind using each method are the most important factors: 'There is no hard and

fast boundary between quality and quantity. Similarly one can carry out qualitative experiments or quantitative experiments. The two are not all that different. The distinction between descriptive and experimental research is much more fundamental, in terms of the logic involved, and the purposes they serve' (Clarke 2004, p. 80).

A quantitative method is argued to be weak in understanding the whole context, background and the surrounding of people, as it does not provide space for the expression of their opinions. Therefore, using only a quantitative research method in collecting data for this research would be insufficient – research which has a wide social and cultural aspect must involve a method where participants can provide more in-depth information about the situation and also give the researcher the ability to be closer to the case itself. By using a qualitative method along with a quantitative one, where it is necessary to have statistics detailing the repetitive reactions of participants towards a specific issue, the weakness of using quantitative data only is overcome.

2.3.1 The Fieldwork Undertaken in the Thesis

The research used the mixed-methods strategy, as it included both quantitative (surveys) and qualitative approaches (interviews, case study and literature review). The questionnaire was used in order to assess the reactions of Bahraini society regarding women's issues. The questionnaires that were distributed over a period of two and a half months in the year 2013 targeted different segments of Bahraini society. The researcher distributed 443 questionnaires to men and women in

Bahrain by visiting different workplaces and returning to collect them the next day. However, the working class was not the only targeted segment; therefore, the questionnaire was also distributed at different family and social gatherings and to people in shopping centres and restaurants at random. There were a total of 332 female and 111 male respondents to the questionnaire.

A pilot trial was distributed among 10 respondents who came from different social backgrounds. Following this trial, some amendments were made to questions in the personal information section. Those amendments could be considered an uncontrolled limitation to the questionnaire.

The main limitation of the questionnaire's design is its omission of questions regarding the religious, ethnic and economic backgrounds of the respondents. The reason for this omission is that although the questionnaire was anonymous, these issues were sensitive in the trial, so the danger was that respondents would refuse to take part. Asking about religious and ethnic backgrounds in particular might have created fear or mistrust, provoking insincere answers, especially in the context of the sectarian and political tensions Bahrain and the Middle Eastern region are experiencing at the moment. Also, the question asking 'Do you think Islamic Sharia law should be updated and reinterpreted as it causes discrimination against women the way it is practiced now?' was modified to 'Do you think some of the applications of Sharia law should be updated and reinterpreted as they cause discrimination against women the way they are practiced now?' Asking if the 'Sharia law should be updated' in general sounded offensive to those respondents who were adamant

that the holy texts cannot be changed. They were more comfortable with the alternate phrasing.

The economic backgrounds of the participants can be assumed, as the questionnaire was distributed among circles of people who were likely in the middle income bracket⁶. It was distributed in some governmental ministries, including Sports and Youth, Foreign Affairs and Education, and in the private sector, including at banks and investment companies. Moreover, the questionnaire was also distributed among the lower income bracket, specifically among retired or uneducated men and women. The economically more prosperous individuals were not specifically addressed, as Bahraini society is widely considered to be predominantly middle class.

The target of the questionnaire is to address the following research questions:

1. Is it necessary for Muslim countries to adapt to international conventions to improve the situation of women within their borders?
2. Is the CEDAW the most suitable and only option available for Muslim countries to improve the situation of their women, or can they put forward other solutions to improve women's equality according to their own social needs and values?

The close-ended questions asked the respondents the following:

1. Whether or not they think women in Bahrain have their full rights,
2. Whether or not they think Islamic teachings, state laws or traditions are reasons for a Bahraini woman not having her full rights,

⁶ Bahrain's GDP per capita reached 7,527 BHD (13,200 pounds sterling) in 2008, placing Bahrain in the ranks of high-income countries (CEAW 2011, p. 7).

3. Whether or not they think some of the applications of Sharia law should be updated and reinterpreted as they cause discrimination against women the way they are practiced now,
4. Whether or not they think that culture/traditions related to women in Bahrain should be changed as they do not suit today's needs,
5. Whether or not they agree with polygamy,
6. Whether or not they think the government is doing enough to grant women their rights,
7. Whether or not they have any knowledge of the Convention on Elimination of all Forms of Discrimination against Women,
8. Whether or not they think the United Nations conventions can help women in their country get their rights,
9. Whether or not they think of women in Western Europe (e.g. UK) have more rights than Muslim women.

The last three open questions of the survey asked the respondents the following:

10. List one to three problems, if they exist, that face women in Bahrain.
11. List one to three advantages, if they exist, that women enjoy in Bahraini society.
12. What do you think is meant by women rights?

Questions 1 to 4 and question 6 of the questionnaire aimed to measure whether or not the people in Bahrain, men or women, felt that women suffer injustice for any reason, and consequently might need the intervention of international tools and mechanisms. Question 5 of the questionnaire related to polygamy. Even though the research is not, in essence, addressing this phenomenon, the question aimed to measure if the society has any conflict in allowing the phenomenon to occur, despite its opposition to international standards. Questions 7 to 9 aimed to measure the participants' awareness of the CEDAW convention and their reactions to applying what are viewed as 'Western' tools to improve the situation of women in

Muslim societies. The open-ended questions aimed to discover the general feeling of the public – what they see as the advantages or disadvantages of being a woman in Bahraini societies – as well as an opportunity to present their views about women’s rights and their suggestions for improving the situation of women.

Moreover, The research also used face to face interviews with experts working in the field of women’s rights, religious clerics who oppose to the implementation of the CEDAW and a medical professional working in the field of gynaecology. Besides aiming to address all of the research questions through the method of interview, this method had special focus on addressing the following research questions:

1. Is a convention, such as the CEDAW, able to overcome the social, religious and legislative obstacles that exist in Muslim societies?
2. Is the CEDAW the most suitable and only option available for Muslim countries to improve the situation of women, or can they put forward other solutions for female equality according to their own social needs and values?

Moreover, meeting the medic aimed to tackle the controversy about women rights in Islam from a different angle, the physical and hormonal differences. Because many conservative clerics always justify the unequal treatment between men and women in religion by using the argument that man and woman having physical differences, the aim of interviewing a medic was to explore whether or not such assumptions have any scientific grounds that can support their validity.

The interviews were conducted with the following persons (detailed information regarding the interviewees is given within their interview section in later chapters):

- Interviewee (A): A woman rights activist in Bahrain who has been involved in woman rights activities for over 15 years.
- Interviewee (B): A prominent Bahraini Sunni cleric.
- Interviewee (C): A Bahraini Shia cleric.
- Interviewee (D): A gynaecologist and lecturer at Medical Faculty in a Turkish University.
- Interviewee (E): A religion scholar from Turkey.

Walliman explains that the usage of a qualitative method such as face to face interviews 'is more suitable to questions that require probing to obtain adequate information' (Walliman 2011, p. 99). Therefore, it is here recognized that using interviews would provide the opportunity to understand, in more detail, the situation of Bahraini women from women working in the field, as well as the views of religious clerics who do not believe that women suffer under the current Sharia law practices which lack the implementation of international conventions. According to Gillham, 'An interview is a conversation, usually between two people. But it is a conversation where one person – the interviewer – is seeking response for a particular purpose from the other person: the interviewee' (Gillham 2000, p. 1).

Lennon & Corbett explain that using interviews as a research method has several advantages, such as,

High response rate, possibility of lengthy and complex items and interview, high researcher control of questions order, response situation, success with open ended questions, use of visual materials and observation based data, researcher-respondent rapport building possible, high quality response recording, low sampling frame and response bias and rich voluminous data possible. (Lennon and Corbett 2003, p. 242).

However, the authors also add that there are some disadvantages to this method as well, in particular the important issue of confidentiality: 'ensuring respondent confidentiality is difficult as because respondents are aware that the interviewer knows many of the respondents' identifying characters' (Lennon and Corbett 2003, p. 241).

Advantages and disadvantages aside, the research was able to use structured interviews to gain information from experts and religious clerics. Two women's rights activists were interviewed in order to study their position towards the CEDAW convention and whether their campaigns to fully adapt this convention to Bahrain could be fulfilled in the future. Their views on the main obstacles that women suffer in Bahrain were also collected. The two religious clerics were interviewed in order to explore their reasons for opposing the implementation of the CEDAW and to take their views on what they believe are the best solutions to women's problems in Bahrain. The questioning aimed to investigate the two very different positions that the women's rights activists and religious figures hold about women's issues in Bahrain and how they should be addressed. The interviews were semi-structured. They began with fixed questions such as "Do you think that the CEDAW could be implemented in Bahraini society?"; "Do you think Bahraini women enjoy their full rights according to Sharia law in Bahrain?" and "What are your suggestions to improve the situation of women in Bahrain?" The rest of the questions were follow-ups to the remarks of the interviewees. At the beginning of each interview, the purpose of the questioning was explained as only for research

and to better understand the situation of the research subject. Each interview lasted for two hours and was recorded by notes taken by the researcher.

3.4 Reliability, Replication and Validity:

Criteria in social research must assess reliability, replication and validity. Shepard explains that a researcher might be mindful, objective and select the most suitable method, yet 'fails to produce knowledge superior to that yielded by intuition, common sense, authority or tradition' (Shepard 2013, p. 54). Therefore the researcher must be careful when measuring the validity and success of his/her research.

According to Bryman, 'reliability is concerned whether the question of whether the results of a study are repeatable' (Bryman 2012, p. 46), which is the case usually connected to quantitative research and when applied in social sciences research it evaluates the consistency of concepts such as poverty, racial prejudice, deskilling and religious orthodoxy. The results of this research shall be reliable as also studying a widespread concept which is 'discrimination against Muslim Women,' and though the research is taking Bahrain as a case study, the questions and the results of the study could be repeated in other Muslims societies as the main factors of discrimination and controversial issues in the Sharia create a common ground among those societies.

In terms of replication, Bryman explains that replication occurs 'when the researcher chooses to replicate the findings of others.' (Bryman 2012, p. 46).

However, replication is not common in social studies due to the nature of their subject. Replication is usually used in the scientific field as the duplication of results could ensure accuracy and it is the way that scientific knowledge can change over time.

Validity is considered as the most important component for criteria of research as according to the author, 'validity is concerned with the integrity of the conclusions that are generated from a piece of research.'(Bryman 2012, p. 47). Thus, while reliability is concerned with checking the accuracy of the measuring tool or procedure, validity is concerned with measuring the success of the results or outcomes of the procedure or experiment. It is important to measure both internal and external validities. External validity refers to the extent to which a study is generalizable or transferable, and internal validity refers to the rigor with which the study was conducted. However, one important element of internal validity is that it is not related to observational or descriptive studies as Casady notes: 'internal study is only relevant when a researcher is trying to link a cause with an effect. It is not relevant in observation or descriptive studies that merely report findings.' (Casady, n.d) Therefore, due to the nature of this research, which is not actually studying a cause and effect relationship but rather is analyzing the findings of a current situation, internal validity is not relevant. However, external validity is indeed key to this research – the results of the study and the concluding suggestions for improving the situation of Muslim women in Bahrain can hopefully be generalized and transferred to other Muslim societies which are similar in nature.

Chapter Three: Understanding the Modern Definition of Human Rights and the Emergence of the Concept of Women Rights.

Humans have been, throughout history, trying to formulate criteria for organising their rights and duties through their membership in a group, family, indigenous nation, religion, class or community. The history of human rights covers thousands of years and draws upon religious, cultural, philosophical and legal developments throughout recorded history. It seems that the concept of human rights is as old as the emergence of civilization itself. This is evident from the fact that at almost all stages of the development of humanity there have been human rights documents in one form or another. This chapter is going to reflect upon the development of the concept of human rights from the early days until modern times.

3.1 The Concept of Human Rights in Older Civilisations:

Thus, long before the United Nations was established and human rights treaties were formed as tools for preserving and protecting people, older societies had traditions that outlined the rights and duties of people belonging to these societies. These civilizations set out laws that were related specifically to the rights and duties of people within their own communities. One of the first examples of a codification of laws that contain references to human rights is the tablet of Hammurabi (Nathan 2009, p. 26). The tablet was created by the Sumerian's four thousand years ago. While considered below the standards by today's understanding of human rights, the system of two hundred and eighty two laws created a precedent for a legal system as it was one of the first *written* texts in

history that underlined principles of human rights. It was the first time in the history of mankind that a legally binding document was written to protect the people, for instance, from arbitrary persecution and punishment at that time.

However, human rights were not solely formed and initially created by the Hammurabi code. Many societies in different parts of the world at different ages created their own codes of order, mainly based on religion with rules that included organizing the relations between humans within society. Human Rights Educators Network of Amnesty International emphasizes this argument stating that,

[m]ost societies have had traditions similar to the "golden rule" of "Do unto others as you would have them do unto you." The Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran (Koran), and the Analects of Confucius are five of the oldest written sources which address questions of people's duties, rights, and responsibilities. In addition, the Inca and Aztec codes of conduct and justice and an Iroquois Constitution were Native American sources that existed well before the 18th century. In fact, all societies, whether in oral or written tradition, have had systems of propriety and justice as well as ways of tending to the health and welfare of their members (Human Rights Educators Network of Amnesty International 1999, p. 166).

As far as religion is concerned, the rights and duties of humans had a divine dimension as they were set and ordered by the Creator. Following the rules of the Creator was the criteria for going to heaven or hell in the afterlife, a principle that is emphasized in the three main Abrahamic religions, Judaism, Christianity and Islam. The religious texts underlined that humans are sacred, which was an important value that emphasized the value of the human. The Old Testament mentions that Adam was formed as an 'image of God' (Beala and Carson, eds, 2007, p. 733). Jewish teachings emphasize the holiness of human being as the human body is

the vehicle that God provided for the soul to fulfill its task for perfecting itself in the physical world. As body and soul are partners in this task, the body also is holy and sanctified (Beacher 2005, p. 63). In Islam, the Quran states: 'And surely we have honoured the children of Adam (17:70).' Nevertheless, religions were not comprehensively successful in providing a coherent system of human rights as there were in many circumstances discriminatory rules, especially when the interpretation of the religious text was monopolized by religious clerics who at times interpreted the texts in terms of what they considered most beneficial. Henkin believes that religions have violated human rights rather than protecting them: 'Though some Christian theologians have argued that Western human rights theory is grounded in religious faith, human rights morality is, in fact, autonomous. The ideologies of religion and of human rights differ in their sources, the bases of their authority, their forms of expression, and even their substantive norms. Moreover, historically, religious communities have often themselves violated human rights norms-and such violations persist today in some geographical regions and with respect to some norms' (Henkin 1998, p. 229).

Religion embodies institutionalized connections with transcendental bases for morally justified behaviour. Practice shows that respect for truly universal human dignity is not inherited in all religions. Sometimes, the religious message itself may contain discriminatory elements. This applies particularly to situations where cultural norms have a great authority in a society or interpretation and application of religion is monopolized by religious clerics. In such situations religion may disdain a certain group of people because of their sex, gender or race and

therefore come into conflict with the principle of human equality. However the human rights-religion relation throughout history remains complex as it has differed from one society to another and from one religion to another.

The French revolution is often referred to as an example of how people rebelled against the religious institution (the Church) as it was believed that priests used religion to violate people's rights rather than protect them. However, a study conducted by Marthoz and Saunders illustrated that religion was not always a factor contributing to the violation of human rights but was actually a means giving empowerment to those rights in certain societies:

In other countries religion was the prime mover behind campaigns for human rights. The role of U.S. and English Protestant churches in the anti-slavery campaigns, in the Congo reform movement, and in solidarity with Armenian victims in the late days of the Ottoman Empire belong to the best chapters of the history of the human rights movement. The "social teachings" of the Catholic Church in the late 19th century also created a context that allowed committed Christians to press actively for social justice and contributed to the development of strong labor unions and mutual help associations that fought for social and economic rights (Marthoz and Saunders n.d, p. 5).

In spite of the contributions or imperfections of religions in guarding human rights, it can be said that having some kind of certain law or reference to protect and organize rights of people within a group or community has always been an essential human need; and it was first witnessed in religions and old philosophies. It seems that all human groups have moralities that are based on reason and values and that religions have maintained the broad guidelines for those values despite being misinterpreted or mis-applied in some cases. These moralities

contained specific norms (for example, a prohibition of murder of an innocent person) and specific values (for example, the holiness of a human being.) Moreover, the principles of different world religions and philosophies that advocated for human dignity and value were embedded in the main documents of human rights that are used in today's modern world as will be discussed later in this chapter.

The philosophy of human rights emerged from attempts throughout history to create systems for organising humans' right-duty relations because philosophers felt they could not leave the duty of defining human rights to theology as it was believed that the definition of human rights goes beyond what religions offer. The philosophy of human rights addresses questions about the existence, content, nature, universality, justification, and legal status of human rights. For many decades thinkers have tried to give a definition to the concept of human rights which would universalize it. According to Cranston: 'A human right by definition is a universal moral right, something which all men, everywhere, at all times ought to have, something of which no one may be deprived without a grave affront to justice, something which is owing to every human being simply because he is human' (Cranston 1973, p. 36).

Other influential definitions of human rights were developed in the 17th and 18th centuries by well-known philosophers such as Immanuel Kant and John Locke. According to the Vishwanathan: 'Kant said that human beings have an intrinsic value absent in inanimate objects. To violate a human right would therefore be a

failure to recognize the worth of human life' (Vishwanathan 2012, p.69). Many of the central themes first expressed within Kant's moral philosophy remain highly significant in contemporary philosophical justifications of human rights. While Locke's philosophy of human rights explains that those rights are derived from the law of God, these 'natural rights' are possessed independently of, and prior to, the formation of any political community. Locke argued that these rights existed in a state of nature before humankind entered the civil society. Chief among these rights are rights of life, liberty and property. Locke's ideas also appear to be extremely persuasive in the formation of human rights (Wronke 1998, p.65). However, the philosophical definition for human rights differs from one school to another. Shestack explains that '[i]ntuitive moral philosophers claim that definitions of human rights are futile because they involve moral judgments that must be self-evident and that are not further explicable. Other moral philosophers focus on the consequences of human rights and their purpose. The prescriptivist school says that one should not be concerned with what is *sought* to be achieved by issuing a moral (human rights) utterance but with that which is actually accomplished' (Shestack 2006, p. 4).

3 .2 The Concept of Human Rights at Early Modern Times:

Going back to the chronological development of the formation of human rights, it is evident that the 20th century with the various political, cultural and social changes and developments has witnessed the achievement of a milestone in the formation

of the concept of human rights. Some documents asserting individual rights were adopted by different societies and communities during this century and they paved the way and put the basics to many of the documents and reference we use today regarding human rights. Flowers et al. explains that, despite the imperfection of older human rights documents, they were successful attempts that established the basis of human rights as we understand them today;

Documents asserting individual rights, such the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791) are the written precursors to many of today's human rights documents. Yet many of these documents, when originally translated into policy, excluded women, people of colour, and members of certain social, religious, economic, and political groups. Nevertheless, oppressed people throughout the world have drawn on the principles these documents express to support revolutions that assert the right to self-determination (eds . Flowers et al. 1993, p. 15).

Indeed, the previously mentioned documents were discriminatory to certain groups of society, but apart from the shortcomings of documents such as the English Magna Carta which was later on converted to the Bill of rights in 1689 by the English Parliament. The Magna Carta (1215), granted by King John of England, is argued to be the most influential document establishing the basis of human rights values in the English speaking world. Its overreaching theme was protection against arbitrary acts by the King. Land and property could no longer be seized, judges had to know and respect laws, taxes could not be imposed without common council. The Charter also introduced the concept of jury trial in Clause 39, which protected against arbitrary arrest and imprisonment. Thus, the Magna Carta set forth the principle that the power of King was not absolute. According to Ray, 'it cannot be denied that the earliest charters of fundamental rights are to be found

amongst three British documents, namely the Magna Carta (1215), the Petition of Rights, (1628), and the Bill of Rights, (1689). These three declarations were strictly speaking the forerunners of the modern Bills of Rights (Ray 1999, p. 134.)

Equally, the United States Declaration of Independence, which was written in 1776 to reaffirm the United States' independence from Great Britain, can also be considered as another modern document that underlined the concept of human rights. Even though it mainly focused on the rights of nations towards liberty, the Declaration stressed two significant values: individual rights and the right of revolution. The Declaration's primary meaning in 1776 was to affirm before the world the right of a group to enter the international realm (Armitage 2008, p. 20). Another more coherent step that was accomplished in regards to human rights in America was achieved by writing the Constitution of the United States of America in 1787 which is seen as a landmark document of the Western world. The American Constitution is considered as the oldest written national constitution which defines governance basics. However, Janda et al mention that the constitution did not include a list of individual rights as it believed that it spelled out the extent of national government power. Therefore in 1791, when the congress ratified ten amendments of the constitution, the nation had their Bill of Rights (Janda et al. 2009, pp. 414-415.) The Bill of Rights set to further protect the rights of all citizens, residents and visitors to the United States. The Bill presented new rights that were to be protected by the government such as the freedom of speech and the freedom of religion and the freedom to form assembly and petition.

Another milestone that was achieved during that century was with the French Declaration of the Rights of Man, produced in 1789. The French Declaration was a direct issue of the American Bill of Rights and influenced by the philosophy of the nineteenth century. The basic principles of this declaration were converted to the basic rights of individuals protected by the constitution (Ray 1999, p. 134). A couple of decades later, another document was produced by the Western countries to protect the wounded soldiers without discrimination and provide medical care during the war in the form of the 'First Geneva Convention' was signed by twelve countries in 1864 after a diplomatic conference held by the leaders of the Swiss confederation (Forsythe 2005, p. 18). Although this document was exclusively related to soldiers, it is counted as another accomplishment in the field of human rights as the wars did not have any humanitarian laws before this document.

From those various attempts in the Western world to enhance the situation of individuals and societies, the basic features of human rights were drawn, even though they were not sufficient enough to provide a full system that protected all of human rights, and excluded certain groups, races and gender. Thus, there was still a need to have a clearer form of principles to organize human rights-duties within a society and in relation with other societies; the previous attempts to protect human rights had either missed to address certain human rights needs or were formed according to the needs of a particular nation or region. This need of having international consensus on human rights was accomplished at a later stage in modern times.

Therefore, despite all the previous attempts that took place mainly in the 20th century and which aimed at explaining and forming a system for human rights, the most obvious way in which human rights are protected in contemporary times lies in the norms of international law created by the enactment and judicial decisions that were formed post-Second World War. The huge amount of damage, casualties and suffering that occurred in the world and particularly in Europe made it an imperative to prevent repetition of the same tragedy in the future, particularly since the notion of human rights was not that popular during the War and the colonial powers did not have much interest in emphasizing the notion of rights as it would not have served their interest in the third world countries that they were occupying. Buchanan quotes in a conference paper what Andrew Moravcsik has written apropos the European Convention of 1950, that

there is a real theoretical puzzle here. Why should any government, democratic or dictatorial, favour establishing an effective independent international authority, the sole purpose of which is to constrain its domestic sovereignty in such an unprecedentedly invasive and overtly nonmajoritarian manner?' (Buchanan 2008).

In fact, the aftermath of the Second World War with the enormous political, social and economic changes it created, besides the European nations' strong demands from the politicians to grant them a future where such deadly acts would not occur again, forced the Western states and many of the world countries to create tools that would ensure that an event such as the Second World War would never be repeated. The fact that those tools were considered by some as constraints upon national sovereignty was a secondary issue. As a matter of fact, before the occurrence of the Second World War, and after the First World War, liberals and

some politicians arrived at the idea that human rights and security needed international cooperation and as a result the League of Nations was established.

However, this League has failed in achieving any significant progress in the protection of human rights, as its structure which divided the world into large and small powers led to conflicts between the countries which were a part of the League which ended its role shortly.

3.3 The Concept of Human Rights Emerging within the Context of the United Nations:

After 1945 there is no doubt that there was a need for more powerful and more universal mechanisms to protect humanity. Roosevelt's Four Freedoms were among the leading ideas that led to the creation of such mechanisms. However it was a long and a hard process before getting the consensus of several world countries to organize San Francisco's United Nations (UN) founding conference which drew first outlines of the modern concept of human rights in the Charter of the United Nations, that was adopted at this conference. The Charter of the United Nations, in Article (13) states, that one of the purposes of the UN is 'to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion' (Charter of the United Nations 1945a,p.5). Moreover, the rights endorsed in the Charter were later on endorsed with further clarification and

explanation in an extremely important universal document which is the 'Universal Declaration for Human Rights.'

United Nations advocates praise for the remarkable achievement of the human rights commission which had the responsibility for drafting the declaration and which had members of different backgrounds and cultures who were able after such a huge bloodshed to put their differences aside and establish a common language to form the declaration's articles. Micheline Ishay explains that the commission consisted of Chinese Confucius diplomat Peng Chung-Chang who was a vice-president of the commission, Lebanese existentialist philosopher and rapporteur Charles Malik who was also the spokesperson of the Arab League (formed in 1945) and French legal scholar Rene Cassin who was a Jew that lost twenty nine members of his family in the Holocaust. The author claims that the remarkable achievement of the commission was that it challenged the notion of being a solely Western invention as it ensured looking at the common human principles in the world's greatest religions and culture (rather than excluding those religions and cultures) to eventually put together this preeminent document which was inspired by the values existing in different parts of the world (Ishay 2004, p. 17). However, much of this argument is going to be discussed through this research as others accuse the United Nations tools and conventions to be merely a Western world production.

It is known that each state has its own set of national laws to protect rights on its ground, but to have a more comprehensive picture of human rights, international documents, conventions and laws would serve as suitable resources that should

be looked at. To define human rights in modern legal terms, it is important that this definition is based upon a strong and internationally agreed basis. The Office of the High Commission for Human Rights in the United Nations (OHCHR) defines human rights in the following way:

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups (United Nations 2008, p. v).

As the definition above explains, human rights are given to all humans without discrimination, and those rights include civil, political, social, economic and cultural rights. The broad definition of human rights presented by the UN is reflected in practice through certain documents and conventions. There are two main UN documents that should be looked at as they detail the general rules and principles of human rights. Those two documents are, the Charter of the United Nations and the Universal Declaration for Human Rights, with specific focus on the declaration as it is the main document that sets the basic international standards for human rights. In addition to these two documents there are a number of UN conventions that tackle human rights in specific fields: the Convention on Civil and Political Rights, Optional Protocol to the Covenant on Civil and Political Rights, Covenant on Economic, Social and Cultural Rights, Convention Against Torture, Convention

Against Genocide, Convention of the Rights of the Child, Convention on the Elimination of Discrimination Against Women and The Geneva Conventions.

The Charter of the United Nations was the first and main document that outlined the core roles and divisions of the United Nations. The Charter was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945. The Charter of the United Nations' aims and purposes are as follows,

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace; 1. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace; 2. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and 3. To be a centre for harmonizing the actions of nations in the attainment of these common ends (Charter of the United Nations 1945b, p. 3).

Therefore, it can be said that the first mention of the terminology of human rights as we understand it today was in the previously mentioned article 1 of the first chapter of the Charter where it is explained that it aims to solve international problems of *humanitarian character*. However, the charter does not emphasize the humanitarian elements further as it focuses more on clarifying the roles and mandates of the different United Nations bodies such as the Security Council, the General Assembly, the Economic and Social Council, the International Court

of Justice, the Trusteeship Council, and the Secretariat. But, it does mention the element of human rights briefly in Chapter X which specifies the mandate of the Economic and Social Council as it states in paragraph two of article sixty-two that the Council 'may take recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms' (Charter of the United Nations 1945c, p. 12). And the Charter does explain at a later stage also in Article (68) of the same chapter that other specialized commissions would be established with the authority of the economic and social council, to work specifically on issues related to human rights, 'The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its function' (Ibid).

As seen above, the Charter of the United Nations mentioned the humanitarian elements in its articles, but it was not a document that specialized only in human rights. Therefore, another very prominent document was created to deal specifically with issues related to human rights: this document is called 'The Universal Declaration of Human Rights.' The Declaration is considered as the first comprehensive document that has been agreed upon internationally to preserve and protect the basics of human rights. The Convention which was adopted by the General Assembly of the United Nations on 10 December 1948, inspired by the strong will of world countries at that time – particularly the Western powers - emphasized the rights of women in its articles.

In the first article of The Universal Declaration, the concepts of freedom and equality are stressed: 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood' (United Nations 1984-2008, p. 3). The Declaration by stressing the concept of equality, abolished discrimination based on race, religion, ethnicity, colour or sex. The later articles highlight concepts such as, the right to life, the abolition of slavery, equality before the law, right to asylum, freedom of movement, right to have a nationality, freedom of thought, right for education and work, and other rights that societies enjoy today (Ibid). Such rights were not granted by most of world's societies in previous times and were never mentioned in such a comprehensive manner in any document that was written beforehand. But even though it was the first international document that dealt particularly with human rights and that it was considered as a turning point in the history of human rights, some argued when it was first produced that it was not powerful enough to protect those rights as the Declaration lacked any mechanism for follow up and accountability. Glendon explains the shortcomings of the Declaration when stating that, '[a]t the time the Declaration was adopted, human rights supporters were of different minds about its worth and prospects. Many regarded it as a milestone in the history of freedom, but to others it seemed to be just a collection of pious phrases— meaningless without courts, policemen and armies to back them up. The latter view was common among men impatient for action and progress, including Rafael Lemkin, the chief

promoter of the U.N.'s Genocide Convention, and Hersch Lauterpacht, the most famous international law scholar of the day' (Glendon 2004, p.11).

Despite those arguments that undermine the importance of such a document, it must be stressed that, at least from a theoretical point of view, the Declaration introduced concepts of human rights that were lacking or deliberately ignored in previous times. Unlike previous human rights documents such as the Magna Carta and French Rights of Man, which neglected the rights of certain groups such as women, the Declaration in Article (16) mentions the rights of women stating that, '1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State' (United Nations 1984-2008, p.6). Also in Article (25) mother and child were given specific attention in the declaration as it states that, '2) [m]otherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection' (United Nations 1984-2008, p. 9). The Declaration's reflection on women's rights was represented as a general position, but it was still a very essential step as it was the first time that women were guaranteed rights in a document that was agreed upon internationally. The same argument is applied to the abolition of slavery as the Declaration for the first time in history inscribes freedom from slavery into its ethical code: in Article (4) it says that 'No one shall be held in slavery or

servitude; slavery and the slave trade shall be prohibited in all their forms' (United Nations 1984-2008, p. 3). Such statements that gave vulnerable groups of society their rights for the first time in history were considered as milestones.

However, it is essential to note that the Universal Declaration is not considered as a treaty; therefore it does not directly create legal obligations for countries who have adopted it. But some international law experts argue that because countries have consistently invoked the Declaration for more than fifty years, it has become binding as a part of customary international law and can have the power of a binding law in some certain circumstances. And in spite of the fact of its not being legally binding, the Declaration is still very important in determining the meaning of human rights as we understand them today, as it is an expression of the fundamental values which are shared by all members of the international community and it has had a profound influence on the development of international human rights law. Additionally, most of the rights that were mentioned for the first time in the Declaration were later on incorporated into the legal systems and constitutions of most world countries.

3.4 The Formation of the Women Rights Concept and the Emergence of the United Nation's First Women' Convention:

The concept of human rights was vague and different from one society to another before the emergence of the United Nations' related documents which gave a legal and internationally agreed upon definition and tools to a concept that has been violated in different ways from one society to another. However, women's rights in

particular were even vaguer and were often not present in most societies throughout history. With the exception of ancient Egypt, which did give women some basic rights such as the rights to own property, rule and relocate freely; almost all other civilizations around the world have limited the rules and rights of women to a great extent. The Greeks for instance, despite the fact that they worshipped female deity, did not recognize women as citizens and therefore did not give them the right to own property or to vote. The situation in ancient Rome was not any better. Taylor explains the situation of women in older societies:

In ancient Assyria, the punishment for rape was the handing over of the rapist's wife to the husband of his victim, to use as he desired. Most gruesomely of all, some cultures practised what anthropologists have called ritual widow murder (or ritual widow suicide), when women would be killed (or kill themselves) shortly after the deaths of their husbands. This was common throughout India and China until the twentieth century, and there are still occasional cases nowadays. In the so-called 'enlightened' society of ancient Greece — where the concept of democracy supposedly originated — women had no property or political rights, and were forbidden to leave their homes after dark. Similarly, in ancient Rome women unable to take part in social events (except as employed 'escort girls') and were only allowed to leave their homes with their husband or a male relative (Taylor 2012, p.100).

Oppression of women was similar in the Middle East as Arabs in the Arabian Peninsula before the emergence of Islam had a tradition of burying newly born baby girls alive as it was believed that girls would bring shame and dishonour to family when they grew older. According to Adnan ' There is no doubt that Arabs committed infanticide before Islam. ..Young girls were usually the victims of this dreadful practice... female infanticide was usually done for two reasons: fear of poverty or fear of disgrace' (Adnan 2004, p. 30). Professor R. Howard Bloch summarizes the situation of women throughout history by stating that, 'the ritual

denunciation of women constitutes something on the order of a cultural constant, reaching back to the Old Testament as well as to Ancient Greece and extending through the fifteenth century. Found in Roman tradition, it dominates ecclesiastical writing, letters, sermons, theological tracts, discussions and compilations of canon law; scientific works, as part and parcel of biological, gynaecological, and medical knowledge; and philosophy. The discourse of misogyny runs like a rich vein throughout the breadth of medieval literature,' (Bloch 1987, p.1). But some, on the other hand, argue that even though the religious texts seemed to have prejudice towards women, and human rights in general, they had established some human rights values. In their study of the paradoxes between human rights norms and religion Witte and Green mention that, 'the ancient Abrahamic teachings and practices of Judaism, Christianity and Islam have much to commend themselves to human rights and practices. Similarly, the ancient teachings such as Buddhism, Confucianism, Hinduism and Indigenous Religions, have much to teach the world about human rights' (Witte and Green 2012, p.16).

However, despite the fact that they have contributed to setting some moral values, the general attitude towards women in older civilizations such as Greek, Roman, Babylonian, Hebrew, Christian, Arab, Celtic, Germanic, Mosaic, and Assyrian did unarguably foreground the domination of men over women and even took advantage of texts from the religious books such as the Bible to depict women as subordinate to men. It seems like a historical fact that there were very few female dominated societies throughout history or societies where men and women enjoyed equal rights and it is evident to historians or researchers that women

before the twentieth century had suffered various kinds of persecution and ill-treatment. Many scholars have studied the reasons behind such historical oppression and whether it was culture, society, religion or biological factors which contributed to such oppression and degrading of the status of women. Tong discusses the work of Simone De Beauvoir, one of the most prominent feminists of the twentieth century, her book *The Second Sex*, tried to outline reasons for women's lack of rights in previous times and even, in certain respects, in modern times. Tong discusses how De Beauvoir was able to criticize both Freud's and Marx's reasoning for the low social status of women. According to the Freudians, it was because of women's lack of the organs that symbolize superiority and according to Marx it was because of the social organization where the bourgeois class exploits the working class and that overthrowing capitalism would eradicate oppression of all (Tong 1989, p. 204). De Beauvoir was not convinced with the biological, psychological or ideological explanations for women's oppression and she, long before the constructivist feminism was set as a theory, argued that the social roles are the main reason for women's oppression. Tong explains: 'De Beauvoir specified social roles are the primary mechanisms, the self or the subject uses to control the *other*, or the subject. She labelled woman's tragic acceptance of her own Otherness the feminine 'mystic' which continues from generation to generation through the painful socialization of women into passive or feminine roles (Tong 1989, p. 206).

The factors which caused oppression of women through history are various and complicated and differ from one culture/society to another. And the struggle towards achieving appropriate conditions for women was long, hard and challenging. Feminism was the name for the movements that started calling for women's rights. This terminology which became very present in our modern times and that can be at times complex is briefly and broadly defined as, 'the advocacy of women's rights on the ground of the equality of the sexes' (Monday 2014, p. 497). Defining feminism can be challenging but pragmatically a broad understanding of feminism would include women acting, speaking, writing on women's issues and rights, identifying social injustice in the status quo and bringing their own unique perspectives to bear on issues (Tandon 2008, p.2).

Feminism, which first gained prominence in France and the United States, is considered to have developed through three main waves that are to be discussed shortly. In *Time: A History of Western Feminism*, LeGates (2001, p. 7) emphasises that if we define feminism as referring to organised women's movements, then it can be said to have begun in the nineteenth century; however, advocates of women's rights existed long before this period. The author adds that the attempts of women here and there to secure rights in the seventeenth century were a case of 'women attempting to find a voice in a predominantly male culture' (LeGates 2001, p. 9). During this period, the initiatives of women to have their rights recognised were accomplished through religion, education or literary debates called *querrella de femme* (the women questions); although these debates encouraged women to obey men as required by religion, they also allowed women

to question discrimination to some extent (LeGates 2001, p. 9). These endeavours cannot, however, be considered one of the feminist waves because they were unable to stimulate institutional change, especially in religious contexts. LeGates indicates that the first wave of feminism occurred after the developments in the late seventeenth and eighteenth centuries, during which demands to regard religious institutions as human-administered, rather than divine, bodies arose:

First wave feminism has been commonly linked to nineteenth-century intellectual and economic developments, specifically liberalism and industrial revolution (2001, p. 9).

Essential to the discussion of feminism and its three main waves are the achievements of Mary Wollstonecraft, a British woman who lived at the end of the eighteenth century and is often regarded as the first feminist. In a book about her life, Bondy identifies Wollstonecraft as ‘the young woman who died prematurely that September [as] the first great champion of women’s rights in the modern Western World’ (2000, p. 6). The author’s consideration is shared by almost all feminists or women’s rights advocates around the globe given that the significance of Wollstonecraft’s work for women’s rights cannot be disregarded or underestimated. Bondy reinforces this view with the following statement:

While revolutions in the United States and France were demanding rights for men, she [Wollstonecraft] insisted on the rights of women as well. She wrote that women too had the right to be educated and to participate in the important work of reforming society (Ibid).

Wollstonecraft wrote the famous essay entitled, *A Vindication of the Rights of Woman*, which was a courageous attempt to challenge the social attitude towards women by accusing society of using virtue as an excuse to deny women ‘sufficient strength of mind to acquire what really deserves the name of virtue’ (Wollstonecraft

1796, p. 32). The book also challenged the ideas of prominent philosophers who were considered enlightenment pioneers at the time. An example is Jean-Jacques Rousseau, who believed in the perfection of the mind of men rather than women. Wollstonecraft's work provided a guideline for improving the manner by which women's rights are treated and encouraged women to actively involve themselves in society, particularly by acquiring education, as emphasised in the dedication of the book addressed to M. Talleyrand-Périgord, former Bishop of Autun, on the occasion of the publication of the National Education Pamphlet. As Wollstonecraft argues,

[i]f woman isn't fitted by education to become man's companion, she will stop the progress of knowledge, because truth must be common to all; if it isn't it won't be able to influence how people in general behave. And how can woman be expected to cooperate if she doesn't know why she ought to be virtuous? If freedom doesn't strengthen her reason until she understands her duty and sees how it is connected with her real good (1796, p. vii)?

Wollstonecraft blamed education and women's upbringing at the time for the limited expectations that they embraced under the dominance and dictation from men. Despite the perceived inconsistencies of her work, it continues to be regarded as a ground-breaking step in the feminist movement.

Another remarkable initiative that advanced the feminist movement and established the fundamental principles of women's rights was implemented in 1848. Elizabeth Cady Stanton and four other women invited the public to the First Women's Rights Convention to discuss the expanding role of women in America, where they publicly committed to collaborate in improving women's quality of life. Even though the convention was met with controversy after it was organised and many women

who signed the convention's declaration removed their names for fear of losing their social reputation, the declaration remains significant because it articulated rights never before publicly acknowledged. Wellman indicates that

[i]n July 1848, one hundred women and men met in Seneca Falls, New York to hold the first women's rights convention in the United States. They asserted that 'all men and women are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness (2004, p. 10).

The author explains that what the convention called for is similar to what is affirmed in the American Declaration of Independence; the proponents of the convention wanted to remind Americans that no democracy can be real without respecting the rights of all citizens (Wellman 2004, p. 10). The late eighteenth century witnessed important accomplishments by women in Western Europe and America. These women aimed to promote their rights as exemplified in *A Vindication of the Rights of Woman* (Wollstonecraft 1796) or the First Women's Rights Convention. Nevertheless, the journey towards securing rights was a long time coming for women.

The first wave of feminism emerged around the late nineteenth and the early twentieth centuries, during which the primary initiative was the Suffrage movement. This movement pursued the rights of women to political participation and voting. Bolich (2007) indicates that no specific date has been determined as to the initiation of the first wave; some consider the achievements of Wollstonecraft and Stanton as the beginning of feminism, whereas others associate it with the Suffrage movement in the nineteenth century. As explained by the author,

[t]he so-called 'first wave of feminism' is variously dated in its origin to the late 18th century (Mary *Wollstonecraft A Vindication of the Rights* in 1792), or the mid-19th century (the 1848 Women's Rights Convention in Seneca, New York) or late (e.g. the late 19th century). The first wave was preoccupied with efforts to secure basic rights such as the right to vote, to enter to work force, and to own property after becoming married (Bolich 2007, p. 224).

A discussion of the first steps towards the liberation of women during the first wave of feminism is incomplete without addressing the broad economic and social changes that stimulated the evolution of women's roles in Western Europe and the US. The industrial revolution, which began in the latter half of the eighteenth century and continued through to the nineteenth and the beginning of the twentieth centuries, was a turning point that caused major political, economic and social changes in Western societies. The revolution enabled women to secure employment beyond the home. The nineteenth century witnessed crucial changes in the dominant pattern. With the rise of the cotton textile industry in New England between 1820 and 1860, numerous young single women left their paternal homes to work in expanding mill towns (Dublin 1993, p. 1). However, women, particularly those who belonged to the working class, often worked under harsh or dangerous conditions (e.g. mills or mines). Other working-class women secured employment as maids for wealthy families or governesses of rich children. During this time, women were compelled to bear the responsibilities of the household and motherhood, apart from obtaining outside employment to contribute to family income in societies where life expenses were growing rapidly. A second wave of feminism was therefore needed to create an environment that grants women equality in terms of social and economic rights.

The second wave of feminism took place from the 1960s to the 1980s. According to Bolich (2007, p. 224), 'the second wave had a pivotal role in reinvigorating the conversation on gender readdressing the social inequalities women experienced'. The second wave not only called for affording women certain rights but also emphasised equality in the process of securing these rights. Second-wave feminism set off a worldwide demand for both equal pay and antidiscrimination laws (Freedman 2002, p. 177). Epstein writes about the success and the momentum achieved by second-wave feminism thus:

It seems to me that probably the most important contribution of the women's movement of the 1960s and 1970s was that it gave women a sense of their collective power. And I think it is useful to look at the difference between second-wave feminism and first-wave feminism in relation to this sort of issue (2002, p. 118).

Although Epstein (2002) claims that second-wave feminism accommodated women of different working classes and colours, it was criticised by others for not being as intersectional as it should have been. Referring to Davis' work, Motta et al. state that

Angela Davis' (1981) classic *women race and class* stressed the ways in which race and class inequality undermined first and second wave feminist organizing, leaving black and working class women as well as migrants and other ethnic minorities largely absent from feminism (2011, p. 14).

Epstein (2002) disagrees, contending that the second wave of feminism was successful not only because it changed the lives of numerous women but also because the movement continued to evolve over time. Although the early years of the second wave failed to address the needs of all women, in time, it was able to include other dimensions and cultural frameworks for women's struggles.

The third wave of feminism, which spans the 1990s to the present time, arose from the perceived failures of the second wave and was aimed at addressing the inequalities that were unresolved in the previous area. Gilmore argues that even though second-wave feminism is usually criticised for failing to attend to the differences and complexities of women's experiences around the world,

...the issue of diversity, complexity and bridge building were at the heart of their endeavors. The fact that they were only sometimes successful – and often failed- speaks not to their indifferences but rather to the difficulty in creating and sustaining feminist, progressive movements' (2008, pp. 49-50).

As discussed in Chapter Two (see 'In-depth discussion of feminism'), however, many feminist advocates (e.g. Angela Davis) and other non-white feminists disagree with Gilmore in her claim that second-wave feminism embodied the aforementioned differences and complexities. Hooks (2000) and Mohanty (2003), in particular, highlight the ethnocentrism that is substantially embedded in Western feminism, which failed to resolve women's problems in other parts of the world, such as the Middle East. The third wave of feminism was therefore compelled to readdress the issues unresolved by the second wave. One of the main features of current third-wave feminism is its realisation of the importance of acknowledging women's differing experiences. Freedman illustrates thus:

Taking into account the range of women's experiences, feminists have increasingly recognized the validity of the arguments that once seemed contradictory. Instead of debating whether women are similar to or different from men, most feminists now recognize that both statements are true. Instead of asking which is more important, gender or race, most feminists now acknowledge the indivisibility and interaction of these social categories. Along with demanding the right to work, feminists have redefined work to include caring as well as earning. Along with calling for women's independence, feminists have recognized the interdependence of all people,

as well as the interconnection of gender equality with broader social justice movements (2002, p. 6).

In the third wave's attempt at increased universality, it espoused the expansion of women's sexual agency and the empowerment of women to choose the kind of sexual life that they want. In a paper that deals with the emerging concept of 'friends with benefits' in heterosexual relations, Williams and Jovanovic draw upon third-wave feminist advocacy on sexuality:

By rejecting a perceived narratives of 'acceptable' sexualities ostensibly proffered by second wave feminism, third wavers assert that young women should not be inhibited either by traditional norms of sexuality that stigmatize female sexual experimentation in non-committed relationships, nor by a sense that one form of sexual practice is more 'feminist' than the other (2015, p. 158).

Much of Williams and Jovanovic's arguments regarding third-wave sexuality are true, especially given their current prevalence in the US and Europe; the doors of sexuality are wide open and dependent on a woman's choice. Although this standpoint is embraced in the West, it is highly controversial in Eastern or Muslim societies. Sexual agency in religious or conservative societies remains limited. A review of third-wave texts suggests that sexual agency includes the recognition of female desire, the ability to freely express that desire and social support that allows a variety of sexual practices to occur without negative ramifications (Williams and Jovanovic 2015, p. 159). Therefore, despite Freedman's (2002) claim regarding the success of current feminism in being more understanding of woman's various needs and complexities, third-wave feminism as thought and practice remains limited outside the Western world, particularly because it deals with sexuality in a way that contradicts many social and religious beliefs. Third-wave feminism is a

product of Western historical, economic and social developments and progress. These socio-economic changes did not occur in the same manner in some Middle Eastern, far Eastern or African societies. Its elements are therefore non-universal.

A study of the progress of women's rights in Europe shows that securing the right to vote was one of the very early issues for which women campaigned. Women who established local British and Western European unions that demanded granting women the right to vote were called "Suffragists". Because the twentieth century was the period at which women were granted this right for the first time in history, this era is of particular significance in the women's rights movement. The efforts of the suffragettes, combined with the campaigns advanced by international events such as World War I, were ultimately successful, and suffrage rights were gradually extended to women around the world. Women were allowed to vote in the national elections in New Zealand in 1893, in Australia in 1902 and in Finland in 1906 (Weisner-Hanks 2011, p. 158). However, the suffragettes in these countries at the time excluded some groups of women from voting on the basis of race or class superiority (Weisner-Hanks 2011, p. 158). Efforts to secure the right to vote for women continued throughout the twentieth century, with some countries preceding others in granting women this right. Women were allowed to vote in the US beginning in 1920, in Turkey beginning in 1930 and in Spain in 1931. French women were not enfranchised until 1945, and Swiss women had to wait until 1971 to exercise their voting rights (Marder 2004, p. 373).

In sum, as shown previously, the situation of women and their access to rights which started slowly with the beginning of the twentieth century reached more

advanced levels towards the end of the century and women, particularly in America and Western Europe, were able to enjoy many rights like men in society as we can witness in today's reality. Fernandez notes that, '[t]he last two hundred years have witnessed a historically unprecedented expansion of women's rights, both economic and political. In almost all industrialized countries, women went from being the property of their husbands and/or their fathers, with very few legal rights, to possessing the same political rights and most of the same economic rights as men (Fernandez 2009, p.1)'

The social, economic and political changes that occurred in Europe and the world particularly after the industrial revolution and followed by the occurrence of the First and Second World Wars had created inevitable changes in societies across Europe and the world which was reflected in all aspects of life including the rights and duties related to men and women and the structure of the classical family and its members' roles. According to Freedman there were two historical transitions that propelled feminism in Europe: 'First the rise of capitalism disrupted older, reciprocal relations within families, in ways that initially enhanced men's economic opportunities and defined women as their dependents. Second, new political theories of individual rights and representative governments that developed alongside capitalism extended privileges to men only. In response, feminist movements named these disparities as unjust, insisting on the value of women's economic contributions and the justice of political rights for women (Freedman 2002, p.1).

The term “feminism” originated in Western Europe, as it was first coined in France in 1800s, alongside with other movements that stood at the vanguard for change such as communism and socialism; but women activists around the world have amended the terminology so it becomes more suitable in terms of their realities and perspectives. Freedman explains that, ‘self naming by black feminists, Asian American feminists, Third World feminists, lesbian feminists, male feminists, ecofeminists, Christian feminists, Jewish feminists and Islamic feminists, and others attests to the malleability of the label to the seemingly contradictory politics it can embrace’ (Freedman 2002m p.6). However, it has also been argued that feminism as a movement which advocates for women's rights was just not limited to the West and it is unjust to stereotype feminism as a solely Western product because early twentieth century has witnessed similar movements in different parts of the world such as Egypt, Iran and Turkey which all called for women's rights. In Turkey, even though women's rights are usually associated to the Kemalist reform and ‘state feminism’ established by the founder of the Turkish republic, Demirderek mentions that the Ottoman women have also had their struggles to gain basic rights – not necessarily identical to the demands of European women - but they surely called for rights to education, rights in marriage, employment, etc: ‘while being supported and impressed by women's suffrage movement in Europe, Ottoman women expressed the opinion that it was ultimately and inappropriate demand for themselves in the light of more immediate and pressing issues’ (Demirderek 1998, p.73). In Egypt, Ramadani discusses the overlapping of growing ideologies of nationalism and feminism in the early twentieth century as women

took an active part in Egypt's 1919 revolution. In 1919 Huda Shirawi led the veiled women's demonstration in the struggle against the British (Ramadani 2013, p. 45). The author adds that Egyptian women struggle was not limited to the upper class (as Huda Shirawi was from that class) but that 'peasants women from the country side also supported revolutionary actions. Among their actions were acts of sabotage, including destructions of railway lines (Ramadani 2013, p. 50). Ramadani, however, concludes that despite women struggle, following nominal independence in 1922, many male Egyptian nationalists had effectively abandoned women campaigns who were so much loyal to them and feminists were forced to form their own political movements (Ramadani 2013, p.51).

Moreover, after women's the long struggle of women in Europe and across the world to have international standards for their rights, women achieved another milestone particularly in the framework of international law with the establishment of the United Nations. Just like the other human rights based conventions, the United Nation's has set out the first universal norms for women's rights through the formation of a convention that is considered as the most important turning point in women rights history. This mechanism is called 'The Convention of Elimination of All Forms of Discrimination against Women (CEDAW).'

3.5 The Formation of the Convention of Elimination of all forms of Discrimination against Women (CEDAW) An overview:

The Convention of the Elimination of all Forms of Discrimination Against Women (CEDAW) was the first human rights, legally-binding, treaty that specialized in protecting and preserving women rights across the world basing its articles on three interrelated core principles: equality, non-discrimination and state obligation. Therefore, unlike the Human Rights declaration, countries which sign and ratify this convention would be legally obliged to implement its articles giving this treaty a more powerful force than the declaration when it comes to protecting women rights. The CEDAW is often referred to as the 'women's bill of rights' and it is the first international legally-binding document that specifically deals with all areas related to a woman's life. The convention is one of the core international human rights treaties, which requires Member States to undertake legal obligations to respect, protect and fulfill human rights. This Convention is believed to aim at achieving equality between men and women in every field and supports women's right to have access to equal opportunities in the political and social dimensions in order to overcome the social and cultural obstacles that might occur so they can have full rights in areas of legal rights, education, employment, healthcare, politics and finance.

The United Nation General Assembly adopted the CEDAW Convention in December 1979. The Convention came into force as a treaty on the third of September, 1981. The CEDAW Convention is monitored by the CEDAW Committee which operates out of the UN in New York. The Committee is

composed of 23 members from around the world who are responsible for monitoring the progress made by States in implementing the Convention and put forward recommendations to further enhance their performance in the field of women's rights (United Nations 2003, p.11). The monitoring body of the committee in essence is independent, which means that members serve in their personal and individual capacity and do not take any kind of formal instructions or requests from governments. The experts which work on the committee are chosen by nomination from their governments and are elected by State parties to CEDAW from a secret ballot list (United Nations 2003, p. 22).

The committee holds regular sessions to review the reports by States who are members to the convention. State members are obliged to submit a report every four years with regards to progress in the legislative, judicial, and administrative arenas and indicate what other measures have been taken to comply with and implement treaty obligations in their countries. The committee holds regular sessions to review the reports. According to the UN, the procedure of the CEDAW follow up is as follows: 'The bulk of the committee's task in considering implementation of its provisions will consist of examining reports every State is legally bound to submit on the legislative, judicial, and administrative measures it has adopted to give effects to the provisions of the convention....The Committee also makes suggestions and recommendations based on the examination of reports and information received from State parties (United Nations 2003, p.25)'.

States are required to respond before they come before the Committee during the regular session.

Besides the progress reports submitted by each country, during its sessions the Committee also reviews the Non Governmental Organizations (NGOs) reports, often called the 'shadow reports', to shed light on the status of women's equality in the countries under review. This is because reviewing the NGOs reports gives an opportunity for other voices apart from the governmental to be heard. However, the priority of the Committee is to formulate general recommendations and suggestions to States under review. Recommendations concern any issue affecting women to which the Committee believes States parties should devote more attention.

The Convention is the first international tool that puts forward a definition for discrimination against women. It says, 'The Convention defines discrimination against women as "...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' (General Assembly 1981, p.2). In its preamble, the convention reaffirms that the states which become part of this obligation must modify their laws and regulations in order to successfully implement the concept of equality between men and women in all fields and to

establish mechanisms that ensure protection to women in all institutions and work on eliminating all forms of discrimination against women in all institutions (Ibid).

The convention reaffirms the human rights principles that were mentioned in the United Nations' Charter which dignifies the human and equalizes men and women. It also reaffirms the principles stated in the Universal Declaration of Human Rights which mentions that all humans are born free and equal in dignity and rights and that all humans are entitled to their rights without any kind of discrimination.

Most of the world's countries have signed and ratified the CEDAW. Countries such as the United Kingdom, Japan and France were among the very first countries to do so, but some other powerful countries such as the United States have chosen not to do so. Nevertheless, CEDAW is one of the most highly ratified international human rights conventions, having the support of one hundred and eighty six State parties. A very important feature that will be discussed in further detail in this research is the 'reservation' tool that countries can use after ratifying the convention. When governments become State parties to a convention, they can enter reservations by identifying particular elements of a treaty to which they will not be bound. A reservation to a treaty is defined in the Vienna Convention as a 'unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or modify the legal effect of certain provisions of the treaty in their application to that State' (Vienna Convention 1980, p.333). Reservations, however, create debate on their ability to limit the effectiveness of this treaty to a great extent as will be examined at a later stage.

However, despite all its advantages, the CEDAW convention has not been the golden key that brought solutions to women's problems, as various obstacles face the ultimate application of this convention. Raday underlines the importance of such a treaty in protecting women's rights while highlighting at the same time the challenges that face an effective implementation of such a treaty particularly in societies with certain social and cultural values. Raday argues that, '[t]he substantive equality provisions of CEDAW provide theoretical and normative tools to contend with the growing challenges of traditionalist cultural and religious patriarchy and neoliberal exploitation of women. This holds out promise but a large gap exists between normative policy and social practice' (Raday 2012, p. 512). Therefore, it is clear that there are several drawbacks of the CEDAW as it fails in many instances to fulfil its goals in countries which are heavily influenced by certain values or lack the political will to protect women's rights. Some of the opponents to the CEDAW criticize the convention for being a sheer policy promises document that is signed and ratified by governments who at many times have no real intention of taking responsibility for achieving those promises. Those governments ratify the convention just as a complimentary gesture to give credit to their human rights record in the United Nations, at least on paper. The reasons behind the CEDAW's inability to fulfill its goals can be either social or political. Some societies refuse values presented by the CEDAW as they find them unsuitable for their traditions, religion, and social values. On another level, some governments lack the real will in applying the convention of the CEDAW as it can be contradictory to its national laws and principles. Or, on occasion, some governments such as the

United States believe that they offer a better legal, social and political national system to protect women on their lands.

Some governments, particularly those of Muslim countries, believe that they are not in need of the CEDAW to improve the situation of women in their societies. Those countries see the CEDAW as a tool to implement Western values and can be dangerous to the values of Muslim women. Quoting an interview with Umayma AL-Akhras, a leading Jordanian Islamist, Pruzan-Jorgensen states: 'The CEDAW does not balance rights; it only sees women as individuals - despite the family. I am against the CEDAW because it is 'international' and does not recognize our religious background and resource. It generalizes. But the same laws are not to be implemented in all societies. They are not good for us' (Pruzan-Jorgensen 2012, p.28). Others also argue that Islam can provide better solutions to Muslim women's issues and that Muslim societies are not in need of adapting to CEDAW's requirements. Tonesson discusses how the Sudanese Islamists deem the Western tenets of feminism and find it unnecessary for the Sudanese society (Tonesson 2013, p.134). The author explains that the Islamists in Sudan: 'reject the CEDAW and gender equality in one hand, and on the other hand promote issues that empower women politically and economically' (ibid). Islamists promote the paradigm of gender equity (*insaf*) within an Islamic frame emphasizing piety, distinguishing it from gender equality. The Islamist gender ideology builds strongly on the concept of *qawama*⁷ (male guardianship) where women and men have different but complementary roles (Tonesson 2013, p.137). It is very important to

⁷ The concept of Qawama (Male Guardianship) is going to be further discussed in chapter five.

stress that the manner in which human rights in general and women's rights in particular was and is still handled contributed to a great extent to Muslim societies' resentment with regard to applying those 'Western Standards' on their societies. Mokhtari argues that, 'Western governments, nongovernmental organizations (NGOs), and media similarly often decried women's rights and minority rights violations in highly sensationalist and decontextualized terms, implying a hierarchy of culture and peoples, reminiscent of colonialist discourses. This made Middle Eastern populations uneasy about adopting the language of human rights... International human rights dynamics were marked almost exclusively by Western governments, NGOs, and populations scrutinizing Middle Eastern (and other non-Western) human rights behaviour (Mokhtari 2012, p.195)'. The Western reports on the situation of women rights in Muslim countries which are produced by mainly Western institutions do emphasize the element of Sharia to be a factor for making Muslim women unable to enjoy their rights. Such an attitude has created more resentment in some sectors of Muslim societies preventing improvement to the situation of women in line with those conventions of the United Nations, for the reason that it is felt that the Western countries are trying with new methods to re-colonize their countries by imposing Western values through those human rights conventions.

However, researchers in a report produced by 'Middle East and North Africa (MENA)', regarding *Implementing CEDAW in North Africa and the Middle East*, examine the barriers existing in those societies that hinder the full application of the

CEDAW and stresses, nevertheless, the Islamic Sharia as being a barrier in some cases to a full implementation of the CEDAW. The report states that, '[t]he often intractable nature of political Islam sheds light on the regional trends in MENA, illuminating the reason behind, for example, the reservations to CEDAW shared by all State Parties of the region. For instance, every single State Party in MENA hold reservations to Articles 9 and 16, stating reasons regarding *Sharia* or the *Qur'an* as justification' (Brotman et al., 2008, p.3). Those reservations create the inability in those societies to apply CEDAW values in issues related to marriage, divorce, child custody and inheritance as they are addressed differently according to Islamic Sharia. It is important, though, to point out that there is much contention surrounding the debate over whether interpretations of religious texts have led to inequality for women because of the longstanding patriarchal history in Arab culture, or if there is simply an inherent inequality in the religion itself. However, if we are to believe that the religious teachings can play a role in disabling the CEDAW from performing its appropriate role, it is also evident that religious teachings are not the only reason in Muslim countries behind the CEDAW's ineffectiveness, as cultural and traditional values are a greater force that prevents women in some countries having access to education or work, which are rights that are not considered forbidden by the Islamic Sharia law. The cultural values can also remain as a factor for discrimination against women in many countries that have signed, ratified and applied the CEDAW. Due to the heavy influence of cultural norms in such societies, women are not protected by the fact that their State has ratified the CEDAW as the CEDAW remains unable to change the

attitude and cultural behavior towards women in these societies. Therefore Professor Barlas argues that it is pointless to adapt to the CEDAW when there is no equivalent social change: '[e]ven if Muslim states were to adapt CEDAW, it would have a minimal impact on women in the absence of broader social change' (Barlas 2009, p.5). The cultural factor is not limited to Muslim countries though, and women's rights are violated or they suffer from violence in other non-Muslim countries. A study conducted by Almosaed entitled 'The violence against women: a cross-cultural perspective,' shows that women suffer from violence in countries that apply the Sharia law such as Saudi Arabia and other developed countries such as the United Kingdom as well as developing non-Muslim countries such as those in Latin America. The researcher presents the thoughts of Dobash and Dobash quoting,

Cross-cultural studies suggest the existence of male violence against women in all societies and throughout history. Dobash and Dobash argue that violence is found in every socio-economic group, ideology, class, race and ethnic grouping.... In the UK, Dobash and Dobash estimated that more than 25% of all violent crimes reported to the police were domestic violence by men against women... In other parts of the world and in many Latin American countries, Dobash and Dobash notice that the image of the macho man continues and violence against women is perpetuated within that cultural context (Almosaed 2004).

The implementation of the CEDAW becomes very ineffective when encountering the socio-cultural factors which are not only limited to the Muslim world. Many non-Muslim societies around the world are heavily influenced by patriarchal social values that can be oppressive to women.

Another criticism that faces the CEDAW convention is the belief of some States that their local system and laws can offer better protection and promotion of

women's rights than the one the CEDAW is offering. The United States of America signed the CEDAW convention in 1980 but failed until 2010 to pass its ratification through the Senate house. The opponents to the ratification of the CEDAW in the US claim that women in the US are already enjoying their full rights and they are not in need for this treaty to further improve their situation. Additionally, they argue that the ratification of the convention is not always a sign of a positive criteria to the improvement of women's situations as many countries that have a poor record in women's rights have actually ratified the convention. According to the Blanchfield, 'Opponents generally recognize that global discrimination against women is a problem that should be eliminated, but they do not view the Convention as an effective way to achieve this goal. They emphasize that many countries widely believed to have poor women's rights records ratified the Convention' (Blanchfield 2012, p.9). Baldez argues that the opponents to the convention in the United States also fear that the CEDAW would intrude in the country's policies: '[c]onservatives acknowledge the expanded scope of rights guaranteed by the CEDAW –and feel it is a vehicle for unwanted state intervention into the private sphere' (Baldez 2012). Baldez in another work argues that the US Congress' attitude towards the CEDAW is based on the belief that it would trample upon individual liberties, the Judeo-Christian model of the family and be a threat to national sovereignty. Some ascribe the U.S. failure to ratify the treaty to the late Senator Jesse Helms of North Carolina as he was the chairman of the Senate Foreign Relations Committee from 1995 to 2001, and consistently refused even to hold hearings on the matter. According to Helms, CEDAW was a terrible treaty that

was, 'negotiated by radical feminists with the intent of enshrining their radical anti-family agenda into international law.' (Baldez 2014, p.175). However, Amnesty international advocates against such arguments offered by the United States as it argues that the United States government would be able not to apply any of the CEDAW's principles that it sees unsuitable with its national law: 'Treaties adopted in the United States are not 'self-executing' (Amnesty international 2005). This means that legislation to implement any treaty provision would come before the House and Senate in the same way any other bill does. As with many international agreements, countries can express 'reservations, understandings and declarations' in cases where there are discrepancies between the international convention or treaty and domestic law. U.S. law generally complies with the requirements of CEDAW and the Treaty is compatible with the principles of the U.S. Constitution. Where any differences do exist, the treaty calls on states to take appropriate measures to progressively promote the principle of non-discrimination. Such language upholds US sovereignty and grants no enforcement authority to the United Nations' (Ibid).

Moreover, there is another factor that contributes to a great extent to making the CEDAW ineffective which is the lack of political will. Zia and Butt, in writing up the NGO alternative report to the CEDAW community regarding the situation of women in Pakistan, underlined that, 'it is evident throughout the Country Report that the basis of the painfully slow movement on women's issues is because of the lack of political will and the tendency to compromise with political opponents when it comes to women' (Zia and Butt 2012, p.35). Malaysia's shadow report to the

CEDAW committee on 2012 reiterates the same issue when revisiting the situation of women in Malaysia: '[d]isappointingly, the Malaysian government has not incorporated CEDAW into national law. There is no gender equality legislation in place providing for a comprehensive realization of substantive equality... There seems to be a lack of political will to fully implement CEDAW. Unfortunately, this means that discrimination based on gender is alive and well in Malaysia' (Women's Aid Organization 2012, p. 9). A report conducted by the Association Democratique Des Femmes Du Maroc shows that in many Arabic countries, laws underline the equality of men and women but in practice the governments are not making a lot of effort to insure the implications of such laws: 'Despite the fact that Libyan law guarantees men and women equality under the law, women face wide discrimination in a variety of sectors... The Yemeni Constitution provides for equal rights and equal opportunity for all citizens; however, discrimination based on race, sex, and disability existed... there is a huge gap between the law and the implementation of the law which results in stripping off the rights of women guaranteed in the law' (Association Democratique Des Femmes Du Maroc 2009, p.90). The factor of the 'lack of political will in fully achieving the CEDAW' is a shared sentiment by most of women's rights organizations and advocates and this is continuously stressed in their Shadow reports which are released parallel to the government's report of the CEDAW.

However, the debate around the universality of feminism in general and the application of CEDAW principles in particular continues as it is argued that the divisions among certain classes, religions, races, socio-economic backgrounds,

hinders the same application of these standards in certain societies. Tandon explains,

By 1985 some convergence was appearing. These divisions amongst feminism included: First World vs. Third World; the relationship between gender oppression and oppression based on class, race and nationality; defining core common elements of feminism vs. specific political elements; defining feminism, homosexuality, female circumcision, birth and population control; the gulf between researchers and the grass roots, and the extent to which political issues were women issues (Tandon 2008, p.10).

These factors reveal that feminism is not monolithic. And as far as the social and cultural factors are concerned Hoff Sommers presents the other side of the CEDAW, that many women around the world might not want to comply with. Hoff Summers explains that the disputes over femininity, family and motherhood that erupted in 1975 has created different types of feminism. Egalitarian feminists, 'stressed the essential sameness of the sexes and sought to liberate women from conventional social roles,' (Hoff Sommers 2010, p.11) while social feminists by contrast, 'were not opposed to gender distinction. Indeed they embraced them, looking for ways to give wives and mothers greater power, respect, influence in the public sphere' (Ibid). In terms of the CEDAW, Hoff Sommers stresses that Article 5 of the Convention which states: 'State Parties shall take all appropriate measures . . . [t]o modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women' (General Assembly 1981, p.3), is a pure 1970s egalitarian feminism (Hoff Sommers 2010, p. 13). Indeed, the writer is making a valid argument when stressing that women and men must have

equal rights and opportunities but many women around the world want to have their rights guarded while continuing to perform family roles, by their own choice. The revolutionary spirit of the CEDAW that wants to turn things around and abolish any form of women's previous social roles related to the household - even if it is by choice - creates another obstacle in reaching an international consensus regarding the CEDAW.

On another level, Rosenblum discusses another limitation of the CEDAW as he sees that it failed in achieving its goals because its scope remained limited to women. The author argues that, 'CEDAW's focus on 'women' enshrines the male/female binary in the core of international law when CEDAW's goals would be better served by seeking the elimination of the categories themselves' (Rosenblum 2011, p.101). The author believes that the CEDAW is not accurate or effective because solving the problems of women must include men, women who are not victims and transgender people: 'Men do perpetuate gender inequality, but they are by no means the only actors, nor are women the only victims. Sexism also oppresses men and to eliminate discrimination men must be included in the design and implementation of remedies' (Rosenblum 2011, p.191). Therefore, the author argues that the language and text of the CEDAW must utilize all genders to achieve equality and become more inclusive.

As discussed previously, the socio-economic factor, the lack of interest to ratify the CEDAW by some states, the lack of a sincere political will to apply the CEDAW principles, or issues related to the text of CEDAW itself, is it the language used or

is it one sided attitude, are all factors that have a negative impact upon the effectiveness of the CEDAW. Nevertheless, this convention remains important as it has basic universal principles regarding women for achieving equality with men in political, social, economic and civil arenas which most of World's states have agreed upon practicing. The following part of the research will study in depth the implication of this convention for a Muslim country such as Bahrain and whether it can succeed on the ground in improving the situation of women's rights in this country.

Chapter Four: Women in Bahrain: Their Position in Reality and within the CEDAW.

Building upon the earlier discussion presented in section three of the first chapter regarding the position of women in Bahrain and the country's legislative and political system, this chapter will highlight the situation of Bahrain within the context of the CEDAW. Following from that, the chapter will represent a comprehensive analysis about women in Bahrain followed by a detailed analysis of the female and male responses to the questionnaire conducted as a main tool to studying the issues/obstacles related to woman in Bahrain. Moreover, the chapter will analyse interviews done with women rights activists and religious clerics in Bahrain to register the differences in opinions and arguments regarding the subject issue.

4.1 The Position of Bahrain within the CEDAW:

Bahrain ratified the Convention of the Elimination of All Forms of Discrimination against Women (CEDAW) in 2002, under Decree Law No. 5 of year 2002. However, like most Muslim countries, and many of the world's countries, Bahrain has put a number of reservations on the CEDAW. They are as follow:

- The reservation of article (2) which states the following:
 - by all appropriate means and immediately a policy of eliminating discrimination against women and, to this end, undertake:
 - (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
 - (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices, which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women (General Assembly 1981, p.2).

Bahrain mentioned that implementation of such an article shall be done within the context of the Islamic Sharia, which has a different understanding of the issue of equality between men and women than that of the CEDAW.

- The reservation on paragraph (2) of article (9) which mentions, 'State Parties shall grant women equal rights with men with respect to the nationality of their children' (General Assembly 1981, p. 3). Bahrain rejects the legislation as it interferes with its national and citizenship law, which gives this right only to men.
- The reservation on paragraph (4) of article (15) which mentions, 'State Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile' (General Assembly 1981, p. 6). This article is also claimed by Bahrain to be in contradiction with the Islamic Sharia.
- The reservation on article (16) which gives men and women the same rights in marriage. In claiming that the article is not in line with the principles of Sharia, the article states the following:

1. State Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and, in particular, shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
 - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education, and means to enable them to exercise these rights;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship, and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession, and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory (General Assembly 1981, pp. 6-7).

- The reservation on paragraph (A) of Article (29) which related to arbitration by the International Court of Justice in case of state breaches of the Convention. The Article states the following:

Any dispute between two or more State Parties concerning the interpretation or application of the present Convention, which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court. (General Assembly 1981, p. 9).

Bahrain sees such an article as interference in the state's sovereignty.

While looking at the whole map of reservations on the CEDAW, it is obvious that the vast majority of Muslim countries have put reservations on the same articles as Bahrain. The table below reflects the reservations put by Arabic countries and some Muslim countries in regards to the CEDAW, (CEDAW 2010, pp. 7-72):

State	Article 2	Article 9	Article 15	Article 16	Article 29	Other Articles
Algeria	√ As long as (they do not conflict with the provisions of the Algerian Family Code)	Para (2)	Para (4)	√ As long as it should not conflict with the provisions of the Algerian Family Code.	Para (1)	
Egypt	√ Such compliance does not run counter to the Islamic Sharia	Para (2)	-	√ Without prejudice to the Islamic Sharia's provisions	Para (1)	
Iraq	√ Paragraph (f) and (g)	√	-	√ Without prejudice to the provisions of the Islamic Sharia	Para (1)	
Jordan	-	Para (2)	Para (4)	Para (1): (c), (d), and (g)		

Kuwait	-	Para (2)		Para (f)	Para (1)	
Lebanon	-	Para (2)		Article (1): (c), (d), (f), and (g)	Para (1)	
Libya	√ Shall be implemented with due regard for the peremptory norms of the Islamic Sharia	-	-	(c) and (d)		
Mauritania	-	-	-	-	-	Have approved and do approve the convention in each and every one of its parts which are not contrary to Islamic Sharia and are in accordance with our Constitution
Morocco	√ As long as they are without prejudice to the constitutional requirement ... They do not conflict with the provisions of the Islamic	√ Para(2)	√ Para(4) As long as they are not incompatible with articles 34 and 36 of the Moroccan Code of Personal Status	√ Within Islamic Sharia	Para(1)	

	Sharia					
Oman	-	Para (2)	Para(4)	√ (a) , (c,) , and (f)	Para(1)	General reservation on all provisions of the Convention not in accordance with the provisions of the Islamic Sharia and legislation in force in the Sultanate of Oman
Saudi Arabia	-	Para(2)	-	-	Para(1)	1. In case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention
Syria	√	Para (2)	Para (4)	Para (c) , (d),(f), and (g) and Article (2)	Para (1)	
Tunisia	-	Para (2)	Para (4) Must not be interpreted in a manner which conflicts with the	(c) , (d),(f),(g), and (h) Must not conflict with the provisions	Para(1)	General declaration: The Tunisian government declares that it shall not take any

			provisions of the Personal Status Code	of the Personal Status Code		organisational or legislative decision in conformity with the requirements of this Convention where such a decision would conflict with the provisions of chapter I of the Tunisian Constitution
United Arab Emirates	√ Para (f)	√	√ Para (2)	√ Will abide by the provisions of this article insofar as they are not in conflict with the principles of the Sharia	Para(1)	
Qatar	√ Para (a)	Para (2)	Para (1) and (4)	Para (a), (c), and (f)	Para (1)	
Yemen	-	-	-	-	Para (1)	

It is evident that almost all Arab countries have reservations on article 16, in particular, as most of them maintain that it contradicts the Islamic Sharia. All of the above-mentioned countries had reservations on paragraph (2) of article (9) regarding nationality, as it does not comply with their nationality laws. In terms of

articles (2) regarding non-discrimination and article (15), paragraph (4), regarding freedom of movements, the reservations varied as some of the countries put reservations on them, claiming that they contradicted the Islamic Sharia, whereas some Muslim countries did not put reservations on it for the opposite reason.

This kind of confusion regarding which matters contradict the Islamic Sharia and which matters do not is a result of different readings of the Islamic texts. A more modernized reading of Islamic texts would not restrict the freedom of movement of women, whereas a more traditional reading of the same text would. However, even Tunisia, which does not apply Sharia when it comes to family affairs, has reservations on some of the paragraphs of article (16), emphasizing that it shall not contradict the Tunisian Personal Status Code. Tunisia and Turkey are considered the most progressive Muslim countries in terms of women's rights, as they have the most secularized approach regarding women's rights. The Tunisian Personal Status Code, which was passed in 1956, gave women many rights that were lacking in the Muslim world until now, such as the ban of polygamy, raising the age of marriage for girls to 17 years, and giving women rights to divorce. Charrad explains:

Members of the 1956 government introduced the Code of Personal Status as a new phase in the Islamic innovation, similar to earlier phases of the history of Islamic thought. Rejecting dogmatism, they emphasised, instead, the vitality of Islam and its adaptability to the modern world in regard to family (Charrad 2012, p.4).

Therefore, the matter of rereading the Islamic texts with a modernized approach shall serve in a distinct manner in solving women's problems in the Muslim world

and would serve in removing some unjustified reservations on the CEDAW, an argument that shall be explained in further detail in the following chapter.

Moreover, it must be noted that not only Muslim countries have reservations to the CEDAW, as many developed, Western, or secular countries put reservations on some articles for different reasons. France, for instance, has put reservations on some parts of article (16), as it contradicts its national law. France explains, 'The Government of the French Republic enters a reservation concerning the right to choose a family name mentioned in article 16, paragraph 1 (g), of the Convention' (CEDAW 2010, p.19). Moreover, in a general declaration, France emphasises the privilege to give its national legislation over the CEDAW convention:

The government of the French Republic declares that no provision of the Convention must be interpreted as prevailing over provisions of French legislation which is more favorable to women than to men. (ibid)⁸

It can be seen that some of the developed countries in Europe and the leading countries in human and women's rights, such as France, see that their national laws are fully supportive of women's rights, and, therefore, they would not look to the provisions of the CEDAW as a key to giving women in their land more rights. Reading these scenarios, the Muslim countries' reservations verses the reservations of some Western countries introduces the idea of the importance of having strong national law that equalizes men with women. If such laws existed,

⁸ The summary of chapter five of the research will represent other examples of the reservations to the CEDAW put by some non Muslim countries.

there would be fewer reservations on the CEDAW and more rights given to women, sometimes, more than included in the convention. The problem in the Muslim-women related law – with the exception of Tunisia and Turkey, to some extent – is the lack of such legislation, besides the lack of applying the CEDAW; therefore, when Muslim countries put reservations on the CEDAW, they do not really offer other kinds of solutions for women’s rights in their countries within their national legislation, which leads to women being subject to discrimination.

4.2 Bahrain’s CEDAW Report to the Human Rights Council in 2014:

Bahrain ratified the CEDAW convention in 2002 under Decree Law No. 5 of the same year. Following its ratification and in accordance with article (18) of the convention,

... State parties undertake to submit to the Secretary General of the United Nations, every four years, a report on the legislative, judicial, administrative, or other measures, which they have adopted to give effect to the provisions of the convention (General Assembly 1981, p.8).

In this context, in November 2008, a delegation from a Bahraini official institution and NGOs submitted Bahrain’s first and second reports, as well as the supplementary ones, to the CEDAW committee. Bahrain’s official report, which was represented by Bahrain’s Supreme Council for Women, included article-by-article information about the CEDAW in relation to Bahrain. Some of the main elements of Bahrain’s first and second reports were as follows:

- Assertions that the National Action Charter, the Constitution, and other legislation confirmed the equality of men and women and prohibited any kind of discrimination.
- Efforts made by the Supreme Council for Women, and the launching of the National Strategy for the Advancement of Bahraini Women to ensure equality between men and women.
- Focus on the participation of women in public life, emphasizing the eligibility to vote and participate in referenda parliamentary and municipal elections.
- Mention of the will to promulgate a family code based on the Islamic Sharia. (Kamel et al. 2013, p. 117)

The first and second reports gave an overall look at the legislation in Bahrain in terms of women, and provided information regarding the situation of women in Bahrain in terms of legislation. Bahrain gave a number of promises to further support women's rights, such as passing a family law, which was later achieved by passing the first section on a family law. As a first step, it can be considered progress that Bahrain has started to report to the CEDAW committee, obliging itself to develop further women's rights.

In February 2014, Bahrain has submitted its third report to the CEDAW's committee of the Human Rights Council. The report starts a general overview regarding Bahrain's constitutional and legal structure, a review of the previously submitted report and a summary regarding basic information of Bahrain (population, religion, language, social and economic indicators, political and legislative framework, etc). The report later reflects upon the developments in the field of human rights and the efforts of the Supreme Council of Women followed by monitoring of the implementation of CEDAW articles by drawing attention to the reservation and the national mechanism for the development of women. The report

then discusses each of the CEDAW's articles in terms of the state compliance or progress achieved in the domains of articles 1 to 16 of the convention. The main achievements pointed out by Bahrain's state report were as follows:

- The Nationality Issue: Bahrain has passed the law No:25 for year 2009 which contains provisions relating to the treatment of the children of a Bahraini woman married to a non-Bahraini man in the same way as Bahraini citizens in respect of exemption from governmental health and education service fees and fees for permanent residence. (CEDAW 2014, p.36). A proposal is currently being discussed with relevant bodies to amend the Nationality Act to permit the children of a Bahraini woman married to a foreigner man to be granted Bahraini nationality (CEDAW 2011, p.37).
- On a temporary measure to accelerate de facto equality in the field of public sector employment has been to start work on creating equal opportunity units in certain government bodies (CEDAW 2011, p. 24).
- The Kingdom of Bahrain issued Resolution No. (79), of 2009, on the freedom of transfer of the migrant worker to another employer, thus becoming the first GCC state to grant migrant workers the freedom of transfer to another employer without having to obtain the consent of the current employer (CEDAW 2011, p.42).
- Measures taken in terms of marriage and family:
 - Law No.19 (2009) was adopted, promulgating the family law (first part), pertaining to the Sunni community.
 - Amendment of the marriage contract document. The need of a woman's consent to the marriage.
 - The stipulation, in article 18, that the approval of the Shairah court is needed in the case of the marriage of a girl under the age of 16 years, after establishing the suitability of the marriage
 - The right of the wife to stipulate in the marriage contract that her husband shall not take another wife (CEDAW 2011, p. 51).

In terms of Bahrain's reservations on articles 2 and 16 which are considered as core articles of the convention, Bahrain has vowed to review its reservations and work on removing reservations that do not contradict with the Islamic Sharia. The report emphasises the notion of equality but within the context of Sharia: 'the Sharia has achieved genuine equality. Take for example the issue of inheritance. A superficial interpretation may suggest that the Islamic law, which grants a woman one-half of the inheritance of the man, discriminates against women. However, if we treat the system of inheritance in the Sharia as an integrated one, it is apparent that Islam has not made it a general rule that a woman's inheritance is to be one-half of a man's. In fact, the rule is only applied in certain cases, for reasons explained in the Kingdom's previous reports' (CEDAW 2011, p.22). While chapter five of this research will explain the Sharia's position in terms of inheritance in more detail, the Bahraini report shows a clear commitment to applying the provisions of Sharia in this context and reflects confidence that it is the suitable system for society. The question remains whether the state has established well-functioning mechanisms to follow up a proper application of the Sharia in this regard.

There has been progress in terms of women's rights in Bahrain, although it faces different barriers. The first barrier is the lack of follow-up mechanisms mentioned above for the application of legislations, and the prolonged procedures in passing some urgent laws such as the anti-domestic violence law and the nationality law. The other problem would be in social barriers that prevent women from seeking the assistance of Sharia courts, for example, if a woman wants to seek a divorce. The third barrier, and the most significant, is the usage of Islamic Sharia as a

justification in certain cases where the government does not want to pass the law. Sharia is applied strictly in some parts of Bahraini life, and it is not discussed at all in other parts. The government, for instance, claims that not passing an anti-domestic violence law until now is due to the rejection of the parliament, as most of the MPs who come from conservative backgrounds believe it contradicts Islam and undermines the authority of a man in his household. In other matters such as the establishment of a Western banking system, which is based on the interest scheme, whereas interest is forbidden clearly by the Quranic verses – we do not see the government seeking the parliamentary approval for the allowance of such systems or legislation. This manipulation, in the name of religion that targets women, is the main source of women's problems in Bahrain. The government makes the same argument when it comes to not passing the Shia section of family law, claiming that the Shia community refuses this section strictly. In this case, the government is not performing its role in providing justice and security for Shia women, only because some groups within the Shia community refused the law. In any modern state, the notion of the rule of law, especially in terms of issues such as national security and human rights, should should prevail regardless of any kind of resentment from within the society.

Besides Sharia there exist the social norms as well. When the Bahraini report claims that it has made 'continuing efforts to change the stereotyped image of women in the media (CEDAW 2011, p.27) and also eradicating those stereotypes in education, 'the curriculum seeks to strengthen the role of Bahraini women in society and eradicate the stereotypical portrayal of women,' (CEDAW 2011, p. 38).

It is indeed a fact that Bahraini women are represented as working, public life figures, both in the media and in education, but the mentioning of men in the context of performing household chores (cooking, cleaning, babysitting, etc) is still very minimal or non-existent both in media or educational curriculum and the woman remains as the main family member who performs household tasks. The social norms and traditions remain as the main obstacle that the government needs to challenge more seriously in such a context.

The CEDAW committee passed their 'Concluding Observations on Third Periodic Review of Bahrain,' and pointed out both the positive and negative aspects of Bahrain's achievement with regards to women. The report, 'welcomed the progress achieved in undertaking legislative reforms,' (CEDAW 2014, p.1) but also highlighted a number of issues that it urged Bahrain to reconsider,

- The Committee remains concerned that no time frame has been set to review the reservations (CEDAW 2014, p. 2).
- The committee calls upon the state party to prohibit and sanction discrimination against women (CEDAW 2014, p.3)
- The committee reiterates its previous recommendation and encourages the state party to continue to implement measures to bring about change to the widely shared stereotypical roles of women and men (CEDAW 2014, p.4).
- To expatiate the adoption of the bill to combat domestic violence (CEDAW 2014, p.5).
- Urges the State to expedite the amendments to the Nationality law (CEDAW 2014, p.9).
- Expedite the adoption of the second part of the family law and take specific measures to end the practice of polygamy and raise the minimal age of marriage for girls to 18 years (CEDAW 2014, p.11).

In addition to the committee's concluding observations, in a report by Bahrain's latest NGO, Shadow, submitted on February 2014 to the Human Rights Council, the main issues of discrimination against women in Bahrain that contradict

Bahrain's obligations before the CEDAW are tackled. Some of the main issues that were included in this report are as follows:

- In response to the existence of article (353) in the Bahraini penal law on debauchery and prostitution, which stipulates 'no punishment for committing any crime of indecent assault or rape if the perpetrator marries the victim,... and any verdict that was issued before marriage should be annulled together with the criminal effect', the report explains that 'it is a form of trafficking and exploiting of women. Perpetrators resort to marriage to escape punishment'.
- In terms of not passing the second section of the Family Law (the Shia Section), the report states that 'the state using the justification of "this file's sensitivity" has not proved real efforts to comply to its commitment to create the needed community consensus'.
- Domestic violence, if often condoned because of customs, traditions, and patriarchal interpretation of religious texts.
- According to Labour Market Authority, the estimated number of trafficked women in 2013 is 70,000, and 40% them were domestic workers. Sexual trafficking exists in form of 'Artist Visa', which is given to hotels to bring in young women from Arab and Asian countries to work in prostitution.
- The report also criticized some provisions of the Sunni section of the Family Law in terms of guardianship, polygamy, divorce, etc. [as will be shown later in this chapter]. The report calls for raising the marriage age to 18 years old for girls, granting women the right for marriage without the need of a guardianship, and giving women the same right to gaining divorce as men. Moreover, it calls for putting restrictions on polygamy so that it is done only under serious excuses, such as the failure of a wife to bear children or serious illness. (Bahrain Women's Union 2014, pp. 8–9)

Again, there is a clear contradiction in the state's behaviour towards women's cases, especially when using the Sharia as a justification. As mentioned previously, Bahrain put reservation on articles (2) and (16), which are the main articles of the CEDAW, claiming that they contradict with the Islamic Sharia. However, as the NGO's report shows, even though Bahrain criminalizes prostitution by law, it turns a blind eye to the widespread practice of prostitution done under the name of 'art'. Hence, although the government is acting very committed to its Islamic principles, it

is ignoring the issue of prostitution, which obviously, within Islam, should be strictly banned instead of restricting women's right to freedom of movement by putting a reservation on article (15) of the convention. According to the *Al-Arabiya News Agency*:

Making the list of the Top Ten "Sin Cities" around the world may not be good news for Manama, Bahrain's capital, as police launched a crackdown on prostitutes in the city last week following its listing by a Western men's magazine as the party hub of the Middle East, for its vibrant sex and alcohol industry' (Al-Arabiya 2009).

In addition, despite the promises of Bahraini officials to eliminate such phenomena, not much has seriously been done within this context.

The same behaviour applies to article (353) of the penal law regarding marrying a victim of rape. In terms of the punishment of rape in Islam, the Quran explains that women should not be forced to have sexual intercourse: 'O you who have believed, it is not lawful for you to inherit women by compulsion'(4:19). However, the punishment of rape was not clearly clarified in the Quran or Hadith; therefore, with the Islamic expansions, new laws were formulated to handle new specific situations based on the general rules of the Quran. Islam specifies a punishment for *zina* (sexual intercourse without marriage), but it does differentiate between consensual and non-consensual zina. Therefore, the majority of Islamic schools have agreed that the perpetrator of rape must be punished according to the *Hudud* code (moral transgression for which the definition and punishment is laid down in the Quran). Norman addresses this issue, asserting that only the second Caliph Omar has

accepted on one occasion marriage as a solution for a case of a man who raped a woman:

Abu Hanifa used Omar's precedents to allow for the commuting of the 'hadd' punishment if the rapist marries the women he violated.... Although the Maliki, Shafi'i and Hanbali schools disagree with the Hanafi decision and maintained the Hudud punishment for rape (Norman 2005, p.3).

Herein, it is important to note that Bahrain applies the Maliki jurisdictions when it comes to Sharia affairs. However, with the rape issue, we see that one saying of the Hanafi School has been applied as a proof of the pick-and-choose attitude that advantages the legislator rather than complies with sincere commitment to the laws of Sharia.

The Bahraini report however, shows a sincere inclination to 'trying' to abide by the CEDAW's standards. At the same time, it preserves a language of confidence and commitment to the Islamic values that are vast spread in society. There is no issue with applying Sharia as long as it grants women their rights, and compromises in order up to stay to date with the modern day needs. This research is actually working to create this balance and urging all stakeholders to work towards it rather than adapting one traditionalist view of Islam that hinders women from enjoying their full rights. In fact, the following questionnaire will reflect the issues indicated by both Bahraini men and women about where further enhancement is needed and will discuss both the legislative and religious position of the Bahraini state in each regard.

4.3 Analysis of the Questionnaire Titled, ‘The Effectiveness of Implementing International Conventions for Improving the Situation of Women’s Rights in Muslim Countries: Bahrain as a Case Study’

During year 2013, as explained in the methodology chapter, the questionnaire was conducted. Besides addressing the research questions, the questionnaire was able, through questions 1–9, to draw a picture of the general attitude of Bahraini men and women with regards to women’s rights, the Islamic Sharia, and the Western International Conventions. The three open-ended questions also sought the society’s view on what they see as advantageous or disadvantageous for women in Bahrain, beside their view of the definition of women’s rights in general. (See Appendix 1 for the detailed charts).

4.3.1 Analysis of the Female and Male Responses to the Close-Ended Questions 1–9:

Female Responses to the First Question: Do you think women in Bahrain enjoy their full rights?

Group	Yes, Completely	Yes, To Some Extent	Not At All
Group 1. Age 18-25; education, university; Total: 53	49.05%	49.05%	1.88%
Group 2. Age 25-30; education, university; Total: 56	42.85%	51.78%	5.3%
Group 3. Age 30-40; education, university; Total: 61	34.4%	59.0%	6.55%
Group 4. Age 40+; education, university; Total: 46	32.60%	60.86%	6.52%
Group 5. Age 40+; education, high school or less; Total: 33	18.18%	78.78%	3.03%

Group 6. Age 30-40; education, high school or less; Total: 25	20.00%	68.00%	12.00%
Group 7. Age 18-25; education, high school or less; Total: 16	37.50%	62.50%	0.00%
Group 8. Age 25-30; education, high school or less; Total: 14	28.57%	71.42%	0.00%
Group 9. Age 25-30; education, high school or less; Total: 8	62.50%	25.00%	12.50%
Group 10. Age 30+; education, high school or less; Total: 20	45.00%	45.00%	10.00%

Most of the respondents, regardless of age and educational background, perceive that women in Bahrain either enjoy their rights completely or enjoy their rights to some extent. The response 'to some extent', varied between 25.00% of the group aged 25-30 with a high school education or less education and 78.78% of the group aged 40+ with a high school or less education. This result was slightly higher than 'yes, completely' in the overall responses, which varied between 18.18% of the group aged 40+ with a high school education and 62.50% of those aged 25-30 years with a high school education. Fewer responses were given to 'not at all', and the percentages varied between 0.0% and 12%. The overall result of this question is that the female participants feel that women in Bahrain are enjoying a fair amount of practising their rights.

Male Responses to the First Question: Do you think women in Bahrain enjoy their full rights?

Group	Yes, Completely	Yes, To Some Extent	Not At All
-------	-----------------	---------------------	------------

Group 1. Age 25-30; education, university; Total: 22	50.00%	40.90%	9.09%
Group 2. Age 30-40; education, university; Total: 22	63.63%	31.81%	4.54%
Group 3. Age 40+; education, university; Total: 14	42.85%	57.14%	0.00%
Group 4. Age 40+; education, high school or less; Total: 11	54.54%	45.45%	0.00%
Group 5. Age 30-40; education, high school or less; Total: 10	50.00%	50.00%	0.00%
Group 6. Age 40+; education, <u>higher education</u> ; Total: 11	45.45%	54.54%	0.00%
Group 7. Age 18-25; education, high school or less; Total: 13	69.23%	30.76%	0.00%
Group 8. Age 25-30; education, high school or less; Total: 8	50.00%	50.00%	0.00%

Most groups gave 0.00% to 'no at all', and the highest response was given to this answer was 9.09%, given by the group aged 25-30 with a university education. The highest response given to 'yes, completely' was 69.23%, given by the group aged 18-25 with a university education, and the highest given to 'yes, to some extent' was 57.14% given by group aged 40+ with a university education. Despite the educational level or age, most of the male respondents saw that Bahraini women are enjoying their full or most of their rights.

Female Responses to the Second Question: Do you think any of the following is a reason for Bahraini women not to get their full rights?

Group	Teachings Of Islam	State Laws	Traditions	None
Group1. Age 18-25; education, university; Total: 53	6.66%	13.33%	50.00%	30.00%
Group 2.: Age 25-30; education, university; Total: 56	4.68%	12.50%	60.93%	21.87%
Group 3. Age 30-40; education, university; Total: 61	4.16%	19.44%	48.61%	27.77%
Group 4. Age 40+; education, university; Total: 46	14.03%	17.54%	38.59%	29.82%
Group 5. Age 40+; education, high school or less; Total: 33	5.71%	22.85%	48.57%	22.85%
Group 6. Age 30-40; education, high school or less; Total: 25	16.12%	25.50%	38.70%	19.59%
Group 7. Age 18-25; education, high school or less; Total: 16	9.52%	14.28%	66.66%	9.59%
Group 8. Age 25-30; education, high school or less; Total: 14	18.00%	30.00%	50.00%	10.00%
Group 9. Age 25-30; education, high school or less; Total: 8	22.22%	0.00%	44.44%	33.33%
Group 10. Age 30+; education, high school or less; Total: 20	16.00%	20.00%	44.00%	20.00%

Apparently, most of the female respondents put the blame for their lack of rights on the traditions factor. The highest percentages were given by those ages 18-25 with a high school education, with 66.66% who put the blame on traditions, and the second group aged 25-30, with a university education of whom 60.93% put the blame on the same factor. As for blaming Islam, the percentages varied between

4.16% of the third group, aged 30-40 with a university education, as the lowest, and 22.22% of the seventh group, aged 25-30, with a high school education as the highest. In terms of state laws, the lowest percentage was given by the ninth group, aged 25-30 with a high school education at 0.00%, whereas the highest was given by group five, aged more than 40, with a high school education at 25.50%. There is a clear inclination of the respondents to put the blame for any sort of lack of women's rights on the traditions rather than blaming the religion or the state.

Male Responses to the Second Question: Do you think any of the following is a reason for Bahraini women not to get their full rights?

Group	Teachings Of Islam	State Laws	Traditions	None Of These
Group 1. Age 25-30; education, university; Total: 22	14.81%	14.81%	51.85%	18.51%
Group 2. Age 30-40; education, university; Total: 22	12.00%	12.00%	44.00%	32.00%
Group 3. Age 40+; education, university; Total: 14	11.76%	29.41%	35.29%	28.52%
Group 4. Age 40+; education, high school or less; Total: 11	8.33%	8.33%	66.66%	16.66%
Group 5. Age 30-40; education, high school or less; Total: 10	33.33%	20.00%	26.66%	20.00%
Group 6. Age 40+; education, <u>higher education</u> ; Total: 11	0.00%	8.33%	66.66%	25.00%
Group 7. Age 18-25; education, high school or less; Total: 13	0.00%	0.00%	61.53%	38.46%
Group 8. Age 25-30; education, high school or less; Total: 8	0.00%	0.00%	50.00%	50.00%

The highest response put the blame on ‘traditions’, at 66.66% of the group aged 40+ with a high school education, and 66.66% was given to the same factor of the group aged 40+ with a higher education, which shows that regardless of the educational level, all respondents put the blame on ‘traditions’. Lower percentages were given to Islam, as 0.00% responded from more than one group and also low percentages put the blame on the ‘state laws’ factor as the highest, at 29.41% of the group aged 40+ with a university education.

Female Responses to the Third Question: Do you think Islamic applications related to women should be updated and reinterpreted because they cause discrimination against women the way they are practiced now?

Group	Yes, All Applications Of Islam Should Be Updated	Some Of The Applications Of Islam Should Be Updated	No, Not At All
Group 1. Age 18-25; education, university; Total: 53	0.00%	22.64%	77.35%
Group 2. Age 25-30; education, university; Total: 56	5.35%	39.28%	55.35%
Group 3. Age 30-40; education, university; Total: 61	0.00%	34.42%	65.57%
Group 4. Age 40+; education, university; Total: 46	4.34%	36.95%	58.69%
Group 5. Age 40+; education, high school or less; Total: 33	9.09%	21.21%	69.69%
Group 6. Age 30-40; education, high school or less; Total: 25	12.00%	24.00%	64.00%

Group 7. Age 18-25; education, high school or less; Total: 16	6.25%	37.50%	56.25%
Group 8. Age 25-30; education, high school or less; Total: 14	0.00%	21.42%	87.50%
Group 9. Age 25-30; education, high school or less; Total: 8	0.00%	12.50%	87.50%
Group 10. Age 30+; education, high school or less; Total: 20	20.00%	20.00%	60.00%

Most of the respondents did not see that all of the applications of Islam regarding women should be updated (0.00% of four groups: age 18-25 with a university education, age 30-40 with university education, age 25-30 with a high education, and age 25-30 with a high school education). This result reflects consensus amongst different ages and education levels. Response to 'some of the applications should be changed' received agreement from between 12.50% of those age 25-30 with a high school education and 39.28% of those age 25-30 with a university education. A high rate of response was given to the third answer 'not at all', with 55.35% of those aged 25-30 with a university education, 87.50% of those aged 25-30 with a high school education and those aged 25-30 with a high school education. This last result of 87.50% shows that regardless the education level, females did not see that the applications of Islam should be changed in any form.

Male Responses to the Third Question: Do you think Islamic applications related to women should be updated and reinterpreted, as they cause discrimination against women in the way they are practiced now?

Group	Yes, All Applications of Islam Should Be Changed	Some Applications Should Be Changed	Not At All
Group 1. Age 25-30; education, university; Total: 22	13.63%	36.36%	50.00%
Group 2. Age 30-40; education, university; Total: 22	9.09%	13.63%	77.27%
Group 3.: Age 40+; education, university; Total: 14	7.14%	50.00%	42.85%
Group 4. Age 40+; education, high school or less; Total: 11	9.09%	27.27%	63.63%
Group 5. Age 30-40; education, high school or less; Total: 10	10.00%	40.00%	50.00%
Group 6. Age 40+; education, higher education; Total: 11	9.09%	36.36%	54.54%
Group 7. Age 18-25; education, high school or less; Total 13	15.38%	23.07%	61.53%
Group 8. Age 25-30; education, high school or less; Total: 8	0.00%	37.50%	62.50%

Only the younger group aged 18-25 with a university education favoured 'yes, all applications should be changed'; the response was given by 15.38% of that group. Groups with older ages favoured the response 'some of the applications must be changed', as 50.00% of the group aged 40+ with a university education agreed, and 77.27% was given to 'not at all' by the group aged 30-40 with a university

education. Apparently, the enthusiasm of the younger group to change all applications of Islam comes of their unawareness of the sensitivity and difficulty of tackling such an issue, whereas the older groups are satisfied with the rules of Islam or see that only some of them must be changed.

Females Responses to the Forth Question: Do you think that culture/traditions related to women should be changed because they do not suit today's needs?

Group	Yes, Absolutely	Some Of Them Only	No, Not At All
Group1. Age 18-25; education, university; Total: 53	3.77%	60.37%	35.84%
Group 2. Age 25-30; education, university; Total: 56	10.71%	69.64%	19.64%
Group 3. Age 30-40; education, university; Total: 61	3.27%	63.93%	32.78%
Group 4. Age 40+; education, university; Total: 46	2.17%	58.69%	39.13%
Group 5. Age 40+; education, high school or less; Total: 33	3.03%	54.54%	42.42%
Group 6. Age 30-40; education, high school or less; Total: 25	8.00%	65.00%	24.00%
Group 7. Age 18-25; education, high school or less; Total: 16	12.50%	75.00%	12.50%
Group 8. Age 25-30; education, high school or less; Total: 14	7.14%	85.71%	7.14%
Group 9. Age 25-30; education, high school or less; Total: 8	0.00%	62.50%	37.50%
Group 10. Age 30+; education, high school or less; Total: 20	20.00%	60.00%	20.00%

Highest responses were given to ‘some of the traditions must be changed’, as percentages varied between 54.54% by group aged 40+ with a high school education and 85.71% of those age 25-30 with a high education. The highest response to ‘yes, absolutely’ was given by the group aged 30+ with a high education, while the highest percentage response to ‘not at all’ was given by the group aged 25-30 with a high school education. This result reflects that educational level plays a role in terms of how the society perceives traditions, as the more educated the females were, the more they thought that traditions must be changed, whereas the lower the educational level they had attained, the less they believed that traditions should be changed. However, most groups were not on the side of one of the extremes, and most responded that ‘some of them only’ should be changed.

Males Response to the Forth Question: Do you think that the culture/traditions related to women in Bahrain should be changed, as they do not suit today’s needs?

Group	Yes Traditions Should Be Changed	All Be	Some Of The Traditions Should Be Changed	Not At All
Group 1. Age 25-30; education, university; Total: 22	9.09%		68.18%	22.72%
Group 2. Age 30-40; education, university; Total: 22	4.54%		59.09%	36.36%
Group 3. Age 40+; education,	0.00%		64.28%	35.71%

university; Total: 14			
Group 4. Age 40+; education, high school or less; Total:11	9.09%	45.45%	45.45%
Group 5. Age 30-40; education, high school or less; Total:10	0.00%	40.00%	60.00%
Group 6. Age 40+; education, higher education; Total: 11	0.00%	81.81%	18.81%
Group 7. Age 18-25; education, high school or less; Total: 13	7.69%	61.53%	30.76%
Group 8. Age 25-30; education, high school or less; Total: 8	0.00%	62.50%	37.50%

Very low percentages were given by the different groups to 'yes, all traditions should be changed', as the percentages varied between 0.00% and 9.00%, which depicts an overall satisfaction with traditions. The highest response to 'some of the traditions should be changed' was 81.81% by age group 40+ with higher education, whereas the highest response given to 'not at all' was 60% of the group aged 30-40 with a high school education. This shows that only some the younger male respondents look negatively to some of the traditions, whereas the older participants, even if highly educated, do not see that there is a need to change the traditions related to women in any form but maybe modify 'some' of them. The society as a whole reflects a clinging to their traditions and habits and would be open to a few alternations only.

Females Responses to the Fifth Question: Do you agree with polygamy?

Group	Yes, Completely	Sometimes	No, Not At All
Group 1. Age 18-25; education, university; Total: 53	13.20%	45.28%	41.50%
Group 2. Age 25-30; education, university; Total: 56	0.00%	44.54%	55.35%
Group 3. Age 30-40; education, university; Total: 61	6.55%	57.37%	36.06%
Group 4. Age 40+; education, university; Total: 46	4.34%	60.86%	34.78%
Group 5. Age 40+; education, high school or less; Total: 33	9.09%	54.54%	36.36%
Group 6. Age 30-40; education, high school or less; Total: 25	4.00%	48.00%	48.00%
Group 7. Age 18-25; education, high school or less; Total: 16	6.25%	31.25%	62.50%
Group 8. Age 25-30; education, high school or less; Total: 14	0.00%	42.85%	57.14%
Group 9. Age 25-30; education, high school or less; Total: 8	0.00%	62.50%	37.50%
Group 10. Age 30+; education, high school or less; Total: 20	0.00%	50.00%	50.00%

Lowest responses were given to 'yes, completely', as 4 groups (age 25-30 with a university education, age 25-30 with a high school education, age 25-30 with a high education, and age 30+ with a high education) gave a 0.00% response, whereas the highest percentage of this response was 13.25% by the group aged 18-25 with

a university education. The response to 'sometimes' varied between 31.25% by those aged 18-25 with a high school education and 62.86% by those aged 40+ with a university education. The highest response to 'not at all' was 87.50%, given by the group aged 25-30 with a high school education and the group aged 25-30 with a high school education. The results show that regardless of the educational background, most women were against polygamy or they accepted it in some cases only. The highest response given to 'yes, completely' of 13.25% was given by a younger group, aged between 18-25, who had probably not been married and therefore did not have antagonism to a question they could not feel/relate to themselves directly.

Male Responses to the Fifth Question: Do you agree with polygamy?

Group	Yes, Completely	Sometimes	No
Group 1. Age 25-30; education, university; Total: 22	13.63%	54.54%	31.81%
Group 2. Age 30-40; education, university; Total: 22	18.18%	72.72%	9.09%
Group 3. Age 40+; education, university; Total: 14	64.28%	35.71%	0.00%
Group 4. Age 40+; education, high school or less; Total: 11	18.18%	72.72%	9.09%
Group 5. Age 30-40; education, high school or less; Total: 10	30.00%	40.00%	30.00%
Group 6. Age 40+; education, higher education; Total: 11	27.27%	45.45%	27.27%
Group 7. Age 18-25; education, high	46.15%	46.15%	7.69%

school or less; Total: 13			
Group 8. Age 25-30; education, high school or less; Total: 8	12.50%	50.00%	37.50%

Most groups have chosen 'yes, completely' or 'sometimes' as a response to this question. The highest percentage given to 'yes, completely' was 64.28% of the group aged 40+ with a university education, and the highest given to 'sometimes' was 72.72% of both the group age 30-40 with a university education and the group aged 40+ with a high school education. It seems like older groups are more pro-polygamy than the younger groups are, regardless of their education. The highest response given to 'not at all' was 37.50% of the group aged 25-30 with a high school education. It seems like a small group was affected by the influence of education to take an anti-polygamy position, but the overall responses of the other groups do not reveal such an opposing position.

Females Responses to the Sixth Question: Do you think the government is doing enough to grant women their rights?

Group	Yes, Completely	Yes, But Needs To Do More	No, Not At All
Group1. Age 18-25; education, university; Total: 53	35.84%	60.37%	3.77%
Group 2. Age 25-30; education, university; Total: 56	37.50%	57.14%	5.35%
Group 3. Age 30-40; education, university; Total: 61	32.78%	59.01%	8.19%

Group 4. Age 40+; education, university; Total: 46	34.78%	56.52%	8.69%
Group 5. Age 40+; education, high school or less; Total: 33	30.30%	57.57%	12.12%
Group 6. Age 30-40; education, high school or less; Total: 25	20.00%	80.00%	0.00%
Group 7. Age 18-25; education, high school or less; Total: 16	25.00%	68.75%	6.25%
Group 8. Age 25-30; education, high school or less; Total: 14	35.71%	54.14%	7.14%
Group 9. Age 25-30; education, high school or less; Total: 8	50.00%	37.50%	12.50%
Group 10. Age 30+; education, high school or less; Total: 20	45.00%	55.00%	0.00%

Most of the respondents saw the government as supportive of women but thought that it needs to do more, as this response varied between 37.50%, as lowest, of those aged 25-30 with a high school education and 80.00%, as the highest, of those aged 30-40 with a high school education. The other groups with more education have also favoured the response 'needs to do more' or 'yes completely', and they gave low responses to 'no, not at all', which depicts an overall sentiment of satisfaction with the primary initiatives of the government. The highest response for 'no, not at all' was given by the group aged 20-30 with a high school education, whereas the lowest response of the same answer was given by the group aged 30+ with a high school education. There is a correlation between the levels of education, as the more educated females were more aware of the government

initiatives to support women, whereas the females with a lower educational level were more pessimistic regarding the government's efforts.

Male Responses to the Sixth Question: Do you think the government is doing enough to grant women their rights?

Group	Yes, Completely	Yes, But Needs To Do More	Not At All
Group 1. Age 25-30; education, university; Total: 22	50.00%	31.81%	18.18%
Group 2. Age 30-40; education, university; Total: 22	45.45%	54.54%	0.00%
Group 3. Age 40+; education, university; Total: 14	50.00%	50.00%	0.00%
Group 4. Age 40+; education, high school or less; Total: 11	45.45%	45.45%	9.09%
Group 5. Age 30-40; education, high school or less; Total: 10	40.00%	60.00%	0.00%
Group 6. Age 40+; education, higher education; Total: 11	54.54%	45.45%	0.00%
Group 7. Age 18-25; education, high school or less; Total: 13	38.46%	53.84%	7.69%
Group 8. Age 25-30; education, high school or less; Total: 8	62.50%	37.50%	0.00%

Most groups chose 'yes, completely' or 'yes, but needs to do more' as an answer. Those who chose 'yes, completely', varied between 40.00% and 62.50%, and those who chose 'yes, but needs to do more' varied between 31.81% and 60.00%. Lesser percentages were given to 'no, not at all', as five groups gave a 0.00%

response, and the highest response to this answer 18.18%. There is a general satisfaction regarding the performance of government in terms of supporting women's rights in Bahrain.

Females Responses to the Seventh Question: Do you have any information about the Convention of Elimination of All Forms of Discrimination against Women (CEDAW)?

Group	Yes	Yes, To Some Extent	No, Not At All
Group 1. Age 18-25; education, university; Total: 53	9.43%	30.18%	60.37%
Group 2. Age 25-30; education, university; Total: 56	5.35%	28.57%	66.07%
Group 3. Age 30-40; education, university; Total: 61	11.47%	39.34%	49.18%
Group 4. Age 40+; education, university; Total: 46	6.52%	45.65%	47.82%
Group 5. Age 40+; education, high school or less; Total: 33	3.03%	24.24%	72.72%
Group 6. Age 30-40; education, high school or less; Total: 25	8.00%	52.00%	40.00%
Group 7. Age 18-25; education, high school or less; Total: 16	12.50%	43.75%	43.75%
Group 8. Age 25-30; education, high school or less; Total: 14	0.00%	57.14%	42.85%
Group 9. Age 25-30; education, high school or less; Total: 8	0.00%	37.50%	62.50%
Group 10. Age 30+; education, high school or less; Total: 20	25.00%	25.00%	50.00%

The highest responses overall were given to 'not at all', as percentages varied between 42.85% of those aged 25-30 with a high school education and 72.72% of those aged 40+ with a high school education or less. The highest response given to 'yes' was 25.00%, from those aged 30+ with high education a high school or less. There is a relation between the educational background and the knowledge of the CEDAW, as the higher educated females were more aware of the convention, and the less educated ones did not know of it. However, most groups with different educational backgrounds favoured the answer 'not at all' rather than 'yes' or 'to some extent', which shows an overall unawareness or lack of interest amongst respondents in this convention.

Males Responses to the Seventh Question: Do you have any information about the Convention of Elimination of All Forms of Discrimination against Women (CEDAW)?

Group	Yes, Completely	Yes, To Some Extent	Not At All
Group 1. Age 25-30; education, university; Total: 22	22.72%	31.81%	45.45%
Group 2. Age 30-40; education, university; Total: 22	9.09%	63.63%	27.27%
Group 3. Age 40+; education, university; Total: 14	28.57%	57.14%	14.28%
Group 4. Age 40+; education, high school or less; Total: 11	18.18%	72.72%	9.09%
Group 5. Age 30-40; education, high school or less; Total: 10	10.00%	40.00%	50.00%
Group 6. Age 40+; education, higher education; Total: 11	27.27%	63.63%	9.09%

Group 7. Age 18-25; education, high school or less; Total: 13	30.76%	23.07%	46.15%
Group 8. Age 25-30; education, high school or less; Total: 8	12.50%	50.00%	37.50%

Most groups responded 'yes to some extent', and responses varied between 23.07% and 72.72%. The response 'yes, completely' varied between 9.00% and 30.76%, whereas the response 'not at all' varied between 9.09% and 50.00%. There is either a general awareness of the convention amongst all groups or either not enough knowledge of it, as expected because the convention is known usually by specific segments of society that work or deal in related fields and is not widely popular among other groups in the society.

Female Responses to the Eightieth Question: Do you think United Nations Conventions can help women in your country get their rights?

Group	Yes	Sometimes	No	Have No Idea
Group1. Age 18-25; education, university; Total: 53	3.77%	45.28%	22.64%	28.30%
Group 2. Age 25-30; education, university; Total: 56	3.57%	26.78%	25.00%	44.64%
Group 3. Age 30-40; education, university; Total: 61	9.83%	49.18%	21.31%	19.67%
Group 4. Age 40+; education, university; Total: 46	8.69%	32.60%	39.13%	19.67%
Group 5. Age 40+; education, high school or less; Total: 33	9.09%	21.21%	24.24%	45.45%

Group 6. Age 30-40; education, high school or less; Total: 25	8.00%	28.00%	44.00%	20.00%
Group 7. Age 18-25; education, high school or less; Total: 16	12.50%	50.00%	12.50%	25.00%
Group 8. Age 25-30; education, high school or less; Total: 14	7.14%	50.00%	0.00%	42.85%
Group 9. Age 25-30; education, high school or less; Total: 8	0.00%	12.50%	62.50%	25.00%
Group 10. Age 30+; education, high school or less; Total: 20	15.00%	50.00%	20.00%	15.00%

The highest response saying 'yes' was 15.00%, given by the group aged 30+ with a high school education, whereas the highest response saying 'sometimes' was 50%, given by the same group. The highest response saying 'no' was 62.50%, given by the group aged 25-30 with a high school education, and the highest for 'have no idea' was 45.45%, given by the group aged 40+ with a high school education. There is a clear link between the level of education and having a more positive attitude towards the UN conventions shown in the responses.

Male Responses to the Eighth Question: Do you think United Nations Conventions can help women in your country get their rights?

Group	Yes	Sometimes	No	Have No Idea
Group 1. Age 25-30; education, university; Total:22	18.18%	40.90%	18.18%	22.72%
Group 2. Age 30-40; education, university; Total:22	13.63%	54.54%	13.63%	18.18%
Group 3. Age 40+; education,	7.14%	35.71%	35.71%	21.42%

university; Total:14				
Group 4. Age 40+; education, high school or less; Total: 11	0.00%	54.54%	36.36%	9.09%
Group 5. Age 30-40; education, high school or less; Total: 10	0.00%	50.00%	20.00%	30.00%
Group 6. Age 40+; education, higher education; Total: 11	18.18%	45.45%	36.36%	0.00%
Group 7. Age 18-25; education, high school or less; Total:13	7.69%	23.07%	53.84%	15.38%
Group 8. Age 25-30; education, high school or less; Total: 8	12.50%	62.50%	25.00%	0.00%

Lower percentages were given to 'yes', varying between 0.00% and 8.18%, which suggests an overall disbelief in the capabilities of UN conventions. However, most groups chose 'sometimes' as an answer, with responses varying between 35.71% and 62.50%, whereas 'no' responses varied between 13.63% and 53.84%. Percentages for 'have no idea' were low, as they varied between 0.00% and 30.00%. Most groups believed in the UN conventions 'sometimes' or saw that it cannot be of significant help. This attitude is quite expected in societies where UN conventions are not received with a lot of positivism, especially because on the international political scene, these societies strongly believe that the UN cannot support the Arabic cases or crisis of Muslim countries.

Female Responses to the Ninth Question: Do you think women in Western Europe enjoy more rights than women in your country?

Group	Yes, Definitely	Sometimes	Not At All
Group1. Age18-25; education, university; Total: 53	18.86%	41.50%	39.62%
Group 2. Age 25-30; education, university; Total: 56	12.50%	50.00%	37.50%
Group 3. Age 30-40; education, university; Total: 61	13.11%	39.34%	47.54%
Group 4. Age 40+; education, university; Total: 46	10.86%	30.43%	58.69%
Group 5. Age 40+; education, high school or less; Total: 33	21.21%	27.27%	51.51%
Group 6. Age 30-40; education, high school or less; Total: 25	20.00%	32.00%	48.00%
Group 7. Age 18-25; education, high school or less; Total: 16	50.00%	43.75%	6.25%
Group 8. Age 25-30; education, high school or less; Total: 14	28.57%	57.14%	14.28%
Group 9. Age 25-30; education, high school or less; Total: 8	25.00%	0.00%	75.00%
Group 10. Age 30+; education, high school or less; Total: 20	10.00%	60.00%	30.00%

The highest percentage given to 'yes, definitely' was 50.00%, given by the group aged 18-25 with a high school education, whereas the highest percentage given to 'not, at all' was 75.00% of the group aged 25-30 with a high school education. There does not seem to be a correlation with educational level, as both groups who

gave the highest responses and gave opposite responses came from the same educational background. However, it can be said that age plays a role here, as the younger generation looked at the situation of women in the West with a more positive attitude. The highest responses given to 'sometimes' were from the more educated groups, as 60.00% was given by those aged 30+ with a high school education and 57.14% of those aged 25-30 with a high school education. This shows that the level of education affects having a more balanced view of women's rights in the West instead of having an extreme view of being supportive or opposing to the Western culture

Male Responses to the Ninth Question: Do you think woman in Western Europe enjoy more rights than women in your country?

Group	Yes, Definitely	Sometimes	Not At All
Group 1. Age 25-30, Education: University, Total:22	27.27%	45.45%	27.27%
Group 2. Age 30-40, Education: University, Total: 22	22.72%	31.81%	45.45%
Group 3. Age 40+, Education: University, Total: 14	21.42%	21.42%	57.14%
Group 4. Age 40+, Education: High School, Total: 11	45.45%	18.18%	36.36%
Group 5. Age 30-40; education, high school or less; Total: 10	20.00%	50.00%	30.00%
Group 6. Age 40+; education, higher education; Total: 11	27.27%	36.36%	36.36%
Group 7. Age 18-25; education, high school or less; Total: 13	30.76%	23.07%	46.15%

Group 8. Age 25-30; education, high school or less; Total: 8	0.00%	62.50%	37.50%
--	-------	--------	--------

Responses to this question also varied amongst different groups, as highest percentage given to 'yes, definitely' was 45.45%, given by group aged 40+ with a high school education and the highest response given to 'sometimes' was 62.50%, given by group aged 25-30 with a high school education. The highest percentage given to 'not at all' was 57.14% of the group 40+ with a university education. There is no consensus amongst different groups in terms of this question, as some see the situation of Western women better than that of Bahraini women, others believe that it is not, and some stay in the middle.

4.3.2 Female and Male Responses to the Open-ended Questions 10, 11, and 12:

Here are the three open-ended questions: A) List one to three problems, if they exist, that women face in Bahrain? B) List one to three advantages, if they exist, that women enjoy in Bahraini society? and C) What do you think is meant by women's rights?

- Female Responses to: Advantages for Women in Bahrain

In regards to the first question about the advantages that women enjoy in Bahrain, **female** respondents from the different age groups and educational backgrounds raised the following comments:

- Women in Bahrain enjoy working in different fields (repeated 60 times by respondents)

- Access to education without discrimination against women when it comes to scholarships (repeated 41 times)
- Being able to reach parliamentary and executive positions, the political life, and enjoying the right to vote and run for elections (repeated 52 times)
- Benefiting from healthcare services (repeated 7 times)
- Being able to drive a car (repeated 27 times)
- Freedom of speech (repeated 7 times)
- She has all of her rights (repeated 6 times)
- Access to high-ranking positions (repeated 6 times)
- Equality with men to some extent (repeated 6 times)
- Freedom to some extent (repeated 6 times)
- Freedom of religion (repeated 3 times)
- Owning property (repeated 3 times)
- Freedom to go out alone and freedom of movement, especially when compared to other GCC countries (repeated 3 times)
- Right to inheritance (repeated 2 times)
- Freedom of choice (repeated 2 times)
- Freedom to choose a husband (repeated 2 times)
- Ability to travel without male guardian, as compared to Saudi (repeated 2 times)
- Women are respected by rules of Islam (repeated 2 times)
- Benefiting from the Family law (repeated 2 times)
- Benefiting from the Social Insurance

- Having a governmental institution concerned for women's issues such as the Supreme Council of Women
 - Bahrain is part of International Women Conventions, which is positive for women
 - Minimal sexual harassment
 - Existence of legislation supporting women's rights
 - Men spend on women as wives, sisters, daughters, etc.
 - Children taking care of their elderly mothers
 - Working as judges
 - Divorced women can benefit from housing facilities provided by the government
 - Bahrain's government is working on empowering women by law
 - Women in Bahrain do not have any distinct advantages.
- ***Male responses to: Advantages for Women in Bahrain***

In terms of **males** answering the same question of what are the advantages women have in Bahrain, respondents from the different age and educational backgrounds gave the following comments:

- Right to work and equality in the work place (was repeated 14 times)
- Right to participate in the political life and freedom of expression (repeated 12 times)
- Right to education (repeated 7 times)
- Right to drive a car (repeated 5 times)

- She has all of the rights (repeated 3 times)
- Right to own property (repeated 3 times)
- Government continuous work to update legislation regarding women (repeated 3 times)
- There is no discrimination against women in getting to high-ranking positions (repeated 3 times)
- Freedom of speech (repeated 3 times)
- The establishment of the Supreme Council for Women (repeated 2 times)
- Maternity leave (repeated 2 times)
- Right to travel (repeated 2 times)
- Right for housing (repeated 2 times)
- Getting a housing unit if divorced or widowed
- There is a lot of legislation protecting women (repeated 2 times)
- Women in Bahrain have more rights than men have (repeated 2 times)
- The importance of family in society and the central role for women in the family (repeated 2 times)
- Equality before the law
- Allowances for divorced women and widows
- Islam gave women their rights 1400 years ago and there are no Western women who have such rights
- Equality in payment
- Enjoying a relatively safe environment
- Early retirement

- Freedom of giving birth
- Working in judiciary
- Becoming a member in parliament
- Passing the Family law, which is fair to women
- Equality with men in rights/duties and dignity
- Openness.

- ***Female Responses to: Disadvantages for Women in Bahrain***

In terms of the disadvantages for Bahraini women, the main answers given by ***female*** respondents from the different age and educational backgrounds where as follows:

- Lack of the right to early retirement (repeated 19 times)
- Some traditions which are not related to Islam are obstacles for women (repeated 18 times)
- There are no problems for Bahraini women (repeated 13 times)
- Divorce/high divorce rate (repeated 11 times)
- Difficulty in getting divorced in Sharia courts (repeated 11 times)
- Less work opportunities (repeated 10 times)
- Lack of housing rights in cases such as when divorced or single (repeated 10 times)
- Custody rights (repeated 9 times)
- Lack of right of granting citizenship for the children of a Bahraini women married to none Bahrainis (repeated 9 times)

- Difficulty in reaching high-ranking positions (repeated 8 times)
- Violence/domestic violence (repeated 8 times)
- Dominance of men/or mistreatment (repeated 8 times)
- The rights of women are lacking in Sharia courts (repeated 7 times)
- Polygamy (repeated 6 times)
- Lack of social insurance for housewives (repeated 5 times)
- Social disrespect of women/lack of trust in and appreciation of women's decisions (repeated 5 times)
- Late or long working hours at night despite having family responsibilities (repeated 4 times)
- Application of liberal values instead of Islamic ones caused problems/lack of applying proper rules of Islam (repeated 4 times)
- Early marriages/lack of specified age for marriage (repeated 3 times)
- Sexual harassment (repeated 3 times)
- Muatá Marriage (temporary Marriage in the Shia sect) – Shia women are subject to discrimination (repeated 2 times)
- Minimal breastfeeding hours (repeated 2 times)
- Ignorance (repeated 2 times)
- Social discrimination against unmarried women (repeated 2 times)
- Merging the total amount of salary of married couple's salary to gain some benefits from some Ministries (e.g., housing) (repeated 2 times)
- Women's lack of motivation to work (repeated 2 times)
- Discrimination at workplace (repeated 2 times)

- Cultural mind set (repeated 2 times)
- Widows lack rights (repeated 2 times)
- Mixed places with men in education and other areas (repeated 2 times)
- Women spending on their houses while raising their children (repeated 2 times)
- High unmarried rate (repeated 2 times)
- Second wife does not have the right for housing (repeated 2 times)
- Extremist women belittle the more liberal ones
- Restriction on women's freedom
- Social pressure to wear the headscarf
- Working in jobs that are unsuitable physically and psychologically to women
- Lack of codified family law
- Civil law is influenced by two-sect councils
- Misinterpretation of Islamic Sharia
- Women take no part in creating legislation, and they just obey Islamic rules that religious men are interested in
- Priorities given to men in public and private sectors
- Interference in a girl's life on the social level
- *Nafaka* (A man's spending on his children in cases of divorce)
- Discrimination
- Conservative women do not have as many chances for work as the liberal ones have
- Lack of public facilities for women for sports, etc.

- Political, social, and family problems
- Women should not work in shifts
- Needing a male guardian's approval for marriage
- Society must be more liberal to accept women's roles in all fields
- Lack of longer maternity leave
- Lack of application of her rights according to Islam
- In some traditional marriages, marriages are forced.

- ***Male Responses to: Disadvantages for Women in Bahrain***

Male respondents from different age and educational backgrounds gave the following comments in regards to the disadvantages women face in Bahrain:

- There are no problems for Bahraini women (repeated 9 times)
- Restriction of some traditions (repeated 6 times)
- The belittling view of society towards women (repeated 4 times)
- Ignorance (repeated 4 times)
- Weak educational systems/decline of educational and cultural levels (repeated 4 times)
- Discrimination in the workplace and employment (repeated 3 times)
- Not passing a Family law for the Shia community (repeated 3 times)
- Weaknesses in the legal and Sharia System/Sharia courts are slow in granting proper application of women's rights (repeated 3 times)

- Society's confusion over the woman's role within the family and her participation in public life/balance between family and work (repeated 3 times)
- Being unable to grant citizenship and residence permit to her children if married to a non-Bahraini (repeated 3 times)
- Lack of freedom of expression (repeated 2 times)
- Difficulty in getting a housing unit from the government, especially for divorced women, widows, and ones having a financial change in their family (repeated 2 times)
- High dowry rate and high rate of unmarried women (repeated 2 times)
- Lack of Islamic upbringing (repeated 2 times)
- Influence of Western way of thinking (repeated 2 times)
- Not giving enough high-ranking government positions (repeated 2 times)
- Lack of work opportunities for women in certain fields (repeated 2 times)
- Poor or wrong usage of media coverage
- Weak presence in the judicial system
- Women getting their religious rights after divorce
- Not enough education for married couples regarding their rights/duties towards one another
- Lack of proper nurseries for working mothers
- Lack of public places for women
- Unemployment
- Mixed places with men

- There is no differentiation between men and women in regards to retirement age
- Violence/family violence
- Not enough breastfeeding hours for working mothers
- Sexual harassment
- Right to get divorced
- Trafficking in women
- Less job opportunities for fully covered women (Niqab)
- Competing with men to get different positions whether it suits the woman or not
- Masculine society
- Lacking of the proper application of Family law, which protects women's rights
- Existence of some men who mistreat women and do not treat women according to the rights granted in Islam
- Not giving enough rights to women when having a child
- Misunderstandings when applying the Islamic laws in some cases
- Having to get permission of the male guardian when getting married

4.4 Analysis of Female and Male Responses to the Advantages and Disadvantages for Women in Bahrain by Breaking them to Separate Categories:

The responses of both males and females have represented a number of issues related to women's situation in Bahrain whether it was positive or negative. Some responses were quite general as they mentioned general themes as (freedom, discrimination, ignorance, etc) without giving further explanation of what is meant by the terminology while other responses were focusing on certain domains (work, health, traditions, etc). Therefore, from the responses, some main categories could be specified and further explained and analyzed as shown below:-

4.4.1 Bahraini Women in the Workforce:

Both female and male respondents showed 'the ability to work in different fields' as a major advantage for women in Bahrain (repeated 60 times amongst female respondents and 14 times amongst male respondents). Although, (10) female respondents mentioned that Bahraini women suffer from 'less working opportunities' as a disadvantage, (4) female respondents repeated that women have late or long working hours at night despite having family responsibilities. Moreover, (2) female respondents mentioned that women face discrimination in the workplace. One female respondent mentioned that there is the disadvantage of Bahraini women working in some jobs that are not physically or psychologically suitable for them. One female respondent mentioned that men get priorities to work in public and private sectors and one female respondent mentioned that women

should not work in the shifts system, considering it as a disadvantage. One female respondent mentioned the disadvantage of the lack of a long maternity leave, and one female respondent stated that 'conservative women have less working opportunities'.

Amongst male respondents, (1) mentioned 'equality in payment' as an advantage for women, but, in terms of disadvantages, both 'discrimination at work place and society's confusion over a woman's role in family and work were repeated (3) times. Lack of work opportunities was repeated (2) times amongst male respondents. One male respondent mentioned the lack of nurseries for working mothers, and one respondent mentioned that women do not have enough rights when they have a child. One male respondent mentioned unemployment as a disadvantage among Bahraini women, and one male respondent specified that women who cover up fully, wearing Niqab (covering their face), face more difficulties in getting jobs. One male respondent mentioned the 'lack of enough breastfeeding hours' for mothers with newborns as a disadvantage for women.

Indeed Bahrain does not have any national legislation that discriminates against women working in specific fields, and it does not mention in its legislation any statements that discriminate in wages, as women generally receive equal pay as men, particularly in the public sector. However, the legislation in Bahrain does not state explicitly the prohibition of discrimination in employment and in wages, which contributes towards women receiving lower wages, particularly in the private sector. According to the press release produced by the Bahrain Economic

Development Board, there exists a gap in wages between men and women in Bahrain in favour of men in the private sector:

The Bahrain Economic Quarterly...indicated a difference in the size of wages between men and women that gets wider in the private sector than the public. The report, issued periodically to reflect a transparent picture for Bahrain's economy, says that female's wages were 10 percent higher than males' were in the public sector during 2011, in contrary to the private sector where women earn 70% of men's wages only (Bahrain Economic Development Board 2011, p.1).

The phenomenon of women receiving lower wages than men is not limited only to Bahrain, as it is an international phenomenon that occurs in Western countries as well, such as the United States. According to a statistic from DeNavas-Walt, et al., from the US Census Bureau 'The median annual earnings for full-time, year-round women workers in 2012 was \$37,791, compared to men's \$49,398' (2013, p.7).

However, because of the nature of women and their roles in bringing up the children, governments around the world should implement the recommendations and agreements of international world organisations such as International Labour Organisation (ILO), which are concerned in granting the rights of workers, which include women as amongst the most vulnerable.

Bahrain ratified, in 2000, the Discrimination (Employment and Occupation) Convention, No. 11, for the year 1958, which protects the rights of workers and employees against discrimination on different bases. The first article of the convention states,

For the purpose of this Convention, the term ***discrimination*** includes:

- (a) Any distinction, exclusion, or preference made based on race, colour, sex, religion, political opinion, national extraction, or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. (ILO Convention 111, 1960, p.1)

Beside this main convention mentioned above, there are a number of recommendations and protocols set by the ILO for the protection of labour rights including women. For instance the ILO also in 1919 set out a recommendation concerning the *Protection of Women and Children against Lead Poisoning* which states that women and young persons under the age of eighteen years be excluded from employment in processes that include materials that can be risky to their health such as zinc, alloy, solder or electric accumulators (ILO 1926, pp.31-32). In addition, there are specific protocols and recommendations by the ILO to protect the rights of working women; even though the recommendations cannot be considered legally binding but the organisation works on encouraging the countries to consider them. For example the Protocol of 1990 to the Convention concerning *Night Work of Women Employed in Industry* which was revised in 1948 and entered into force in 26 June 1990 emphasises the prohibition of women's work in certain jobs during the period of their pregnancy or breastfeeding if the job can put the life of the woman or child in jeopardy.

In regards of working hours at night for women, the ILO *Night Work (Women) Convention* revised in 1948 prohibits the work of women of all ages in industrial undertakings at night (ILO 1948, p.1). However, the convention mentions in Article 8 that the prohibition does not apply to women in managerial, technical positions and those working in the health welfare (ILO 1948, p.3). Some countries such as

Belgium, Switzerland and Sweden that apply advanced measures in terms of human rights in general, prohibit working for both men and women at night in most jobs. However, in the Middle East, in terms of women's labour, applying positive discrimination is a preference as socially the work of women at night is not widely common whether in industrial jobs or any other except if extremely needed; therefore most of Arab legislations prohibit the employment of women at night. Moreover, Al-Warqa explains that Bahrain's new labour law for year 2012 is a disadvantage for women as it states in article 30 that 'the minister shall pass a decision which specifies the jobs that women should not work in during the night time,' which supplements the previous article of the old labour law of year 1976 which stated, 'women must not work at night except in the health sector and other facilities specified by the Minister of Labour.' AL-Waraqqa explains that the older labour law practiced positive discrimination as it considered the prohibition of women working at night as the general rule while the new one implies that the work of women at night is the general rule except in areas specified by the minister which means that employers could force women to work at night in facilities that are not specified by the Minister's decision (Al-Warqa 2013).

In terms of protecting women's rights during maternity, Al-Haddad discusses the development that occurred in the ILO conventions in this regard. ILO convention No. 3, for year 1919, concerning the *Employment of Women before and after Childbirth* (Entry into force: 13 June 1921) emphasises the prohibition of terminating the employment of a working woman because of her pregnancy. In terms of maternity leave, however, in 1952, the ILO revised the *Maternity*

Protection Convention (C3) which resulted in producing convention number (C103) which gave women the right to 12 weeks paid maternity leave after her delivery (Al-Haddad 2015, p.76). However, ILO governing body saw the necessity of revising (C103) in 1997, the main factor for this revision was the acknowledgment of the increasing number of women undertaking paid employment and raising a family at the same time, this resulted in producing the *Maternity Protection Convention 2000(C 183)* which gave more protection to women during their maternity period, giving not less than 14 weeks of paid maternity leave (Al-Haddad 2015, p.78)

Like many countries around the world, Bahrain has not ratified this convention, leaving the period of maternity to be decided by national law. However, Bahrain's national law article 104 of the private sector law prohibits the act of terminating the employment of a woman because of her pregnancy or delivery, which is a measure taken to protect the rights of women in this situation, and that is considered a positive legislation. In reference also to maternity leave, Bahrain has been a member of the Arab League Convention No. 5 since 1976. This convention in article 10 regarding maternity leave, mentions that a woman is eligible for at least 10 weeks of paid maternity leave and that at least 6 weeks of them shall be used after giving birth (Arab League 1976, p.99). There is a contradiction again between what is mentioned in international labour conventions, which gives 14 weeks leave, whereas the Arab League convention grants 10 weeks only. Therefore, Bahrain shall amend its laws to be in accordance with the international conventions, noting that Bahrain grants 8 weeks maternity leave only to women working in the government sector, which is a period even shorter than the one agreed in the Arab

league convention. Most Arab countries are far from achieving the international standards in regards to maternity leave with the exception of Morocco, which is the only Arab country that grants 14 weeks of paid maternity leave. In terms of breastfeeding, the ILO has emphasised as well the right of women to sufficient hours for breastfeeding and left the specification of these hours to each state. Bahrain grants two hours, for two years from the child's birth, for women working in the government sector, which is a supportive legislation – although it must be mentioned that the legislation allowing 8 weeks of maternity leave and 2 hours breastfeeding pertains only the women who are working in the government sector, as in the private sector they would receive a shorter period for both maternity leave and breastfeeding. Two of the male respondents mentioned that women in Bahrain enjoy having maternity leave. Apparently, some men in society are unaware that the maternity leave provided to women in Bahrain is not up to the required international levels and thus cannot be considered as an advantage for Bahraini women.

In terms of appropriate facilities such as nursery and day care being provided by employers, the ILO agreements did not mention them in a legally binding article in any of its conventions but listed them as recommendations (recommendation No. 95 year 1952 and recommendation No. 123 year 1965), possibly because such measures would levy financial cost upon employers. Therefore, Bahrain does not have any legislation in this regard, despite that the Arab League Convention regarding working women states in article 8 that employers should provide day-

care facilities for women with children (Arab League 1976, p.99), but such article is not clearly emphasised in any of the national legislations of the Arab countries.

Moreover, the Bahraini private sector labour law for year 2012 in article 2, provision (A) excludes the housemaids, house guards, farmers, babysitters, drivers, and cooks from the application of most of the jurisdictions mentioned in the law, which leaves their labour rights status in a very controversial and concerning situation, as they are unable to benefit from any of the rights mentioned by that law. According to Bahrain's Women Union Shadow report to the CEDAW in terms of the domestic workers, the report mentions:

Despite the promulgation of the new labour law (Law No. 36/2012 for the private sector) and the official promises to include a special chapter on domestic workers in the new labour law; The new labour law include domestic workers in agreement and vacations piece only not to have a complete chapter to express all domestic workers related issues similar to women and juveniles, yet the law included them only under sections on contracts and leaves' (2014, p.32).

What is noticed when looking at the labour legislation in Bahrain is that it is constituted of a mixture of international law, regional Arab League law, and national legislations, which results in making the Bahraini labour law non-coherent with the standards of all the international labour law conventions. This confusion is found in detail when comparing the legislation regarding women working in the private sector to those working in the government sector, not to mention sectors of the most vulnerable, such as housemaids, where there are not any specific laws that protect them. In a study conducted by Abdul-Mohsen regarding *Legal Protection for Women in Arab Labour Legislation*, the expert who works as a counsellor to the

Minister of Labour in Bahrain sets forward some recommendations to develop the situation of working women in the Arab world in general and in Bahrain in particular, so that it becomes more in coherence with international standards.

Some of those recommendations are:

A) International standards regarding legal protection of working women must be taken into consideration when ratifying the conventions related to women or when amending national legislations to ensure that these legislations are coherent with the standards; B) The importance of frankly stressing the principles of employment and wages provisions in national law in terms of Arabic legislation, which do not state this principle frankly; C) the importance of amending the Arab legislation which prohibits women from working at night as a general rule in order to be in line with the international labour standards which consider the prohibition of women working at night as an exception of the general law; D) The importance of amending maternity leave and elevating it to 14 weeks to be in line with international labour law, particularly international convention No. 183 for year 2000 regarding protecting maternity; and E) the importance of mentioning that maternity leave should be granted for both the mother and the father according to the family need, as limiting it only to the other might harm the family. (2013, p.47)

Therefore, even though women in Bahrain are able to practice their right of working in different fields, further measures must be implemented to protect women's rights in the workplace. The clear confusion and the application of only some of the international law standards while ignoring others results in women facing discrimination in the workplace. The respondents to the questionnaire, however, might not be aware of the benefits they could gain if proper international application of international law were implemented. In January 2014, Bahrain's government made progress in equalizing men and women by agreeing on paying marriage allowance for working married women in the public sector, as the old practice gave such allowance only to men. Further steps must be implemented to ensure the

equality of men and women in the workplace, particularly in terms of wages in the private sector and in improving the maternity-leave circumstances. Moreover, there must be measures taken to include the rights of domestic housemaids more forcefully in labour law, as those workers can be extremely vulnerable to abuse and mistreatment.

Current labour law in most Arab League states do not cover women migrant domestic workers, increasing their vulnerability (Esim and Smith 2004, p.17). According to Human Rights Watch, 'in July, King Hamad signed a new private sector labor law that continued improved safety regulations, measures to combat human trafficking and granted migrant workers greater ability to leave their employees. The law extends a few protections to domestic workers such as annual leave, but excludes them from most key provisions including limits to work hours, weekly days off (Human Rights Watch 2013, p.525). Therefore international human rights organisations urge the GCC and Arab countries to ratify the *ILO Domestic Workers Convention* to protect these groups of workers particularly women as they are among the most vulnerable.

4.4.2 Bahraini Women and Education:

The respondents looked at the education opportunities granted to women in Bahrain as a positive sign. Amongst female respondents, 'access to education' was repeated (41) times and (7) times amongst male respondents, as an advantage for Bahraini women. Male respondents mentioned the 'weak educational system' (4) times as a disadvantage for women in Bahrain.

Education wise, paragraph (A) of Article (7) of the Bahraini Constitution reaffirms the states obligation to grant education to its citizens:

The State sponsors the sciences, humanities and the arts, and encourages scientific research. The State also guarantees educational and cultural services to its citizens. Education is compulsory and free in the early stages as specified and provided by law. The necessary plan to combat illiteracy is laid down by law (Legislation & Legal Opinion Commission 2015, p.7).

Moreover, in 2005, education law No. (27) was issued to govern the framework of education in the country and emphasise the fact that it is compulsory and available to all, for free, in Bahrain.

Bahrain was the first state in the region amongst the Gulf Cooperation Countries (GCC) to establish modern schools. The year 1919 marked the beginning of the modern public school system in Bahrain, as Al-Hidaya Al-Khalifia School for boys was opened, and, in 1928, the first public school for girls was opened at the city of Muharraq, and it was the first school for girls to be opened in GCC countries. Even though Bahrain was the first in introducing modern education to girls, now Qatar presents the highest rate of women's literacy. According to a study conducted by AlMasah Capital Limited:

Adult literacy rate among women (in age 15 plus group) in the region stands at 84% among the GCC nations, Qatar tops the list with women's literacy rate at 93% followed by Kuwait (92%), the UAE (91%), Bahrain 90%, Saudi Arabia 81%, and Oman 81%. (2012, p.5)

However, in reference to youth education, UNICEF, in a report produced on 'MENA gender profile', states the following:

According to estimates by UNESCO Institute for Statistics (UIS), the literacy rate both among female and male youth is 100 per cent. The net enrolment ratio for both girls and boys in primary school are roughly equal (97 and 98 per cent respectively). In secondary schools, the girls' net ratio enrolment is 91 per cent while boys' net enrolment ratio is 87 per cent. (UNICEF 2010, p.3)

There is an apparent equality between men and women in Bahrain in terms of education as it is free and obligatory for both sexes. Female students are able to gain university scholarships without evidence of discrimination against them on basis of their gender. In fact, according to the study done by the Supreme Council for Women, *Bahraini Women in Numbers*,

...female students in Bahrain show a higher enrolment at University level than male students as during years 2011-2012 they constituted 61% of university students while male students constituted 39%. Moreover, female students gained most of the scholarships for higher education for year 2007-2008 as they gained 66.39% of the scholarships while male students gained 30.61% only. (Supreme Council for Women 2013, p.15).

4.4.3 Bahraini Women and Political Participation and Decision-Making :

The responses showed that participants approve of the advantage Bahraini women enjoy in participating in political life and reaching high positions (repeated 52 times amongst female respondents and 12 times amongst male respondents). One male respondent mentioned working in judiciary positions as an advantage for women.

Eight female respondents, however, stated that women face difficulties in getting to high-ranking positions as a disadvantage. Two male respondents mentioned that women are not given enough high-ranking positions as a disadvantage, and one

male respondent mentioned 'weak presence in judicial system' as a disadvantage for women.

Bahraini women obtained the right to vote and run in elections on a universal basis in the first elections ever held in the history of Bahrain in 2002, which made Bahrain the first country in the Gulf region to grant women the right to vote in 2002, followed by Oman in 2003, Qatar 2003, Kuwait 2005, UAE 2006, and Saudi Arabia, which decreed in 2011 that women shall have the right to vote in local elections starting from year 2015. The Bahraini Constitution grants women the rights to vote and run for elections in article 1, paragraph (e), which states, 'Citizens (men and women) have the right to participate in public affairs and enjoy political rights, including the right to vote and stand as a candidate' (Legislation & Legal Opinion Commission 2015, p.2). In addition, the Bahraini National Action Charter includes an unequivocal clause on the political rights of each citizen whether male or female as it states in section 7 of chapter two states, 'Citizens, men and women alike, have the right to participate in public affairs and political rights including suffrage and the right to contest as prescribed by law'. (Legislation & Legal Opinion Commission 2013, p.18)

According to a report produced by Women Watch (United Nation's Interagency Unit on Women and Gender Equality):

Bahraini women are presented in the three legislative, executive, and judicial branches of authority. They participated in the committee that drafted the National Charter and on the process of the referendum of the charter. The Kingdom has further sought to ensure that there are women in the consultative council (A branch of the National Assembly). Women have also

participated in the political life; they exercised their right to vote and stand as candidate in the municipal and parliamentary elections held in 2002 and chaired electoral commissions (Women Watch, n.d.,5).

The number of parliamentary seats occupied by women in Bahrain and Gulf countries is not high, and because of the socio-cultural attitudes of the voters, women failed to achieve a high number of seats. The number of seats occupied by women has currently reached seven in the UAE, five in Kuwait, four in Bahrain, and one in Oman.

In 2002, 30 Bahraini women ran for the first municipal elections, but none of them were elected. In addition, eight women ran as candidates the same year for the parliamentary elections and failed to gain any seats. In 2006, in a preliminary election, one female candidate gained a seat uncontested. This social rejection of empowering women in political life even though women constitute almost 50% of the voters is due to the social and religious influences in the Bahraini society, which view mistrustfully political participation of women. Additionally, the new age of the democratic experience in Bahrain as a whole left most candidates, whether men or women, without a clear political agenda and good publicity campaigns. This was especially the case for those who ran for elections as independent candidates and did not belong to the main Sunni or Shia political blocs (particularly in the 2006 elections, as the Al-Wifaq Shia political society joined the elections after boycotting them in 2002) and had a hegemony in the elections. In the elections of 2011, three female candidates were elected to the parliament, as they filled the vacuum left from the withdrawal of the Al-Wifaq group of the parliament because of the political situation at that time. According to Al-Jishi the reasons for such failure to empower

women in elections is owing to the masculine thought spread not only in Bahrain but in many other societies:

Although most constitutions of the world stipulate equality between citizens and non-discrimination between them in rights and duties, even in the most advanced societies and political systems, gender disparity in assuming leadership positions exist in practice. This is due to the hegemony of masculine thought and the traditional division of roles between men and women, in addition to the indifference of women, and their cautiousness about joining political movements for their cause. (Al-Jishi 2013, p.60)

However, today in Bahrain, there are three female ministers in the cabinet, the ministers of information, cultural, and social development; Bahrain also sent the first female ambassadors to three main capitals in the world, Washington DC, London, and Beijing⁹. On the judicial level, 13 female judges were appointed, which raised the participation of women in this field to 17% during years 2007–2012. Moreover, on the legislative level, the number of female members of the Shura council consists of 11 members, which raise the representation of females in the house to 27%. Unlike the Bahraini voter, there is a clear support from the Bahraini government for women to reach decision-making positions, particularly in light of the government's wish to praise its profile on the international level, as a modern country that empowers women. Therefore, the government is cautious about adding female public figures in each political field, whether legislative, executive, or judicial, and, even though the steps might be considered slow, they are heading in the direction of empowering women without needing to implement the quota system. A question arises here, however, regarding whether women appointed by the government in senior positions are qualified to fill in the positions

⁹ The figures of how many female ministers and ambassadors Bahrain was for year 2014 as post to this year there has been ministerial and diplomatic changes.

or if their appointment comes because of the government's wish to put certain women in these senior positions in order to enhance its image. It is a fact that women in Bahrain are able to participate in political life, particularly the legislative one, and that the restrictions they face in this arena are due to cultural and social factors, as the government does not put any constitutional or legislative barriers in this regard. The government, however, should put further policies for awareness in the educational system and public campaigns regarding the importance of the role of women in political life. Moreover, the government must have different females to filling high-ranking positions, as it is noted that women in certain high-ranking positions have held different positions (i.e., the same female figure is found once as member of parliament and then as an ambassador, etc., or the same minister has been in the cabinet for a period of eight years). This circulating of the same female figures through important positions creates a feeling of disappointment amongst younger females, especially those who do not come from families that are traditionally well connected to the government. The Bahraini Women's Union, in their Shadow report presented to the CEDAW committee in 2014, stressed the discriminatory acts of government when choosing women to be in decision-making positions:

...in addition, these appointments were discriminating against women; those who hold views opposing the government viewpoint were excluded regardless of their qualifications or expertise. The obvious example of that is the assignment for women who are members in the Supreme Women's Council and others who have similar government opinions and not from the civil society (2014,p. 20).

4.4.4 Bahraini Women and the Ability to Drive a Car and Travel:

Interestingly, a few of the respondents highlighted 'the ability of Bahraini women to drive a car' as an advantage for women in Bahrain (7 times repeated amongst women and 5 times repeated amongst men). In terms of travelling and movement, (3) female respondents stated that women enjoy the 'freedom to go out alone' and they repeated (2) times the 'ability to travel without a male guardian' as an advantage for women and the same comment was repeated (2) times as well amongst male respondents as an advantage.

This right to drive a car, which is taken for granted in most countries, is seen by some respondents in Bahrain as a privilege as they compare the situation in their country to a neighbouring country which is Saudi Arabia. Saudi Arabia is known as the only country in the world that does not allow women to drive a car. There is no law barring women from driving in Saudi Arabia, but senior government clerics have issued several fatwas or religious rulings (that are not binding) saying women are prohibited from driving for fear of corruption if they mingled with unrelated men (Wilcke 2012, p.97)

In Islam, there is no rule that stipulates that women are not allowed to drive a car, and it is a fact that women are allowed to drive a car in all Muslim countries even the ones who apply religious rules such as Iran; therefore, the restriction in Saudi Arabia is due to traditional values more than Islamic teachings, as patriarchy is still very forceful in Saudi. Saudi women activists launched a few campaigns in recent years calling for women's right to drive.

Moreover, two of the female respondents mentioned that one of the advantages that women enjoy in Bahrain is their ability to travel without a male guardian. Again, the respondents are comparing the situation of women in Bahrain to neighbouring Saudi Arabia, where women are not allowed to travel without having a document indicating the consent of a male guardian for them to travel. Human Rights Watch described such a rule stipulated in Saudi Arabia as discriminatory. According to HRW World report:

Under the discriminatory Saudi guardianship system, girls and women are forbidden from traveling, conducting official business, or undergoing certain medical procedures without permission from their male guardians. (Human Rights Watch 2013, p.2)

Traditional Islamists – who are in authority in a country such as Saudi Arabia – justify the practice of such a system an interpretation of the prophet's saying, 'No woman should travel alone without a *Mahram*' (Abdul-Rahman 2003, p.48). It is claimed by this group of Islamists or interpreters that such an order was set out a protection for women: the guardian (Mahram) is a male relative whom she is permanently prohibited from marrying due to their close blood relationship, such as a father, a brother, an uncle, an elder son, or nephew after he has reached puberty, or a husband, etc. However, the majority of Muslim scholars nowadays allow women to travel without a guardian, as they explain that the role of the guardian was in keeping with a time when travelling involved danger and hardship (as it was on camels and through the desert) besides taking very long periods, for weeks or even months, whereas nowadays, travelling is easier, shorter, and without any evident dangers for a women, which makes the reason

for having a male guardian invalid. In Bahrain, such a restriction on women's travelling does not exist, and females in Bahrain above 18 years old can travel outside the country without needing the consent of a male guardian. In a positive step with regards to women travelling, the passport law was amended in 2005 to give a wife the right to apply for a passport without needing to get the permission of the husband, as was the case before.

4.4.5 Bahraini Women and Freedom of Speech/Expression:

Female respondents raised the freedom of speech (7) times as an advantage for women in Bahrain while male respondents repeated it (3) times in the same regards; while (2) male respondents mentioned that Bahraini women face a 'lack of freedom of expression' as a disadvantage.

Article 23 of the Bahraini Constitution states that:

Freedom of speech and freedom to carry out scientific research shall be guaranteed. Every person shall have the right to express and propagate his opinion in words or in writing or by any other means, in accordance with conditions and procedures specified by the law (Legislation and Legal Opinion Commission 2015, p.13).

Moreover, in section 4 of chapter 1 of the Bahraini National Action Charter regarding the freedom of expression and publishing it states that,

Every citizen shall have the right to express him/herself orally, in writing or in any other way of expression of personal opinion or creativity. Under this law, freedom of scientific research, publishing, press and printing are ensured within the scope specified by law. (Legislation and Legal Opinion Commission 2014, p.14)

In spite of the assurance of the Bahraini law of freedom of expression, Bahrain has been subject to criticism by a number of human rights organisations in this regard. Human rights watch criticized measures taken by the Bahraini government in ratifying a law that requires seven years of jail and a fine up to 26,500 US dollars for offending the King, the flag and national emblem (Human Rights Watch 2015, p.5). The organization also criticized the detention of a number of Bahraini journalists and photographers (ibid). Those detentions occurred in the background of the Bahraini opposition trying in 2011 to overthrow the regime.

H. Shafaie in an article entitled, 'Objective Criticism of Incitement?', mentions that despite the criticism addressed to Bahrain in terms of freedom of speech, Bahrain and Kuwait have much higher flexibility in dealing with freedom of speech than other GCC countries have, explaining that human rights organisations know little about those countries to see the full image:

The criticism directed at Bahrain is very much related to the lack of a modern press and publications law, which the Government and the legislative authority have not yet ratified. In addition, distorted information has projected an image of Bahrain as a state that oppresses journalists and public freedoms. (Shafaie ,n.d.)

In terms of the criticism of the international human rights organisations to the freedom of speech in Bahrain, it seems to ignore the raising of sectarian speech, from the opposition side and not necessarily the government's side. The 2011 crackdown in Bahrain has created a major divide between the Sunnis and Shia in Bahrain, and some religious Shia opposition figures or groups tend to use sectarian speech that provokes the Sunnis in society, and in return creates a similar hate

speech from the Sunni side. There is a much felt feeling of fear amongst the Sunni community in Bahrain of a future similar to Iraq or Syria, where the Shia government officials or militant groups which are supported by Iran are practising oppression and marginalisation of other sects and religions. However, Bahrain is considering passing a press law, which would criminalize the imprisonment of journalists, and such a law, if passed and applied correctly, shall enhance the situation of freedom of speech in Bahrain.

4.4.6 Bahraini Women and Access to Healthcare System:

Seven female respondents mentioned that women in Bahrain have the advantage of benefiting from the healthcare system.

According to article 8 of the Bahraini Constitution:

Every citizen shall have the right to health welfare. The state shall care for public health and ensure means of prevention and treatment by establishing various kinds of hospitals and provide medical facilities. (Legislation & Legal Opinion Commission 2015, p.7)

Bahrain provides primary healthcare for Bahrainis and non-Bahrainis by 20 health centres scattered around the country, four maternity hospitals and one main medical complex, 'Al-Salmaniya' hospital. In 2012, King Hamad's hospital was opened as well to serve as another major medical complex besides Al-Salmaniya to face the growing demand. According to a report produced by the Regional Office of World Health Organization: 'Comprehensive health services are provided to the whole population...Bahrain enjoys an advanced level of health as manifested by its health status indicators' (World Health Organization 2006, pp. 22-23). In fact,

Bahrain provides free primary, secondary, and tertiary health care to all citizens of Bahrain. Noncitizens pay only nominal fees.

On terms of women, Bahrain, in 2004, issued law No.11 for mandatory premarital health checks that led to a reduction of the hereditary blood diseases to 7%. Primary healthcare includes regular check-ups during pregnancy, services related to childbirth, abortion, and children vaccination. In a positive development, Bahrain in 2014 has amended the law regarding the need for the husband's approval to conduct a C-section, so there is no need any more for Bahraini women now to get such an approval.

When analysing the healthcare scenery in Bahrain, apart from the challenge of facing a pressurizing demand on health services, there is no evidence of discrimination against women in terms of services or employment in this sector. In their work , *Bahraini Women in the Era of Hamad*, the researchers explained that women's life expectancy has increased and mother fatality has decreased because of the good healthcare provided to women: 'life expectancy reached 77.3 years in 2006, as compared to 76.3 years in 2002... mother fatality for every 100-thousand births decreased from 20.1 in 2004 to 13.3 in 2006' (Kamel et al. 2013, p.173).

However, due to the application of Sharia in terms of family affairs, the hospitals would refrain from registering children who have no known father by their mother's family name. To register a child, one needs as well to show evidence of a marriage contract. Such a prohibition is not limited to Bahrain only, as it is practised in

almost all Muslim countries, apart from the ones that apply secular law such as Turkey.

4.4.7 Bahraini Women and the Right to Housing:

One female respondent and (2) male respondents mentioned the advantage of housing services for Bahraini women. On the contrary, 'lack of housing rights, especially when divorced or single' was repeated (11) times amongst female respondents as a disadvantage. Two female respondents mentioned that 'merging the salary of a married couple to gain some benefits such as housing' as a disadvantage. Amongst male respondents 'difficulty of getting housing units for women especially when divorced or widowed' was repeated (2) times as a disadvantage.

Provision (f) of article 9 of the Bahraini Constitution states: 'The government shall strive to provide housing for citizens with limited income' (Legislation & Legal Opinion Commission 2015, p.8). Moreover, decision No.12 for the year 2004 stated the right of Bahraini women to benefit from state provided housing services, and it grants divorced and widowed women the right to apply for housing services from the state (Supreme Council for Women 2014, p.7). Another decree that was passed in favour of women in 2004 was decree No. 12, which gave women the right to apply for benefiting from housing services, which was a right that they were deprived of before:

... the working women or the women who have monthly fixed income and cater for a family and do not own any property is entitled to any of the house

services as per law and the regulations issued in implementation thereof (Supreme Council for Women 2014, p.7).

The housing services provided by the government vary from housing loans, lands, and housing units. According to the law, a couple would not be entitled to a housing unit if the monthly income exceeded a certain limit and according to the Bahraini Ministry of Housing website, an applicant for a housing unit should 'not exceed the monthly incomes of the family of basic nine hundred dinars' (Ministry of Housing 2012). The law gives women the right to be part of the registered house if they take part in the payment.

Registered housing granted to the first category if the husband's name was the one who has to pay the premiums on his own. As if he participated with his wife or with one of his wives, if he had any more than one wife, to pay the premiums on the common housing registers by contribution (Ibid).

This condition is contradictory to the basic themes of Islamic Sharia in terms of men's obligation to spend on the family and to provide a house for the family regardless of whether the wife works or not. The Quran mentions 'Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them' (65:6). The verse orders men to provide housing for the wife in accordance with his abilities. The law takes advantage of working women's salaries and merges them in the calculation of the total family income in order to decrease the number of deserving applicants for the housing units. Such an act would be reasonable had the government not claimed that it applies Sharia rules when it comes to family affairs. Sharia states clearly that women are not obliged to participate financially in providing accommodation for the family, but the Bahraini

government with regards of housing neglects this fact and requires working women to participate in the process of gaining a housing unit.

4.4.8 Bahraini Women and Owning Property and Inheritance:

Three of the female respondents mentioned the right to own property as an advantage for women in Bahrain, and two female respondents added inheritance as another advantage. Male respondents repeated the right of owning property (3) times, as an advantage for Bahraini women.

The Bahraini constitution mentions in article (9) paragraph (A):

...property, capital, and work in accordance with the principles of the Islamic justice, shall be fundamental constituents of the social structure and the national wealth. They are all individual rights with a social function regulated by the law (Legislation & Legal Opinion Commission 2015, p. 8).

The constitution also grants the right to inheritance but in accordance with Sharia, article 5, paragraph (C) of the constitution states: 'inheritance shall be a guaranteed right governed by Islamic law' (Legislation & Legal Opinion Commission 2015, p.6).

Women in Islam have the right to own property and financial freedom of what they own, as Quran states the following:

And wish not for the things in which Allah has made some of you excel the others. For men there is reward for what they have earned, (and likewise) for women there is reward for what they have earned, and ask Allah of His Bounty. Surely, Allah is Ever All-Knower of everything. (4:32)

Muslim women also have the right to inheritance but as Sharia law is applied in Bahrain, Muslim women inherit half of what her male sibling would. More details of such provision are to be discussed in the following chapter of this research.

4.4.9 Bahraini Women and Social Insurance and Early Retirement:

One female respondent mentioned social insurance as an advantage for women in Bahrain, and (1) male respondent mentioned 'early retirement' as an advantage for Bahraini women. Nineteen female respondents have actually highlighted that the lack of early retirement for women is a disadvantage and five female respondents mentioned the lack of social insurance for housewives as a disadvantage for women.

According to Kamel, Bahrain has taken positive steps in terms of securing women's income after retirement:

... in this respect, came the law, in his term (the King) granting employees retirement pensions in addition to the payment of premium of 3% of the annual salary for each year of service provided that they do not exceed 40 years and in case it goes beyond this limit, the woman to be insured is entitled to a bonus of 15% of the last salary for each extra year with a limit of 7 years. It is also possible for women to transfer the bonus to an additional salary. They can as well replace a part of their retirement salaries in the range of the percentage specified by the Ministry. (Kamel et al. 2013, p.154)

The researcher adds:

...the social insurance system have been applied in all the private sector institutions since January 2005, providing social protection through ensuring women's access to fixed retirement wages to cover their living costs after the end of their service.

In terms of retirement, in fact according to the Civil Service law of year 2012 article 60, the retirement age for any employee in government is 60 years of age and there is no positive discrimination for earlier retirement for women. Men or women have the right to seek early retirement but it would affect the amount of social insurance received. Despite the fact that a number of female respondents mentioned that a lack of early retirement for women as a disadvantage, it seems that they are unaware that there is no such obligation for states in international law to grant women earlier retirement as the concept of equality between men and women contradicts passing such a law. However, it can be understood why women in Bahrain feel the need for early retirement; it is because despite the growing participation of women in the labour market, the traditional roles of women in the household remain nearly the same. Socially and culturally, not much has been achieved in terms of men's taking part in the household and children's nurturing. Therefore, women bear the double burden of working inside and outside the house, and instead of men taking part in household and children responsibilities, the couple seek the help of cheap domestic workers which has its own disadvantages.

4.4.10 The Establishment of the Supreme Council for Women and Empowering Women through Legislation:

One female respondent mentioned that the Supreme Council for Women is an advantage for women and one female respondent mentioned that Bahraini government works on empowering women by passing laws. Amongst male respondents, (3) stated that the government works continuously to update

legislation regarding women. Two male respondents mentioned the 'existence of legislations protecting women'. One male respondent mentioned the establishment of the Supreme Council for Women as an advantage.

The Supreme Council for Women, established in August 2001 and chaired by the wife of the King, is a governmental organisation that is considered as a reference for women's affairs in Bahrain, and it aims to study and improve the status of women in Bahrain in all political, economic, and social levels. According to a report titled, *The Efforts of the Supreme Council for Women*, the Supreme Council of Women launched during (2001–2004), a national strategy for the advancement of Bahraini women and a national plan for the implementation of the national strategy for the advancement of Bahraini women to be achieved during 2013–2022 (Supreme Council for Women 2014, p.3).

In terms of legislations supportive to women, there is evidence that the amount of legislations in favour for women have increased since the establishment of this council. Appendix (2) refers to all of the positive legislative and administrative decisions passed in Bahrain. (Supreme Council for Women 2014, pp.6-8).

4.4.11 The Family Law and Sharia-Related Rules:

Two female respondents mentioned passing the Family Law as an advantage for Women in Bahrain. One male respondent mentioned it as an advantage for women as well. In terms of how the respondents perceived the rules of Islamic Sharia, the responses varied: (2) female respondents mentioned that women are protected by

the rules of Islam; (1) female respondent stated that men spending on their wives, daughters, sisters, etc. is an advantage for women; (2) female respondents mentioned that women enjoy the freedom to choose a husband; and (1) male respondent stated that Islam gave women all their rights.

In terms of the disadvantages women face in this sphere, female respondents repeated (7) times the disadvantage of the lack of rights in Sharia courts. Difficulty in getting divorced in Sharia courts was repeated (11) times amongst female respondents, and custody rights was repeated (9) times. Polygamy was repeated (6) times; early marriages (3) times; and Mutah marriage (temporary marriage amongst the Shia sect) (2) times. One respondent mentioned the lack of a codified family law; one mentioned the existence of the two-sects council, one commented on the misinterpretation of Sharia; one mentioned that women take no part creating legislation but just follow Islamic law inserted by religious men; one highlighted the Nafka (expenditure on women) problem; one mentioned the disadvantage of needing the approval of a male guardian for marriage; and one mentioned forced marriages.

Male respondents mentioned the lack of family law for the Shia community (3) times, as a main disadvantage. Two male respondents mentioned the disadvantage of the weakness of the Sharia System and how slow it is in proper application of women's rights. One male respondent mentioned that women suffer from the difficulty of getting their rights in accordance with Islam after divorce, and one mentioned the lack of the right to get divorced as a disadvantage. One

respondent mentioned the lack of the proper application of the family law as another disadvantage, and one mentioned the misunderstanding in applying Islamic laws at some cases.

As discussed previously, Bahrain applies Islamic Sharia Law in issues related to family depending on a two Sharia court systems, one for the Sunni community and another for the Shia community. From the various responses of males and females, some mentioned that passing the family law is an advantage for women, whereas others saw that women still suffered in Sharia courts especially in matters related to getting married without needing the approval of a male guardian, custody, divorce, etc., and respondents highlighted that the law is incomplete as it specifies to Sunnis only.

In terms of family law, it is important to note that the refusal of passing a Shia section was not due to government reluctance, but, as discussed previously in this chapter, the Shia clerics in Bahrain refused to pass such a law, claiming that it is a sign of state interference with their religion. In my interview conducted in June 2013 with a Bahraini women's rights activist, referred to herewith as interviewee (A), she mentioned that,

...the problems of Sunni women have greatly decreased in Sharia courts; they still face difficulties in terms of lack of follow-up mechanisms for the application for the cases after they won them, but Shia women are still facing major difficulties in these courts. The Bahraini Sunni law, which was passed in 2009 after the approval of the parliament, is considered as good progress. It documented Sharia law in a certain code, previously family issues were left to what the judge saw as right in accordance with his interpretation of the Sharia.

However, when analysing the Sunni family law, matters of marriage age, polygamy, custody, and divorce, which were highlighted by the respondents, can be discussed as follows within the context of the law:

- Article 12 regarding guardianship: The agreement of the female *wali* is a condition for the validity of the contract. The law, however, stresses the woman's consent, and is quick to pass guardianship to the judge in cases where the guardian's permission is not forthcoming for various reasons (Ministry of Justice and Islamic Affairs 2009, p.7).
- Article 18 regarding the age of marriage: It mentions only the need of court's approval for the marriage under the age of sixteen, and only if the court is convinced of the 'appropriateness of the marriage' (ibid).
- Article 17 regarding polygamy: The law mentions that a man already married must provide the names and addresses of his existing wife (or wives) in the statement of his 'social status' and is required to notify his existing wife of his subsequent marriage by registered letter in 60 days, if that wife has inserted stipulation in their marriage contract against such marriage (Ministry of Justice and Islamic Affairs 2009, p.8).

Obviously, the law does not omit polygamy –a provision that is going to be discussed in further detail in the coming chapter– but it puts some restrictions on a man who wants to remarry, by forcing him to notify the previous wife, and it gives that wife the right to put a condition beforehand that he shall not marry another woman in their marriage contract; such a right was not granted to women before

the law. As respondents mentioned, Shia women suffer from the Mutah marriage, where beside the four wives polygamy justified in Islam, a Shia man can marry an unlimited number of women for a temporary time (this starts from one hour and can continue for years) upon the agreement between him and the woman he is marrying temporarily.

In terms of divorce, according to the general rule in Islam, divorce takes place by the declaration of the man in words, spoken, written or signed in case of disability that he wishes to divorce his wife. However, the law gives women the right to 'Khul', which is seeking the court to get divorced from her husband. Consensual Khul would occur whereby the two parties agree to a divorce by the exchange for certain compensations (often the waiving of remaining rights – notably the deferred dower) by the wife. If divorce or Khul occurs, the husband is obliged to spend 'Nafka' on his children, and the custody of children according to Article 129 is given to the mother until a boy reaches 15 years of age and a girl reaches 17 years of age. The children have the right later on to choose who they want to continue living with whether the mother, father, or whoever had custody rights upon them (Ministry of Justice and Islamic Affairs 2009, p.38). In the Shia case, custody is given to the mother for a much shorter term, as it is usually until 7 years of age for a boy and 9 years of age for a girl.

Some of the advantages for women within the family law, however, are the provisions for some rights that did not have a text before to codify them. For instance, Article 44, obliges the husband with *Nafka* on his wife in terms of food,

clothing, and accommodation and according to his financial states. Article 44 also of the law obliges the husband to guarantee his wife with a proper accommodation in accordance with his financial abilities (Ministry of Justice and Islamic Affairs 2009, p.16). Article 54 explicitly rules out the forcible implementation of ruling obedience, a practice done previously by forcing a woman to return to her husband's house even if she chooses not to do so (Ministry of Justice and Islamic Affairs 2009, p.19).

Bahrain's Women Union Shadow Report highlights some of the main issues of criticism of the Sunni Family Law as follows. In terms of minimum age of marriage, the report states,

...we see that the law is not compliant with the CEDAW committee's concluding remarks 39-41 regarding discrimination in the minimum age for marriage and calling upon the government to raise the manumit age of marriage from 15 to 18 years for girls. (2014, p.22)

In regards to polygamy, the report mentions,

The law does not include a text limiting polygamy and the abuse of such license or at least stipulating urgent necessity, such as infertile women or serious health issue, etc. (2014, p.23).

Moreover, the shadow report criticizes what is stated in the law in regards of the need of guardianship for marriage,

The law should stipulate that marriage should be through the full free agreement of the wife, to face up to current prevailing situation, which does not take into consideration the woman's right to marry herself (2014, p.23).

Therefore, the shadow report calls for removing all reservations of article 16 of the CEDAW convention, which is concerned with family affairs, in order to have full equalization between men and women.

Even though the passage of the family law marks progress for Bahraini women, indeed there still exists a gap between this very law and the standards of international conventions such as noted by the shadow report. However, harmonizing both the Islamic laws with the CEDAW standards in terms of family affairs remains very challenging, as the CEDAW standards clearly clash with some of the original rules of the Islamic Sharia. The following chapter will discuss the Islamic rules that are difficult to change in accordance to the CEDAW and the effect of such a situation on the circumstances of women in Bahrain and the Muslim World.

4.4.12 Bahraini Women and Citizenship:

Nine of the female respondents mentioned that Bahraini women lack the right of granting their children citizenship if they are married to a non-Bahraini. Decree law No. 12 of the amended Nationality Act of 1963 states in Article (4), paragraph (A): 'A person shall be deemed a Bahraini national in the following cases: (A) If he is born in Bahrain or abroad and his father, at the time of birth, was a Bahraini National'. The law gives women the right to pass citizenship to their children only in a certain cases. Article (4) paragraph (B) states, 'If he is born in Bahrain or abroad and his mother, at the time of birth, was a Bahraini national, providing that his father was either unknown or not legally related to his father' (Bahrain

Government 1963, p.3). Bahrain's NGOs shadow report highlights the lack of ability of Bahraini women to grant citizenship to their children as a clear discrimination against women, especially that Bahrain has put reservation on article (9) of the CEDAW, which calls for granting women this right. The report suggest that the law shall be changed to, 'Any person is considered Bahraini if born in or outside Bahrain, and his/her father or mother were Bahraini at the time of his birth' (2014, p.11).

The issue of neutralization is quite controversial in Bahrain, as by the law, the King has the right to grant citizenship to persons whom he sees deserving of the nationality, which made Bahrain naturalize big numbers of non-Bahrainis who work mainly in the military sector (there is a lack of official numbers of the naturalized Bahrainis), whereas Bahraini women remained unable to attain such a basic right for their children.

However, in a progressive step, Bahrain's cabinet passed an order in January 2014, regarding the approval for a draft law proposal to amend certain provisions of the Bahraini Nationality Law, allowing the children of Bahraini women married to non-Bahraini men to obtain the nationality as per the rules and regulations. This law is transferred to executive authority to be approved. To date, this law has not been approved by the executive authority, and usually such decisions take a long time to be made and implemented. If the law is passed, it must be scrutinized to determine if it is properly implemented and if there are proper follow-up mechanisms required to grant women such a right.

4.4.13 Other Comments Regarding the Advantages for Women in Bahrain:

Six female respondents mentioned that Bahraini women enjoy all their rights. Other comments were regarding having equality with men to some extent and freedom of religion and of choice, particularly choosing a husband. One respondent mentioned that Bahrain's being part of International Women Conventions is an advantage. Male respondents also mentioned that women enjoy equality with men. (3) respondents mentioned that women have their rights, whereas (2) mentioned that women have more rights than men. The society in general believes that Bahraini women enjoy their rights and there is no feeling that Islamic Sharia might be a cause of discrimination against women. An example of such positive sentiments towards Sharia is reflected when (2) female respondents mentioned that women in Bahrain have the advantage of the freedom to choose a husband. Those respondents are ignoring the fact that a virgin girl needs the approval of a male guardian in order to get married, which puts restriction on her freedom in this matter. It is obvious that Bahrain is a conservative society that still believes that the woman's main role is in being a wife and a mother even if she was an independent working woman. This society does not seem to be able to criticize the Islamic values that it is very much attached to, because those values are considered as taboos in the subconscious of the society. There is a clear attitude of Bahrainis to compare themselves to worst-case scenarios in terms of the treatment of women, such as to those in Saudi Arabia, which makes them believe that they are enjoying all their rights in Bahrain. Although it is a fact that Bahraini women are doing better than women in neighbouring countries, in terms of having more supportive

legislation and less traditional pressure, however, the interpretation of the Islamic texts and the practices of the masculine society still make women lack their full rights especially in accordance with the international standards of equality.

4.4.14 Other Comments Regarding the Disadvantages for Women in Bahrain

The other comments regarding the disadvantages for women in Bahrain are circulated around matters related to society and traditions rather than law or religion itself. Female respondents highlighted matters regarding mistreatment, the high divorce or unmarried rates, restriction on a woman's freedom, forced marriages at some times, and social pressure to wear the headscarf. Some women mentioned the existence of discrimination as a general term, without specifying the kind of discrimination against women. In fact, (9) male respondents stated that women in Bahrain do not suffer from any problems; (6) of them mentioned traditions as a main obstacle, and others mentioned that the lack of a proper Islamic upbringing, the influence of Western values, and the existence of mixed places with men are the disadvantages that women face.

It is clear that both male and female respondents do not put the blame on Islamic Sharia itself as a cause for the difficulties they are facing. Certain interpretations and provisions of Islam are going to be discussed in the following chapter in order to analyse if they are a cause for discrimination against women or not. Therefore, the following chapter shall analyse which provisions of Islam are misapplied to be a reason for discrimination against women and if it does contradict the CEDAW's standards.

4.5 Analysis of the Question, 'What Does 'Full Women's Rights' Mean to You'?

The responses to this question by both females and males varied amongst general definitions such as:

- Participating in all fields.

- Freedom or freedom with limits.

- Justice and respect.

- Ability to make her own decisions.

However, the most significant response repeated by females was, 'the rights that the Islamic Sharia has granted for women', which was repeated (64) times by respondents. The other significant response by females was 'equality with men', which was repeated (32) times. The responses show that the majority of women in Bahrain believe that their rights are preserved within the Islamic Sharia, and as shown from the analysis of the questionnaire, the women do not look at the CEDAW or UN conventions as favourite options, but rather believe that Sharia if applied properly can grant them their full rights. The same applies to male respondents who mentioned that the definition of 'full women's rights' is 'equality with men in accordance to the Sharia law', which was repeated (22) times, which shows that men see that equality is necessary but that it must be done according to the Islamic law.

As seen throughout the analysis of this questionnaire, the general attitude of females and males in Bahrain towards Islam is positive, and it is not seen as a cause of discrimination. The society as well praises the efforts of the government in improving women's rights, and the blame is put mainly on traditions, and what they called 'the wrong application of Islam'. Even understanding the definition of women's rights is looked at from an Islamic perspective by most people . There is a feeling of antagonism in society towards the secular values and Western conventions such as the CEDAW which are not received by the society with a lot of enthusiasm. The following chapter, however, will discuss the effect of the Islamic Sharia on improving or disproving women's rights.

4.6 The Interviews with Women Rights Activists and Religious Clerics:

Three interviews were conducted through this research. The first was with a women's rights activist and the interview aimed to seek the activist's view on the implementation of CEDAW's convention in Bahrain. The second and third interviews were conducted with a Sunni religious cleric and a Shia religious cleric to seek their views on the reasons behind religious groups' refusal to accept such a convention.

4.6.1 Interview with Bahrain Women's Union:

The meeting with Interviewee (A) an active member of Bahrain Women's Union, which is an umbrella for more than 10 Bahraini women's societies, tackled few

issues of importance to Bahraini women. The following issues were highlighted by Interviewee (A):

- There is a lack of seriousness within the government in spreading awareness amongst the society regarding the importance of the CEDAW and in clarifying that it is not going to threaten their religion, as the majority of population wrongly believe.
- Officials themselves who even work on the Supreme Council for Women do not really believe in the importance of the CEDAW convention, and they criticize it. There is a lack of awareness on the official, legislative, executive, and judiciary levels, of the importance of this convention; therefore, Bahrain is unable to implement the long-term awareness strategy for the convention that it committed itself to in front of the Human Rights Council in 2008.
- The government uses religion as a justification for not being serious about passing certain laws. In terms of the family law, Sunni women have been enjoying much better situations since this law was passed, but Shia women still suffer. The government is not taking enough measures to pressurize Shia clerics to allow passing such a law.
- There is a lack, however, in the follow-up mechanisms for the implementation of orders in favour of women in the Sunni Sharia courts. A woman can win a case but not have it implemented because of the lack of mechanisms.

- In terms of violence against women, Bahrain lacks a law that criminalizes violations against women, and the government uses the justification saying that conservative members of the parliament are behind not passing such a law. There has been a law proposal in front of the parliament since 2011, which was amended a number of times until it became weak in protection of women and it still has not passed¹⁰.

The activist emphasised how religion is used by the government only when it is needed, and when it does want to pass certain laws. The activist mentioned that removing all of the reservations in the CEDAW, particularly those on articles (2) and (16), which are considered the soul of the CEDAW, would serve greatly in solving the problems of Bahraini women.

In fact, it would be useful to re-emphasise, in this context, how the Bahraini system does not apply Sharia in any field except for family affairs. In terms of its economy, for example, Bahrain depends on the banking sector, which obviously works with interest as its basis. Interest is strictly forbidden in Islam. Bahrain is also a country that does not ban selling or drinking alcohol, which is another restriction in Islam. These examples prove the activist's points regarding the usage of the rules of Islam by the government or the religious clerics themselves only in matters of interest or benefit to them.

The activist showed sincere advocacy towards full adaptation of the CEDAW believing in it as an ultimate solution to women's rights in Bahrain. Though it is

¹⁰ When the interview was conducted and this chapter was written the anti-violence law was not yet passed in Bahrain. However, in 2015 Law number (17) was passed on the protection of domestic violence.

useful to use the CEDAW as a strong legal background for their advocacies, there seems to be an under-estimation of the other more profound issues that face the adoption of the CEDAW in Bahrain as removing the reservations would not necessarily lead to positive changes on the ground.

4.6.2 Interview with a Sunni Cleric:

Interviewee (B) is a prominent Sunni cleric and political activist that has held various religious and political roles. In the meeting the interviewee discussed the position of women in Islam and the main reasons behind religious clerics' refusal to fully adapt the CEDAW convention. The main issues discussed during the meeting were as follows:

- Ultimate equality between men and women is nonexistent, not only in Islam but also in Christianity and Judaism, because each gender, male or female, has physical and psychological characteristic which enables or disables them from certain duties. There is equality between men and women in terms of their humanity, as Islam protects it equally, but, in terms of family affairs, the rights and duties differ. There are certain responsibilities that only a man is obliged to adopt, such as spending on his wife and children even if his wife is wealthy, whereas custody rights belong to the mother, and there are shared responsibilities, such as raising the children.
- In terms of the CEDAW, Islam has a comprehensive system that balances the relationship between the family members, and it gives women their rights in accordance to their needs and characteristics, and the CEDAW

convention clashes with those Islamic principles. If Islamic law were properly applied in a society, women would not be in need of such conventions. The Sunni part of the family law has granted women their rights without needing to abandon the Islamic law and adapting the CEDAW values.

- In terms of polygamy, Islam allows the occurrence of it only in certain cases where there are reasons for it. Additionally, in the West, a man can have one wife and more than one mistress without being punished for such an act, but Islam, aiming to preserve the unity of the family and the dignity of a woman, allowed polygamy in certain conditions.
- In regards to wearing the veil or the headscarf, the interviewee clarified that women should not be forced to wear the scarf, whether within their family or at the state level, but they should dress in a way that is suitable to the general social and moral conduct in their society.

At the beginning of the interview, Interviewee (B) mentioned the Quranic verse: 'And the male is not like female' (3: 36), where he later explained that men's and women's rights and duties differ, due to their different characteristics. The cleric believes that within Islam, women have less burdens than when conventions such the CEDAW are applied to them, as equalizing them with men would put more responsibilities on them and that would contradict with the nature of women.

4.6.3 Interview with a Shia Cleric:

Interviewee (C) is a Shia cleric who works in the Ja'afari Council in Bahrain. During the meeting, the justification for Shia clerics behind passing family law for the Shia community in Bahrain was discussed. The main issues highlighted were as follows:

- The reason behind Shia refusal of the family law, is that in Shiism, the 'ijtihad' is still opened and has not stopped; therefore, laws and provisions can change regarding what the religious scholar sees offers more benefit, and, thus, it cannot be put down as written law that is not changed. In Shiism, judging family matters depends greatly on the knowledge and level of scholars; what is needed in Bahrain is having more scholars who can judge in urgent family matters to expedite decision making in the courts. Judges must reach the level of *Faqih* (a ranking in the Shia theological system) to be able to judge in family-related matters.
- For instance, in cases of divorce, the religious Judge *Faqih* might see that what benefits the family is not granting a divorce immediately, or he can give it instantly, such as in cases where no children are involved, therefore the judgment is based case by case.
- In terms of the headscarf, the interviewee mentioned that it is within a complete system that aims to protect women and preserve their dignity to prevent them from being treated as a sexual object.

- The interviewee (C) mentioned, even if thousands of women went out in demonstrations and called for their rights, their opinion would never prevail over the opinion of a professional religious scholar.

Interviewee C's responses reflect a strict upholding to what religious scholars see as better for women, and he did not seem to compromise accepting passing family law at any level, let alone accepting the CEDAW's provisions. His answers regarding wearing the headscarf were not direct, but they implied that women shall be forced to wear it, as it comes within what he described as a 'complete system'. His last words regarding the obvious prevalence of what scholars say over what might all women fight for, is not promising in regards to improving women's rights within the Shia context.

The Sunni and Shia differ in their application and interpretation of Islam on many details while keeping the belief in *Allah* (God) and *Mohammed* (The Messenger) as the basic shared ground between them. However, when it comes to the status of women, the two sects treat the related issues differently. One example of how Sunni and Shia jurisdictions might have consensus in the general principle but differ in the details of their application is in the matter of polygamy. Both sects allow polygamy, as a Muslim man can marry four wives, but the Shia allow *Mutah* marriage (temporary marriage), whereas it is prohibited by the Sunnis. They also differ in custody matters, as Shia jurisdictions in general tend to grant custody of children to the father, even if the children are at a younger age, whereas Sunnis prefer to grant it to the mother. However, in light of such differences in the

implementation of the jurisdictions related to family affairs, perhaps it could have been said that the Shia clergy feared having Sunni rules imposed upon them. Here, another fundamental difference in the jurisdiction between the Sunni and Shia must be highlighted, as it has its major influence upon the Shia position towards the family law. Bearing in mind that Bahraini Shia belong to the *Jafari* school of law, which is the largest division in Shi'ism and *Marji'i* is a part of the Shia belief. Walbridge explains that Marji emerged in the eighteenth century as the answer to the need to integrate the Shia clerics and establish lines of authority stating that the Marji'i became as, 'a source of emulation, [and] enjoys the dual role of chief legal expert and spiritual model for all Shia,' (Walbridge 2001, p.5). *Marji'i* is the Shia cleric who reaches the apex in the hierarchy of theological rank, which enables him to have a supreme authority in the religious and life affairs of his *Muqalids* (followers) all over the world. Therefore, the Shia clergymen in Bahrain could not approve or disapprove the family law without referring to the *Marji* – the majority of them follow the Ayatollah Al-Sistani in Iraq – as no law could be approved unless revised and accepted through the Marji, who is not necessarily from the same country.

Both religious clerics believe that Islam grants women their rights and look to the CEDAW with mistrust and represent Islam as a solution to women's obstacles rather than the international conventions. In addition, the Shia cleric believes that the religious scholars (Marji) know what is best in the interest of women. In this it should be born in mind that the Marji must always be a male which reflects the classical negative attitude of the vast majority of the religious clerics towards

women where they give men the supremacy over controlling women affairs, rights and duties.

4.7 A Sum up:

Kandyoti discusses the dilemma Arab nations live with, which is also reflected in the Bahraini scenario, between their national identity, Islam and civil laws. Quoting the ideas of Hijab, Kandyoti notes the following: ' the resistance of all Arab states to breaking with Sharia's law in the case of the personal status codes, even when they have completely secular, civil, commercial and penal codes' (Kandyoti 1991, p.5). The main reason behind such a contradiction is, 'the total interpretation between Islam and Arab cultural identity and the need to protect the latter from imperialist onslaught' (Ibid). This contradiction is clearly present in the Bahraini legislations; it reflects the dilemma the government and society lives with as a whole as they cling to their religious and national identity while at the same time aim to have a modern life. However, fearing the loss of the national identity is not the main reason for the bias when it comes to applying women laws in Muslim countries. Working through the research, it appears that there are serious issues of lack of real political will and more importantly a strong tendency to choose the most conservative and traditional application of Islam when it comes to women's issues, even if other alternatives were available.

In addition to a lack of certain legislation and insufficient government pressure to pass certain laws, there is a major challenge when dealing with a society that views its religious figures with respect or holiness. For instance, when the Shia

interviewee emphasizes that the *Marji* (who is always a male) knows what is *best* for both men and women, he is eliminating even the possibility of a woman's having a say in issues related to her personally. Such an attitude is not only patriarchal but also exclusionary, and the Shia women themselves must have courage from within to challenge it.

Here it is vital to discuss the dominance of the hegemony, as explained in the well-noted work of Gramsci, *The Notebooks of Prison*. Discussing Gramsci's definition of hegemony within the Marxist context, Bellamy and Schechter explain, 'Hegemony in the first sense denoted the consensual and ideological, as opposed to coercive, basis of [the] political system. This attention to the role of the ideology and consensus as elements of political domination and social cohesion led in turn to a concentration on the importance of organising class consciousness when seeking to transform and overthrow [the] state' (1993, p. 112). In the second sense of hegemony, the authors argue that is it the concomitant cultural and educative task of the party in the formation of a coherent moral awareness and political will amongst the proletariat (ibid). Muslim countries like Bahrain face the hegemony of extremist interpretation of the texts of Islam. Certain stakeholders who benefit from maintaining their dominance over women spread and nurture this hegemony. The conclusion of this thesis will tackle the main elements of hegemony in Bahrain and the remedies to overcome it in more depth.

Chapter Five: Controversial Issues of Sharia that Prevent Muslim States from Fully Adhering to International Law.

This chapter reveals the main contradictions related to women's issues in Muslim countries and whether it is possible to bring the international conventions and the Islamic Shariah into harmony. It discusses these issues as they relate to women in Islam and analyses whether the jurisdictions implemented were necessarily accurate or whether they were biased and influenced by patriarchal and masculine attitudes towards women.

5.1 Polygamy in Islam:

Bahrain, like the majority of Muslim countries, allows the practice of polygamy, which is the allowance of a man to marry more than one woman (four wives is the maximum allowed number). The Convention of Elimination of all Forms of Discrimination against Women (CEDAW), does not explicitly call for the abolition of polygamy but makes polygamy forbidden in practice if Article 16 of the convention is implemented by the member state in accordance with the aims of the convention. Article 16 states: 'Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women' (General Assembly 1981, p. 6). Most Muslim countries therefore have put reservations on this article in particular, claiming that it clashes with the rules of Islamic Sharia.

CEDAW is not the only medium that has a position against polygamy, however, as many Western and some Arab liberal women's movements and human rights groups criticise such a practice and consider it as discriminatory against women. Polygamy's defenders, however, claim that the act of polygamy was not introduced by Islam, and that it was common among other nations and religions around the world. They add there were no controls or limits for polygamy in some cultures in previous times, and Islam has offered standards to restrict and organize the practice.

Polygamy literally means, 'often married' in Late Greek (Zeitzen 2008, p.3). It is said that the usage of the word *polygany* would be more accurate than polygamy, as polygany means 'one man, many wives', while polygamy originally meant 'one individual, many spouses'. History has generally witnessed the phenomenon of a man marrying more than one woman; therefore one of the most common forms of polygamy is polygany. Another form of polygamy is *polyandry*, where a woman has more than one husband at the same time, but such a phenomena has been rare throughout history in different cultures; the most common form of multi-spouse marriage throughout history has been polygamy.

Although it is often believed that polygamy is very common in animist and Muslim societies, this tradition has existed for a long time in history in various religions and cultures. Haviland and others explain that polygamy is commonly practiced in some parts of Asia and sub-Sahara due socio-economic factors. The authors state that polygamy is particularly common in traditional food producing societies that support

themselves by herding animals or growing crops in which women do the bulk of cultivation and are valued for their work and childbearing (Haviland et al 2014, p.207)

Moreover, polygamy was not limited to African or Eastern cultures or related to agricultural societies only. Gage explains that, 'it is of undisputed historic record that both the Christian Church and the Christian State in different centuries and under a differing circumstances gave their influence in favor of polygamy (Gage 2014, p.244). The author mentions that in early Roman time, Emperor Valentine I authorized Christians to take two wives and the great Charlemagne holding power of both the church and the state practiced polygamy himself as he had six wives and that even the great German reformist Luther was not strictly monogenic in principle as he said at one occasion that the Bible nowhere condemns polygamy (Ibid). While mentioning how the practice of polygamy was not explicitly unlawful in the Christian tradition, Gage states, 'If polygamy was unlawful, then Leah was the only wife of Jacob and none but her children were legitimate. Rachael as well as Bilhah and Zilpah were merely mistresses and their children, six in number, were bastards, the offspring of adulterous connection' (Gage 2014, p.248).

Nowadays, even though in essence it was not clearly banned in the New Testament, the majority of Christians at the present time forbid the practice of polygamy. The Mormons, who are officially called members of the Church of Jesus Christ of Latter-Day Saints (LDS), are the main Christian sect that may still practice polygamy. Though polygamy was outlawed in 1890, this sect of

Christianity started with the vision of Joseph Smith, who in 1830 organised a church with only a few members that has grown to 13 million members today. Even though the law in the United States bans polygamy, it is practiced largely by the Mormon community in Utah. According to Mormonism: 'the revelation proclaimed that the marriage of one man to more than one woman was justified by the example of Abraham' (Barringer Gordon 2002, p.22).

In Judaism, the Torah does not explicitly outlaw polygamy, however, the Jewish societies in current times are vastly monogamous as approximately one thousand years ago noted German reformist Gershon outlawed polygamy. According to Neusner, 'R. Gershon's commentaries are extant today only in fragment, but his fame is enduring because of his well-known *takkanth* against polygamy and divorcing women without her consent' (ed. Neusner 1974, p.75). One of the main reasons behind banning polygamy in Judaism was that Jews were spread out in a diaspora among most of the world's countries and were often looked at with suspicion. As a result, they did not want to act in a way that would cause them further oppression and degradation particularly after the Romans' ban on polygamy. However, the ban of polygamy introduced by Gershon was accepted as law by all Ashkenazic Jews, but was not recognized by Sephardic Jewry which permitted the practice of polygamy until current days (Ibid).

The Arabian Peninsula had a widespread practice of polygamy before Islam. A man was able to marry more than four wives besides being legally able to have

sexual intercourse with the housemaids, slaves, or servants (*milk al-yamin*¹¹). Therefore, even if it is assumed that Islam legitimized polygamy it actually limited the practice to four wives, as at the early days of Islam men who were married to more than four wives were asked to divorce the extra wives. In Quran the verse that explicitly speaks of polygamy is as follows:

‘... marry women of your choice, two or three or four; but if you fear that you shall not be able to deal justly with them, then only one’ (4:3).

According to Muslim scholars’ explanation of the verse, Muslim men can marry more than one woman only if they have a valid reason to do so, and if they can be just to all of the women. The Prophet Mohammed also explained that a man who marries more than one woman but does not treat them equally would be punished on the judgment day: ‘Whoever has two wives and inclines to one of them (too much), will come on the Day of Resurrection with one of his sides dragging (Abu Hurira)’ (Abdul-Rahman 2009a, p.194).

However, in another verse in the Quran, God explains that a man is not able to deal justly with his wives (even though it is his right to marry more than one woman): ‘Ye will not be able to deal equally between (your) wives, however much ye wish (to do so)’ (4:129).

¹¹ Milk Al-Yamin: Or ‘ownership by the right of hand,’ refers to slave ownership and a man’s *milk* over his female slave ownership, and a man’s *milk* over his female slave allows him, except when she is married to someone else, sexual access to her (Ali 2010, p. 164). It is worth noting that the capture of female slaves/concubines was a tradition common worldwide and it came to an end with ending slavery as a whole.

Classical Muslim scholars have explained that a man is required to be just in providing for his wives financially as in spending, accommodation, etc., and that verse 129 of the Quran explains that a man cannot deal equally *in his feelings* between his wives. According to Al-Hageel: 'as for the condition, it is that the Muslim man who sets about to marry more than one wife must be confident of his ability to treat his wives equally with regard to *material* provision for them including food, drink, clothing, residence and so forth (Al-Hageel 2001, p.204). Such interpretation claims that as long as a man is able to provide for financial equality between the women, he is allowed to marry more than one. In such an interpretation, the problem of the masculine reading of Islam appears in the explanation of such texts, as the scholars (who are all men) have limited the requirement of being just to the financial realm, even though there is another verse in the Quran that says that a man cannot be just if he has more than one wife. A more progressive interpretation of the Quran, the kind commonly espoused in northern African countries such as Morocco and Tunisia, explains that God has made polygamy quasi-impossible by its very nature, and that it was not renounced at once in one firm Quranic verse due to the difficulty in doing so at a time where polygamy was an extremely common habit.

According to Al-Qaradawi, a prominent Muslim scholar, one of the main reasons to allow polygamy in Islam is, 'the number of women may be greater than the number of men, especially in the aftermath of war which kill off men and youth. In such circumstances, it is in the interest of the society and of the women themselves to have co-wives rather than to live out the rest of their lives as spinsters deprived of

marital life and all that it provides of tranquillity, love, legitimate sexual fulfilment and motherhood' (Al-Qaradawi 1993, p.354).

Another justification presented by polygamy apologists is the case where some men would like to have children but their wives are unable to bear children due to some illness or another causes or where some men have powerful sex drive but their wives have less sexual drive (Al-Hageel 2011, pp. 205-206).

Sunni Muslims, who make up the majority (around 90 percent) of Muslims around the world, with their four main schools of thought (*mazhab*¹²) allow polygamy in the form of marrying up to four wives, as explained previously. Shia'ism, however, which is widely practiced in certain regions such as Iran, Iraq, Lebanon, Bahrain, and Azerbaijan, allows a temporary form of marriage *Mutah* which was referred to briefly in the previous chapter and that is strictly refused by Sunni Muslims,

Shiite law permits temporary marriage (*mutah*) for any period of time up to ninety-nine years. Under Shiite law, temporary marriage is a contractual arrangement whereby a woman agrees to cohabit with a man for a specified period of time in return for a fixed remuneration. This arrangement does not give rise to any rights of inheritance between the spouses, but the children are legitimate and entitled to inheritance. (Esposito 1999, p.130)

According to Parshall, 'Quranic authentication of *Mutah* is thin. It is based on chapter 4:24, 'And those of whom ye seek content (by marrying them), give them

¹² *Madhab* (مذهب) After the prophet passed away in 652 and until year 875 the madhabs (Islamic schools of Jurisdictions) were founded and their founders launched their teachings and passed away. The Sunni Madhabs are four : Hanafi, Shafi , Maliki and Hanbali while the Shia's main Madhab is called the Jafari. No Muslims should forget that madhab are not divine, they are human interpretations of divine texts (Khan and Ramadan 2011, p.15-16)

their portions as duty. And there is no sin for you in what ye do by mutual agreement after the duty (hath been done).’ (Parshall 2002, p.139)

Shia interpreters replace *seek content* with *seek pleasure*. They also add *for specified period* into the verse. *Mutah* defenders see the practice as a good solution to the status of the offspring resulting from such marriages, since the children would take their fathers’ names and therefore would not be considered illegitimate. They claim that although a man can marry an unlimited number of women by *Mutah*, a woman should remain married to only one man during their *Mutah* marriage in order to prove the parenthood of any resulting offspring.

Temporary marriage is not allowed in the majority of Muslim countries; however, it is only practiced and legalised in countries with Shia majorities, such as Iran. This form of marriage has created various social problems, as at many times men take advantage of women for their sexual pleasure. Especially since the number of women a man can marry in *Mutah* is unlimited, and because such marriages may last for only half an hour, it is therefore not realistic in most circumstances to prove the parenthood of the offspring. Shia scholars say that a woman is not allowed to remarry by *Mutah* until two menstrual periods have passed in order to know whether she is pregnant or not from the previous marriage. Due to many cases where women have hormonal imbalances, however, such evaluations cannot be accurate. Additionally, many Muslim women’s rights activists consider *mutah* as derogatory to women. Mir-Hosseini discussing the efforts of the Islamic state of Iran to find legal validity to such a marriage particularly that their courts are

preceded by religious clerics concludes by stating: 'Muta'h has remained as a socially defective marriage: its transient nature violates the social construction of marriage. It is seen as a temporary union whose object is gratification of sexual needs, which rarely results in the establishment of martial home. A muta'h wife is referred to as *sigha*¹³, a term which has derogatory implication.' (Mir-Hosseini 2000, p.166)

To digress slightly for a moment, it should be noted that Islam has three degrees of permitted deeds, categorised as obligatory, recommended, and allowed. Polygamy falls into the third category, and according to Islam it shall have conditions and restrictions, as explained previously. Unfortunately, due to the widespread masculine influence of most Muslim societies, most of these societies fail to put mechanisms in place to control these kinds of marriages and to ensure that the practice is consistent with Islamic laws. Nevertheless, Morocco in its family law was able to present a compromise between the Sharia allowance of polygamy and activists' calls to limit the practice. According to the Moroccan Family Code (*Moudawana*), polygamy is practiced only with the permission of a judge and only under strict conditions:

Four. Concerning polygamy, we took into consideration the commitment to the tolerant principles of Islam in establishing justice, which the Almighty requires for polygamy to take place, as it is plainly stated in the Holy Koran: He said "...and if you fear that you cannot do justice (to so many) then one (only)". And since the Almighty ruled out the possibility for men to do justice in this particular case, He said: "You will not be able to deal equally between (your) wives, however much you wish (to do so)", and he thus made polygamy quasi-impossible under Sharia (religious law)'. (*Moudawana* 2010, p.6)

¹³ Sigha: Mutah in Arabic donates pleasure; it is known as *sigha* in Iran (Mir-Hosseini 2000, p.164)

Unlike Tunisia, which banned polygamy altogether in 1956, the Moroccan legislation tried to create a balance between what Islamic Sharia allows and the protection of women's rights within it. According to the preamble of the *Moudawana*,

His Majesty, may God cherish him, provided the Commission with his constant enlightened guidance and advice in order to prepare a new Family Code bill, and insisted upon their fidelity to the provisions of Sharia (religious law) and Islamic principles of tolerance, and encouraged the use of *ijtihad* (juridical reasoning) to deduce laws and precepts, while taking into consideration the spirit of our modern era and the imperatives of development, in accordance with the Kingdom's commitment to internationally recognised human rights'. (*Moudawana*, 2010, p.5)

Therefore, the Moroccan experience proves that the use of modern juridical reasoning can provide compromises between applying Islamic law and the demands of international standards, particularly where abolishing Islamic laws in favour of modern standards, such as in the Tunisian case, can generate resistance by vast portions of Muslim societies. Nevertheless, some women's rights advocates claim that the Moroccan law, although more advanced than the rest of the Arab countries (with the exception of Tunisia), still needs more reforms; they suggest an application of secular law in order to improve the situation of women. Charrad, while discussing Moroccan family law, recommends, 'Further reform law so as to continue to expand women's rights and increase gender equity. For example, abolish polygamy altogether; equalise custody and guardianship unconditionally and make inheritance rights equal for men and women' (Charrad 2012, p.4).

Calling for the abolition of polygamy, such as in the Tunisian example, might create refusal and rebellion in societies that are strongly masculine in nature. If the Quranic texts are reread with a modernist view that is not influenced by the patriarchal mentality, however, polygamy should not be further allowed in Muslim societies. Until such a reading can be practiced and applied in reality, the Moroccan example, which reads the Islamic texts with a more modern view than the ones common in most Middle Eastern societies, can serve as a solution to limiting the phenomenon of polygamy in Muslim societies. Restricting and limiting polygamy by law, and putting conditions such as the need for getting approval from the judiciary to remarry, shall serve to gradually limit this practice in these societies.

It is apparent, however, that although there has always been a tendency throughout history, not only within Islam, to justify polygamy for religious reasons or because it is socially more acceptable for men to have extramarital affairs, the reason behind such inclination has always been strongly connected to claims of the differences in sexuality between men and women. But beside the strong influence of masculinity in most societies throughout history, many studies have shown that men do have a higher sexual drive than women most of the time. In order to explore the scientific view of such a claim, an interview was conducted with Interviewee (D) who is a professor in the obstetrics and gynaecology department in Turkey and runs his own private clinic. In the interview, the professor mentioned that women's main aim for sexual intercourse is consciously or unconsciously to reproduce; therefore sexual desire in women is high during the days of the middle of the reproductive cycle, as they are the days of ovulation where androgen

hormones (male hormones) are produced more. The interviewee added that this is not the case for men. While men are able to have sexual intercourse as long as a woman is physically attractive, women's libido is not as easily aroused in general, as their sexual desire is linked to emotional connection with the man. Moreover, the professor mentioned that women do go through stages of little or no interest in sexual intercourse, such as during menopause, premenstrual syndrome, pregnancy, and during postpartum depression. Men, on the contrary, do not go through such hormonal changes, and their desire for sex is stable and long-lasting; women's desire drops drastically after reaching the age of 50, while for men it can continue for many more years.

In such analysis of the human body, we encounter the prevailing thoughts regarding biological determination, which are widespread in the Middle East and spring from religious texts that support polygamy. The concept of biological determination is based on the Freudian idea that sex and gender are predetermined. The behaviour of the majority of males in countries like Bahrain or others in the Middle East is based on the concept of biological determination, which other gender theorists have challenged and proven to be inaccurate. For example, the Lacanian theory, which states, as explained by Lykke that 'our gendered subjectivity is generated as a part of our inscription of orders and against the background it must be understood as something produced in language and culture without any reference to biology' (2010, p. 32), challenges the Freudian school of thought and behaviour. The orders that the Lacanian theory refers to, according to

the author, are two orders of imagery that are linked by early images of making sense and symbolic orders that are built on a symbol of rational language (ibid).

5.2 The Veil in Islam:

The wearing of the veil in its many different forms is another controversial question surrounding Muslim women. Veil apologists claim that the covering of Muslim women is not oppression but rather is a means to protect them from the shackles of male scrutiny and to immunise them from becoming lusted-after sexual objects. Many opponents of the idea of the veil refuse such an argument, particularly in the light of the veil taking different forms from one society to another. In some societies it takes the form of a full-body covering, including the face, hands, and eyes, and in other societies it takes the form of covering only the hair and body and excluding the face and hands. The word *hijab* (the Arabic form of the veil) means *partition* or *barrier* in Arabic. *Hijab* can include more than the head-to-toe covering of a woman, however. Muslim women are required to observe the *hijab* in front of any man they could theoretically marry. This means that the *hijab* is not obligatory in front of one's father, brothers, grandfathers, uncles, or young children.

The main Quranic verse where scholars have drawn the recommendation for the *hijab* is the following:

‘And tell the believing women to reduce [some] of their vision and guard their private parts and not expose their adornment except that which [necessarily] appears thereof and to wrap [a portion of] their headcovers over their chests

and not expose their adornment except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers, their brothers' sons, their sisters' sons, their women, that which their right hands possess, or those male attendants having no physical desire, or children who are not yet aware of the private aspects of women. And let them not stamp their feet to make known what they conceal of their adornment. And turn to Allah in repentance, all of you, O believers, that you might succeed.'(24:31)

According to the commentators of the Quran, the women of Medina in the pre-Islamic era used to put their *khumur* (veil) over the head with its ends let down loosely behind the wearer's back, which kept their ears and neck uncovered. By saying 'place the *veil* over the bosoms', commentators say that God commanded women to let the two ends of their headgear extend onto their bosoms so that they could then conceal their ears, neck, and the upper part of the bosom as well.

Another Quranic verse regarding the *hijab* is the following:

'O Prophet! Tell Thy wives And daughters, and the Believing women, that they should cast their Outer garments over Their Persons (when outside): That they should be known (As such) and not Molested'. (33: 59).

This verse has been explained by scholars that the Islamic dress code for women does not only consist of covering the hair, the neck, and the bosom; but it also includes the overall dress that should be long and loose. Tight clothes that can show the outline of a woman's body are therefore not considered to be a proper way of covering. According to Syed, this Quranic command came to protect Muslim women from possible sexual molestation: 'The purpose of this verse was not to confine women to their houses but to make it safe for them to go about their daily business without attracting unwholesome attention. By wearing the outer garment a *believing* Muslim woman could be distinguished from the others ' (Syed 2006).

Al-Qaradwi, in an interview on Al-Jazeera, explained that wearing the *hijab* is obligatory to Muslim women but it is not considered a main obligation like the five pillars of Islam, which are *Shahadah* (acknowledgment of God and Prophet); *Salat* (Prayer); *Zakat* (Charity); *Sawm* (Fasting); and *Haj* (Pilgrimage). Al-Qaradwi emphasised, however, that 'it does not mean it's a trivial command'. He said that the vast majority of Muslim scholars have agreed that the *hijab* is 'covering the hair with the parts of neck, bosom by what is called *Khumur*'. (Al-Qaradawi 2007b)

Even though the four Sunni schools of thought (the aforementioned *Mazhab*, Hanafi, Maliki, Shafi'i, and Hanbali) agree that the *hijab* is obligatory, they differ on which parts of the body are obligatory to cover. Al-Qaradawi in his famous book 'The Lawful and Prohibited in Islam,' explains how the jurists differed in their understanding the Quranic verse (24:31) which is mentioned above regarding what adornment of women should not be exposed:

Allah commands women not to show their adornment 'except what is apparent of it'. There is some difference in opinion among scholars concerning the extent of this exception. Does it mean what is exposed by necessity and without intention, for example if the wind exposes some part? Or does it mean what is customarily or instinctively or by its very nature exposed? The majority of early Muslim jurists accept the latter meaning. Ibn Abbas interprets 'except what is apparent of it,' to mean *kohl*¹⁴ and ring, and Anas has said something similar; the permissibility to show the face and hands is implicit in the showing of *kohl* and ring. Said Ibn Jubayr, Ata and Al Awazi have stated explicitly that the showing of the face and hands is permissible... On the other hand, others such as Abdullah Ibn Masud, have restricted the application of 'what is apparent' to what necessarily appears, such as outer garment (*abayah*, *jilbab*, *chador*, *burqa*¹⁵ and the like). (Al-Qaradawi 2013, p.168)

¹⁴ Kohl is the Arabic word of the classic black eyeliner.

¹⁵ Those are different forms of women dressing which covers her *full* body including the face and hands.

There is a near-consensus between the Sunni schools of thought (in addition to the Shia Jafari sect) on the obligatory nature of the command of the veil, and the obligation of women to cover their hair as a minimum agreed-upon standard. Some researchers undermine such notions of the obligatory nature of the veil, however, claiming that this practice is not a Quranic command at all and that it was embedded within Islam because of traditions and other factors. This kind of approach towards *unveiling* Muslim women started in an outspoken form in 1899. Ahmed explains that the very first movement against the veil was presented by Qassim Amin in 1899 in his book *Tahrir al-Mar'a (Liberation of Women)*. Even though the ideas Amin presented regarding women's right to education, and reform in polygamy and divorce, were not innovative (they had been discussed previously by Muslim intellectuals such as Al-Tahtawi and Abdu in the 1870s and 1880), his calls regarding unveiling were the most controversial. Amin believed that unveiling was the key to social transformation (Ahmed 1992, p.145). As Ahmed explains, 'Amin's work has traditionally been regarded as marking the beginning of feminism in the Arab World' (Ibid). Ahmed ;however, criticises the advocacy of Amin for unveiling stating: 'Amin's argument against seclusion and veiling was simply that girls would forget all they had learned if they were made to veil and observe seclusion after they were educated' (Ahmed 1992, p.160). Ahmed also adds: 'Unfortunately, his assault on the veil represented not the result of reasoned reflection and analysis but rather the internalization and replication of the colonialist perception' (Ibid). Amin's work, regardless of its imperfections —as he called for unveiling without giving practical methods or profound reasoning for doing so— is

still considered a turning point in the liberation of women in the Middle East, particularly since it challenged one of the most sensitive topics related to Muslim women by calling on them to unveil themselves.

In a paper titled 'Uncovering the Meaning of the Veil in Islam,' Amer stresses that it is crucial to distinguish between the sacred texts of Islam and the *practices* of Islam, which are often culture- and country-specific. The author believes that the *hijab* is one of those practices that are culturally oriented; the evidence is found in how Muslim women's veils differ from society to society in the form that is acceptable to each particular society. After analysing all of the Quranic texts related to the veil, Amer explains that, 'nowhere in the Quran, except in Sura 33:53¹⁶, is the word *hijab* used to speak about a particular dress code for Muslim women. And nowhere, including in Sura 33:53, is *hijab* used to describe, let alone to prescribe, the necessity for Muslim women to wear a headscarf or any of the other pieces of covering women in Islamic countries today'. And in reference to the text that is often used by Muslim scholars to emphasise that wearing the *hijab* is obligatory, Amer argues that,

'Another example of misinterpretation in the Quran as it relates to the headscarf is found in Sura 33:59¹⁷. Once again here the dress code that is advised, "to draw their wraps a little over them" is not

¹⁶ Sura 33:53: O you who have believed, do not enter the houses of the Prophet except when you are permitted for a meal, without awaiting its readiness. But when you are invited, then enter; and when you have eaten, disperse without seeking to remain for conversation. Indeed, that [behavior] was troubling the Prophet, and he is shy of [dismissing] you. But Allah is not shy of the truth. And when you ask [his wives] for something, ask them from behind a partition. That is purer for your hearts and their hearts. And it is not [conceivable or lawful] for you to harm the Messenger of Allah or to marry his wives after him, ever. Indeed, that would be in the sight of Allah an enormity.

¹⁷ Sura 33:59: O Prophet, tell your wives and your daughters and the women of the believers to bring down over themselves [part] of their outer garments. That is more suitable that they will be known and not be abused. And ever is Allah Forgiving and Merciful.

aimed to prescribing the wearing of a *hijab* for Muslim women; rather it is meant to distinguish between the clothing of free aristocrat women from that of women by the female slave. The dress code here is a social marker' (Amer 2000, p.2).

Nawal Al-Sadaawi, the prominent Egyptian feminist, in her debates regarding unveiling or veiling Muslim women goes beyond the debate about whether veiling is considered obligatory or not. She criticises Western feminists for giving the veil the most importance while ignoring other more oppressive circumstances that Arab women face because of their social class or as a legacy of colonisation. She argues, 'We Arab and Muslim women know that our authentic identity is based on unveiling our minds and not on veiling our faces. We are human beings and not just bodies to be covered (under religious slogans) or to be naked (for consumerism and Western commercial goods). We know that veiling women is the other side of the coin of nakedness or displaying the body. Both consider women as sex objects' (Al-Sadaawi 1997, p.97). Al-Sadaawi grants the issue of the veil importance, and yet simultaneously dispels the idea that the veiling of women is the cornerstone of Islamic feminism. Al-Sadaawi calls for 'unveiling the mind', explaining that fundamentalist groups in any society, whether Islamic, Jewish, or Christian, 'try to transform political and economic wars into religious ones' (Ibid). The oppression of women comes as a result of this exploitation. Ahmed also emphasises that there were political reasons behind the rise of Muslim women wearing the *hijab*, and that it is not always worn or advocated for on religious grounds. Ahmad explains,

Some Muslim women wear *hijab* simply because they are observant Muslims. Wearing *hijab*, they assume, is just what devout, observant Muslims do. But for Aisha and myself, the *hijab's* presence meant not just piety—for we both knew many women in

our home societies who were deeply devout yet never wore *hijab*. Rather, to us it plainly signaled the presence of Islamism: a particular and very political form of Islam that had been gaining ground in Muslim societies since the Islamic Resurgence of the 1970s, a resurgence significantly fueled by the activities of the Muslim Brotherhood. (Ahmed 2011, p.8)

Barlas explains in her work, *Believing Women*, how misogyny, inequality, and patriarchal readings of the Quranic texts served to oppress Muslim women, and that such a reading is not because the Quranic text itself is discriminatory but because Muslim states and clerics have used such biased readings for their benefit in the name of Islam. Barlas also explains how *hijab* —if the Quranic text is read in a different mode than the patriarchal one— is not in essence obligatory in Islam: 'To begin with, the Qur'ān uses the words *jilbāb* (cloak) and *khumūr* (shawl), both of which, in ordinary usage, cover the bosom (*juyūb*) and neck, not the face, head, hands, or feet. The Qur'ān does not mandate such a form of veiling in any Āyāt. Women prayed unveiled in mosques until the third/ninth century and they perform the *Haj*, the holiest ritual in Islam, with faces uncovered' (Barlas 2004, p.55). Allam agrees with the previous opinion regarding how the scarf was imposed by Muslim male clerics simply because in medieval times women's world was of cloister, 'The hijab is an invention of the 14th century and it has no real basis in the Quran. In the Quran 'hijab' comes from the root 'hjb', when refers not to an object, but an action: wearing headscarf, pulling down a curtain or screen or reducing light so as to prevent others from prying or looking in' (Allam 2008, p.14).

Moreover, Saidi reports that cleric Mustafa Mohammed Rashid, who is a graduate of Al-Azhar, explains that *hijab* is not obligatory in Islam and that it was enforced because of a failure to read the Quranic texts within their historical contexts:

The scholars, who claim that *Hijab* is an important pillar of Islam, departed from “Al Minhaj Assahih”, or the true path, of interpretation and reasoning, which interprets the verses according to their historical context and the causes of revelation. These scholars “interpreted the verses in their general sense, overlooking the causes of their revelation, intentionally or due to their limited intellectual capacity resulted in psychological scourge (Saidi 2012).

Like the previously discussed opinions of feminist experts, Rashid argues that while the veil or *hijab* is not clearly mentioned in the Quran as meaning to cover the hair, it came to have different meanings, such as covering the bosom or speaking to men behind a curtain (which was specific to the women of the Prophet’s household).

From all the presented opinions, it can be determined that for many years people have tried to reread the Quranic texts regarding Muslim women’s veiling in a different mode. Even the *hijab*—if considered obligatory for the sake of argument—cannot be considered as a basic pillar of Islam, particularly since its form differs from one society to another. Although most scholars have agreed that women should cover their hair, they have not agreed if the hands, face, or feet are included in this order, which reinforces notions of the vagueness of this command. The reasons behind the veil or *hijab* being present in Muslim cultures are the same reasons behind other rules that are discriminatory against women, which can be summarised by the huge impact of patriarchy. The fact that Muslim societies have

been male-dominated for centuries, and continue to be so today, makes challenging or rethinking the commands related to women taboo, as it would threaten the higher position that men enjoy in these societies. Male interpreters and scholars throughout the years therefore have ensured that their *interpretations* of the texts remain sacred in the eyes of the public, rather than the texts themselves.

5.3 Inheritance in Islam

Paragraph (a) of Article 13 of the CEDAW emphasises that women should be equal to men in economic matters, including family benefits. It states, 'States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) The right to family benefits' (General Assembly 1981, p. 5). The economic equality the CEDAW calls for contradicts the inheritance system established in Islam, which grants a woman different shares of inheritance according to her situation (daughter, wife, widow, mother, with or without children, etc.). One of the main differences in the inheritance system in Islam is that a son inherits double the amount of his sister. Critics of Islam look at such divisions as discriminatory, while defenders of Islam look at it as a complete, balanced system for inheritance within the family. Roald explains that it is true that in general women inherit half the amount of a man, but it is because a woman does not have the financial responsibilities of a man: 'The Quran states that in cases of inheritance a daughter should get half of the amount

that a son gets. In most books and in the commentaries on the Koran there is unanimous agreement that the reason for this is that men are responsible for the financial maintenance of women – not only wives, but also mothers and sisters who are un-provided for' (Roald 2001, p.142). Additionally, Jawad explains that, 'if it happens for any reason or another that one sex receives a greater or lesser share than the other, this does not mean that the recipient of the lesser share is regarded as inferior. The whole issue of inheritance in Islam depends on the social and economic context' (Jawad 1998, p.65). Roald, however, raises the issue of the possibility of reforming the inheritance system due to the social change in societies where many women are not supported by their male relatives and are financially independent citing the famous incident of the second caliph Umar who terminated the punishment of theft due to the drought that struck the Arabian peninsula and resulted in a famine against Muslims. This example illustrates that some commands can be altered due to social change (Roald 2001, p.143).

Moreover, Esposito and Delong-Bas explain that inheritance in Islam should be understood by looking at how the practice was performed in general in the Arabian Peninsula, and how Islam presented a significantly reformed inheritance law. Before Islam, women were granted no rights, as succession was based solely on an 'agnatic' system through male descent:

The customary laws dealing with inheritance in pre-Islamic Arabia were designed to keep property within the individual tribe, thereby presenting its strength and power. Inheritance passed only to mature male (agnat) relatives who could also fight and defend their possessions. The inheritance provisions in the Quran modified this system in order to correct injustices. ... This Islamic reform is

mirrored in the rules of inheritance stipulated in the Quran that were superimposed upon certain unjust customs laws. The Quran granted rights of inheritance to the husband and the wife, to children and to a number of close female relatives who had previously had no rights of succession at all (Esposito&DeLong-Bas, 2001, p.38).

It is a historical fact, however, that women were not given any inheritance rights, whether in the Arabian Peninsula or within European cultures. As is mentioned in the Hindu Vedas and in the laws of Greece and Rome, the power to conduct religious rites was confined to men, and as women could not take part in religious ceremonies or rites they were deprived of any family privileges. Another main reason for women to be deprived of inheritance in most world cultures is that within patriarchal societies it was important for families not to transfer their wealth to other families. The old world either gave absolutely no inheritance to women or, when it was given, the woman was treated as a minor, which meant that she was not given independence and the status of a person having rights. Under the old laws of the world, if inheritance was occasionally given to daughters, it was never given to the daughter's children, while a son could inherit himself, and his children could grow up as the successors to their father's property, as well. The reform that Islam introduced to the inheritance practice can therefore be considered unprecedented for its time. Sait and Lim ,however, explain that women's right to property in Islam must be considered holistically, as even though she shares sometimes a lesser amount than men ,they receive other amounts of money/land in a different form: 'Inheritance rules also need to be considered within a broad, complex and myriad systems of property relations. They are, as it were, only one point, albeit an important one, in the property cycle... For example, the transfer of property from

husband to wife at the time of marriage (maher) may be as important in some women's' lives as inheritance' (Sait&Lim 2006, p.128). Moreover, like Roald the authors also suggest that despite its sensitivity and complexity, a reform can take place within the inheritance system in Islam:

Any set of Islamic principles is to be reinterpreted and applied against the backdrop of the maqasid al-Sharia¹⁸. Despite the limited forays into the realm of the Islamic inheritance rules, the return to the first principles and continuing development of these principles suggest that several inheritance practices may in the near future be subject to ijihad leading to newer forms of interpretation. This is particularly true since inheritance falls under the category of mu'malat (social relations), more amenable to reinterpretation than matters falling within the ibadat (matters of worship) where there is less scope for ijihad (Ibid).

Until such a reform takes place, the problem that faces many Muslim women nowadays with the present classical Islamic inheritance system, is the lack of follow-up mechanisms in most Muslim societies to monitor if the inheritance laws are implemented justly or not. In many cases, a brother inherits the due amount, which is double that of his sister's, but he does not spend on his sister as he should in accordance to Sharia. Jawad emphasises this notion declaring that, 'at the moment in most Muslim countries this issue has been left to the individual conscience, which has led to many cases of abuse and desertion. Therefore, in order to secure and protect these women, governments need to legislate and make it legally binding on those male relatives to pay for the upkeep of their needy women' (Jawad 1998, p.67).

¹⁸ Maqasid Al-Sharia: The fundamental principles of Islamic law are known as maqasid al-sahriah (the objectives of Islamic law). There is juristic consensus that laws must serve the protection of, and desist from violating fundamental objectives... the highest category of those objectives that must be protected, the daruriyyat 'essentials' consists of five interests: the preservation of din (religion), nafs (life), aql (intellect), nasl (progeny) and mal (property). (Said and Lim 2006, p.36)

As explained, in Islam the aim of giving a man in most circumstances a higher share of inheritance is that he is financially responsible for providing for members of his family even if they have other sources of income. A man who fails to fulfil such a responsibility should be directed – as suggested above - to a special commission that follows the proper implementation of inheritance, but such follow-up commissions or mechanisms are lacking in most Muslim societies. A woman who is deprived of her rights in inheritance can seek the assistance of courts, but this is costly and lengthy in light of the lack of active follow-up mechanisms.

5.4 Women and Leadership in Islam:

Article 7 of the CEDAW convention emphasises women's political rights and the importance of reinforcing their participation in the government; paragraphs (a) and (b) of the Article state that governments should make sure to reinforce women's full rights to '(a) vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government' (General Assembly 1981, p.3). The application of women's political rights in Muslim nations varies from one country to another. Even though Metcalfe praises the efforts done by Gulf countries to empower women politically, there remains room for debate regarding the effectiveness of such efforts. Metcalfe states: 'All Gulf states have made measures to improve women's political participation. Women hold minister positions in all Gulf states, the most recent appointment being Dr Nourah A-Yousef in Saudi Arabia in

May 2009. The UAE is an exemplar which has more female representation than the UK or USA in the lower house. In 2008, the Emir in Kuwait retained Nuriyeh alSabbih as Education Minister and appointed another woman, Mudhi AlHoumoud, to Minister of Housing and Administrative Development' (Metclafe 2011, p.124). Even though women have reached the level of ministers or even prime minister in Muslim countries, such as Pakistani prime minister Benazir Bhutto (assassinated in 2007), it should be noted that the representation of Muslim women in most governments is more symbolic than genuine. In Kuwait, women were given the right to vote and run for elections only in 2005, as Islamists and tribal members of parliament were trying to prevent this right for women for almost twenty years. Extremist and traditional Islamists use Quranic verses to justify banning women from gaining such a right. This group uses the following verse as a justification for banning a woman to have her own will: 'Men are the protectors and maintainers of women, because Allah has made one of them to excel the other, and because they spend (to support them) from their means' (4:34). Modernist Muslim scholars disagree with the usage of such a Quranic verse to bar women from gaining their political rights; they argue that the meaning of men 'excelling' over women is that they have an obligation to spend on the family and their physical abilities that make them at times able to do things a woman cannot do such as fighting in the battlefield; it does not mean that women are unable to take active roles in public life. Souaiaia represents examples of Muslim women who ascended to leadership positions and played various roles in the Islamic life. Some of the examples the writer presents are of Khadija bint Kuwailid the prophet's first wife who was a

successful businesswomen and a visionary person who the prophet used to consult for opinion. Aisha the prophet's wife after the death of Khadija was a politician, poet and a military leader who led the first civil war that occurred between Muslims (Souaiaia 2010, pp. 505-506). Such success stories illustrate that at the time of prophet women were not hindered from playing political and economical roles and that the current disempowerment of women of performing political roles is justified by reasons that are not Islamic.

Bennett studying women in politics in Muslim countries represents successful cases of women political empowerment in Muslim countries such as Turkey and Indonesia while mentioning also that the situation remains less progressive in most of the Arab countries. The author states that the main reason behind the Arab women's lack of full political empowerment are non-Islamic factors especially in the light that they were politically more empowered in other *Muslim* societies: 'The comparative weakness of democracy and strength of patriarchal system in the Arab world may have more to do with non-Islamic than Islamic factors' (Bennett 2010, p.19). Moreover, Bennett explains how the understanding of women's political empowerment differs from one Muslim state to another due to those non-Islamic factors. Saudia Arabia which considers itself as an authentic Muslim regime does not allow women to vote, but on the other hand, its equally conservative neighbour the United Arab Emirates has appointed seven women in its consultative council (Bennett 2010, p32). Here, it is crucial to note that most of Arab countries prior and post to the Arab Spring suffer major political failures and democracy needs to blossom in most of those countries. The political deficiencies

in the Arab or Muslim countries are not limited to women only, but there is a general lack of democracy on the legislative level and lack of awareness on the social level in most of the Arab and Muslim countries as a whole. Moreover, the representation of women in high ranking position such as prime minister in Pakistan, is not necessarily an accurate indicator of a women empowering country as social, educational and economic discrimination against women is widespread in such societies, as the presence of women on the façade is symbolic.

5.5 Family Law in Islam

Almost all Muslim countries have had reservations on article (16), which is the main article of the CEDAW convention regarding eliminating discrimination within the family. Those countries justify their reservations by saying that the Article clashes with the rules of Sharia. The Article states that member nations should grant women and men equality in the following areas within family affairs:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Islam essentially emphasises the equality of men and women in terms of their human dignity. Quranic verse states, 'Oh mankind! We created you from a single (pair) of a male and female, And made you into nations and tribes, that ye may know each other. Verily the most honored of you in the sight of Allah is the most righteous of you' (49:13). The Quran emphasises in this verse the equality of gender, mentioning that 'superiority' is measured by being righteous (*taqwa*) and does not depend on one's gender, tribe, or wealth. In terms of married life, the general rule stressed in the Quran stipulates equality, as verse (2:187) states: 'They are your garments, and you are their garments'. Though Islam emphasises the equality of men and women in terms of creation, hereafter, rights and duties, rewards and punishments, and on its basic description of marriage (as garments), Islamic rules towards the rights and duties for the husband and wife are different from what the convention calls for.

The article mentions that men and women should have ‘the same right to enter marriage’ and ‘the same right to freely choose a husband’, and despite the fact that even within Islam such rights are granted, their application is different. In terms of marriage, many jurists take some of the Prophet’s sayings as an excuse to ban women from undertaking their marriage contracts by themselves. One of these sayings is what is narrated of the Prophet: ‘No marriage is valid except with the participation of a mature *Wali* and two trustworthy witnesses’ (Abdul-Rahman 2009b, p.168). The girl’s father is her *Wali* (guardian) unless he is proven unfit on grounds of insanity, immorality, or malicious intent by a Muslim judge in an Islamic court or other presiding Islamic authority in the locality. In such cases, his guardianship is revoked and the next closest male relative will become her guardian. A man does not need the approval of a guardian, while a woman does. The main condition for marriage is for the husband to be ‘righteous’; if the guardian of a girl refuses to give the approval for marriage for any reason apart from that, such as wealth, race, social states, etc., the girl has the right to seek the ruler (judge) to be her guardian and proceed with the marriage without the father’s approval.

Muslims who support the notion of the guardian justify such a condition as a means of protection for a woman, as they claim that since the woman can be subject to the desires of ill-hearted and evil opportunists. Islam decrees certain legislations, which would maintain her rights and deter those who carry ill-intentions and desires.

There is also lack of agreement among the jurists, however, on the guardian's authority and the extent of the ward's rights. Masud explains how Muslim schools of jurisprudence differ as to whether or not the authority of the marriage guardian is final and absolute. The Quran does not mention explicitly that a marriage contract is not valid without the guardian (*wali*), but Muslim jurists have applied such a law, depending on a meaning derived from other verses and from what was mentioned in the hadith. Quranic verse (2:232) states: 'And when you have divorced women and they reach their term, do not prevent them from marrying their husbands if it is agreed between them in kindness'. The author explains how jurists claim that this verse implies that there must be a guardian in marriage even though it is not stated directly in the Quran:

This verse forbids guardians from preventing their wards marrying the person of their choice, even their previous husbands. The jurists who consider marriage guardianship as a requirement also cite the same verse. The latter argue that the prohibition in the verse implies that the guardians do have the right or they would not be forbidden from exercising it. Therefore in their interpretation of the text, the Maliki, Shafi'i, and Hanbali schools claim that having a guardian is a requirement for the completion of a marriage contract, while the Hanafi school claims that an adult mature woman can marry herself without the need of the consent of a guardian (2013:133).

Masud explains that the issue of the guardian in Islam is one of the issues where jurists have differed, and each has tried to defend their position in interpreting the Quranic verses in a way that they believe to be more suitable for their social context: 'This range of opinion among the jurists shows how legal interpretation may limit or extend the semantic field of the word. These diverse arguments by syntax are not conclusive. Jurists can select verse suitable to their arguments'

(Masud 2013, p.134). Even though the Maliki, Shafi'i, and Hanbali schools require the consent of a guardian, according to these schools the guardian does not have the right to marry a ward without her consent.

As there is no clear ruling for the power or the extent of the validity of the guardian, there is room to modify the matter in a way that is suitable to modern times. Some reformist Islamic institutions claim that because modern Muslim women are educated and participating in society, they are experienced enough to conduct a marriage contract on their own without the need of a guardian. Discussing the personal codes in the Gulf and Northern Africa Welchman explains that Gulf countries such as Bahrain, UAE and Qatar require a guardian as they take the view of the majority of jurists in this mainly to protect women from any 'potential hazards' if she undertook her marriage contract by herself (Welchman 2012, p.383). On the other hand, the author mentions that some Muslim countries were able to omit the need of the guardianship for women when getting married: 'the 2004 law in Morocco may be seen to stand at the end of the spectrum on this, identifying guardianship as ' the right of the woman to be exercised by her own choice, and allowing any woman of legal majority to conclude her own contract of marriage' (ibid).

Therefore, when the CEDAW article mentions that men and women should have 'the same right to enter marriage', it may seem impossible to achieve in the Muslim countries which strictly apply the guardianship requirement. If the Islamic texts were reread differently, however, the guardianship could be eliminated if a woman

has reached a certain age that enables her to make a marriage decision like what was done in the Moroccan law. Moreover, paragraph (2) of the article, which mentions that both men and women should have the same right 'to freely choose a spouse' does not contrast with the essential teachings of Islam; despite what is practiced sometimes, forced marriage is outlawed in the Quran. Quran says: 'O you who have believed, it is not lawful for you to inherit women by compulsion' (4:19). The Prophet's *hadith* also mentions that a widow, divorced woman, or a virgin shall not be married without her consent: 'The widow and the divorced woman shall not be married until her order is obtained, and the virgin girl shall not be married until her permission is obtained' (Ali 2014, p.271). If a marriage is conducted without the approval of the woman/girl, she has the right to seek the court to invalidate the contract. It therefore can be said that the Quranic verses do not forbid women from choosing their own spouses because the guardianship is not a requirement for a woman to enter marriage according to the Hanafi school of Islam. Because most Muslim countries apply the rules of the Islamic schools that *do* require a guardian, however, a woman remains in need of a guardian in most Muslim countries. Morocco was able to use the differences in the Islamic jurisdictions regarding the guardianship issue, as it says in Article 25 of the Family *Moudawana* that a virgin, divorcée, or a widow has the right to marry without the need for a guardian; it leaves it to women to decide if they want to have a guardian or not (Moudawana 2010, p.15). If Islamic countries therefore chose the more flexible Islamic jurisdictions regarding guardianship, there would be no conflict with those specific paragraphs of the article; but Bahrain, for instance, applies the

Malaki school of law, which insists on having a guardian for the validation of the marriage.

Paragraph (c) of article (16), which says that women and men should have the same rights and responsibilities during marriage and at its dissolution, remains another obstacle because of its contradiction to Sharia law. In Islam there is no 'sameness' in the responsibilities of marriage. A man's most important responsibility is providing for the family, whether or not the wife has a financial income of her own as verse (4:34) states, 'Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth'. The wife does not have to spend money on her family like the husband does, which means that there is no sameness in responsibilities. However there are some verses in the Quran that imply that men should have the authority in the household. Verse (2:22) states, 'And due to the wives is similar to what is expected of them, according to what is reasonable. But the men have a degree over them. And Allah is exalted in Might and Wise.' Even though the verse seems like favouring men, some explain that this degree is given to men only if they were kind, forgiving and just to women. Bauer underlines this notion when explaining one prominent scholar's interpretation of verse (2:22) by stating this favourable degree is a status men would acquire if they manage women well: 'For Al-Tabari, *men have a degree over them*, is overtly factual and descriptive; but in reality it is perspective; certain behaviour (men managing women generously) is the substance of the degree' (Bauer 2015, p.181). Moreover, if Islam implies that God favours men for merely being men, it would be contradicting the Quranic emphasis

on the equality of all mankind. Quran emphasises that *Taqwa* (being righteous) as the main standard for favouring a human being over another in the eyes of God, regardless of their gender: 'The nobler among you in the sight of God is the more *muttaqi* (righteous) among you' (49:13). However, a man being *in charge* as verse (4:34) mentioned above and as explained is due to the financial responsibility of a man towards his family. In today's realm it is a fact that many women work and spend on their families as well as men. In the early years of Islam, just like the rest of the world, men were the breadwinners of the house and women rarely worked. The attitude of putting men in charge is similar in Christianity and Judaism as they also ordered women to obey their husbands : 'Christianity sent mixed signals regarding women. Jesus made women equal to men, but St. Paul exhorted women to obey men and to abide by their decisions. Judaism, which had taken many of its morals from Ancient Egyptians' , failed to take the Egyptians attitude toward women as a man's equal but rather made them subservient to male, even in worshipping God' (Marsot 1996, p.43). The fact that most world societies were patriarchal is due to the fact that men were in charge of finance throughout history and also in charge of writing history.

Nowadays this has changed and men and women are the breadwinners of most of the families even in the Muslim countries. Therefore, if the Quranic texts were to read in accordance with today's realm men would not be given a privilege to be in charge because they are no longer the only spenders in the house. Thus, though the Quranic texts seem explicitly not in accordance with what paragraph (c) of the convention mentions, a modern response to the text would be that men cannot be

the only one in charge as the economic situation has changed. However, we are faced here with the ethical question of would women prefer to work and spend like men on the family and have as a result the same rights and duties or chose to be afforded for by men and focus on the upbringing of the children. In here, it can be said that choosing not to spend on the family and take care of the household should not result in a woman being under the subjection of the man as her role inside the house is like his role outside the house, division of roles by free choice does not put one in charge of the other.

In terms of divorce, article (16) mentions that women and men should have the same rights to the dissolution of marriage. In Sharia, women have the right to divorce but men and women have different procedures for obtaining the divorce. Divorce is allowed in Islam, but it is frowned upon unless the continuation of life between husband and wife seems impossible. Islam asks the couple to seek reconciliation before divorce. The Quran says, 'And if you fear a breach between the two, appoint an arbiter from his relatives and an arbiter from her relatives. If they both desire reconciliation Allah will effect harmony between them. Verily Allah has full knowledge, and is aware of everything' (4:35). If reconciliation is impossible, a man has the right to divorce his wife or to give her a divorce without trying to humiliate her, as mentioned in the Quran: 'And when you divorce women and they have [nearly] fulfilled their term, either retain them according to acceptable terms or release them according to acceptable terms, and do not keep them, intending harm, to transgress [against them]' (1:231). A man has the right to divorce his wife by stating the term 'I divorce you' and with the attendance of two

witnesses. Upon divorcing his wife, the husband has to provide financially for his children, if they have any, and in case they do not have children he has to provide for his ex-wife for a period of four months and ten days (*iddat*). There are financial consequences if a husband initiates a divorce: he will have absolutely no right to demand or take back anything he might have given his wife during the marriage, including her dowry. Thus if the husband opts to divorce his wife, he should be willing to bear a substantial financial loss. If the wife initiates divorce proceedings, on the other hand, she will be required to return the gifts and the *mehr* (dowry) she received from her husband and he would not be required to spend money on her for the period of *iddat*.

In terms of women seeking divorce, women have the right to *Khula*, which means seeking divorce from her husband by turning to a judge or court to grant her this right in case the husband refuses to give it to her. A contradiction is noted by Islamic interpreters in terms of giving woman such a right. The more traditional interpretations, particularly following the Hanbali school, claim that women have no right to get divorced unless they have an extremely strong cause. It is reported in the *hadith* of the Prophet, 'If a woman asks her husband for a divorce, for no reason, then the smell of paradise is forbidden for her (Sunnah At-Tirmidhi)' (Abdulrahman 2007a, p.122).

This kind of argument contradicts other interpretations, however, which argue that a woman can seek a divorce for a reason as simple as a lack of love towards her husband. Those interpretations rely on an incident that happened in the Prophet's

lifetime, when a woman asked the Prophet to get divorced from her husband, confessing that he was a pious, good man, but she could not love him because of his ugly appearance. The Prophet did not forbid her from getting divorced and granted it to her at once:

Ibn Majah as narrated by Ibn Abbas that: “the wife of Thabit ibn Qays came to the Prophet peace be upon him and said: ‘O’ Prophet of Allah, I do not reprimand Thabit ibn Qays for his mannerism or devoutness. However, I hate *Kufr* in Islam’. The Messenger of Allah peace be upon him said: “Will you return his garden back to him?” She said: “Yes”. The Messenger of Allah peace be upon him said [to *Thabit*]: “Accept the garden and divorce her at once (Bukhari)’. (Khan 1996, p.61)

Therefore in the matter of divorce, the different interpretations and applications of Islam is again what determines if a woman has the right to get divorced or not. The extremist scholars will not grant such a right until a valid reason is presented, while the more tolerant scholars will accept reasons such as not being able to continue living with the husband, no matter how good he is, as enough reason to grant a divorce. In both cases, however, the theory of the dissolution in marriage in Islam differs from the convention; although it *can* be granted to women, it is mostly given to men. According to the Islamic practice applied now, men are given the right in Islam to initiate divorce without the need of taking the wife’s consent. Here the Islamic jurists have simply given men this right without putting any restrictions on men to initiate divorce. Even though this right is given to men by the Quran to be taken as a last solution if life together is impossible, there are ways to restrict that right as Mir-Hosseini explains:

There are numerous moral injunctions that would have limited men's power to terminate marriage; for instance, there are sayings from the Prophet to the effect of talaq is among the most detested of permitted acts, and that when a man pronounces it, God's throne shakes. Yet classical *fiqh* made no attempt to restrict man's right to talaq (divorce). He needs neither grounds nor the consent of his wife (Mir-Hosseini 2013, p.10).

Here, again we are encountered with the patriarchal spirit that was spread when Islamic jurisdictions were put forward. Jurists did not use the prophet's hadith to disable a man from initiating divorce without the consent of the wife. It reflects the reluctance of jurists to limit the power of men over women. In polygamy, most jurists allowed the practice though there were interpretation that could ban the practice, but the bias in their rulings is obvious.

Though matters of polygamy, divorce and rights and duties between the husband and wife could be worked out, there remain phrases in the convention that contradict the Sharia explicitly and are difficult to be in consistence with it even if Sharia reread progressively. Paragraph (e) of Article 16 —regarding giving men and women the same rights and responsibilities as parents, *irrespective of their marital status*, in matters relating to their children— is quite controversial for countries that are influenced by Islamic laws. The controversy in this paragraph lies in the term 'irrespective of their marital status', which could mean having children without actually being married. In Islam, any kind of sexual relationship and establishment of family should be done within the institution of marriage. Any kind of relationship that is not within the bounds of marriage will not be recognised in Islam, and the offspring of this relation would be subject to different laws and jurisdictions. Citing the argument of the Moroccan state representative to the UN

committee for the rights of children, Hashemi explains that states can take measures to grant the children born out of wedlock some rights despite the classical jurisdictions of not granting them rights:

The Islamic principle that a natural child and a child born out of wedlock could not inherit was precise and absolute; no possibility of derogation existed. Remedies would have to be sought by other means. A father was, for example, not precluded from leaving legacy to a natural child. Although Islamic principles could not be modified, efforts were being made to introduce changes in a number of areas by making certain options available on voluntarily basis.' (Hashemi 2008, p.236).

For instance, a child born out of wedlock would not be able to inherit from his or her father unless the father acknowledged being a parent of the child. Some of the voluntarily measures that can be taken to give this child financial rights is the father allocating a share of him/her in his will that should not exceed the one third of the total legacy (one third is the maximum amount allowed for allocating wills in general from the total inheritance).

In terms of Paragraph (e) —regarding having the same rights to decide freely and responsibly on the number and spacing of their children— Islam does not forbid women from having this right in general terms, but in essence Islam encourages Muslim families to have as many children as they can provide for, and as long as the mother is able physically and psychologically to raise them along with the father. A *hadith* narrated by Abu Dawood states that the Prophet said, 'Marry those who are loving and fertile, for I will be proud of your great numbers before the other nations' (Abdul-Rahman 2007b, p.11). This *hadith* encourages Muslim families not to limit their number of children as long as it is within their means to have a large

family. Although Islam does not specify a certain number of children a couple should have, and it allows the usage of birth control methods upon the agreement of the husband and wife, it does stand against abortion, and allows it only in cases where the fetus can be a threat to the mother. The Quran states, 'kill not your children because of poverty—We provide sustenance for you and for them' (6:151). Once a child is conceived, it has the right to life.

Paragraph (f) of Article 16 is also can be considered contradictory to Sharia law, as it calls for the same rights and responsibilities between men and women of guardianship, wardship, trusteeship, and adoption of children. As discussed previously, the guardianship matter has different jurisdictions in Islam, depending on the age and gender of the child. And even though custody of a child usually belongs to the mother until a certain age (the age of 7 for a boy and the age of puberty for a girl, according to the Hanafi law), the age of custody differs from one school's law to another; the Shia give the custody right mainly to the father from an early age. However, deciding custody issues in Muslim legal traditions is primarily based on age and not in the child's best interest (Hashemi 2008, p.239).

In terms of adoption, Islam does not recognise adoption in the context of taking a child and giving him or her the family name of the sponsoring person. Adoption was practiced before Islam, and the Prophet Mohammed himself had an adopted child whom he named Zaid bin Mohammed; the Prophet changed his adopted son's name to Zaid bin Harith after the Quranic revelation ending adoption (Abdul-Rahman 2004, p.303). The author, however, mentions that even though Islam

forbids adoption, it highly regards fostering, quoting the Prophet's saying, 'I and the sponsor (*kafil*) of an orphan will be like this [holding up two fingers close together] in Paradise' (Abdul-Rahman 2004, p.305). One of the main reasons for forbidding adoption is that the adopted child, if he took the name of the father, could inherit from the father, Abdul-Rahman explains: 'this may generate hatred and resentment between the adopted son and the children of the adoptive father, because it will cause them to lose out on something that is rightfully theirs' (Ibid). Therefore Islam permits sponsoring or fostering as an act of charity where the orphan can be supported financially and emotionally but not entitled to the exact financial benefits (such as inheritance) like the biological children.

In terms of Paragraph (g) of Article 16—which states that a husband and wife should have the same personal rights, including the right to choose a family name, a profession, and an occupation— Islamic law does not stand against women acquiring a job or a profession. The inability of women in some Muslim countries to work is due to custom more than religion, as Muslim women since the early era of Islam have participated in public roles. In terms of the family name, in Islam the wife does not carry her husband's surname after marriage, as she shall keep her surname as a symbol of her identity, ownership, and legal rights.

In terms of the right of ownership referred to in paragraph (h) in article (16), it can be said that Islamic laws in this regard were pioneering, as they granted women full ownership and acquisition rights at a time when women in most of the world's cultures were deprived of this right. Islam gives women the right to own property

before and after marriage; this right in particular was not given to women in most cultures, as women were always seen as subjects to their husbands. Keddie writes: 'Regarding property ownership and inheritance, Islam was more favourable to women than most traditions and cultures. Women could hold and manage any amount of property at any time' (Keddie 2005, p. 62)

5.6 Marital Rape and Violence against Women in Islam:

The convention does not deal specifically with the importance of prohibiting marital rape and eliminating violence against women, but many other UN documents and resolutions are concerned with these matters. Violence against women and marital rape are issues that can create controversy in Islamic contexts, thus necessitating their discussion in these settings. Some scholars claim that Islam does not forbid marital rape. Kolig, for example, states that '[w]hile rape within marriage is a notion unfamiliar to Islam, rape outside marriage is a very serious matter' (2012, p. 152). Islam explicitly condemns rape in general because it is regarded as a violent 'taking' and applies the punishment of *hiraba*¹⁹ to a rapist. Webb avers that

[i]n Islam sexual autonomy and pleasure is a fundamental right for both women and men; taking by force someone's right to control the sexual activity of one's body is, thus, logically classified as a form of *hiraba*' (2000, p. 131).

In the context of marriage, Islam cannot be said as sanctioning rape despite the fact that it explicitly directs women to satisfy their husbands' sexual demands and

¹⁹ *Hiraba* is another *had* ('punishment') mentioned in the Quran. It is variously translated as 'forcible taking', 'highway robbery', 'terrorism' or 'waging war'. The consideration of *hiraba* as crime is based on the following Quranic verse: 'The punishment for those who wage war (*yuharibun*) against God and his Prophet, and perpetrate disorder in the lands is: kill or hang them or have one hand on one side and foot on the other cut off or banish them from the land' (5:33) (Webb 2000, p. 129).

refrain from refusing such demands without a valid reason, such as illness. An important issue worth noting, however, is that the religion directs *both* husband and wife to fulfil each other's sexual needs to prevent them from satisfying these demands outside the marital relationship. Indeed, no clear indication is provided as to whether Islam forbids men from forcing themselves unto their wives because, again, we are confronted here with a male-dominated interpretation of religion. Most of such interpretations do not expressly outlaw this behaviour despite the fact that the Prophet instructs men to approach their wives in a kind manner. Baker explains as follows:

In one such *hadith* the Prophet warns men that 'none of you should fall upon his wife like an animal',...the Prophet finds two things unacceptable in a man's behavior: 'first a woman goes to his wife before talking to her and gaining her intimacy,' and second that he 'satisfies his need from her before she satisfies her needs from him (2015, pp. 143-144).

As explained previously in the matter of divorce, wherein man is afforded the ultimate right to divorce women, we notice how male Muslim jurists do not refer to the Prophet's *hadith* that forbids men from harming women or restricts male authority over them. As Webb reveals, however, some jurists carry out a more egalitarian reading of Islamic texts, with these jurists indicating that Islam forbids forced sexual intercourse within marriage, especially if it causes harm to women:

...each school of Islamic law has held that where a woman is harmed through sexual intercourse (some included marital intercourse) she is entitled to financial compensation (2000, p. 132).

In terms of violence against women and the misinterpretation of the verse regarding the beating of women, we again encounter a patriarchal interpretation of Islam. Some jurists interpret Islamic texts as literally stating that a man can beat his

wife (non-violent beating; e.g. striking the hand by using a tooth stick, as explained by some jurists) if she disobeys him. The term 'beating' (*weddribuhun*) is mentioned in the Quran in the following verse:

So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But those [wives] from whom you fear arrogance - [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand (4:34).

However, the verb used in *sura* 4:34 for resolute withdrawal by the husband is *darba*, which has often been interpreted as 'to beat'. It can also mean to set an example by shunning or absolute abstaining (Joens-Paul&Tuqan 2011, p. 33). Joens-Paul and Tuqan (2011, p. 3) explain that in *hadith* literature, beating is not the intended meaning. In fact, the other commandments of the Prophet on the importance of treating women well [e.g. 'The most perfect of the believers is the most perfect in character, and the best of you are those among you who are best to their wives, [Al-Tirmidhi]' (Qasmi 2006, p. 219)] contradict how some jurists understand the above-mentioned verse on allowing a man to beat a woman, even in a non-violent manner. This contradiction is an example of how Quranic texts can be misinterpreted when read out of context and without association with the Prophet's sayings and behaviours. A compounding problem in such misreading is the masculine-orientedness that views the Quran as favouring a man.

6.5 The Summary:

As noted in previous sections, Islam has accorded women substantial rights long before the establishment of CEDAW. These rights include the right to preserve her

family name and identity and the right to own property. Clearly, however, certain Islamic Sharia laws are inconsistent with many of the regulations enacted by CEDAW. Applying CEDAW provisions seems impossible in regions where Islamic law is strongly dominant and where followers are unreceptive to new interpretations. A 2009 study conducted by the United Nations Children's Fund (UNICEF) found that 'the greatest proportion of substantive reservations to the CEDAW has been entered by state parties that cite Sharia as a basis of all the state law'. Specifically, the UNICEF study indicates the following:

The fundamental issue with respect to the Sharia-based reservations to the CEDAW is whether the state party is willing to reexamine the premises of the reservation and modify or withdraw it. Some reservations are stated in a manner that seems to preclude any flexibility and in the interpretation and application of the Sharia. Yet the global variety of the Islamic practice, the variations between schools of the Islamic law, and the conduct of some Islamic states... all suggest that Islamic law is far from an inflexible monolith (Freeman 2009, p.13).

The same study suggests that not acknowledging reservations to CEDAW does not necessarily mean that women in a particular state enjoy their full set of rights:

The pattern of reservations does not yield a clear picture of state parties' motivations for reserving or deciding not to reserve. For example, none of the Latin American states entered substantive reservations, but many have struggled with implementing women's human rights, particularly related to violence and reproductive rights. European states entered no reservations or limited ones, but wage gaps and violence against women persist (Freeman 2009, p. 7).

Another study regarding Muslim countries' reservations to CEDAW emphasises that Muslim states argue for Islamic Sharia law as the prevailing law, yet in

practice, no single formulation of Islamic Sharia is exercised at all times. Mayer asserts that,

...the notion that Muslim countries cannot comply with human rights law due to their obligations to uphold Islamic law would make more sense if the Islamic law that they refer to actually were a supranational law to which all Muslim nations defer and which governments were powerless to change unilaterally. But there is no such supranational version of Islamic law that the various legal systems in the Muslim world are compelled to defer to in making their laws (1998, p. 29).

The reservations of Muslim states seem only to be an excuse to save themselves from exerting effort to modify their laws for compliance with CEDAW. Evidence discussed in this chapter demonstrates that Muslim interpretations of most sacred texts are heterogeneous. For instance, some jurists require a guardian for a woman slated to be married, whereas others do not. Certain jurists grant women the right to initiate divorce, whereas some do not. Furthermore, jurists differ in their prescriptions regarding age of custody and in many other matters, indicating that Islamic Sharia jurisdiction is not absolute and fixed. Even though some provisions of CEDAW appear to be highly contradictory to Sharia (e.g. the case of adoption), certain Islamic regulations (e.g. guardianship, divorce) can be modified in accordance with international laws. Sharia and CEDAW do not have to be identical, but reducing the gap between them is possible under genuine willingness and commitment from Muslim states especially if Muslim jurists and governments consider applying the tool of *Maqasid Al-Sharia* (objectives of Sharia) pointed out earlier in this chapter effectively.

Even though all Arab states signed and ratified CEDAW regulations, nations that expressed reservations articulated their reluctance in such a way that reflects their unwillingness to actually implement CEDAW. In making their reservations known, they always use Sharia as an excuse. One universal form of Islamic Sharia law exists, and although most Muslims agree on the basic laws of Sharia, they differ in most other details. Muslim governments appear to choose particular interpretations of Islamic laws to justify their reservations to the articles presented in CEDAW, stating that these stipulations violate their governments' domestic policies or political will. Governments that are insincere in applying Islamic law for the betterment of their people use Sharia as an excuse to carry on with their current policies.

In an interview with respondent (E), a grand scholar from Turkey, some main controversial Islamic issues were discussed in light of the Turkish experience of interpreting Quranic texts in the most flexible manner possible. In terms of guardianship, respondent E stated that Muslim Turks follow the Hanafi school of law, wherein permission for guardianship in marriage is not necessary as long as a female has reached the age of maturity. With regard to polygamy, the interviewee emphasised that polygamy is permitted only in cases where it can solve a societal problem and that societies practising polygamy do so in adherence to society's traditions and not to those of Islam. With respect to women's clothing, interviewee (E) indicated that the importance of covering a woman's hair lies in whether the reasons for such covering are convincingly valid. He added that Islam calls on women to dress modestly in order for them not to be viewed or treated as sexual

objects and that covering the face (as is practised in some societies in the Arabian Peninsula) is more of a societal tradition. Islam focuses primarily on covering the body and hair and not the face, hands and feet. The interviewee averred that the traditions in most societies are the main drivers of the oppression of women; the rules of Islam do not cause such oppression. The more flexible interpretation of Islam in Turkey is attributed to the openness of the Ottomans towards other cultures, as well as its geographical location; its proximity to the West encouraged openness in practices in the Ottoman Empire. The interviewee also illustrated the points of variation in readings of the Quran and how some countries are able to exercise a more progressive reading for the purpose of resolving their reservations to CEDAW. Both the Turkish interviewee and the Bahraini religious clerics are Muslim, but their attitudes towards CEDAW differ. Again, this proves that no jurist or scholar can claim a monopoly over a 'correct' understanding of Islam.

An issue worth reiterating is that reservations to CEDAW are *not* limited to Muslim countries. Most other nations expressed reluctance over the validity of Paragraph 1, Article 29, which states that,

[a]ny dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organisation of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court' (General Assembly 1981, p. 9).

Such cautiousness towards states in this particular article is due to the sensitivity of the sovereignty issue in most nations. Some of the justifications for the reservations of states were provided in a CEDAW report as follows:

Austria:

Austria reserves its right to apply [...], the provision of article 11, as far as night work of women and special protection of working women is concerned, within the limits established by national legislation (CEDAW 2010, p. 11).

France:

Even though France describes its national laws as more favourable to women than men, it also states that the Government of the French Republic expresses reservations concerning the right to choose a family name (Article 16, Paragraph 1 (g) (CEDAW 2010, p. 19).

India:

i) With regard to articles 5 (a) and 16 (1) of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any Community without its initiative and consent.

Ireland:

Articles 16, 1 (d) and (f): Ireland is of the view that the attainment in Ireland of the objectives of the Convention does not necessitate the extension to men of rights identical to those accorded by law to women in respect of the guardianship, adoption and custody of children born out of wedlock and reserves the right to implement the Convention subject to that understanding.

Israel:

1. The State of Israel hereby expresses its reservation with regard to article 7 (b) of the Convention concerning the appointment of women to serve as judges of religious courts where this is prohibited by the laws of any of the religious communities in Israel. Otherwise, the said article is fully implemented in Israel, in view of the fact that women take a prominent part in all aspects of public life.

2. The State of Israel hereby expresses its reservation with regard to article 16 of the Convention, to the extent that the laws on personal status which are binding on the various religious communities in Israel do not conform with the provisions of that article (CEDAW 2010, p. 24).

A general examination of these reservations implies that certain states have other reasons for expressing their reservations to different convention articles. In the Austrian and French cases, national legislation is identified as the origin of reluctance. In the Indian and Israeli cases, religion or culture is the factor that drives reservation. Israel is particularly reluctant to adhere to article (16) of CEDAW because it contradicts the religious community's teachings in Israel —the very same reason presented by most Muslim states regarding their reservations to this article. Even though the largest number of reservations originates from Muslim countries, this behaviour is not exclusive to Muslim states. However, the spotlight appears to be directed towards Muslim nations because they are the countries that continue to delay the full application of CEDAW regulations. Even though Muslim governments use certain interpretations of Islamic laws (usually the most traditional interpretations) as justification for their delay in implementing CEDAW provisions, most Muslim scholars — even those coming from moderate backgrounds — emphasise that Islam views men and women as equal but not identical. Such a mindset, which is espoused by most Muslim scholars and the general population, remains the principal obstacle to the full application of CEDAW. In his well-regarded book, *Islam in Focus*, Hammudah Abdul-Ati says that,

[t]he rights and responsibilities of a woman are equal to those of a man but they are not necessarily identical with them. Equality and sameness are two quite different things. This difference is understandable because man and woman are not identical but they are created equals. With this distinction in

mind, there is no problem. It is almost impossible to find two identical men or women (Abdul-Ati 1998, p. 359).

This attitude, which is popular in Muslim societies, indicates openness to other solutions to improving the treatment of women's rights in Muslim societies rather than relying only on international conventions, such as CEDAW.

Chapter 6: Conclusion and Future Work.

6.1 Summary:

The outcome of the surveys reflects clearly how Bahraini society views the issue of women's rights within the context of CEDAW and the Islamic Sharia law, with a sharp inclination towards the latter. More than 70% of female respondents believe that women in Bahrain enjoy their full rights to some extent, and less than 15% believe that Islamic Sharia law hinders women from exercising their full rights. Similar percentages apply to men, as shown in the fourth chapter, which makes creating change harder. We are facing a prominent domination of conservative attitudes when it comes to dealing with women's rights.

Assessing the compatibility of Islamic Sharia law with international human rights law is a tremendously complex matter. On the surface, the two are incongruent with each other, but scrutiny reveals that balance between them is possible. After delving into the matter from international and Sharia-oriented points of view, this research reveals the areas of inconsistency between Sharia and CEDAW, as well as where improvement is possible. I find three significant themes in the conclusions drawn from the research:

- 1- The research emphasises that the masculine interpretation of the Quran is the main deterrent to the granting of full rights to women in Muslim societies.** Rahman explains thus:

It has been submitted that the Sharia and Islamic family laws that eventually emerged during the second and third centuries of the Muslim calendar were heavily influenced by socio-economic, political and indigenous tribal values of the prevailing times (2007, p. 123).

2- **Change is possible.** In his book, *The Rights of Women in Islam*, Engineer illustrates how Muslim jurists used excuses to paint slavery as a divine right or law of Islam and how Muslims eventually refrained from this practice and the changes that occurred in society over time:

Now that slavery has been abolished and is regarded as intolerable by all civilized societies, no one invokes the scripture to justify it and no one insists upon that divine right (2004, p. 2).

Islam is not against development and change, and the rules regarding women can be developed in concordance with the needs of modern times if only Muslim jurists are willing to revisit Islamic texts. Islamic jurisdiction that is discriminatory against women are justified with the need to protect women given that they are supposedly by nature weaker than a man and dependent on him. In the past, women indeed could not work and spend on themselves, but this situation has changed. Women can now work and earn money, thus affording them the opportunity to be completely independent in terms of finances. Rahman also states that change is possible if religious texts are read with a deeper understanding:

It is submitted that a deeper; more profound meaning of religious as well as social values can be established through a proper understanding of the Quran and the Sunnah (2007, p. 124)

3- This research argues that change should be initiated with consideration for balance between adherence to international demands and maintenance of religious values. Akusha's recommendation for improving the rights of women in Muslim societies is to combine 'traditional and modern forces in order to promote the rights of women in a coherent and realist fashion (1994, p. 56). The current study reiterates that forcing conventions upon Muslim societies without a general understanding of how these societies function and how solutions are applied in relation to these societies' ethical and religious values is an inappropriate approach. An-na'im discusses this matter thus:

In conclusion, I would still mention that there is no alternative to accepting people's own foundations for human rights, whether religious or secular...If we insist on a total frontal confrontation, then Human Rights side will lose among believers. In my view, however, such a zero-sum game is unnecessary. In the case of Islam in particular, I would recall my plea for framing and reframing in the inquiry on Islam and Human Rights as means for progressively mediating this apparent paradox, without necessarily totally resolving the tension between Islam and Human Rights (2012, p. 66).

Such a recommendation is a very delicate matter and is expected to be confronted with major challenges and clashes amongst key players that control the implementation of women-related laws in the Muslim world.

However, as the overall situation of women is studied in this research, we realize that there are three main obstacles impede the reasonable treatment of women's issues in Bahrain in particular and in Muslim societies as a whole:

- 1- **Theocrats:** The vast majority of clerics in the Muslim world are men. According Muslim women more liberties through a progressive interpretation of Islam is expected to diminish the power of such clerics in Muslim society.
- 2- **Political corruption:** Muslim governments and policy makers generally lack the will to improve the situation of women in their societies. The concept of human rights as a whole and women's issues in particular are viewed with mistrust by Muslim governments because it is regarded as a threat to their ultimate power over the state in societies where human rights are generally lacking and insincerely promoted by governments.
- 3- **Social unawareness:** Muslim society, particularly women, are unaware of their rights, whether in the international context or within the Islamic frame. The female respondents of this research repeatedly stated that Islam grants them *all* their rights, but had Islam been interpreted more progressively, they would have benefited from a greater number of rights.

As the summary of the fourth chapter highlighted, we face hegemony and the dominance of the ideology of certain societal groups. Just as Gramsci questioned why the oppressed classes do not rebel against bureaucracy, we face a society that is not questioning what its members assume to be religious values. Gitlin explains, 'It was Gramsci who, in the late twenties and thirties, with the rise of fascism and the failure of the Western European working-class movements, began to consider why the working class was not necessarily revolutionary, why it could, in fact, yield to fascism (1994, p. 516).

To understand why and how change can be created in the Bahraini Muslim society, some core steps that are essential to improving the situation of women in Muslim societies must be taken:

- **Struggle to create a sincere political will:** The questionnaire revealed that the majority of Bahraini society believes that the government is doing well in terms of women rights. Approximately 50% men responded 'Yes, completely' and nearly another 50% responded 'Yes, but needs to do more.' A very low percentage selected 'No, it is not doing enough.' The percentages were very similar among women themselves, with the exception that around 10% believed that the government is not doing enough. NGOs and women activists are crucial in fighting the dominant idea in the society that enough is being done. As Gramsci mentions, this kind of hegemony over the ideas of a society is exercised either by coercive control, which is the more conventional understanding of literal power or force that can be exercised against individuals, or consensual control, which focuses on the processes of control that lead an individual to 'voluntarily assimilate that worldview...of the dominant group' (Ransome, 1998, p. 150).
- **Female religious analysts:** The minority groups and activists will not be able to effect changes in roles if women do not start engaging in religious interpretation. Muslim women in modern history have typically left theology to the province of men even though no Islamic text forbids women from seeking knowledge, particularly in the religious realm. As this research was conducted, it was impossible to reach any female religious clerics for

interviews because they do not exist. As repeatedly mentioned in the research, the religious interpretations of Islam all display a masculine and patriarchal inclination, and clerics who declare fatwas regarding issues related to women have always been men. Jurisdiction is therefore largely biased against women. Moreover, cultural traditions have prevented women from pursuing education, yet women's education has been well established for decades in most Muslim countries. Nevertheless, there is still a substantial lack of powerful females reading Islamic texts and generating and disseminating ideas. There are only a few remarkable Muslim women who have produced literature about women in Islam that serves to liberate women without necessarily abandoning Islam. These women include Fatima Al-Merrnisi, Amina Wadud and Zeba Mir Hosseini, whose work has been mentioned throughout this research as examples of how one can reinterpret Islam to further liberate women. Their ideas must be built upon and transferred into practice.

- **Roles of education and the media:** The effectiveness of an educational system and its role in creating awareness of women's rights results from the political will established in the first step. This will that cannot be changed if pressure is not done by women groups to create a change. Until now, a schoolbook used in the Middle East reflects a stereotype where the mother cooks and the father works, even when certain countries (e.g. Bahrain) have incorporated narratives where fathers and brothers help in the household in primary books. The image of the mother as primarily bearing the

responsibilities in the home remains. Apart from education, the Arab media in general and the Bahraini one in particular can be evaluated characterised by low-quality in content and production. With the exception of a few solid outputs, the same stereotypes regarding women proliferate in the media. This is especially true in soap operas, which are socially popular. In these shows, women are repeatedly painted as the weaker sex, consistently beaten by male relatives and other housewives.

As indicated in this research, the issue boils down to the fact that women themselves in countries such as Bahrain seem to be comfortable with their current situation and inadequately understand the complete set of their rights. The hegemony of a certain mainstream and cultural practices have convinced them that this is how Muslim women's lives should be. Therefore, women's rights activists, researchers, intellectuals, lecturers and journalists bear a huge responsibility of spreading awareness amongst other women regarding their actual rights. A crucial strategy is for these groups to exert pressure on governments to exercise political will in granting women more rights because governments will not independently take the initiative to formulate solutions. As indicated in the previous discussion of feminism in Europe, the movement did not arise in a day but as a result of a long campaign that confronted women with considerable criticism and antagonism. This research also shows, however, that our experiences as women around the globe do not have to be identical, and we do not have to live exactly in the same manner given that cultural identity is also a right worth preserving. An equally essential

requirement, nonetheless, is the preservation of women's basic right to protect their dignity worldwide. When a culture divests women of these rights, then it is no longer a culture but a source of oppression and humiliation. Countries and people all over the world share the goal of fighting against such subjugation, whether through UN conventions and declarations or other means. A thin line exists between cultural as a unique identity that governs social roles and attitudes and culture as a tool of oppression that allows slavery, rape and human trafficking. If CEDAW can create controversy because it contradicts certain religions or legislations, the rights that are agreed upon by world countries in the Universal Declaration of Human Rights must be considered the general background from which to view basic human rights, including those of women. These rights must be granted. The rights mentioned in the Declaration do not intervene in the practise of religions and cultures.

This thesis does not look at Islam as an antagonistic force against women nor it aims to stigmatize Islamisation as a negative notion as indeed we do not have one universal form of Islamic interpretation of the sacred texts. To the contrary, it views Islam as liberating when correctly revisited. It does not regard the decision of some women not to pursue equality with man in terms of sameness as unreasonable, but it calls for fairness. The fact that Islam points to the biological differences between man and woman should not be negatively received but viewed as advantageous for women. Islam and policies should be aligned in terms of granting women their rights and use positive discrimination when needed whilst treating women as a free human being equipped with the will to choose. When Islam is revisited and applied

in favour of women — and this is possible — then a convention such as CEDAW can pose meaningful effects and further advance women's rights. The reservations of Muslim countries to CEDAW can therefore diminish, as evidenced by the same reduction in reservations exhibited in many of the world's modern countries. At the same time, such nations grant women their full rights without abandoning the basic principles of their religions.

6.2 Future work

This thesis has highlighted the main issues, problems and obstacles that confront women in Islam and in Bahrain. It has discussed almost every aspect that is problematic to women's representation within Islamic Sharia, CEDAW and in Bahraini legislations. This thesis will be presented to concerned authorities in Bahrain, the Ministry of Foreign Affairs and the Supreme Council for Women to serve as a reference for improving the situation of Bahraini women, especially under pressure from international organisations. A copy of this research will also be furnished to Bahrain's Women's Union because it is regarded as an essential guide in their work. Publishing the thesis in a book is considered. Although numerous books and references have been written regarding women's rights in Islam, no publication addresses women's rights in Bahrain in particular. The book version of this thesis would be the first in this field.

In terms of research, future work will include writing papers regarding the progressive rereading of Islamic jurisdiction, with each relevant issue discussed as

an independent matter. The issue of women's rights in Islam remains a challenging one that necessitates continuous refining and revisiting. This goal is motivated by the possibility of shaping and reshaping the regulations that surround women in Islam.

Appendix 1

The Pie Charts of the Research Questionnaire